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Northern Territory Environment Protection Authority
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Submitted via online consultation portal and by email to: environment.policy@nt.gov.au

To Whom It May Concern,

Submission on Draft Environmental Factor Guidance: Atmospheric Processes – greenhouse gas emissions

The Environment Centre NT (**ECNT**) is the peak community sector environment organisation in the Northern Territory of Australia, raising awareness amongst community, government, business and industry about environmental issues, holding government to account on environmental issues, improving environmental governance and regulation, and assisting people to reduce their environmental impact and supporting community members to participate in decision-making processes and action.

ECNT welcomes the opportunity to comment on the “Draft Environment Factor Guidance: Atmospheric Processes – Greenhouse Gas Emissions” (**Draft Guidance**) and commends the Northern Territory Government for providing clarity regarding the threshold for referral of projects to the NTEPA under the *Environment Protection Act 2019 (NT)* for their impact on atmospheric processes. This has long been a gap in the Northern Territory’s climate policy regime.

As an overarching comment, and considering the wider regulatory and policy context within which the Draft Guidance will operate, ECNT is of the view that the Northern Territory’s current climate policies are inadequate to safeguard the Northern Territory’s climate, and may in fact facilitate a significant increase in the Northern Territory’s emissions profile.

ECNT notes in this regard that the thresholds for referral in the Draft Guidance align with those in the draft “Greenhouse Gas Emissions Offsets Policy and Technical Guidelines” (“**Draft Offsets Policy**”) and the “Greenhouse Gas Emissions Management for New and Large Emitters Policy” (“**Large Emitters Policy**”). ECNT believes that due to the high and arbitrary thresholds of what constitutes a “large emitter”, many, if not most, carbon-intensive projects will remain completely unregulated and indeed the policy may actually facilitate an increase in emissions.

ECNT notes that the Northern Territory Government has set an aspirational target of net zero emissions by 2050, but has produced very few enforceable policy or regulatory parameters to achieve this outcome. Calls to enact a Climate Change Act that would actually require accountability in moving towards this target, and interim targets against which the Northern Territory must report its progress, have gone unheeded. While it is increasingly clear that reaching net zero emissions by

2050 is far too late to meet Australia's international obligations under the Paris Agreement and avoid catastrophic warming that may make the Northern Territory unliveable, ECNT believes in any case that the Draft Guidance is inconsistent with this net zero commitment.

(a) A free pass for land clearing

Consistent with previous submissions, ECNT submits that the threshold for land clearing actions, of 500,000 tCO₂-e (scope 1), is far too high.

There is no logical basis for setting a different emissions threshold for land use projects (as opposed to industrial projects). The rationale given in the Draft Guidance for why the land clearing threshold is higher than that proposed for industrial actions (p 9) is spurious, namely, that carbon dioxide "has less warming potential than other types of greenhouse gas emissions" and that emissions for land clearing are primarily carbon dioxide. No evidence is provided to substantiate this assertion. In any case, this cannot justify a land use threshold five times greater than the industrial threshold. ECNT notes that the relative impact of different gases on emissions is already factored into the measurement unit of 'tCO₂-e'. Furthermore, other jurisdictions such as Western Australia do not establish different thresholds based on the nature of the emitting activity (a threshold of 100,000 tonnes is adopted).

The effect of this distinction is perverse since it will facilitate significant unregulated greenhouse gas emissions across the Northern Territory for broadscale land clearing (for projects of up to approximately 4000 hectares). This is aside from the significant biodiversity impacts of broadscale land clearing, which are well documented and notoriously poorly regulated in the Northern Territory.

According to publicly available information, for the 11-year period to the time of writing this submission some **162,305.27 hectares** of land clearing applications have been granted consent on pastoral, unzoned and freehold land. In 2022, 10,089.41 hectares of land clearing applications have already been granted consent on pastoral land, with a further 13,623.95 hectares currently under consideration by the Pastoral Land Board.

