

13 October 2022

Senate Standing Committees on Environment and Communications

**Submission: Environment Protection and Biodiversity Conservation Amendment
(Climate Trigger) Bill 2022**

L1 Endeavour House
1 Franklin Street
Manuka ACT 2603

+61 2 6130 0530
mail@tai.org.au
tai.org.au

ACN 061 969 284
ABN 90 061 969 284

Dear Secretariat,

The Australia Institute welcomes the opportunity to comment on the Environment Protection and Biodiversity Conservation Amendment (Climate Trigger) Bill 2022 (hereafter 'the Climate Trigger Bill').

The Climate Trigger Bill fills an important gap in the approval processes under the Environment Protection and Biodiversity Conservation (EPBC) Act by inserting obligations to assess projects against emissions reduction targets and national carbon budgets. Most importantly, the Climate Trigger Bill plays a role that is complementary to the Federal Government's key climate policy, the Safeguard Mechanism.

The Safeguard Mechanism attempts to limit the emissions from high-polluting facilities, including large gas and coal mining projects, however to date, emissions under the policy have increased. The Federal Government's proposed reforms to the Safeguard Mechanism fail to prevent new entrants. Climate change cannot be genuinely mitigated while fossil fuel expansion is allowed. The Climate Trigger Bill can therefore play the crucial and necessary role of stopping any new high-polluting facilities.

Supporting emissions reductions under the Safeguard Mechanism

The Safeguard Mechanism covers facilities emitting more than 100,000 tonnes of carbon dioxide equivalent (CO₂e) Scope 1 emissions annually (emissions produced directly by the project, not including end-use emissions) and puts a cap on their emissions through emissions intensity controls. The Climate Trigger Bill will serve as an important backstop to protect the emission reductions of existing facilities under the Safeguard Mechanism by preventing new entrants to the scheme.

The Bill mandates that emissions of 100,000 tonnes of Scope 1 emissions or more annually from one prospective project are deemed a 'Prohibited Impact on Emissions', requiring the Minister to reject the project's approval. This would result in no new entrants to the Safeguard Mechanism.

As detailed in the Australia Institute's submission to the Safeguard Mechanism reforms consultation paper¹ (attached), the Safeguard Mechanism has a proposed carbon budget to 2030 of 1,227 Mt CO₂e and a mandate for existing facilities to reduce emissions under the forthcoming reforms. The carbon budget is to be distributed amongst existing

¹ Armistead et al. (2022) *Safeguarding fossil fuels: Submission*,
<https://australiainstitute.org.au/report/safeguarding-fossil-fuels/>

facilities and any new entrants to the scheme, while no controls are in place to limit new entrants to the scheme. A greater number of facilities would dictate a smaller share of the carbon budget for each facility. New entrants to the scheme will pose significant challenges for the Government's emissions reduction objectives, with emissions from only a handful of potential new projects being enough to negate more than half of the Safeguard Mechanism's emissions reduction task to 2030.

Limiting new entrants to the Safeguard Mechanism is necessary to ensure that 43% emissions reductions can be achieved by 2030. The Climate Trigger Bill would prevent new entrants to the Safeguard Mechanism, protecting both existing facilities from greater emissions reduction requirements, and preventing other sectors of the economy from having to reduce emissions more than they would otherwise, to compensate for less reductions under the Safeguard Mechanism.²

The Climate Trigger Bill also compliments the Safeguard Mechanism by creating an additional threshold for assessing new projects - those that would emit 25,000-100,000 tonnes of Scope 1 emissions annually (deemed a 'Significant Impact on Emissions').

Despite the strong arguments proposed to lower the emissions threshold for inclusion in the Safeguard Mechanism,³ the Government's proposed reforms will not capture projects emitting less than 100,000 tonnes of emissions annually. Therefore, any new projects emitting 25,000-100,000 tonnes of emissions annually would not be regulated and could risk jeopardising the 2030 national emissions reduction target. Critical consideration of polluting projects of this size against national climate criteria is therefore necessary to ensure new projects are consistent with national climate objectives.

Approvals with conditions

The Australia Institute's submission to the Safeguard Mechanism reforms consultation paper details an alternative fixed-price payment for above-baseline emissions. Safeguard facilities currently purchase ACCUs to offset above baseline emissions. Given the extensive evidence of integrity concerns with ACCUs and given that any improvements to the integrity of ACCUs will increase their cost (and potentially shorten their supply), an alternative voluntary 'fixed price' penalty payment could be established.

Such a fixed price payment, set at \$25-per-tonne of CO₂e, which is below the current ACCU spot price, would provide certainty for major emitters, a significant source of

² Grudnoff (2018) *Harming Farming*, <https://australiainstitute.org.au/wp-content/uploads/2020/12/P572-Harming-Farming-Web.pdf>

³ Hare, Chapman, & Maxwell (2022) *Submission on Safeguard Mechanism reform*, <https://climateanalytics.org/publications/2022/submission-to-the-australian-governments-review-of-the-safeguard-mechanism/>
Climate Council (2022) *Submission to: Department of Climate Change, Energy, Environment and Water - Safeguard Mechanism Review*, <https://www.climatecouncil.org.au/resources/submission-to-the-safeguard-mechanism-review/>

revenue to the Commonwealth, and reduce pressure on the Clean Energy Regulator to approve low integrity ACCUs to meet rapidly growing demand.

Such a framework could be applied as a condition for new approved projects between 25,000 -100,000 tonnes of annual emissions that exceed their agreed emissions allowance.

Setting a net zero 2050 carbon budget

The Australia Institute supports establishing a national carbon budget from now to 2050. This must be done with integrity and based on the best-available climate science. The Minister should demonstrate that thorough consideration has been given to the carbon budget if new high-emitting projects are to be approved.

