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Submission to Safeguard Mechanism consultation

Australian Projections advises on issues of national policy, such as aged care, education and energy. We are trying to help Australians and their politicians understand the Safeguard Mechanism, which affects facilities emitting more than 100,000 tonnes of carbon dioxide equivalents a year.

The consultation paper notes that the Mechanism has not been effective in reducing emissions. Every aspect of the Mechanism should be critically examined, so that it can help achieve Australia's target of net zero emissions by 2050.

Many Safeguard facilities involve heavy capital expenditure, expected to be recouped over many years. An abrupt reduction in the emissions limit for such a facility might result in a law suit for lost profits. Advice from the Attorney-General is needed on Australia's potential exposure to such claims.

The Australian-United States free trade agreement recognizes our right to establish our own levels of environment protection, but requires procedural guarantees and public awareness.

Australia's emission targets to 2030 might be achieved by a faster transition to renewable sources of electricity. Would cheaper, more reliable electricity be provided by greater use of local renewable generation and storage? How quickly can this be done? Expert analysis by the Australian Energy Market Operator is needed.

The ALP's "Powering Australia" policy requires baselines to be set for each facility, in close consultation with industry, and carefully considering the available and emerging technologies in each sector. This may result in different facilities having very different paths to net zero.

Virtually all the present Safeguard facilities might be classed as emissions intensive or trade exposed. We suggest that no distinctions be made on these grounds.

As Australia's emissions reduce towards net zero, fewer firms will exceed the 100,000 threshold, and the effectiveness of the Safeguard mechanism will be reduced. The threshold could be reduced in line with Australia's emissions.

Some Australian states have similar or more ambitious emission targets than Australia's, and have closer control through such mechanisms as environment protection licences. The Commonwealth should work with the states.

A detailed national plan is needed, taking into account the location of each of the Safeguard facilities. A national plan would allow grants to be directed more effectively, with new industries broadly replacing old ones, and with lower impacts on communities.

1. Background

1.1 The Australian Labor Party's "Powering Australia" plan

On 3 December 2021 the ALP promised

"*Within a broad trajectory towards net zero by 2050, Labor will ask the Department of Industry and the Clean Energy Regulator to determine revised baselines for each facility for close consultation with industry. They will carefully consider the available and emerging technologies in each sector.*

Labor will provide tailored treatment for emissions-intensive, trade-exposed industries. This will be based on the principle of comparative impact - ensuring that exporters remain competitive, and that emissions do not "leak" overseas,

Labor's policy will include tradeable credits for companies that stay below their baselines - a promise that the Government has so far failed to deliver.

Credits and revised baselines will encourage investment in low-emissions technology, not raise revenue for government.

Labor's Powering the Regions Fund and National Reconstruction Fund will assist covered facilities in meeting their new baselines, and the deployment of low-emissions technology across industry more broadly." (ALP 2021 p31)

"Powering Australia" noted that no additional facilities would be covered. We have been advised that the 100,000 tonnes CO2~e limit will be maintained, and new facilities above this limit will be covered (DCCEEW email 1 September 2022).

1.2 Climate Change Bill 2022

On 4 August 2022 the Australian House of Representatives passed this bill (Australian Parliament 2022). Section 10 defined Australia's greenhouse reduction targets to be

(a) *reducing Australia's net greenhouse gas emissions to 43% below 2005 levels by 2030:*
    (i) *implemented as a point target; and*
    (ii) *implemented as an emissions budget covering the period 2021-2030;*
(b) *reducing Australia's net greenhouse gas emissions to zero by 2050.*

Section 12 requires the Minister to prepare an annual climate change statement that relates to

(a) *the progress made during the year towards achieving Australia's greenhouse gas emissions reductions targets; and*
(b) *international developments during the year that are relevant to addressing climate change; and*
(c) *climate change policy; and*
(d) *the effectiveness of the Commonwealth's climate change policies in contributing to the achievement of Australia's greenhouse gas emissions reduction targets.*

Section 14 requires the Climate Change Authority to give the Minister advice that relates to the preparation of the annual climate change statement, and to publish that advice. If the Minister decides not to accept a material part of that advice, he must publish the reasons.

The Authority is an independent statutory body established under the Climate Change Authority Act 2011 to provide expert advice to the Australian Government on climate change.

1.3 Senate Environment and Communication Legislation Committee report

The Senate referred the provisions of the Climate Change Bill 2022 and the Climate Change (Consequential Amendments) Bill 2022 to the committee on 28 July 2022, requiring the committee to report by 31 August 2022. Their very useful report (SECLC 2022) shows how effective Parliamentary committees can be.

The committee recommended that the bills be passed. Subsequent to the passage of the bills, the government should undertake further consultation on possible legislative changes and appropriate policy responses.

A dissenting report by Coalition senators did not support either bill. The reasons for this included that the consultation process failed to properly account for rural and regional perspectives, the lack of an achievable plan to firm 82% renewables by 2030, and the failure to assess the economic costs of higher power bills.

A dissenting report by National senators also did not support either bill. They welcomed evidence that action on climate change will disproportionately affect certain groups, industries and regions.

