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Draft Greenhouse Gas Emissions Offsets Policy and Technical Guidelines submission

The Arid Lands Environment Centre (ALEC) is Central Australia's peak community environmental organisation that has been advocating for the sustainable management of the arid lands since 1980. ALEC actively contributes to the development of climate policy through regulatory reform, written submissions, community education and advocacy.

ALEC welcomes the opportunity to comment on the draft *Greenhouse Gas Emissions Offsets Policy and Technical Guidelines* (Offsets Policy).

ALEC has a number of concerns with the Offsets Policy and considers it necessary that significant amendments are made. In its current form the Offsets Policy is not fit for purpose to meet the Northern Territory Government's commitment to achieve net-zero greenhouse gas emissions (GHG) by 2050. While we acknowledge that offsets are just one tool to decarbonise the Northern Territory, this policy in its current form provides loopholes that contradict the overall goal to reduce GHG emissions.

ALECs submission provides context around GHG emission offsets in the Northern Territory. Then, we focus on key concerns, namely: the application of the policy; indirect offsets; and the feasibility of the Offsets Policy. Then we consider the Northern Territory Government's social licence to regulate and the Large Emitters Policy.

1. Offset Context

It is the Scientific Inquiry into Hydraulic Fracturing in the Northern Territory (Pepper Inquiry) which is the prompt for the Northern Territory Government to strengthen its environmental regulations and develop its Offsets Policy.

On the 14th September 2016, the Northern Territory Government introduced a moratorium on fracking, in addition to the establishment of the Pepper Inquiry. Chief Minister Michael Gunner announced the moratorium in response to widespread community concern, stating that "we heard loud and clear the concerns of everyday Territorians, pastoralists, amateur and commercial fishermen, tourism operators, traditional owners, Indigenous rangers and environmental groups. It's clear that Territorians are concerned about the effects of fracking on our land, water and environment".[1]

The Pepper Inquiry handed down its final report on the 27th March 2018. The Pepper Inquiry provided 135 recommendations to the Northern Territory Government, stating that:

[1] Gunner, M, 2016. Delivering on our Fracking Moratorium election commitment. October 2021, accessed here.

> "The recommendations in this Report are a complete package. It is only the implementation of the entire package that will create the framework that will mitigate the risks associated with any onshore shale gas industry in the NT to an acceptable level. If the Government does not implement all the Panel's recommendations, then the Panel, in the Panel's assessment, is not able to state with certainty that the identified risks will be mitigated to acceptable levels."[2]

On the 16th of April 2018, the moratorium on fracking was lifted as the Territory Government agreed to introduce "strict new laws and regulations" and implement all 135 recommendations in full.[3]

The development of an Offsets Policy is linked to Recommendation 9.8 of the Pepper Inquiry. This recommendation states"that the NT and Australian governments seek to ensure that there is no net increase in the life cycle GHG emissions emitted in Australia from any onshore shale gas produced in the NT".[4] The Inquiry concluded that any increase in emissions nationally from fracking in the Beetaloo Basin would be an "unacceptable risk".[5]

It is a clear omission from the Offsets Policy that neither the Pepper Inquiry, nor Recommendation 9.8 are referenced, despite being fundamental reasons to why the policy has been developed.

Recommendation 1: Acknowledge the Offset Policy context and link the Offset Policy to the Pepper Inquiry and Recommendation 9.8.

2. Issues with the Offset Policy

2.1 Application of the policy

The Offset Policy will only be triggered "to a project where significant residual emissions will be produced... Assessing agencies and decision makers are responsible for determining whether residual emissions are significant". Discretion raises substantial doubt about the efficacy of this policy in reducing emissions, while fostering uncertainty in how the Policy will be implemented. Discretion is also applied to the timeframes for emission offsets, which are to be determined by decision makers who have "flexibility". The public requires confidence that emissions will actually be offset, and not be indefinitely delayed at the discretion of the decision maker.