Additionally, the Australia Institute has previously raised questions regarding appointees to the Climate Change Authority and whether it is fit for purpose⁴ – this must be addressed to deliver a national carbon budget with integrity.

Scope 3 emissions

The proposed Climate Trigger Bill does not include consideration of Scope 3 emissions that will be emitted by prospective projects domestically, nor Australia's contribution to exported Scope 3 emissions when fossil fuels are consumed overseas. While these offshore emissions do not count towards Australia's domestic targets under UN Framework Convention on Climate Change accounting rules, they will make it harder for all countries collectively to reach the Paris Agreement goal of limiting global warming to 1.5 degrees.

Conclusion

Currently high-polluting facilities in Australia are offsetting a portion of their emissions using Australian Carbon Credit Units (ACCUs). The same ACCUs that are being investigated due to a lack of integrity by the Chubb Review.⁵ The majority of ACCUs do not represent real or additional emission reductions and, as a market tool to limit emissions growth, are a poor substitute for regulation. The Climate Trigger Bill can stop new high-polluting projects and reflects the urgency and scale of climate policy in the face of rising global emissions.

The Safeguard Mechanism has failed to limit industrial emissions growth to date.⁶ Current reforms proposed by the Federal Government do not provide confidence that

L1 Endeavour House
1 Franklin Street
Manuka ACT 2603

+61 2 6130 0530
mail@tai.org.au
tai.org.au

ACN 061 969 284
ABN 90 061 969 284

⁴ Hemming & Venketasubramanian (2022) *Hot air won't stop global warming*,
<https://www.climatechangeauthority.gov.au/sites/default/files/2022-04/22.%20The%20Australia%20Institute.pdf>

⁵ Australian Government (2022) *Independent Review of ACCUs*,
<https://minister.dcceew.gov.au/bowen/media-releases/independent-review-accus>

⁶ Armistead et al. (2022) *Safeguarding fossil fuels: Submission*,
<https://australiainstitute.org.au/report/safeguarding-fossil-fuels/>

industrial emissions will be sufficiently regulated to meet the national 2030 emissions target.

The passage of this Bill would restore some confidence in the Government's willingness to prioritise climate change and its capacity to achieve the 2030 target.

Recommendations

Notwithstanding the following recommendations, the Australia Institute recommends that the Environment Protection and Biodiversity Conservation Amendment (Climate Trigger) Bill 2022 be passed.

The Committee should:

1. Consider the use of fixed-price payment requirements as conditions for approved projects where emissions are exceeded.
2. Ensure that the creation of a national carbon budget to 2050 is undertaken by the Climate Change Authority that has appropriate funding, staffing appointments and capacity.
3. Consider the inclusion of Scope 3 emissions in the Climate Trigger Bill.

Regards,

Richie Merzian
Climate & Energy Program Director
The Australia Institute

Alia Armistead
Researcher
The Australia Institute

L1 Endeavour House
1 Franklin Street
Manuka ACT 2603

+61 2 6130 0530
mail@tai.org.au
tai.org.au

ACN 061 969 284
ABN 90 061 969 284

Safeguarding fossil fuels

Submission to the Safeguard Mechanism Reforms Consultation paper

**The Safeguard Mechanism has to date safeguarded polluters.
Extensive reforms are required to ban new gas and coal
entrants, limit the use of carbon credits and develop an
alternative fixed price payment to be directed by the
Commonwealth to build climate solutions.**

**Alia Armistead
Polly Hemming
Richard Denniss
Richie Merzian**

September 2022

ABOUT THE AUSTRALIA INSTITUTE

The Australia Institute is an independent public policy think tank based in Canberra. It is funded by donations from philanthropic trusts and individuals and commissioned research. We barrack for ideas, not political parties or candidates. Since its launch in 1994, the Institute has carried out highly influential research on a broad range of economic, social and environmental issues.

OUR PHILOSOPHY

As we begin the 21st century, new dilemmas confront our society and our planet. Unprecedented levels of consumption co-exist with extreme poverty. Through new technology we are more connected than we have ever been, yet civic engagement is declining. Environmental neglect continues despite heightened ecological awareness. A better balance is urgently needed.

The Australia Institute's directors, staff and supporters represent a broad range of views and priorities. What unites us is a belief that through a combination of research and creativity we can promote new solutions and ways of thinking.

OUR PURPOSE - 'RESEARCH THAT MATTERS'

The Institute publishes research that contributes to a more just, sustainable and peaceful society. Our goal is to gather, interpret and communicate evidence in order to both diagnose the problems we face and propose new solutions to tackle them.

The Institute is wholly independent and not affiliated with any other organisation. Donations to its Research Fund are tax deductible for the donor. Anyone wishing to donate can do so via the website at <https://www.tai.org.au> or by calling the Institute on 02 6130 0530. Our secure and user-friendly website allows donors to make either one-off or regular monthly donations and we encourage everyone who can to donate in this way as it assists our research in the most significant manner.

Level 1, Endeavour House, 1 Franklin St
Canberra, ACT 2601
Tel: (02) 61300530
Email: mail@tai.org.au
Website: www.tai.org.au
ISSN: 1836-9014

Summary

The Safeguard Mechanism has been operating since 2016 to try to cap emissions across Australia's highest polluting industrial facilities and 'safeguard' emissions reductions achieved through its sister policy, the Emissions Reduction Fund (ERF).

This policy has failed in both respects. Firstly, the emissions covered by the Safeguard Mechanism have grown during its operation. Secondly, most of the Australian Carbon Credit Units (ACCUs) purchased by the ERF have been low integrity – that is, they do not represent real or additional carbon abatement.

In practice, the Safeguard Mechanism has safeguarded polluters. This needs to change and it's a welcome and necessary step by the Government to remove excess 'headroom' and tighten facility baselines in line with Australia's long-term ambition to reach net zero. However, the proposed reforms fall short.