The Australian Greens supported the bills. They recommended that no new coal, oil and gas projects should proceed, noting that in August 2022 the Federal Minister for Resources had released 10 new oil and gas offshore leases. Before the next global summit, the government should lift national targets to 75% by 2030 and net zero by 2035. Australia should sign up to the Global Methane Pledge and the Powering Past Coal Alliance. There should be a statutory authority to support coal and gas communities during the transition. Native forests should not be burnt as a renewable energy source.

Senator Andrew Bragg saw no need for the bills, given the Leader of the Opposition's commitment to stronger action on climate change. He recommended that the market should be further supported to invest in low and zero emissions energy and transmission infrastructure. Australia should legislate an emissions disclosure regime for scope 1, 2 and 3 emissions. Australian governments should support the supply of gas as a transition fuel. The nuclear prohibition should be lifted.

Senator David Pocock welcomed legislation to enshrine Australia's emission reduction targets. This will give much needed certainty to investors looking to provide the large-scale capital required for the clean-energy transition. He noted that the bills fell short on measures of accountability, transparency, scientific backing, and a proactive frame around policy development. He made 11 recommendations on these issues.

1.4 Climate Change Act 2022

On 8 September 2022 the Senate passed the Climate Change Bill 2022, including a number of amendments moved by Senator David Pocock (Senate Hansard 2022). The House of Representatives passed the amended bill.

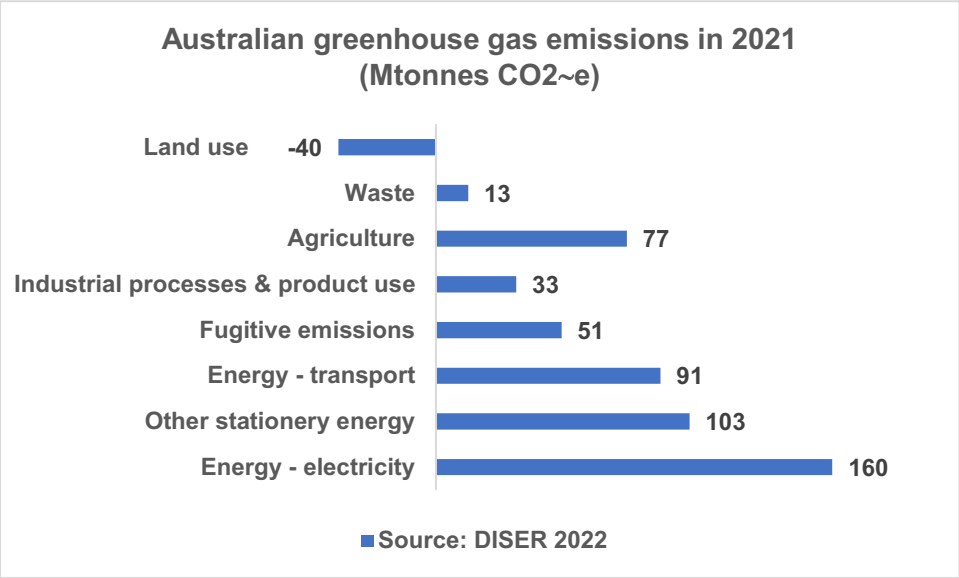
2. Data

2.1 Australia's greenhouse gas targets

Our greenhouse gas emissions in the 2005 base year were 621.1 Mt CO2~e (UNFCCC 2022). A 43% reduction from this level gives our 2030 target of 354 Mt.

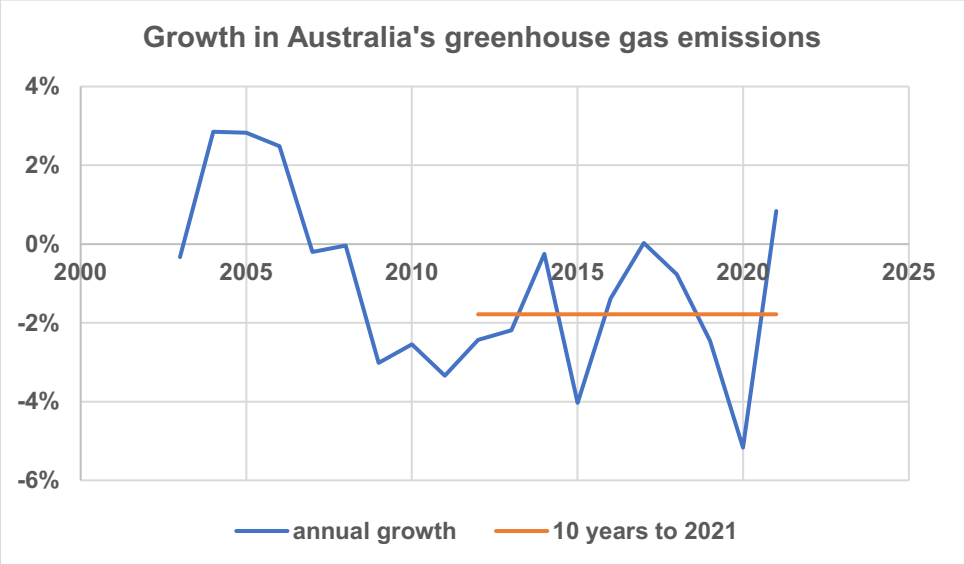
Our target of 4381 MT for 2021 to 2030 is calculated assuming a straight line from our 2020 target (13% below 2005) and our 2030 target (DCCEEW email 1 September 2022).