This is compounded by the fact that Dr Paul Vogel, the Head of the Northern Territory Environment Protection Authority - a likely key decision maker in the policy's application - has previously raised uncertainty about applying a threshold for significant GHG emissions in the Northern Territory. He stated in court:[6]

> "We did say [the proposed clearing] was significant in terms of emissions for the Territory but then you've got to turn your mind as a board to [asking] 'is there a

[2] Scientific Inquiry into Hydraulic Fracturing in the Northern Territory: Final Report, 2018, p.454
[3] Gunner, M, 2018. Fracking moratorium lifted - strict laws to be in place before exploration or production can occur, 2018. October 2021, accessed here.
[4] Scientific Inquiry into Hydraulic Fracturing in the Northern Territory: Final Report, 2018, p.239
[5] Scientific Inquiry into Hydraulic Fracturing in the Northern Territory: Final Report, 2018, p.240
[6] Breen, J, 2018. Maryfield Station's land-clearing permit becomes first in NT to face legal challenge over climate change. Accessed 11th November 2021, see here.

significant effect of that? The answer is 'it isn't possible to tell' so what we did, therefore, we said subjecting it to an impact assessment wasn't a reasonable thing to do."

There is further uncertainty as the Offsets policy does not mention the *Greenhouse Gas Emissions Management for New and Expanding Large Emitters* (Large Emitters Policy). It is not clear what kind of interactions these two policies have.

Recommendation 2: Define and quantify significant residual emissions.

Recommendation 3: Explain the linkage between the Large Emitters Policy and the Offsets Policy.

Recommendation 4: Provide set timelines for offsets to be achieved.

2.2 Indirect Offsets

The Offset Policy has seemingly developed a fictitious category of offset they are calling an 'indirect offset'. It is stated that these offsets are to support research and development (R&D) that will assist emissions abatement in the Territory.

Section 9 of the policy specifies that R&D must "contribute to new technology, methods, strategies or actions that will support and contribute to ongoing emissions abatement benefits in the Territory" and where possible occur in the Territory. The policy also states that there needs to be "reasonable confidence that the R&D will achieve the proposed benefits", and occur within 5 years before the indirect offset is "re-evaluated".[7]

The policy fails to define 'reasonable confidence', nor embed a mechanism for oversight or review to determine how a conclusion around 'reasonable confidence' is reached, or that emissions are indeed offset in the future. Without any mechanism established, this loophole is sure to be exploited. There is no opportunity for scrutiny or for decision makers to be held accountable, despite greenhouse gas emissions being among the most contentious environmental issues associated with gas in the Northern Territory.

It remains unclear whether the adoption of indirect offsets is lawful and whether the Northern Territory Government would be vulnerable to legal challenges in the future. Indirect offsets coupled with production of the Beetaloo Basin threaten to undermine Australia's entire carbon market of ACCUs. This may have national implications and result in international scrutiny and sanctions of Australian products.

Furthermore, the types of technologies, methods, strategies or actions are not alluded to. Indirect offsets may be used to support industry to conduct R&D into activities such as carbon capture and storage (CCS). It is necessary that the public are made aware of what technologies and methods may be eligible for indirect offsets. It is crucial that the Northern Territory Government be transparent around its intentions around indirect offsets.

[7] Greenhouse Gas Emissions Offsets Policy and Technical Guidelines Northern Territory Offsets Framework, p.11.

It is a concerning that the NT Government announced recently in partnership with CSIRO and major gas and petroleum companies to scope the development of a Carbon Capture Use and Storage facility outside of Darwin.[8] This is despite CCS being plagued by failure and high costs, while ensuring the continued extraction of fossil fuels.[9][10] Any development that uses carbon for enhanced oil recovery should not be permitted to use indirect offsets as that process increases GHG emissions, and would thus not comply with the offsets intention to mitigate GHG emissions.

ALEC would also like to note that the Offsets Policy in its current form has seen 60 leading climate scientists write an open-letter opposing the policy.[11]

Recommendation 5: Scrap Indirect Offsets from the Offset Policy.