The Australia Institute is concerned the changes will only drive further demand for low integrity carbon credits while keeping the door wide open for new entrants to the Safeguard Mechanism (new gas and coal mining projects).

The Consultation Paper proposes for safeguard facilities emissions to reduce by 28 percent from 137 Mt CO₂e in 2020-21 to 99 Mt CO₂e by 2030, maintaining the same proportional share of national emissions from now to 2030. This is a modest level of ambition for Australia's highest polluting facilities.

The carbon budget for the Safeguard Mechanism is currently shared by the 212 facilities covered under the scheme. However, if new projects emitting more than 100,000 tonnes CO₂e annually begin operating before 2030, the carbon budget must either be shared amongst a larger number of facilities (forcing steeper and more expensive emissions reduction requirements on existing facilities) or greater emissions reduction efforts will be needed from other sectors of the economy.

The Consultation Paper has not shown how emissions from expected large new projects will be accommodated. The total proposed abatement from the Safeguard Mechanism to 2030 is 170 Mt CO₂e. The potential (Scope 1) emissions from a North West Shelf Extension alone could be around 53 Mt CO₂e between commencement and 2030. Emissions from just five new gas and coal projects to 2030, including the North West Shelf, total almost 100 Mt CO₂e and could negate more than half of the Safeguard Mechanism's total abatement.

It is unclear how the emissions budget will be balanced with new entrants. While it is possible that emissions from existing facilities that close before 2030 have a similar emissions profile to the new mines, gas wells and factories that might choose to begin polluting before 2030, there is no reason to expect that such a coincidence will occur.

The Government should release the list of new coal and gas projects (or the amount of emissions from such projects) that were assumed to occur when the feasibility of the 43 percent target was being modelled and how this is managed in the Safeguard Mechanism. If the Mechanism is not changed to limit new gas and coal entrants, consideration should be given to adopting the 'Climate Trigger' amendment to the Environmental Protection and Biodiversity Conservation Act.

Currently facilities have unconstrained access to offset their excess (above baseline) emissions with ACCUs. Such an approach does nothing to drive decarbonisation and risks undermining the emissions reduction goal as there is strong evidence that most ACCUs do not represent real or additional abatement.

While the current Chubb Review into the integrity of ACCUs could play an important role in ensuring that ACCUs purchased by safeguard facilities represent real and additional abatement, the exposure draft Rule for the revised Safeguard Mechanism will be published before the Chubb Review has even been completed.

Regardless of the findings of the Chubb Review, there should be a limit on the quantity of ACCUs that facilities can purchase, to drive investment in new technologies and processes to reduce reliance on fossil fuels. Such limits have been applied in the past, like under the Carbon Price Mechanism which limited offset usage to 5 percent of total emissions.

The creation of new Safeguard Mechanism Credits (SMC) risks creating another low integrity carbon market like ACCUs. SMC's face questions around additionality if over-achievement is easily reached and given that 74 percent of covered facilities are *already* voluntarily committed to reaching net zero. The Australia Institute recommends the delay of any SMC development until after the Chubb Review is complete and actioned.

A ban should also be placed on the use of international units, which do not contribute to Australia's decarbonisation and only prolong the transition. This is especially important since Australia is already at the back of the pack in the OECD when it comes moving away from fossil fuels.

Currently safeguard facilities purchase ACCUs to offset above baseline emissions. Given the extensive evidence of integrity concerns with ACCUs, and given that any

improvements to the integrity of ACCUs will increase their cost (and potentially shorten their supply) an alternative voluntary 'fixed price' penalty payment could be established.

Such a fixed price payment, set at \$25 a tonne which is below the current ACCU spot price, would provide certainty for major emitters, a significant source of revenue to the Commonwealth, and reduce pressure on the Clean Energy Regulator to approve low integrity ACCUs to meet rapidly growing demand. Instead of purchasing 126 million ACCUs (what Reputex claim will be available on the market), facilities could pay the fixed price penalty and the Commonwealth would raise \$3.15 billion.

Currently the methods used to generate ACCUs are a poorly designed form of industry policy. The Commonwealth could instead focus on industry policy that will help build the climate solutions needed for Australia's transition. Investing in battery or electric car/bus manufacturing, energy efficiency and renewable energy would help lower emissions and build a skilled workforce necessary for decarbonisation.

The establishment of a voluntary fixed price credit scheme, with revenues flowing to the Commonwealth rather than to the carbon credit industry, would create the opportunity to develop a far more cohesive industry policy rather than simply forcing polluters to buy low quality carbon credits at high prices.

The Safeguard Mechanism will be critical to meeting Australia's 2030 target. In turn, the principles of integrity, transparency and impact should form the foundation of the redesign of the Safeguard Mechanism if the public and industry are to have confidence that it will fairly and legitimately reduce emissions.

Contents

| | |
|---|----|
| Summary..... | . |
| Introduction | 1 |
| Safeguarding Fossil Fuels..... | 3 |
| Safeguarding the redesign process | 5 |
| Forcing legitimate emissions reductions | 7 |
| Most facilities are already committed to net zero | 9 |
| Alternative options | 11 |
| Investing in industry policy | 12 |
| Recommendations..... | 14 |

Introduction

The Safeguard Mechanism was implemented in the wake of the successful economy-wide Carbon Price Mechanism. The Mechanism was meant to cap emissions in the highest polluting industrial, mining and waste sites across Australia while its sister policy, the Emissions Reduction Fund (ERF) purchased abatement in the agriculture and land use sectors.