2.2 Australian greenhouse gas emissions



Australia's greenhouse gas emissions in 2020 were 484 Mtonnes CO2~e, and in 2021 were 488 (DISER 2022). Our 2030 target of 354 is a drop of 130 between 2020 and 2030.

2.3 Growth in Australia's greenhouse gas emissions



Australia's emissions have been reducing at about 2% pa since 2009. The average growth rate in the 10 years to 2021 was -1.8%.

2.4 Emissions from Safeguard mechanism facilities (Mtonnes CO2~e)

Period	16-17	17-18	18-19	19-20	20-21
aluminium	14.2	14.4	14.2	14.5	14.5
cement	5.9	5.7	5.9	5.6	5.6
chemicals	3.9	4.3	3.9	3.9	4.1
coal	32.1	33.6	32.1	34.3	32.5
gas & oil	39.1	43.6	51.2	48.0	45.1
manufacturing	2.2	2.1	2.2	2.2	2.0
minerals	14.0	14.2	14.6	15.9	16.4
power	0.8	0.9	0.9	0.9	0.9
services		0.3	0.2	0.2	0.3
steel	8.7	8.9	8.8	8.6	8.8
transport	10.3	10.3	10.1	8.6	6.8
Total	**131.3**	**138.4**	**144.2**	**142.7**	**136.9**
Source: CER 2022a & similar earlier files					

The consultation paper notes that:

"To date, the Safeguard Mechanism has not been effective in reducing emissions. Instead, emissions limits, known as baselines, have allowed business-as-usual operations and aggregate emissions from Safeguard facilities to grow. Elements of the Safeguard Mechanism will need to evolve for it to deliver large-scale, low-cost emissions reductions." DCCEEW 2022b p4)

2.5 Numbers of Safeguard facilities

Period	16-17	17-18	18-19	19-20	20-21
aluminium	10	10	10	10	10
cement	6	6	7	6	6
chemicals	5	6	6	6	6
coal	62	67	64	63	60
gas & oil	42	45	42	43	40
manufacturing	9	8	9	9	8
minerals	49	47	47	55	57
power	5	6	5	5	5
services		3	2	2	2
steel	3	4	4	4	4
transport	13	13	14	14	15
Total	**204**	**215**	**210**	**217**	**213**
Source: CER 2022a & similar earlier files					

Numbers of safeguard facilities were almost unchanged in the five years to 20-21, apart from the numbers of mineral facilities rising from 49 to 57.

2.6 Baseline type for Safeguard facilities

Period	16-17	17-18	18-19	19-20	20-21	1/7/22
Calculated	74	76	71	73	104	128
Default	2	1	2	2		
Emissions intensity		2	2			
Multi-year	6	17	31	32	40	21
Production-adjusted				11	36	49
Reported	122	119	104	99	33	
Total	**204**	**215**	**210**	**217**	**213**	**198**
Source: CER 2022a & similar earlier files, CER 2022b						

The consultation paper notes that the Safeguard Mechanism is in the final stages of transitioning from fixed to production-adjusted baselines (DCCEEW 2022b p10).

2.7 Statements on emission reduction measures

The Safeguard baselines table as at 1 July 2022 (CER 2022b) shows 128 facilities with a calculated baseline. All but 15 of these had a statement under "Emission reduction measures undertaken/ to be undertaken (only relevant for calculated baselines)". We have sought advice on the requirement under the Safeguard Mechanism Rule 2015 for these statements.

3. Potential litigation for lost profits

3.1 Litigation arising from Australian tobacco plain packaging legislation

In 2011 Australia passed legislation requiring tobacco products to be sold in packaging without designs or logos, and with large graphic health warnings. Four major multinational tobacco companies brought a constitutional challenge to the High Court, Philip Moris Asia filed an investment treaty challenge, and four WTO member states brought a challenge through that organisation's dispute settle settlement system. The last of these disputes was resolved in 2020 (McCabe 2020).

3.2 Environmental protection in the Australia-United States Free Trade Agreement

The United States in the largest investor in Australia, with $929 billion in 2020 (DFAT 2022). The Australia-United States free trade agreement is supportive of environmental protection:

"19.1 Recognizing the rights of each Party to establish its own levels of environmental protection and environmental development priorities, and to adopt or modify accordingly its environmental laws and policies, each Party shall ensure that its laws provide for and encourage high levels of environmental protection…"

There is however a requirement for procedural guarantees and public awareness:

"19.3 Each Party shall ensure that judicial, quasi-judicial, or administrative proceedings for the enforcement of its environmental laws are fair, equitable, transparent and provide for appropriate administrative and procedural protections in accordance with its law."