Land clearing is significantly increasing in the Northern Territory, as are the greenhouse gas emissions associated with it. In 4 years (between 2018 and 2021), the amount of land subject to land clearing approvals has increased by 300% in the Northern Territory. If the applications currently being considered by the Pastoral Land Board are approved (approximately 23,713.36), this will result in a 400% increase in land clearing over 5 years.

The approvals between 2011 and 2022 have together authorised the generation of approximately **24 million tonnes of carbon dioxide in an 11-year period**.¹ In 2021 alone, the generation of approximately 2.6 million tonnes of emissions were authorised. This is a very significant quantity, representing approximately 12.5% of the Northern Territory's annual emissions (in 2019, the latest figures available). By comparison, the Indigenous carbon farming industry abates approximately 1.2 million tonnes of carbon emissions per annum across the whole of northern Australia.²

¹ Estimated using the figure of 148.3 tonnes of CO₂ equivalent emissions per hectare from savanna clearing and burning from Bristow, M. et al. (2016) "Quantifying the relative importance of greenhouse gas emissions from current and future savanna land use change across northern Australia" *Biogeosciences* 13:6285–6303 <https://doi.org/10.5194/bg-13-6285-2016>.

² https://www.icin.org.au/latest_industry_snapshot.

Bar one (which did not result in an environmental impact assessment), ECNT understands that **none** of these land clearing applications has been referred for assessment to the NTEPA. This represents a vast quantity of greenhouse gas emissions that have been completely unregulated in the Northern Territory, in that there has been no requirement for proponents to either account for their emissions, nor to avoid, reduce or offset these emissions.

Year	Pastoral land	Freehold/Unzoned
2022	10,089.41	0
2021	13748.94	3467.1
2020	12897.71	292.95
2019	9974.21	1573.75
2018	1499	4211.91
2017	4224	3715.77
2016	37807.5	5195.47
2015	5195.55	3044.8
2014	724	2739.98
2013	18979	919.63
2012	599	5554.4
2011	13119.6	2729.6
Total	118768.5	33447.36
Total approved 2011-2022	162,305.27 hectares (162.3053km ²)	

In ECNT’s view, the Draft Guidance (particularly when read concurrently with the Large Emitters Policy and Draft Offsets Policy) will do nothing to address this issue, since proponents will still be able to engage in broadscale land clearing (up to approximately 4000 hectares at a time) with no requirement to account for, nor avoid, mitigate or offset the considerable emissions associated with such projects. Indeed, the Draft Guidance and associated policies could actually lead to an increase in unregulated emissions. This represents a serious climate risk for the Northern Territory, one that could undermine the Northern Territory’s commitment to net zero emissions by 2050. It is a risk that the NTEPA cannot ignore.

Already, the different thresholds are effectively creating a licence to pollute up to the 500,000 tonne threshold in the Large Emitters Policy with no regulation of or accounting for greenhouse gas emissions. For example, in January this year, ECNT raised with the Department the significant emissions profile of a recent land clearing application for 4019 hectares at Vermelha Station. ECNT advised the Department that the emissions from the development were likely to be in the vicinity of 600,000 tonnes of carbon dioxide equivalents, and thus required preparation of a Greenhouse Gas Abatement Plan in accordance with the Large Emitters Policy. ECNT received a response from the Department that the proponent changed their application so that it had a slightly “reduced footprint”, and emissions would sit just below the 500,000 tonne threshold for application of the Large Emitters Policy. This is precisely the scenario that is enabled by applying differential thresholds for referral, and such a high threshold for land clearing in particular. It is poor climate policy, which is inconsistent with the Northern Territory’s commitment to net zero by 2050.

Recommendation 1: the land use project threshold should be lowered to 100,000 tonnes in the Draft Guidance, the Large Emitters Policy and the Draft Offsets Policy.

(b) Requirement for a referral trigger

ECNT acknowledges that it is positive that the Draft Guidance requires proponents to refer an action that meets certain emissions triggers or thresholds under the *Environment Protection Act*, which will provide much needed clarity.

However, ECNT note that this does not necessarily mean that the NTEPA will actually require a large emitting project to undergo an environmental impact assessment. Further, the Draft Guidance is an unenforceable policy document and thus cannot make a referral mandatory.