In practice this has not occurred. According to Reputex emissions from the most high polluting facilities, covered by the Safeguard Mechanism have increased by 7 percent since it began.¹ While the Clean Energy Regulator has more conservative numbers, it still shows an increase over the lifetime of the Safeguard Mechanism from 131 million tonnes (Mt) of carbon dioxide equivalent (CO₂e) in 2016-17 to 137 Mt in 2020-21.²

Emissions covered by the Safeguard Mechanism are projected to continue growing to 2030 under a business-as-usual scenario meaning that the mining, industrial and waste facilities covered by the policy will soon overtake electricity to become the largest segment of Australia's national emissions.³

Former Minister for Energy and Emissions Reduction Angus Taylor defended the failure of the policy to reduce emissions, saying:

“The Safeguard Mechanism was never meant to be a tool to force businesses to reduce their emissions...It was set up to avoid growth in industrial emissions overwhelming reductions achieved through government's voluntary incentive scheme the emissions reduction fund”.⁴

However, given that it has been estimated that up to 80 percent of the emission reductions claimed to have occurred under the 'voluntary incentive scheme' of the ERF might not

¹ Reputex Energy (2021) *The Economic Impact of the ALP's Powering Australia Plan*, https://keystone-alp.s3-ap-southeast-2.amazonaws.com/prod/61a966013f3c53001f975016-REPUTEX_The%20economic%20impact%20of%20the%20ALP's%20Powering%20Australia%20Plan_Summary%20Report.pdf

² Clean Energy Regulator (2022) *Safeguard facility reported emissions 2020-21* <https://www.cleanenergyregulator.gov.au/NGER/The-safeguard-mechanism/safeguard-data/safeguard-facility-reported-emissions/safeguard-facility-reported-emissions-2020-21>

³ Reputex Energy (2021) *The Economic Impact of the ALP's Powering Australia Plan*

⁴ Mazengarb (2021) *Taylor concedes key government policy was never intended to cut emissions*, <https://reneweconomy.com.au/taylor-concedes-key-government-policy-was-never-intended-to-cut-emissions/>

represent real or additional abatement, it is not clear that the Safeguard Mechanism has lived up to even the low expectations of Angus Taylor.

Despite the poor track record of the Safeguard Mechanism, the Labor Party's pre-election modelling identifies the policy as its primary lever for reducing Australia's emissions and meeting the newly legislated 2030 climate target of 43 percent emissions reductions below 2005 levels.

The ambition is modest. The Consultation Paper identifies a national carbon budget for Australia of 4,381 Mt of CO₂e between 2021 and 2030. Of this carbon budget, safeguard facilities are expected to have a 28 percent share of the carbon budget, 1,227 Mt CO₂e.

The *Safeguard Mechanism Reforms Consultation Paper* outlines ideas for reforming the Safeguard Mechanism so that it might reduce emissions and contribute to achieving the 2030 target. That said, the Consultation Paper does include options for intensity based targets rather than absolute emission reduction targets which means that absolute emissions from facilities covered by the policy could continue to increase. The Consultation Paper includes no limits on new entrants to the Mechanism. The Consultation Paper also includes no limits on the use of existing carbon credits and opens the door to the creation of potentially low-integrity credits.

The Consultation Paper only provides limited reforms to improve the Mechanism and the Australia Institute proposes a number of other ways this can be done.

Safeguarding Fossil Fuels

Despite the stated goal of the Safeguard Mechanism to help Australia reduce its emissions, it is surprising that the Department is yet to provide any modelling or analysis of the emissions from the large number of new coal and gas projects currently seeking to commence operation before 2030. Given the determination of the proponents of fossil fuel projects to open large new facilities whose emissions will be far more than the 100,000 tonnes per year threshold of the Safeguard Mechanism there is a significant risk that new entrants will overwhelm the budget and place greater burden on either other covered facilities or other parts of the economy. They might also prevent the achievement of the legislated 43 percent target.

The Consultation Paper says that safeguard facilities have an emissions budget of 1,227 million tonnes CO₂e to 2030 between 2021 and 2030. If this budget is to include more than the existing 212 facilities currently covered by the Mechanism, existing facilities will have to comply with steeper baseline declines to compensate for new entrants. The Consultation Paper proposes an emissions ‘reserve’ built into baseline decline rates for existing facilities to allow for emissions from new entrants. However, whether such a ‘reserve’ is created at the commencement of the new scheme or if emissions from existing facilities are reduced as new polluters are allowed to enter the scheme, the result is still the same: emissions from new facilities will increase the cost to the rest of the economy of meeting the 43 percent target.

Neither the Government nor the Department has made any case for why allowing new coal and gas facilities, for example, to open up before 2030 will make it easier or cheaper to meet the 43 percent legislated target.

The International Energy Agency (IEA) Executive Director Fatih Birol warned in 2021 that “If governments are serious about the climate crisis, there can be no new investments in oil, gas and coal, from now – from this year”.⁵ Limiting dangerous climate impacts requires greater ambition than what is currently committed. If Australia can do more to reduce emissions, then it should do more.

Fossil fuel expansion has been the leading cause of emissions growth in the Safeguard Mechanism to date. RepuTex modelling commissioned by the Carbon Market Institute (CMI)

⁵ Harvey (2021) *No new oil, gas or coal development if world is to reach net zero by 2050, says world energy body*, <https://www.theguardian.com/environment/2021/may/18/no-new-investment-in-fossil-fuels-demands-top-energy-economist>

says that emissions growth to date has been “powered by the coal mining and oil & gas industries, particularly the rapid expansion of LNG export capacity”.⁶

The continuation of this trend will pose significant challenges for emissions reductions. Currently, Australia has 114 new coal and gas projects in the pipeline.⁷ The Scope 1 emissions from just a handful of new fossil fuel projects shows why this is a serious risk.