3.3 Potential litigation arising from off-shore exploration permits

Does the granting of an off-shore exploration permit by the Australian government create an expectation that the permit holder will be allowed to extract and process any oil or gas found? The Australian Greens noted (SECLC 2022 p83) that

"In the short 27 days from the passage of the climate Change Bill 2022 through the House of Representatives … the Federal Minister for Resources released 10 new oil and gas leases covering 46,758 square kilometres of our oceans …"

We have asked DISER for a copy of one of these approvals. Recommendation 11 by Senator David Pocock to the SECLC included

"…the Offshore Petroleum and Greenhouse Gas and Storage Act should be amended to require that decisions made under that Act are consistent with the emissions reductions targets…"

3.4 Potential litigation on the basis on discrimination between emitters

The Safeguard mechanism only covers facilities emitting at least 100,000 Mt in a year. The owner of such a facility, expected to reduce its emissions in order to meet national targets, might reasonably ask why facilities below the threshold were excluded. A loss of profits claim, based on a denial of natural justice, might result.

The chances of such a claim succeeding might be reduced if all emitters, and not just the largest, were subject to some form of statutory control. Smaller emitters might be more efficiently handled by staged prohibitions on particular activities resulting in emissions.

3.5 Certainty and fairness for investors

Senator Andrew Bragg's additional comments to the SECLC report (2022 p101) said

"It is essential that the parties of government work to provide the markets with the maximum level of policy certainty which promotes investment in Australia."

Any uncertainty or unfairness in the Safeguard mechanism may deter potential investors in a wide range of Australian activities. The owners of Safeguard facilities may ask for a reasonable return on investment from the beginning of investment to the imposition of severe emission reductions. Investors in exploration permits may ask for an additional return to allow for the chances of unsuccessful exploration.

A key aspect in determining fair emission reduction timetables for particular facilities may be the knowledge of the investors of Australia's national emissions policy when the investment decision was taken:

- As a signatory to the Kyoto Protocol, ratified in 2007, Australia committed to limiting increases in net GHG emissions to 108 per cent of its 1990 levels from 2008 to 2012 (NSW EPA 2021).
- On 4 June 2007 Prime Minister Howard announced the government's plan for a carbon trading scheme to be launched in 2012 (Wikipedia 2022a).
- A carbon tax was introduced by the Rudd government in July 2012, and repealed by the Senate in July 2014 (Taylor 2014).
- The Safeguard Mechanism Rule was dated 2015.

- At the Paris climate change conference in 2015 the government announced a 2030 target of 26-28% below 2005 (Australian government 2015).
- On 26 October 2021 the Morrison government announced a plan to reach net zero emissions by 2050 (Taylor 2021).
- On 3 December 2021 the ALP promised a 2030 target of 43% below 2005, and a net zero target by 2050 (ALP 2021 p4).

3.6 Advice by the Attorney-General on risk reduction measures

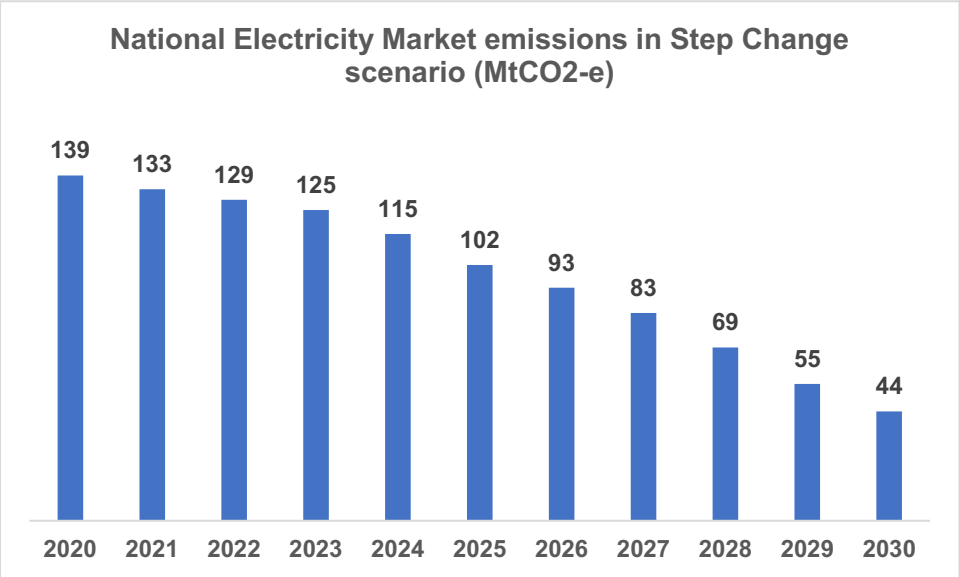
The Attorney-General's advice should be sought on how to reduce the potential costs of litigation by investors in Safeguard mechanism facilities. This should include the wording of the Safeguard rules, and documents such as exploration permits. Appropriate wording should be drafted for use in ministerial speeches, for example when addressing industry conferences. Advice on the reasonable timing of emission reductions for different types of facilities is needed. Does the absence of restrictions on smaller facilities increase the risks of litigation by larger facilities?

