

29<sup>th</sup> July 2022

Environment Division  
Department of Environment, Parks and Water Security  
GPO Box 3675  
DARWIN NT 0801

Forwarded via email: [NTEPA.Consult@nt.gov.au](mailto:NTEPA.Consult@nt.gov.au)

Dear Sir/Madame,

**APPEA Submission NT EPA Guideline Environmental Factor: Atmospheric Processes**

As the peak national body representing companies engaged in oil and gas exploration throughout the Northern Territory and Australia, the Australian Petroleum Production & Exploration Association (APPEA) welcomes the opportunity to make a submission to the Department regarding the draft guideline as part of the environmental factors associated with the *Environmental Protection Act 2019* (EP Act).

APPEA appreciates that the draft EPA guidelines are closely aligned with the Northern Territory's Draft Greenhouse Gas Emissions Offsets Policy and Technical Guidelines, which have resulted from the Greenhouse Gas Emissions Management for New and Large Emitters Policy within the Northern Territory's climate change action plan, 2020.

APPEA also understands that the NT EPA has established 14 environmental factors and objectives to ensure a systematic approach to environmental impact assessment. Guidance has been drafted by the department to support the following environmental factor:

Factor	Objective
Atmospheric processes	Minimise greenhouse gas emissions so as to contribute to the Northern Territory Government's target of achieving net zero greenhouse gas emissions by 2050

APPEA supports a national climate change policy that delivers greenhouse gas emissions reductions, consistent with the objectives of the Paris Agreement, and applies a broad-based price signal on emissions to facilitate broad-based investment decisions at the lowest cost to the economy. This means APPEA supports the Australian Government leading on climate change policy responses, as the signatory to Australia's Paris Agreement commitments. It also means duplicative and inconsistent requirements should not be imposed through the actions of a single regulatory agency in a single jurisdiction to only a limited number of projects.

APPEA and our members are committed to reducing emissions to levels that are as low as reasonably practicable. In February 2021, APPEA released its Australia’s cleaner energy future report, incorporating the third edition of APPEA’s Climate Change Policy Principles<sup>1</sup>. These principles underpin the industry’s approach to emissions reduction and are designed to assist policymakers in developing efficient and effective responses to climate change. In summary, the principles are:

1. Net zero emissions by 2050 should be the goal of national and international policy.
2. Climate policies should be efficient, enduring and integrated with economic, social, technology and energy policies.
3. Australia’s international competitiveness should be enhanced. Government should pursue climate policies that maximise growth in jobs and investment and maintain the competitiveness of Australian trade-exposed industries, such as LNG.
4. Universal access to affordable, reliable, sustainable, and modern energy must be achieved consistent with the UN’s Sustainable Development Goal 7.

### **National approach to emissions reductions**

As stated in our previous submissions to the Department of Environment on the Northern Territory’s Climate Change policies, actions undertaken by the Northern Territory Government should be consistent with, and complementary, to Australia’s commitments under the Paris Agreement. This is a national agreement and all sections of the national economy have a role in meeting this target. APPEA supports a national climate change policy that delivers greenhouse gas emissions reductions at least cost and facilitates broad-based investment decisions consistent with there being an international price on carbon. APPEA recommends that the draft guideline explicitly recognise the national approach to Climate change through the Commonwealth Safeguard mechanism and sets a commitment to work with all industries in a way that is consistent with the Paris Agreement and the United Nations Sustainable Development Goals.

### **Consistency with Greenhouse Gas Emissions Reporting Obligations and Safeguard Mechanism**

The National Greenhouse and Energy Reporting (NGER) legislative regime establishes a single national reporting framework for energy and emissions reporting and managing emissions. The NGER regime also contains the Safeguard Mechanism that applies to ‘designated large facilities’ with emissions over 100,000 t CO<sub>2</sub>-e in a financial year as defined in Section 22XJ of the National Greenhouse and Energy Reporting Act 2007 (Commonwealth).