Recommendation 2: the NTEPA declare a referral trigger under section 30 of the Environment Protection Act for proposed actions that meet the threshold of 100,000 tonnes.

Recommendation 3: The NTEPA should require environmental assessment of projects that meet the threshold of 100,000 tonnes.

(c) Discrepancies in language and definition

The term “Industrial proposed action” and “industrial action” are not defined in the Draft Guidance. These terms must be defined (preferably to be consistent with definitions in the Large Emitters Policy and Draft Offsets policy), including to provide clarity regarding:

- (a) what qualifies a project as “industrial”;
- (b) whether this is intended to cover both new and expanding projects;
- (c) whether the Draft Guidance applies to proponents with multiple related projects or projects with multiple components whose cumulative emissions may exceed the trigger (for example, gas companies with multiple environmental management plans across different areas);
- (d) whether this is intended to apply only for a new environmental authorisation (that term must also be defined).

Recommendation 4: Clearly define which projects and what activities are covered by the Draft Guidance, and ensure consistency with the Large Emitters Policy and Draft Offsets Policy

(d) Requirement to calculate scope 2 and 3 emissions

There is an incongruence between the fact that actions are required to be referred to the NTEPA based solely on their scope 1 emissions, but then subsequently estimates are required to be made of “annual and total scope 1, scope 2, and scope 3 emissions over the life of the action”. This could lead to situations in which actions with very high scope 2 emissions are not referred and not subject to the requirement to calculate their emissions, and thus avoid being assessed. If the NTEPA acknowledges that scope 2 and scope 3 emissions are relevant to be assessed (pg 10) and, in the case of scope 2 emissions, avoided and mitigated (pg 11) then they should be required to be

factored into whether a project is referred or not. Emissions have the same impact on climate change regardless of what scope they are. In recognition of this fact, and the guideline's acknowledgement of the link between greenhouse gas emissions and climate change, there is no reason why, for example, an industrial action with emissions over 100,000 tCO₂-e from scope 2, should not trigger the thresholds.

Recommendation 5: Include scope 1, 2 and 3 emissions in the calculation of whether an action meets the referral threshold.

(e) Ambiguity about requirement for emissions management and GHG abatement plan

There exists ambiguity about what is meant by the fact that referrals “must” include the information specified in section 7.1 of the guideline, but only “should” contain the information specified in sections 7.2 and 7.3. For example, does this mean that emissions management and greenhouse gas abatement plans are recommended and not mandated under the guideline? The inconsistent use of language implying the non-mandatory nature of the greenhouse gas abatement plan is concerning, such as: “a proponent *may choose to submit* the greenhouse gas abatement plan”. At other points the guideline states that “the NT EPA *will require* the proponent to prepare a greenhouse gas abatement plan...”.

Recommendation 6: that the wording around emissions management and a greenhouse gas abatement plan is rendered consistent so as to unambiguously convey that these are requirements that must be followed by all actions referred to the NT EPA.

(f) Reference to international obligations

The context of the guideline currently does not include discussion of Australia's obligations in various international forums to achieve net zero emissions. For example, both the Paris Agreement and the IPCC's 1.5 report recommend net zero emissions by 2050 and establish interim goals to achieve this aim. Other jurisdictions in Australia have contextualised their guidelines within these international frameworks.³

Article 4 of the Paris Agreement sets out milestones for interim reporting, and consistent with this Agreement the guideline could establish recommendations for interim reporting on the reduction greenhouse gas emissions with a view to achieving net zero.

Recommendation 7: that the guideline refer to our obligations under the Paris Agreement and include references to requirements for interim reporting.

If you have any questions in relation to ECNT's submission, please contact Kirsty Howey on kirsty.howey@ecnt.org or Shar Molloy on shar.molloy@ecnt.org.

Yours faithfully,

³ For example, https://www.epa.wa.gov.au/sites/default/files/Policies_and_Guidance/EFG%20-%20GHG%20Emissions%20-%202016.04.2020.pdf.



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