4. Achieving Australia's emission targets to 2030

4.1 Annual reductions needed to meet our 2030 and 2021-30 targets

Starting from the 488 Mtonnes Australia emitted in 2021, an annual reduction of about 3.4% would be needed to meet our 2030 target of 354 Mtonnes. An annual reduction of about 2.4% would be needed to keep our total emissions to our 2021-30 target of 4381 Mtonnes. These reduction rates are higher than the 1.8% average reduction achieved in the 10 years to 2021 (see 2.3).

4.2 Electricity generation from renewables should help meet the 2030 target



The above emissions are estimated from historical data up to 20-21, and Step Change scenario projections from 23-24 on (AEMO 2022). AEMO makes projections on four different scenarios, of which Step Change is the one considered most likely by market

participants. The overall drop from 2020 to 2030 is 95 MtCO2~e, about 73% of the 130 needed to meet our 2030 target. The sum of the savings between 2021 and 2030 is 436, about 87% of the savings needed to meet the 2021-30 target of 4381.

The NEM covers NSW, Victoria, Queensland, SA, Tasmania and the ACT. The WA government has announced the progressive closure of its state-owned coal power stations, beginning in 2022 and ending in 2029 (ABC 2022). Generation using gas is to continue in WA.

4.3 Larger NEM emission reductions by 2030 than the Step Change Scenario?

Australian Projections (2022) noted the low projected expenditure on renewable storage before 2030, and the slowly rising expenditure on transmission networks. CSIRO (2022 p74) has estimated the construction time for a large solar photovoltaic generator as 0.5 years, and for an on-shore wind generator as one year. Big batteries can also be built in less than a year.

On 12 August 2022 a meeting of the national energy ministers agreed to fast track an emissions objective into the national energy objectives (Energy Ministers 2022). AEMO had previously been prevented from taking emissions into account when evaluating alternative actions. This new emissions objective may result in AEMO projecting faster change than its Step Change scenario.

4.4 Current wholesale electricity prices are much higher than renewable energy prices

In the June quarter of 2022 average wholesale prices were $228 per megawatt hour in Tasmania, $241 in Victoria, $280 in SA, $321 in NSW and $344 in Queensland (AER 2022). All of these are much higher than the $60-80 in 2021 prices estimated by CSIRO (2022 p59) for the NEM with wind and solar generating 90% of energy needs. While high NEM prices may have largely resulted from high export prices for gas and coal, there is little sign of export prices easing. Coalition Senators noted that, when residential electricity prices increase, those most affected are Australians in lower socio-economic groupings (SECLC p72).

4.5 Local electricity generation rather than long-distance transmission?

Since its creation in December 1998, the NEM has relied on long-distance transmission from fossil fuel generators close to capital cities. The low prices of renewable generation and battery storage may now make it cost effective to generate electricity locally, rather than transmit it over long distances. Apart from the extra costs of building and operating transmission lines, they sometimes suffer major failures. Recent examples are:

- The failure on 20 December 2015 of the Basslink cable between Tasmania and Victoria, not repaired until 13 June 2016 (Hydro Tasmania 2017).
- Wind damage on 28 September 2016 to 23 towers on transmission lines in South Australia, resulting in the expected use of temporary towers for 6 to 12 months (Wikepedia 2022b).

- Wind damage on 31 January 2020 to seven dual circuit 500 kV transmission towers in Victoria, resulting in the expected use of temporary towers until October 2020 (AusNet 2020).

4.6 Expert analysis by AEMO of faster transition to renewable electricity

AEMO has formidable expertise in managing the NEM, and in analysing proposing changes to the transmission network. It would be very helpful if this expertise could be used to inform Australians and their politicians about possible solutions to the challenges facing the NEM:

- Are current high wholesale prices partly due to increased renewable generation capacity, as well as high fuel prices?
- What is the quickest possible transition to a system relying wholly on renewables?
- How much capital investment would be needed for such a transition?
- How much of this capital would be likely to come from private sources?
- What obstacles exist at present to the rapid introduction of renewables?
- Is the very large storage capacity of Snowy 2.0 a deterrent to storage investments?

4.7 Reducing emissions by Safeguard facilities up to 2030

Many of the Safeguard facilities may be able to reduce emissions by replacing fossil fuel use by electricity from renewable sources.

5. Achieving Australia's net zero target by 2050

5.1 Determining revised baselines for each facility, in close consultation with industry

ALP's "Powering Australia" policy requires baselines to be set for each facility, in close consultation with industry, and carefully considering the available and emerging technologies in each sector (ALP 2021 p31). This sensible policy may result in different sectors having very different paths to net zero. The consultation paper does not reflect this need for industry differentiation.

5.2 Uncertain availability of international offsets

The consultation paper said

"…we would only consider international offsets in the Safeguard Mechanism if the units are of high integrity and the mitigation outcome can be formally transferred to count towards Australia's Paris Agreement commitments… international offsets are not proposed to be part of the initial enhanced Safeguard Mechanism." (DCCEEW 2022b p19-20)

We suggest that Australia should be planning towards zero emissions by 2050, not net zero.