We strongly encourage the NT defer to the application and design of the Commonwealth government safeguard mechanism. Current inconsistencies between the two jurisdictions are many.

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<sup>1</sup> A copy of the report can be found at [www.appea.com.au/industry/policy/policy-positions/climate-change-policy-and-emissions-reduction](http://www.appea.com.au/industry/policy/policy-positions/climate-change-policy-and-emissions-reduction).

The objectives of the NGER scheme<sup>2</sup> are to:

- inform government policy
- inform the Australian public
- help meet Australia's international reporting obligations
- assist Commonwealth, state and territory government programmes and activities, and
- **avoid duplication of similar reporting requirements in the states and territories.**

The NT Large Emitters Policy itself identifies the need for an interest holder to include as a minimum within a Greenhouse Gas Abatement Plan (GGAP) to include:

- a demonstration that all reasonable and practical measures have been applied to avoid and mitigate emissions through best practice design, process, technology, and management
- a description of all strategies proposed to avoid, mitigate, and offset the project's scope 1 and scope 2 emissions

### **Duplication of existing Territory assessment processes**

The Northern Territory has existing robust approval processes implemented under the NT Petroleum (Environment) Regulation (PER) and Environmental Protection Act (EP Act) for onshore activities, and under the Offshore Petroleum and Greenhouse Gas Storage Act (1999) for offshore activities. All these legislative instruments consider risks and impacts associated with greenhouse gas emissions. Onshore activities are already assessed by the Northern Territory Environmental Protection Authority.

It is recommended that any the new policy recognises and integrates with existing approval processes, rather than introduce a new process to be administered and assessed by the same Authority. This includes recognising that greenhouse gas emissions management strategies can be covered under the existing Environmental Management Plan (EMP) and Environmental Impact Statement approval processes (EP Act).

### **Overlap with existing emission mitigation and management plan requirements**

For onshore petroleum activities, the PER requires an interest holder proposing to undertake onshore petroleum activities to submit an EMP to the Minister for Environment for approval. The EMP must identify, assess, and mitigate risks associated with greenhouse gas emissions, as well as demonstrate how the mandatory requirement of the Code of Practice are to be applied.

The Codes of Practice were developed and implemented as a part of the NT Inquiry into Hydraulic Fracturing. These codes mandate a range of mandatory emission reduction and abatement requirements in Part D, which include restrictions on venting, use of reduced emission completions (flaring) and ongoing leak detection and reporting. The Code of Practice also includes the requirement

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<sup>2</sup> <https://www.cleanenergyregulator.gov.au/NGER/About-the-National-Greenhouse-and-Energy-Reporting-scheme>

for a Methane Emission Management Plan. The introduction of a Greenhouse Gas Abatement Plan (GGAP), would require an interest holder to implement an EMP, MEMP and GGAP all covering Greenhouse gas management. This level of duplication (triplication) is an avoidable regulatory burden on industry.

It is recommended that any the new policy recognise existing regulatory instruments, such as the PER and Code of Practice, to ensure interest holders are not required to submit multiple management plans covering the same aspect.

### **Treatment of different activities**

The draft guidance, and the Large Emitters Policy sets different thresholds between industrial activities and land use activities (primarily involving land clearing). Explicitly, the policy sets greater allowances for land use activities (500,000 tCO<sub>2</sub>-e for land clearing and 100,000 tCO<sub>2</sub>-e for an Industrial activity). This indicates that a molecule of CO<sub>2</sub> depending on the activity it is derived, is not equal in its capacity as a greenhouse gas. This disparity is without scientific justification.

To achieve the net zero target, APPEA recommends that all industries are treated consistently and that a single emission threshold is applied uniformly. The application of a single emission threshold across all industry types will facilitate the creation of an efficient process, whereby all industries are treated fairly and consistently.

