
17th June 2024

Mr Joe Fittell
Team Leader
Energy and Resource Assessments | Planning and Assessment
Department of Planning, Housing and Infrastructure

Via Email: Joe.Fittell@planning.nsw.gov.au

Dear Joe,

Re: EPA Advice on HVO: Second Submission - HVO North and South Open Cut Coal Continuation Projects (SSD-11826681 and SSD-11826621) - EPA Comments to Submissions Report

I refer to Department of Planning, Housing, and Infrastructure's (DPHI) two Request for Information (RFI) letters dated 14 June 2024 received in relation to HVO North (SSD 11826681) and HVO South (SSD-11826621).

The RFIs refer to the advice received by DPHI from the NSW Environment Protection Authority (EPA) dated 22nd May 2024 (EPA Advice) in relation to greenhouse gas aspects of the Submissions Report.

HVO appreciates that, in general, the EPA Advice acknowledges the emissions reduction model we have proposed and thanks the EPA for wanting to work with us on review and implementation of technologies in the future.

We make the following observations about the NSW EPA's approach in several areas of the advice, including:

- Limited consideration of the Commonwealth Government's Safeguard Mechanism (SGM) as the principal national carbon regulation directly linked to Australia's obligations under the Paris Agreement. The EPA's focus on gross emissions demonstrates limited acknowledgement of HVO's net emissions as a covered facility with obligations under the SGM.
- Lack of genuine consideration of HVO's proposed approach to use the SGM regulatory framework as a base, and voluntarily increase our emissions reductions to align with the NSW Government's emission reduction targets of 50% by 2030 and 70% by 2035. This approach is consistent with both NSW and Federal Government climate change policies, could be used for other SGM facilities across other sectors, reduces the regulatory burden for project proponents and lowers sovereign risk for investors.



- There is a range of statistics and figures quoted throughout the EPA Advice related to HVO's contribution to NSW emissions forecasts. HVO is concerned that these comparisons are misleading where they are made in relation to HVO's gross emissions.
 - As previously stated, HVO is committed to a net emissions position, aligned with the NSW *Climate Change (Net Zero Future) Act 2023* reduction targets which are for net emissions.
 - HVO is currently forecasting to meet the net emissions targets by acquiring offsets. However, over the life of the Project, the decision to avoid, reduce, substitute, or offset emissions will be managed progressively pending the availability of practicable technologies for emissions reduction and depending on the relative economics of the mitigation hierarchy.
- It is not clear how the NSW emissions modelling reflects the net emissions positions that all large emitters in NSW would need to meet under the SGM, and how this is reflected as contributing to NSW targets. It is also not clear how emissions for the coal sector are derived in the NSW emissions modelling.
- In the context of the EPA's Draft Guide for Large Emitters which indicates that, "proponents *must demonstrate how they have considered and applied the mitigation hierarchy*", it is of concern that the EPA's advice indicates possible intent to prescribe a requirement to avoid or abate emissions, driven by the EPA's assessment of post-2040 gross emissions without considering HVO's significantly lower net emissions at the same time.
- High risk of undermining the national carbon offset market by stating a preference that carbon offsets used in relation to mitigate emissions from HVO should be sourced from NSW, which risks distorting the offset market and is inconsistent with the SGM.

To that end HVO takes this opportunity to clarify some aspects of the advice to support our application and our proposal.

Response

1. HVOCP Commitments

HVO seeks to clarify several comments in the EPA Advice relating to conditions to which HVO has already committed.

1.1. Pre-drainage Trial

We acknowledge focus from EPA in their advice on the fugitive emissions forecast during the mining of the deeper regions of HVO North in the later years of the mine life. Specifically, the deeper coal reserves in gas Domain 1, zones 3 and 4 with methane-rich gas contents between 5 and 7m³/t.