5.3 No special treatment for emissions-intensive trade-exposed industries

"Powering Australia" said

"Labor will provide tailored treatment for emissions-intensive, trade-exposed industries. This will be based on the principle of comparative impact - ensuring that exporters remain competitive, and that emissions do not 'leak' overseas." (ALP 2021 p31)

The consultation paper provides some possible definitions of emissions-intensive and trade-exposed, based on definitions that have been use for other purposes. Nearly all the Safeguard facilities at 1 July 2022 would be likely to meet one or both of these criteria. The argument that exports should remain competitive, and exports do not leak overseas, is at odds with the views of the increasing numbers of Australians who believe we should reduce our emissions. We suggest that "emissions-intensive" and "trade-exposed" be irrelevant.

5.4 Grant funding eligibility for all Safeguard facilities

We suggest that all Safeguard facilities be eligible for grant funding to help them reduce their emissions. "Powering Australia" said:

"Labor's Powering the Regions Fund and National Reconstruction Fund will assist covered facilities in meeting their new baselines, and the deployment of low-emissions technology more broadly…

The Powering the Regions Fund will… continue to purchase ACCU's on behalf of the Commonwealth - but its remit will be expanded to focus on an additional three priorities directly supporting industry:

- *Supporting industry with its decarbonisation priorities, such as energy efficiency improvements and fuel switching*
- *The development of new clean energy industries, such as green hydrogen production and export, and bioenergy*
- *Workforce development, such as training existing workers in new technologies…*

Labor will establish the $15 billion National Reconstruction Fund to create secure jobs for Australian workers, drive regional economic development, and boost Australia's sovereign capability…

Investment would be directed to regions undergoing rapid change, enabling them to capitalise on the nation's natural resources.

This funding would pursue commercial opportunities from

- *wind turbine component manufacturing*
- *battery and solar panel supply chain and manufacturing*
- *new livestock feed to reduce methane emissions*
- *modernising steel and aluminium manufacturing*
- *hydrogen electrolysers*
- *bioenergy and biomass*
- *innovative solutions for waste reduction."* (ALP 2021 p32-33)

5.5 Gradual cost reductions in emerging technologies

The consultation paper has a hypothetical example of a new technology emerging in 2028 (DCCEEW 2022b p24). In practice, capital costs may continue to drop long after a technology has entered commercial use. For example, an onshore wind turbine cost about

$1960/kW in 2021, and may cost about $1521 in 2050, in 2021 values. Rooftop solar panels cost about $1333/kW in 2021, and may cost about $500 in 2050 (CSIRO 2022 p68).

Gradually dropping capital costs can create a first mover disadvantage, where later adopters have lower costs. Grants can help early adopters compete on more level terms with late adopters. ARENA (2022) received 54 applications for grants for large-scale batteries, many seeking only modest contributions towards cost.

5.6 Reducing the Safeguard threshold as Australia's missions reduce

As Australia's emissions reduce towards net zero, fewer firms will exceed the 100,000 threshold, and the effectiveness of the Safeguard mechanism will be reduced. The threshold could be reduced in line with Australia's emissions.

5.7 Working with the states and territories

Some states have similar or more ambitious emission reduction targets than the Australian government. For example, in 2016 NSW adopted an aspirational objective of net-zero emissions by 2050 (NSW EPA 2016). In 2022 NSW published a draft plan to achieve a 50% reduction by 2030 (NSW EPA 2022). The NSW EPA regulates activities that emit about 67% of NSW emissions, and is considering placing emission limits and other requirements on licenses progressively on a sector-wide basis (NSW EPA 2022 p37). Where possible, the Commonwealth should work with the states and territories, avoiding inconsistencies.

5.8 The need for a detailed national plan

In their dissenting reports to the Senate Environment and Communications Legislation Committee, Coalition senators were concerned that the consultation process failed to properly account for rural and regional perspectives. National senators were concerned that action on climate change would disproportionately affect certain industries and regions.

Electricity system proposals for NSW, Victoria, Queensland, SA and Tasmania are available from AEMO (2022 p44). They show 35 onshore renewable energy zones, and 6 offshore zones. The locations of wind turbines and large solar arrays in 29-30 and 49-50 are also shown, under AEMO's Step Change scenario. For example, there are many turbines and arrays by 49-50 in the Q6 renewable energy zone of Fitzroy, close to the Gladstone LNG facilities.

A detailed national plan is needed, taking into account the location of each of the Safeguard facilities, and their potential electricity sources. A national plan would allow grants to be directed more effectively, with new industries broadly replacing old ones, and with lower impacts on communities.

6. Public data on Statutory Mechanism facilities

6.1 Emissions by Statutory Mechanism facilities

Emissions by each facility are available from the Clean Energy Regulator for each financial year from 16-17 to 20-21. Some facilities are still operating under "reported baselines",

based on the historic high point of emissions reported under the National Greenhouse and Energy Reporting Act 2007 between 09-10 and 13-14 (Power 2018). Presumably emissions for each Safeguard facility are available as far back as 09-10.

6.2 Default production variables and emissions intensities

The Safeguard Mechanism Rule 2015 was amended in March 2019 to allow businesses to use government-determined production variables and emissions intensity values (together called 'default values') when applying to the Clean Energy Regulator to set their baselines. The majority of default emissions intensity values were included in schedules 2 and 3 of the Safeguard Mechanism Rule 2015 in March 2020 (DCCEEW 2022a). For example, the default intensity for iron ore is 0.00476 tonnes CO2~e per tonne of iron ore.