Table 1: Scope 1 emissions from new fossil fuel projects

| | Scope 1 emissions - tonnes CO ₂ e From operation to 2030 |
|---|--|
| North West Shelf Extension | 53,515,000 |
| Scarborough-Pluto | 18,900,000 |
| Waratah Coal - Galilee Coal Project | 15,855,523 |
| Mount Pleasant Optimisation Project | 4,272,000 |
| Narrabri underground coal mine stage 3 | 6,683,636 |
| TOTAL | 99,226,159 |
| Safeguard Mechanism proposed abatement | -170,000,000 |

Source: WA EPA, Whitehaven Coal, Climate Analytics and others⁸



Given the total proposed abatement from the Safeguard Mechanism to 2030 is 170 Mt CO₂e, emissions from these few projects to 2030 totals almost 100 Mt CO₂e and could negate more than half of the Safeguard’s total abatement.

⁶ RepuTex Energy (2022) *Potential Futures for Australia’s Safeguard Mechanism*, <https://www.reputex.com/research-insights/report-modelling-potential-futures-for-australias-safeguard-mechanism/>, p. 44

⁷ Department of Industry, Science and Resource (2021) *Resources and Energy Major Projects: 2021*, <https://www.industry.gov.au/data-and-publications/resources-and-energy-major-projects-2021>

⁸ Western Australian EPA (2022) *North West Shelf Extension Project* https://www.epa.wa.gov.au/sites/default/files/EPA_Report/EPA%20Report%201727%20-%20North%20West%20Shelf%20Extension%20Project%20-%20assessment%20report.pdf
Climate Analytics (2021) *Warming Western Australia* https://climateanalytics.org/media/climateanalytics_scarboroughpluto_dec2021.pdf
Whitehaven Coal (2022) *Responses to matters from the Narrabri underground mine stage 3 extension project IPC hearing*, <https://www.ipcn.nsw.gov.au/resources/pac/media/files/pac/projects/2021/12/narrabri-underground-mine-stage-3-extension-project-ssd-10269/additional-material/220225-in-applicant-submission-to-the-commission.pdf>
Waratah Coal Pty Ltd v Youth Verdict Ltd: MRA050-20 & EPA 051-20, *Queensland Land Court joint expert report - economics*. Uncontested calculation based on ERM (2021) Galilee Coal Project Greenhouse Gas Assessment and uncontested figures in Joint expert report - climate.

The risk of fossil fuel expansion undermining the effectiveness of the Safeguard Mechanism is even more prominent considering that fossil fuel projects typically emit more than estimated during approval processes. Research has shown that 1 in 5 fossil fuel projects under the Safeguard Mechanism has released more greenhouse gases than was originally estimated when projects were requesting approval – some projects like Origin Energy’s Australia Pacific Liquefied Natural Gas pipeline have emitted up to 20 times more.⁹

Labor’s 2030 target is not an aspirational target but a forecast outcome from policy implementation. Minister Bowen has stated: “43 percent is the modelled aggregate impact of all our policies, not just an ambition or an objective or goal...we will deliver a 43 percent emissions reduction...with the policies we have announced”.¹⁰

If this is indeed the case then the Department should release the list of new coal and gas projects (or the amount of emissions from such projects) that were assumed to occur when the feasibility of the 43 percent target was being modelled.

If the Safeguard Mechanism is to deliver the emissions abatement target that was recently legislated the Government must have high confidence that new entrants into the scheme will not jeopardize the 2030 target. Facilities that are expected to both exit and enter the scheme between now and 2030 must be quantified before new baselines for existing facilities are set. Significantly, if the Government intends to allow new fossil fuel projects, an insufficient ‘reserve’ in the baselines for existing facilities will prevent the Safeguard Mechanism achieving the desired abatement.

Where the Safeguard Mechanism fails to limit new gas and coal production entrants, the proposed ‘Climate Trigger’ to the Environmental Protection and Biodiversity Conservation (EPBC) Act could succeed.¹¹ The Climate Trigger amendment proposed by the Australian Greens treats new gas and coal projects that would emit over 100,000 tonnes of CO₂e like nuclear projects under the EPBC Act, where the Minister is forced to reject the project’s approval.

SAFEGUARDING THE REDESIGN PROCESS

Concerns over ACCUs purchased by the ERF are not new and have been raised since the scheme’s inception by numerous independent experts and have been widely reported in the

Todoroski Air Sciences (2022) Mount Pleasant Optimisation Project Greenhouse Gas Assessment – Revised Fugitive Emission Estimates

⁹ Australian Conservation Foundation (2022) *Emissions blowouts rampant in Australia*, <https://www.acf.org.au/emissions-blowouts-rampant-in-australia>

¹⁰ The Australia Institute (2022) *Federal Climate Ministers Debate*, <https://australiainstitute.org.au/event/federal-climate-ministers-debate/>

¹¹ Senate (2022) *Environment Protection and Biodiversity Conservation Amendment (Climate Trigger) Bill 2022*

media.^{12 13 14} Most recently, the former chair of the Emissions Reduction Assurance Committee, along with a number of independent academics, have released research demonstrating that up to 80 percent of ACCUs issued in Australia do not represent real or additional abatement.^{15 16 17}

In March this year, the United Nation Secretary General Antonio Guterres established the High-Level Expert Group on the Net-Zero Emissions Commitments of Non-State Entities to investigate the varying levels of robustness of net zero claims and methods. Dr Bill Hare, the only Australian on the High Level Expert Group, has looked at Australia's ERF and concluded that "every single [ERF] method we've looked at has serious problems".¹⁸

These concerns are currently being investigated under the Government's *Independent Review of ACCUs*, led by former Chief Scientist Professor Ian Chubb (the Chubb Review).