If indirect offsets are not scrapped from the policy, then ALEC stresses that these recommendations are adopted.

Recommendation 6. Define and qualify 'reasonable confidence'.

Recommendation 7: Develop a process so that decisions around 'reasonable confidence' can be reviewed.

Recommendation 8: Provide transparent oversight around decision making related to the granting of 'indirect offsets'. Ensure that information relating to decisions are published and are publicly available.

Recommendation 9: CCS and CCUS are not eligible for indirect offsets.

Recommendation 10: Projects that use enhanced oil recovery are banned from indirect offset eligibility.

Recommendation 11: Provide examples of the technologies, methods, strategies and actions that could be eligible for indirect offsets.

Recommendation 12: Ensure there are mechanisms in place so that indirect offsets always result in the full amount of GHG emission reductions.

2.3 Feasibility of offsetting emissions and use of indirect offsets

[8] CSIRO and partners scope NT Hub to lower emissions and boost investment. October 2021, accessed here.
[9] Joshi, K. Carbon capture's litany of failures laid bare in new report
October 2021, accessed here.
[10] Abdulla, A., Hanna, R., Schell, K.R., Babacan, O. and Victor, D.G., 2020. Explaining successful and failed investments in US carbon capture and storage using empirical and expert assessments. *Environmental Research Letters*, *16*(1), p.014036.
[11]Knaus, C, 2021. 'Grave mistake': climate scientists issue dire warning over Beetaloo Basin fracking plansOctober 2021, access here.

Currently, in the Northern Territory, the supply of carbon offsets is around 1 million tonnes a year through savannah burning, most of which are already committed. There is not a substantial increase in supply available in generating more ACCUs in the Northern Territory. In 2020, across all of Australia, the supply of Australian Carbon Credit Units (ACCUs) reached 16 million tonnes.[12]

The scale of offsets required in the Northern Territory as a result of developing the Beetaloo Basin is huge and dwarfs the existing offset market nationally. The Northern Territory Government has stated that between 39 -117 million tonnes of GHG emissions will need to be offset annually (an increase of Australia's emissions by 7-22%).[13] A new report released in October 2021 *Analysis of Northern Territory gas basin emissions and carbon costs* by RepuTex Energy has found that offsetting emissions in the Beetaloo may be between $3-$22 billion under a low and high production scenario.[14]

It is not currently feasible that the Northern Territory Government could be required to offset at least double the number of ACCUs available nationally. This provides clarity to why indirect offsets are being adopted in the Offsets Policy - it is not feasible to offset emissions with direct offsets and through Territory generated ACCUs. The 'scenarios to help explain the order of priority' make it clear that Scenario 1 and Scenario 2 are not realistic if production in the Beetaloo is established as the supply does not exist in the Northern Territory. Therefore if production is established it is likely that Scenario 3 will be adopted, which means that up to 50 percent of the offsets used may be 'indirect offsets'. Whether 20 percent of direct offsets can be Territory generated ACCUs remains to be determined.

Recommendation 13: If GHG emissions cannot be directly offset in the Northern Territory or Australia, then fracking cannot proceed in the Beetaloo Basin.

Recommendation 14: The Northern Territory Government report on the potential supply of Territory generated ACCUs.

3. Social licence to regulate

In response to Pepper Inquiry commitments the Northern Territory Government has spent years developing their offsets framework. Offsets are a tool of last resort. This is acknowledged as a precondition for offsets in the *Northern Territory Offsets Principles: Part of the Northern Territory Offsets Framework* which states that "the mitigation hierarchy must be vigorously applied".[15] The Offsets Policy reiterates this stating that "avoiding or mitigating GHG emissions is the preferred approach. Offsets provide a mechanism to compensate for emissions that cannot be avoided or mitigated".[16]

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[12]Clean Energy Regulator: Quarterly Carbon Market Report – December Quarter 2020. October 2021, accessed here.

[13] Bardon, J, 2020. How the Beetaloo gas field could jeopardise Australia's emissions target October 2021, accessed here.