We have asked whether production volumes for each facility are available. Together with emissions, these data would help show whether the emissions intensity of each facility has improved or worsened, and how each facility compares with others in the same industry.

6.3 Public data on each Safeguard facility

It is vital that the Australian public be properly informed about the past and likely future emissions of each Safeguard facility. This will allow Australians to form opinions about the past behaviour of facilities, and the merits of allowing them to continue operation. The data for all facilities should be in a few computer files, readily downloadable by the public. At present downloading and analysing multiple files on Safeguard facilities is a task likely to be beyond many Australians. Changes in regulations, and changes in the responsible Commonwealth agencies, have made the data even less accessible. The industry in which the facility operates, its geographic location and the remoteness of that location, should be known.

Publicly available data on each facility for each year to date should include

- Reported emissions, in Mtonnes of CO2~e
- Independent checks on reported emissions
- Breakdown of emissions by sector
- Breakdown of missions by scope
- Production volumes
- Emission intensities
- Changes made to reduce emission intensities.

6.4 Independent checks on reported emissions

The Safeguard Mechanism should not rely entirely on self-reported emissions. Independent monitoring could be done using satellites or drones (NSW EPA 2022 p30).

6.5 Breakdown of emissions by sector

Analyses of Australia's greenhouse gas emissions are available by sector (DISER 2022 p9). Sectors include electricity, stationary energy excluding electricity, transport, fugitive

emissions and industrial processes and product use. A top-down methodology is used to estimate emissions across some sectors, so that estimates by sector are not available for individual Safeguard facilities (DISER email 24 August 2022). Knowledge of emissions by sector could help plan remedial or cessation measures, for example for a coal mine with high fugitive emissions.

6.6 Breakdown of emissions by scope

Senator Andrew Bragg recommended that Australia should legislate an emissions disclosure regime for scope 1, 2 and 3 emissions (SECLC p100). Scope 1 emissions are those generated as a direct result of a particular activity, scope 2 are the indirect emissions of that activity, for example due to energy consumption, and scope 3 are those generated in the wider economy, for example in the use or consumption of goods. We understand that Safeguard facilities are currently only required to report scope 1 emissions. It may be useful to require Safeguard facilities to provide estimates of their scope 2 and 3 emissions.

6.7 Need to look beyond current emission intensities of facilities in the same industry

The table in 2.5 shows the numbers of Safeguard facilities in each of 11 industry groups. Some of the groups, such as minerals, are very diverse, and the numbers extracting a particular mineral may be low. Although there are about 60 coal-mining facilities, the quality of the coal may vary considerably, and the mining may be open-cut or underground. An entire industry may be taking advantage of permissive regulation, so that all have higher emissions than possible with investment to reduce emissions.

6.8. Political influence of many Safeguard facilities

Safeguard facilities are likely to be large employers, mostly in regional and remote areas, generating high revenues for many years. They are likely to have significant influence on local members of state and federal parliaments. This will be a continuing problem, as Australia's emissions are gradually forced lower to meet its international commitments. Assertions will be made about the need to exempt a particular industry or facility. A strong public long-term plan will need to be maintained for Safeguard facilities as a whole, and for each facility. This will help meet the Australia-United States free trade agreement requirement for procedural guarantees and public awareness (see 3.2).

7. Answers to consultation questions

The Safeguard Mechanism's share of the national abatement task

- *What should the Safeguard Mechanism's share of Australia's climate targets be?*

Safeguard's year-by-year shares of Australia's climate targets can only be determined under a detailed national plan, taking into account non-Safeguard emissions.

Fixed (absolute) versus production-adjusted (intensity) framework

• *Should we retain, and build on, the existing production-adjusted (intensity) baseline setting framework or return to a fixed (absolute) approach?*

As we are committed to meeting fixed targets, a fixed approach is needed for each Safeguard facility.

Setting baselines for existing and new facilities

• *Views are sought on the proposal to reset baselines in a way that removes aggregate headroom so crediting and trading can commence when baselines start to decline.*

Each facility should have a gradually declining baseline, set without headroom, above which it cannot emit.

• *What is the preferred approach for setting baselines for existing facilities? Approaches may include:*

- *Option 1: setting all baselines using industry-average benchmark emissions-intensity values.*

- *Option 2: setting all baselines using facility-specific emissions-intensity values.*

- *Other proposals, noting there are many possible approaches.*

The initial baseline for each facility should be based on its emissions. Where its emission intensity is above average for the industry, faster decline rates should apply.

• *What are the advantages of best practice, industry average benchmarks or alternative approaches for setting baselines for new entrants, noting that a final decision will be informed by baseline setting arrangements for existing facilities?*

The initial baseline for a new facility should be based on the emissions intensities of facilities using the best available technology.

Crediting and trading, domestic offsets and international units

• *Are there any other issues to consider with the proposal to allow the Clean Energy Regulator to automatically issue tradable credits to Safeguard facilities whose emissions are below their baseline, with crediting and trading commencing on 1 July 2023 subject to baseline setting arrangements that remove aggregate headroom?*

Tradable credits should not be issued until a much more rigorous Safeguard Mechanism has been in place for several years.