The Chubb Review's Terms of Reference will review ACCU method development, including "whether method development and review processes are appropriate and effective", and assess integrity concerns with Human Induced Regeneration, Carbon Capture and Storage, Avoided Deforestation and Landfill Waste Gas methods.¹⁹

Minister Bowen's announcement of the Chubb Review into the integrity and governance of ACCUs states: "Maintaining the integrity of this carbon crediting system will also ensure a reliable supply of high-quality domestic offsets is available to support the reduction of Safeguard Mechanism baselines over time."²⁰

¹² Burke (2016) *Undermined by adverse selection: Australia's Direct Action abatement subsidies - CCEP Working Paper 1605* <https://ccep.crawford.anu.edu.au/publication/ccep-working-paper/7618/underminedadverse-selection-australias-direct-action-abatement>

¹³ Taylor (2015) *Greg Hunt hasn't a lot to show for \$660m spent on reducing greenhouse emissions* <https://www.theguardian.com/environment/2015/may/01/greg-hunt-660m-spent-reducing-greenhouseemissions>

¹⁴ Burke (2016) *Direct Action not giving us bang for our buck on climate change* <https://theconversation.com/direct-action-not-giving-us-bang-for-our-buck-on-climate-change-59308>

¹⁵ Macintosh et al. (2022) *The ERF's Human-induced Regeneration (HIR): What the Beare and Chambers Report Really Found and a Critique of its Method* <https://law.anu.edu.au/research/publications?nid=51424>

¹⁶ Macintosh, Butler & Ansell (2022) *Measurement Error in the Emissions Reduction Fund's Human-induced Regeneration (HIR) Method* <https://law.anu.edu.au/research/publications?nid=51434>

¹⁷ Macintosh (2022) *The Emissions Reduction Fund's Landfill Gas Method: An Assessment of its Integrity* <https://law.anu.edu.au/research/publications?nid=51444>

¹⁸ ABC RN Breakfast (2022) *UN probes business climate plans* <https://www.abc.net.au/radionational/programs/breakfast/un-probes-business-climate-plans/13858214>

¹⁹ Bowen (2022) *Independent Review of ACCUs*, <https://minister.dcceew.gov.au/bowen/media-releases/independent-review-accus>

²⁰ Ibid

John Connor, CEO of CMI, stated in support of the Chubb Review: “the priority must be to make sure our carbon credits and their governance are fit for purpose.”²¹

The Chubb Review will provide its report and recommendations to the government by the end of December 2022. However, the Safeguard Mechanism Consultation Paper states that a detailed policy proposal and ‘exposure draft Rule’ will be released by the end of November. These timelines are combined in Figure 1.

Figure 1: Timeline for changes to the Safeguard Mechanism



Source: Safeguard Mechanism Reforms consultation paper

This timeline does not allow for the outcomes of the Chubb Review to be seriously considered before the Safeguard Mechanism legislation is drafted. Integrity or governance issues identified by the Chubb Review could undermine the credibility of the Safeguard Mechanism and its ability to contribute to achieving the 2030 emissions reduction target of 43 percent.

FORCING LEGITIMATE EMISSIONS REDUCTIONS

The Safeguard Mechanism requires facilities to ‘manage excess emissions’ above their designated baselines by purchasing Australian Carbon Credit Units (ACCUs). Historically, other options have also been available to manage above-baseline emissions, including applying for a new baseline or a multi-year monitoring period.

Because baselines have in the past been set higher than actual emissions for many facilities, the Safeguard Mechanism has to date only created small demand for ACCUs. For example, in 2020-21, 284,063 ACCUs were surrendered by safeguard facilities and only 79,282 ACCUs were surrendered by facilities without multi-year monitoring baselines (which allows facilities to smooth out emissions over years).

If facilities do not reduce their absolute emissions as baselines decline an increasing portion of their emissions will be ‘above baseline’ and therefore must be managed by purchasing ACCUs. The reformed safeguard will therefore increase demand for ACCUs.

²¹ Carbon Market Institute (2022) *CMI welcomes ACCU review as carbon market reaches milestone and pivot point*, <https://carbonmarketinstitute.org/2022/07/01/cmi-welcomes-accu-review-as-carbon-market-reaches-milestone-and-pivot-point/>

RepuTex modelling commissioned by the CMI estimates that there is enough ACCU supply to cover two-thirds of the abatement expected from the reformed Safeguard Mechanism:

This pool of new ACCUs [126 million] represents 74 percent of the Safeguard Mechanism’s estimated cumulative abatement task to 2030 – before any internal emissions reductions by industry and below-baseline crediting, or any investment in new ACCU generating projects...²²

However, it is important to note that this assertion that there will be sufficient supply (to keep the price of ACCUs low) was made on the assumption that the Chubb Review will not make any significant recommendations to improve the integrity of ACCUs. If improved integrity measures are to be built into the methods that generate ACCUs then it could impact supply and lead to higher prices for ACCUs and higher costs to businesses who exceed their baselines.

Leaving issues of integrity and price aside, the hierarchy of mitigation suggests that offsets such as ACCUs should always be seen as a ‘last resort’. For example, the global Science-Based Targets Initiative (SBTI), which helps organisations set targets in line with 1.5 degrees, specifies that carbon credits cannot be counted as emissions reductions towards short- or long-term science targets, but should only be used after organisations have reduced emissions by more than 90 percent.²³

Allowing facilities unrestricted access to ACCUs has the effect of displacing emissions reductions from within the industrial sector to other sectors of the economy. The majority of ACCUs are created through vegetation management, with 55 percent of ACCUs issued to date generated by vegetation methods and an additional 10 percent through savanna burning. If facilities covered by the Safeguard Mechanism do not reduce their absolute emissions (as opposed to simply buying offsets), there will be an ongoing increase in demand for ACCUs beyond 2030 to 2050 while claiming to reach net zero emissions.

Consideration should be given to limiting the use of ACCUs per facility, similar to the regime imposed by the Clean Energy Future package. This was set at 5 percent limit (based on absolute emissions of the respective entity/facility).²⁴

Unrestricted access to ACCUs will not just place ever-increasing pressure on other sectors to generate new and additional abatement to offset industrial emissions but also delay the necessary transition that is already occurring in other countries.