[14] RepuTex Energy, 2021. Analysis of Northern Territory gas basin emissions and carbon costs, p.21.

[15] Northern Territory Offsets Principles Part of the Northern Territory Offsets Framework, p.7.

[16] Greenhouse Gas Emissions Offsets Policy and Technical Guidelines: Northern Territory Offsets Framework, p.4. Northern Territory Government.

It is confounding then that the Offsets Framework and Offsets Policy emphasise the mitigation hierarchy, when they are key components in enabling the establishment of Australia largest gas reserve to be developed. It is apparent that the Territory Government is not stopping the development of the Beetaloo Basin for fracking - there is no attempt to avoid these emissions. This clearly outlines that the Northern Territory Government will say one thing in policy, and do another.

This is clearly on display with key recommendations from the Pepper Inquiry such as Recommendation 9.8 are not being implemented as intended. The Northern Territory Government is not offsetting all lifecycle emissions of Beetaloo gas across Australia. Nor are they providing certainty that all Scope 1 and Scope 2 emissions from gas will result in direct offsets. It reinforces that the Northern Territory Government's social licence to regulate fracking is eroding.

Recommendation 15: Recommendation 9.8 is addressed in full and as intended. All lifecycle emissions are directly offset.

4. Concerns related to the Large Emitters Policy

Due to the likely linkage between the Offsets Policy and the Large Emitters Policy, it is important to clarify ALEC's position. The Large Emitters Policy is weak and the arbitrary thresholds are too high. The definitions for what constitutes a large emitter across industry and land-use changes will encourage land clearing and emissions to be released. It indicates to industry that releasing huge amounts of GHG emissions is legal and there are no climate-based barriers. ALEC wants to emphasise that the thresholds are absurdly high. The Industry cap at 100,000 tonnes is inline with the Federal Government's Safeguard Mechanism which has failed to reduce emissions.[17] The 500,000 tonne cap for land-use changes ensures that land-clearing can occur without needing to consider GHG emission impacts.

ALEC strongly opposes these ceilings and urges the Northern Territory Government to review these thresholds immediately. It is imperative that the Large Emitters Policy is revised so that emissions produced by large emitters are actually captured and accounted for in the Northern Territory. If the Large Emitters Policy is used as a trigger for GHG offsets, it again is an erosion of the Pepper Inquiry as it would be a failure to ensure that all life cycle GHG emissions are offset. The Large Emitters Policy does not account for Scope 3 emissions.

Recommendation 16: Review the Large Emitters Policy and implement thresholds that are based on best scientific evidence. This policy should be directly linked to support the Northern Territory's target of net-zero emission by 2050.

5. Conclusion

In the policy's current form, indirect offsets could account for 50% of all offsets in the Northern Territory. Thus, 50% of offsets in the Territory may be invented and may not contribute to emission reductions. This is a major cause for concern, as the policy appears to suggest that indirect offsets have equal value with ACCUs. If the policy proceeds, they may account for a massive proportion of offsets issued nationally and undermine the rigour of Australia's entire carbon market.

[17] Morton, A, 2020. A 60% rise in industrial emissions points to failure of Coalition's 'safeguard mechanism'. October 2021, access here.

This policy also represents a backflip on NT Government commitments to the Pepper Inquiry and emission reductions, at a time where emissions need to be cut dramatically and urgently to reduce warming to well below 2°C. It is a further erosion of trust that the Northern Territory Government can safely regulate fracking and gas extraction.

It is unsurprising that ‘indirect offsets’ do not exist anywhere else in Australia as they are not a legitimate offset. They appear to be a loophole to avoid the significant economic costs of offsetting all emissions from gas extraction in the Beetaloo Basin. In addition, it is likely not feasible to offset all emissions through the use of direct offsets. The discretionary nature of the Offset Policy’s application raises further cause for concern. Due to the scale of potential emissions from the Beetaloo Basin it is vital that loopholes are not created that result in a net increase in GHG emissions produced by gas extraction in the Northern Territory.

Kind regards,

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