• *Should banking and borrowing arrangements be implemented for Safeguard Mechanism Credits?*

No.

• *Should Safeguard facilities no longer be able to generate ACCUs for reducing direct (scope 1) emissions unless they have an existing registered ERF project? Further, should no new ERF projects be able to be registered at Safeguard facilities? Additional feedback is sought on:*

- *allowing existing ERF projects at Safeguard facilities to continue to generate credits and retaining double counting provisions to prevent a facility from generating ACCUs and SMCs;*

Grants to help facilities reduce their emissions, from sources such as the ERF and NRF, should be kept separate from the Statutory Mechanism.

- *options for the treatment of deemed surrender;*

No comment.

- *continuing to allow Safeguard facilities to participate in ERF projects that reduce emissions from electricity use (scope 2) emissions; and*

Such projects, funded from any source, will continue to be very important.

- *mechanisms to promote the transparency of the ACCU market, such as publishing unit holding, to assist with market decision making, supply and cost effectiveness.*

We understand the integrity of ACCU's, and their potential relevance under the Paris Agreement, are currently under review.

• *Should international units be able to be used for compliance under the Safeguard Mechanism at a future time, noting that any decision would depend on the rules for international trading?*

This should be a political decision, reflecting the expressed wishes of the majority of Australians.

Tailored treatment for emissions-intensive, trade-exposed (EITE) businesses

• *Should a facility-specific comparative impact assessment that builds on existing EITEs definitions be used rather than a sector wide designation?*

No distinctions should be made on the grounds of emissions intensity or trade exposure.

• *Would additional funding opportunities effectively assist EITE facilities to adapt to declining Safeguard baselines?*

All Safeguard facilities should be eligible for grant funding, done within a geographically detailed long-term national plan.

• *What kinds of funding, finance or other arrangements and measures would best support EITE Safeguard facilities to reduce their emissions?*

See above.

• *Is the direct provision of SMCs an appropriate way to mitigate cost impacts for EITE facilities?*

No.

• *Are differential decline rates an appropriate way to reduce the impact on EITE facilities?*

Differential decline rates are essential, both between industries and between facilities in the same industry.

• *How could differential decline rates be structured so that emissions reduction and fairness outcomes are maintained?*

By detailed consideration of the abatement opportunities available to each industry and to each facility.

Taking account of available and emerging technologies

• *Should multi-year monitoring periods be extended to allow facilities with limited near-term abatement opportunities to manage their own abatement path?*

No. Each facility should have a fixed baseline determined for each year, determined annually.

Indicative baseline decline rates

• *What are the appropriate characteristics for the decline trajectory to 2030 that can deliver the Safeguard Mechanism's share of Australia's climate targets, and the process for setting baselines post-2030?*

Talking about decline trajectories for Safeguard facilities as a whole is meaningless.

Other policy issues

• *What transitional or other arrangements should be in place for site-specific production variables, including:*

- *whether the use of Government-defined production variables (prescribed in Schedule 2 of the Safeguard Mechanism Rule) should be mandatory from the start of Phase 1;*

Annual baselines should be determined openly and intelligently, taking into account the particular characteristics of the facility, and the emissions intensities achievable within that industry.

- *whether transitional arrangements for facilities using bespoke, site specific production variables should be considered for phase 1; and*

No.

- *the proposal that only Schedule 2 production variables could generate Safeguard Mechanism Credits (SMCs)?*

Not relevant.

• *Should oil refinery production variables:*

- *remain fixed (in Schedule 3) and not generate SMCs; or*

- *become production-adjusted (move to Schedule 2) and be eligible to generate SMCs?*

Oil refineries should be treated like any other Statutory Mechanism facility.

• *Are existing Government-defined production variables suitable for the Safeguard Mechanism to drive least cost emissions reductions?*

No - see above.

• *Should the inherent emissions variability calculated baseline approach be removed?*

Yes.

• *How should landfills be treated, including:*

- *should landfill baselines decline at the same rate as other facilities;*

- *should landfills be able to generate SMCs in phase 1; and*

- *should long-term arrangements for landfills be considered prior to phase 2?*

Landfills should be treated like any other Statutory Mechanism facility.

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Abbreviations

ABC	Australian Broadcasting Corporation
ABS	Australian Bureau of Statistics
ACCU	Australian Carbon Credit Unit
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ALP	Australian Labor Party
ARENA	Australian Renewable Energy Authority
CBAM	Carbon Border Adjustment Mechanism
CEPR	Centre for Economic Policy Research
CSIRO	Commonwealth Scientific and Industrial Research Organization
CER	Clean Energy Regulator
DCCEEW	Department of Climate Change, Energy, the Environment and Water
DFAT	Department of Foreign Affairs and Trade
DISER	Department of Industry, Science, Energy and Resources
EPA	Environment Protection Authority
ERF	Emissions Reduction Fund
NEM	National Electricity Market
NRF	National Reconstruction Fund
SECLC	Senate Environment and Communications Legislation Committee
SMC	Statutory Mechanism Credit
UNFCCC	United Nations Framework Convention on Climate Change

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