²² RepuTex Energy (2022) *Potential Futures for Australia’s Safeguard Mechanism*

²³ Science Based Targets (2021) SBTI Corporate Net-Zero Standard, <https://sciencebasedtargets.org/net-zero/>

²⁴ Australian Parliamentary Library (2011) *Securing a clean energy future: some economic aspects* https://www.aph.gov.au/about_parliament/parliamentary_departments/parliamentary_library/pubs/rp/rp1112/12rp05

Australia Institute research by leading energy analyst Dr Hugh Saddler found that Australia's overall energy transition performance has been worse than the other 22 OECD economies and Russia.²⁵ Failing to decarbonise through an over-reliance on carbon credits will only make Australia's net zero transition lengthier and harder.

MOST FACILITIES ARE ALREADY COMMITTED TO NET ZERO

Companies operating facilities covered by the Safeguard Mechanism have consistently raised concerns about the cost and challenge associated with reducing emissions under stricter baselines, calling for lenient treatment or financial assistance to meet their liabilities.

The Australian Petroleum Production and Exploration Association (APPEA) recently affirmed their expectations that changes to the Safeguard Mechanism ensure special treatment for export-oriented facilities: "The federal government's commitment to provide tailored treatment to ensure that export-focused businesses are not competitively disadvantaged is important to help ensure the nation decarbonises while keeping our economy strong and resilient".²⁶

However, the majority of facilities are already covered by voluntary net zero commitments. RepuTex modelling by CMI says "Widespread exemptions may also be inconsistent with corporate voluntary commitments, with 74 percent of facilities (83 percent of covered emissions) having already established net-zero targets".²⁷

If voluntary net zero claims are legitimate then facilities should not struggle to meet declining baselines, nor be given lenient treatment or significant financial assistance to meet their emissions liabilities.

Additionally, safeguard facilities should not be allowed access to international credits. Allowing access to cheap international offsets to substitute local abatement will disincentivise facilities from actually reducing emissions and further distance Australia from reaching its net zero target by 2050.

Allowing access to international credits also brings into question how genuine the Australian Government is being in "supporting climate action in the Indo-Pacific region" through the development and use of carbon offsets through schemes such as the Indo-Pacific Carbon

²⁵ Saddler (2021) *Back of the Pack* <https://australiainstitute.org.au/post/new-analysis-australias-energy-transition-among-worst-in-oecd>

²⁶ Battersby (2022) *Australia advances emissions reduction plans*, <https://www.upstreamonline.com/politics/australia-advances-emissions-reduction-plans/2-1-1280667>

²⁷ RepuTex Energy (2022) *Potential Futures for Australia's Safeguard Mechanism*, p. 52

Offset Scheme (IPCOS).²⁸ Pacific nations have long been frustrated and disappointed over Australia's refusal to stop new production of fossil fuels.^{29 30} Australia has not only ignored pleas for climate action by the Pacific, but it also continues to pursue and subsidise fossil fuel projects both domestically³¹ and in the Pacific.³²

Safeguard Mechanism Credits (SMCs) proposed in the Consultation Paper are supposed to incentivise greater action by allowing facilities to bank over-achievement which they can use or trade with under-achieving facilities. SMCs require strong governance frameworks guiding their issuance and use or risks integrity issues like ACCUs. There are also questions raised around additionality if over-achievement is easily reached, and if most facility-owners are committed to reaching net zero. The development of SMCs should only commence after the Chubb Review is complete and actioned.

²⁸ Department of Industry, Science, Energy and Resources (n.d.) Supporting climate action in the Indo-Pacific region, <https://www.industry.gov.au/policies-and-initiatives/international-climate-changecommitments/supporting-climate-action-in-the-indo-pacific-region>

²⁹ Lyons (2022) *Australia at odds with neighbouring nations on new coal and gas projects at Pacific Islands Forum*, <https://www.theguardian.com/world/2022/jul/12/australia-at-odds-with-neighbouring-nations-on-new-coal-and-gas-projects-at-pacific-island-forum>

³⁰ Lyons (2022) *'Far from adequate': former Pacific leaders group urges Australia to increase 43% emissions cut*, <https://www.theguardian.com/world/2022/jul/08/far-from-adequate-former-pacific-leaders-group-urges-australia-to-increase-43-emissions-cut>

³¹ Armistead, Campbell, Littleton & Parrott (2022) *Fossil fuel subsidies in Australia (2021-22)* <https://australiainstitute.org.au/report/fossil-fuel-subsidies-in-australia-2021-22/>

³² Jubilee Australia (2021) *Hot Money: Australian Taxpayers Financing Fossil Fuels* <https://www.jubileeaustralia.org/resources/publications/hot-money-2021>

Alternative options

Declining baselines will mean that, unless safeguard facilities take real measures to reduce emissions, they will have an emissions liability that increases each year.

As discussed above, it is likely facilities will aim to meet their emissions liability by purchasing low-integrity ACCUs at the lowest possible price.

There is no direct linkage between Australia's greenhouse accounts (National Inventory Report (NIR)) and the ERF. The NIR independently monitors and records emissions and removals from sources and sinks; to be clear the NIR *does not* include allowances or offsets even if they are issued by the Commonwealth Government as ACCUs are.

This means that, when ACCUs with low or no integrity are issued, they have no impact on the NIR or Australia's mitigation commitments. The link to the NIR only arises (indirectly) when ACCUs have integrity and represent genuine abatement. The ACCUs' impact will then be picked up such as through additional tree coverage appearing in the satellite imagery used to inform the NIR.