The EPA Advice notes that HVO has committed to a pre-drainage trial should the project proceed. This commitment was made in Chpt 4.2.8 of the Submissions Report (EMM Nov 2023) which noted that pre-drainage could be challenging as the gas content of the coal in question is relatively low by coal mining standards. Notwithstanding this, HVO has committed to the trial to confirm the practicality of pre-drainage.

EPA notes in the cover letter that this study should be completed “before mining can continue” however in the report suggests the study “should not be left to a post approval process”. HVO seeks to clarify that we have committed to undertaking a pre-drainage trial prior to mining in the Domain 1, Zone 3 and Zone 4 gas regions and we believe this would meet the requirements of the EPA Advice. HVO also acknowledges EPA’s position that the study should be “based on a robust methodology and be supported by an independent peer review process”.

1.2. Periodic Technology Review

HVO has committed in its Environmental Impact Statement (EIS) (EMM Dec 2022) to three yearly reviews of technology to reduce emissions. This was reiterated and expanded in the Submission Report (EMM Nov 2023) and in the RFI response (HVO March 2024). HVO therefore notes and acknowledges EPA’s recommendation of the same in its advice. HVO supports the peer review process for each study as recommended by the EPA.

1.2.1. Renewable diesel

In the context of diesel emissions and available technologies, the EPA Advice notes that HVO did not include a specific investigation into renewable diesel. HVO has not discussed renewable diesel specifically however figure 4.11, page 48 of the Submissions Report (EMM Nov 2023) includes Synthetic Diesel which is a name often used interchangeably with renewable diesel and demonstrates HVO’s consideration of different types of low carbon fuels.

HVO appreciates that renewable diesel is a more practical alternative to biodiesel to the extent that it is reportedly an equivalent to diesel from the perspective of power, efficiency, and component wear. HVO understands¹ that there is no commercial

¹ NSW Department of Primary Industries, September 2022, Diesel Use in NSW Agriculture and Opportunities to Support Net Zero Emissions, available at <https://www.dpi.nsw.gov.au/dpi/climate/energy/clean-energy/bioenergy/biofuels>

production of renewable diesel in Australia yet, and indeed worldwide is not yet produced in significant quantities.

As part of periodic technology reviews, HVO intends to consider substitutes, such as renewable diesel, and implement them where they are reasonable and feasible.

1.3. Additional Voluntary Emissions Reduction Commitment Beyond Safeguard Mechanism Requirements

In the RFI response of March 2024, HVO made the commitment to meet and exceed the emissions reduction targets required under the Commonwealth’s Safeguard Mechanism by committing to net emissions targets in line with the *Climate Change (Net Zero Future) Act 2023* legislated targets for NSW.

The EPA acknowledges this commitment however subsequently discusses HVO’s gross emissions, including comparison to NSW gross emissions, without consideration of HVO’s net emissions commitment. Whilst HVO has modelled gross emissions without avoidance for transparency, it must be noted the cost of offsets considered to meet the proposed baseline will be significant and will drive HVO to consider avoidance, reduction, or substitution before offsetting for fundamental business economic reasons. Therefore, to be clear, HVO is committing to the net emissions as per the adjusted SGM baseline proposed shown below in **Figure 1** (red dashed line).