### **Significance Tests**

Page 5 (Section 24(b)) of the draft guidance states that EP Act applies to “all proposed actions that may have a significant impact on the environment”. But the guidance is “not limited to those proposals where the NT EPA has determined that the potential greenhouse gas emissions associated with the proposed action may have a significant impact”. This statement is ambiguous and creates a high level of uncertainty. An action cannot have a potentially significant impact on the environment if no determination has been made that an action may have a significant impact on the environment.

The NT EPA is adopting thresholds of significance (section 6) based on the Greenhouse Gas Emissions Management for New and Expanding Large Emitters policy (Large Emitters policy).

Where a proposed action does not meet the threshold for greenhouse gas (i.e. 100,000 tonnes) but does meet the threshold for a factor other than atmospheric processes, the guidance requires that the proponent still needs to provide information related to atmospheric processes. This is contrary to the purpose of establishing thresholds under the Environment Protection Act 2019.

EPA discretion in referring an action. The guidance notes that the EPA proposes to adopt the threshold as a guide to when a proposed action requires referral to the NT EPA for consideration under the EP Act. However, “the NT EPA maintains discretion in its determination of significance.” This indicates that the threshold is arbitrary, and the significance test may vary depending on the level of interest in the action.

**Other General comments:**

- There is no analysis or regulatory impact statement that has been undertaken by the Northern Territory Government or the EPA to determine whether this policy and approach is the right fit. Costs, objectives, and outcomes have only loosely been defined.
- The order and arrangement of policies should be designed to reach an outcome. The NT greenhouse gas management policies should be paused whilst emission reductions policies are in draft. Only then can there be an assessment of overarching policy to reach the outcome.
- The term “proposed action” and “industrial action” are undefined. Please define.
- The scope in the EP Act seems limited vs cumulative large emitters policy. Clarification on what is an ‘action’ is required. Is it cumulative as per Large Emitters Policy – and is it further defined by project?
- The Draft Guidance requires a referral based on scope 1 emissions, but also requires assessment of total scope 1, scope 2, and scope 3 emissions over the life of the action. This could create a perverse outcome where a proponent prioritises higher scope 2 emissions and may not be referred or considered.
- Further expansion and detail should be provided to the references to the Environment Protection Act 2019 rather than just including links – For instance, the application of obligations under section 43 of the EP Act – the general duty of proponents.
- Creating policy that enables an industry to reach net zero. The role of consultation should be used to identify areas of policy that can assist an industry to reach a desired policy outcome. APPEA members have identified the following areas: beneficial use of flared gas and Northern Territory CCS legislation to avoid emissions.

**Avoid emissions by Beneficial use of flared gas**

Exploration and appraisal programs create short-term (months) scope 1 emissions primarily through the flaring of hydrocarbons during well testing activities. Well testing activities are a critical step required to understand the commercial and technological viability of a resource. These activities are unavoidable, as a higher level of certainty on the resource size and producibility must be obtained prior to commitment of development capital. Avoidance of scope 1 emissions during this phase is limited by the interest holder’s ability to beneficially use or sell hydrocarbons, which is currently not permitted under the NT Petroleum Act.

**Conclusion**

The oil and gas industry has a long history of taking actions to reduce emissions in and around its operations in the Northern Territory and across Australia.

The Northern Territory has existing robust regulatory instruments and approval processes that ensure GHG emissions from petroleum activities are appropriately assessed, mitigated, and reported.

Australia’s existing and any future climate change policies should be aimed at enhancing the Territory’s international competitiveness as a destination for investment. Ensuring that policies are aligned as much



as possible with existing regulatory processes is consistent with Territory and National commitments to reduce duplication and unnecessary regulation.

If you have any queries or for further information in relation to the contents of this letter and our submission, please contact me on 0434 590 589 or at [cschmidt@appea.com.au](mailto:cschmidt@appea.com.au).

Yours Sincerely,

A handwritten signature in cursive script, appearing to read "C Schmidt".

**Cassy Schmidt**  
Director – Northern Territory  
0434 590 589