For the avoidance of any doubt: if a coal mine buys an ACCU generated by a farmer who has promised not to chop down a tree that was never actually going to be chopped down, then despite the fact that the Commonwealth Government is willing to issue an ACCU to the farmer, and despite the fact the coal mine can meet its obligations under the Safeguard Mechanism, there will be absolutely no change in what is recorded in Australia's NIR (which forms the basis of both our international commitments and the legislated 43 percent target).

In short, the rest of the world doesn't care if we print and sell low integrity offsets to ourselves, it only cares about what happens to our actual emissions. If the Safeguard Mechanism relies heavily on low quality offsets, it will do nothing to help Australia meet its legislated or international obligations.

Facilities purchasing ACCUs that result in no genuine abatement only provides material benefit to the suppliers of low integrity credits, carbon market aggregators, investors, and brokers - companies profiting through the generation and sale of ACCUs - and for facilities by 'negating' their emissions liability. This money could instead be used to invest in initiatives to genuinely reduce emissions through legitimate means.

INVESTING IN INDUSTRY POLICY

The Safeguard Mechanism should be designed to provide an incentive for firms to reduce their emissions. Currently firms who cannot or will not reduce their emissions to meet their baseline are required to pay a penalty price, currently set at the price of ACCUs.

Given the high and uncertain price of ACCUs,³³ the significant questions about the integrity of the current ACCU supply, and the inevitability that any changes that lead to an increase in the integrity of carbon credits will lead to an increase in the price of those credits, it is sensible that the Government develop a fixed price option for firms that do not meet their emission reduction obligations under the Safeguard Mechanism.

While in theory the purchase of an ACCU, as opposed to the payment of a voluntary fixed price to the Commonwealth Government, has the advantage that the ACCU delivers emission reductions as well as a price signal to polluters to change their behaviour, in practice as there is no direct link (and possibly no link at all) between some ACCUs and the emissions recorded in the NIR. There is therefore no economic or environmental benefit in requiring Australian industry to pay for high price, low integrity carbon credits.

Indeed, while there is no lasting benefit to the Australian economy or environment in paying a landholder not to chop down a tree, or a farmer to stock fewer cows in a paddock, there are significant economic and environmental benefits to be had from using the revenue from a voluntary fixed penalty price payment to the Commonwealth to invest in decarbonisation elsewhere in the economy.

Australia's carbon emissions per dollar of GDP are high by global standards and in the decade since the carbon price was removed there has been little in the way of policy to drive decarbonisation of existing industries or to develop the low carbon industries likely to thrive in the coming century.³⁴

The 126 million ACCUs that Reputex estimate could be used by firms to meet their safeguard obligations will likely cost polluters around \$3.8 billion at a \$30 ACCU spot price (assuming that new integrity measures don't drive the price significantly higher).

However, if the same facilities that might purchase 126 million ACCUs instead voluntarily elected to pay a \$25 fixed penalty price to the Commonwealth then it would have \$3.15 billion to spend on decarbonisation projects elsewhere in the economy, ranging from supporting the manufacture and rollout of electric busses, batteries and renewable energy to helping firms of all size improve their energy efficiency.

³³ Clean Energy Regulator (2022) *Australia carbon credit units (ACCUs)*

[https://www.cleanenergyregulator.gov.au/Infohub/Markets/Pages/qcmr/june-quarter-2022/Australian-carbon-credit-units-\(ACCUs\).aspx](https://www.cleanenergyregulator.gov.au/Infohub/Markets/Pages/qcmr/june-quarter-2022/Australian-carbon-credit-units-(ACCUs).aspx)

³⁴ Saddler (2021) *Back of the Pack*

Indeed, the Commonwealth could also broaden the funding pool to include the remaining uncommitted \$1.8 billion in the ERF.

In effect, the methods involved in generating ACCUs under the ERF and the Safeguard Mechanism are a form of poorly designed industry policy which has driven the rapid expansion in the profitability of firms specialising in carbon accounting but has yet to deliver significant reduction in emissions.

Other forms of industry policy, such as investment in manufacturing, energy efficiency, and renewable energy are likely to drive not just greater emissions reductions but also nurture the skills and professions to build the solutions for a low carbon economy. While the current carbon accounting rules make promising to not chop down trees and not stock so many cattle very profitable, they do nothing to help Australia rapidly transition.

The establishment of a voluntary fixed price credit scheme, with revenues flowing to the Commonwealth rather than to the carbon credit industry, would create the opportunity to develop a far more cohesive industry policy than simply forcing polluters to buy low quality carbon credits at high prices.

As Prime Minister Albanese told the National Press Club in August this year “It’s how we seize the transformative opportunity of Australia as a clean energy superpower”.³⁵ If we want to fulfil the Prime Minister’s pledge for a “new generation of advanced manufacturing and value-adding” with “Australian workers, Australian technology, Australian research and Australian resources taking the world to net zero”, then we need the industry policy to make this happen. The Safeguard Mechanism presents this opportunity.

³⁵ Prime Minister Albanese (2022) *Building a Better Future* <https://www.pm.gov.au/media/building-better-future-national-press-club>

Recommendations

1. Place a moratorium on all new coal and gas projects.
2. Quantify emissions associated with closing safeguard facilities and possible new projects to ensure new baselines for existing facilities are sufficiently ambitious.
3. Limit any use of ACCUs to meet facilities' emissions liabilities and hold off on the development of the Safeguard Mechanism Credits until all recommendations of the Chubb Review are addressed and integrity is restored to Australia's carbon market.
4. Implement a hierarchy of mitigation to ensure ACCUs are used as a 'last resort' and facilities invest in real emissions reductions, this can include a limit on the use of ACCUs by each facility (at a cap of 5 percent).
5. Consider the introduction of a voluntary fixed penalty price of \$25 a tonne for above baseline emissions. This can be invested with new industry policy to build climate solutions such as battery and bus manufacturing, energy efficiency and renewable energy.