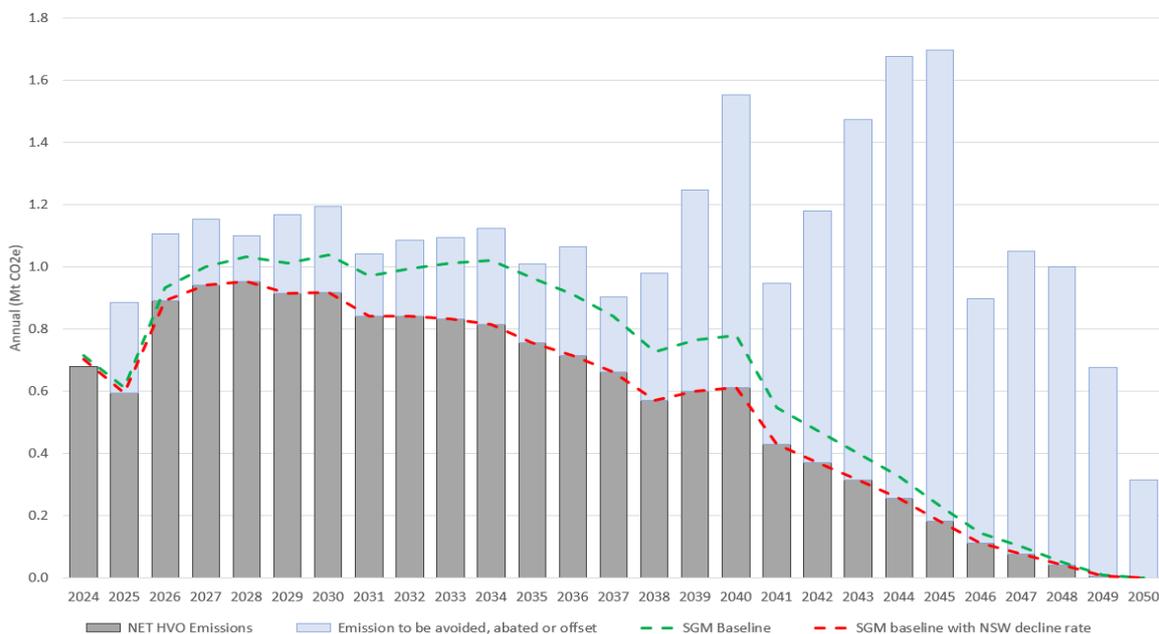


Figure 1 HVO Project Scope 1 Emissions Profile and Indicative Baselines²

² HVO site-specific EI = 0.0346 t CO2e/ROM tonne based on FY18 - 22 data (will be subject to CER assessment and approval)

2. ACCUs

The EPA Advice notes that the “Project relies on offsets, with no detail where the offsets will be generated”. HVO has committed, and legally will be required to, surrender ACCUs that meet the requirements of the Commonwealth legislation which, at this point, requires ACCUs to be generated in Australia.

HVO is concerned about EPA’s statements that ACCUs procured from outside NSW cannot be counted in NSW and EPA’s stated preference for offsets from NSW. We consider any policies that encourage ring-fencing or geographical constraint on offset surrender to be potentially inconsistent with the Safeguard Mechanism.

Given the emissions reduction impact that the Safeguard Mechanism will generate across large emitters in NSW, we encourage the EPA to consider how the net emissions positions of all large emitters in NSW (including HVO) could be utilised as contributing towards NSW net emissions reduction targets.

3. Conclusion

HVO acknowledges and appreciates EPA’s general support for the commitments already made toward managing NSW emissions to 2050. In particular HVO’s commitment to:

1. Three yearly reviews of technology for reducing emissions;
2. A pre-drainage trial prior to mining in the deeper, higher gas region of HVON; and
3. A commitment to utilise the principals of the Commonwealth Safeguard Mechanism with additional voluntary emission reduction targets to reflect consideration of NSW *Climate Change (Net Zero Future) Act 2023*.

Further, HVO supports EPA’s request for a peer review of the three yearly technology review and has committed to undertaking pre-drainage trial prior to mining in Domain 1, Zones 3 and 4.

HVO is concerned, however, that our commitment to meeting the NSW net emissions reduction targets through the Safeguard Mechanism process isn’t considered adequately in EPA’s overall emissions forecasts for NSW where gross emissions appear to be considered without recognition of avoidance, reduction or offset measures that will be implemented.

It is HVO’s view that the EPA’s approach in this regard is inconsistent with the Safeguard Mechanism and may be potentially detrimental to large emitters in NSW and to the ACCU market.



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Should you wish to discuss the content of this letter please contact me on the details below.

Yours sincerely,

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