



Environmental
Defenders Office

**Submission on the Carbon Credits and Other Legislation
Amendment (Integrity and Transparency) Bill 2026**

26 May 2026

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 40 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

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Submitted to:

[Survey on Carbon Credits and Other Legislation Amendment \(Integrity and Transparency\) Bill Consultation](#)

Department of Climate Change, Energy, the Environment and Water

For further information on this submission, please contact:

Revel Pointon
Managing Lawyer, Policy and Law Reform
T: 1800 626 239
E: revel.pointon@edo.org.au

Zoe Neumayer
Senior Solicitor, Policy and Law Reform
T: 1800 626 239
E: zoe.neumayer@edo.org.au

Katarina Thompson
Acting Managing Lawyer, Corporate and Commercial
T: 1800 626 239
E: katarina.thompson@edo.org.au

Acknowledgement of Country

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past, present and emerging, and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations cultural heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises self-determination as a person's right to freely determine their own political status and freely pursue their economic, social and cultural development. EDO respects all First Nations' right to be self-determined, which extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

A note on language

We acknowledge there is a legacy of writing about First Nations peoples without seeking guidance about terminology. We also acknowledge that where possible, specificity is more respectful. For the purpose of this submission, we have chosen to use the term First Nations. We acknowledge that not all First Nations will identify with that term and that they may instead identify using other terms or with their immediate community or language group.

First Laws is a term used to describe the laws that exist within First Nations. It is not intended to diminish the importance or status of the customs, traditions, kinship and heritage of First Nations in Australia. The EDO respects all First Laws and values their inherent and immeasurable worth. EDO recognises there are many different terms used throughout First Nations for what is understood in the Western world as First Laws.

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Executive Summary

Environmental Defenders Office (**EDO**) welcomes the opportunity to comment on the Credits and Other Legislation Amendment (Integrity and Transparency) Bill Exposure Draft (**Exposure Draft Bill**). The Exposure Draft Bill proposes amendments to the *Carbon Credits (Carbon Farming Initiative) Act 2011* (**CFI Act**) and the *National Greenhouse and Energy Reporting Act 2007* Act (**the NGER Act**).

The CFI Act sets out the rules established for the Australian Carbon Credit Unit Scheme (**ACCU Scheme**). Integrity issues with the ACCU Scheme have been substantially documented over the 10 years it has been in operation, including in relation to a lack of integrity with ACCU methodologies¹ and conflicts of interest in relation to the governance arrangements of the Scheme.² Given the substantial role ACCUs play in companies' net zero emissions plans, including companies which are Safeguard Mechanism facilities, a legal regulatory framework for ACCUs that is robust, operates with high integrity, and delivers real carbon abatement is more important than ever.

A robust regulatory framework to ensure ACCUs operate with high integrity is also important because, more generally, the use and regulation of ACCUs to date in Australia has been a key factor in undermining important efforts to reduce greenhouse gas (**GHG**) emissions to curb dangerous climate change. It is therefore essential that the regulation of ACCUs is improved to ensure that:

- ACCUs are only used as a last resort where on site GHG abatement is not possible; and
- ACCUs function as additional, verifiable and permanent methods of reducing GHG emissions.

In light of this, EDO generally welcomes the reforms in the Exposure Draft Bill to 'bolster integrity [and] transparency' of the ACCU Scheme,³ but believes the Bill could be further strengthened to ensure this is achieved.

This submission addresses the following key changes to the ACCU Scheme as proposed in the Exposure Draft Bill:

- **Changes to consent requirements for native title holders and claimants:** in principle, EDO supports these changes as they strengthen requirements for project proponents to obtain free prior and informed consent (**FPIC**) from First Nations, consistent with the United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**). EDO considers the FPIC requirements in the current Bill should be strengthened further, and

¹ CSSN's Working Group on Net Zero, *CSSN Position Paper: Net Zero, Carbon Removal and the Limitations of Carbon Offsetting* (June 2022), <<https://cssn.org/cssn-position-paper-net-zero-carbon-removal-and-the-limitations-of-carbon-offsetting>>.

² Stephen Long, 'Potential conflicts of interest abound in Australia's carbon credits market', *ABC News* (2 April 2022), available at <<https://www.abc.net.au/news/2022-04-02/carbon-credit-conflicts-of-interest-in-clean-energy-regulator/100952758>>.

³ Department of Climate Change, Energy, the Environment and Water, *Carbon Credits and Other Legislation Amendment (Integrity and Transparency) Bill Consultation Paper* (2026), (**Consultation Paper**), page 5.

consideration could also be given to the further expansion of the definition of eligible interest to encompass other recognised traditional rights and interests in land.

- **Replacement of the ACCU Scheme Emissions Reduction Assurance Committee (ERAC) with the new Carbon Abatement Integrity Committee (CAIC):** The CAIC will play a critical role in governing the ACCU Scheme, particularly by reviewing methodology determinations. Changes under the Exposure Draft Bill enhance the integrity of the CAIC, yet risks remain in relation to the CAIC’s transparency and independence.
- **Amendments to the governance arrangements for proponent-led method development:** We support the increased oversight of proponent-led method development. However, we make further suggestions to ensure that independent experts rather than proponents with vested interests lead the development of methods.
- **Introduction of new powers for the Minister to make an Integrity Risk Method Declaration (IRMD):** The introduction of the IRMD is a positive step toward strengthening the scheme. However, its proposed application is too limited to effectively ensure its integrity.
- **Exemptions from the ‘newness’ requirement for Research and Development (R&D) participants:** Safeguards should be built into changes which exempt R&D participants from the ‘newness’ component of the additionality requirement, to ensure they cannot retrospectively be issued with ACCUs.
- **Enabling methods to include both emissions avoidance activities and sequestration activities:** There are significant risks with such a method, and it should not proceed.

Summary of Recommendations

Native title holder and claimant consent

Recommendation 1: The free, prior and informed consent (FPIC) requirements in the Exposure Draft Bill should be strengthened further, including by explicit provision for continued and ongoing FPIC processes and the withdrawal of consent to ACCU projects where preliminary consent has been obtained. Consideration could also be given to the further expansion of the definition of eligible interest to encompass other recognised traditional rights and interests in land.

Recommendation 2: Consideration should be given to whether the ACCU Scheme can generally be improved to explore the development of further methodologies that provide more opportunities for First Nations to participate in the ACCU Scheme based on their caring for Country.

Establishment of the Carbon Abatement Integrity Committee (CAIC)

Recommendation 3: The expertise requirements of the CAIC should be strengthened by requiring the Minister, when appointing a member, to prioritise the identification and retention of independent scientific experts to serve on the CAIC. For example, the Exposure Draft Bill could be amended to require the Minister to appoint members with expertise under section 257A(b),(d), (f), (g), or (j).

Recommendation 4: The prohibition on CAIC members engaging in paid work conflicting with their duties should be extended to 5 years post-employment and to unpaid work.

Recommendation 5: The CAIC should be required to undertake public consultation when reviewing a method about to expire, rather than leaving this to its discretion.

Recommendation 6: The CAIC should have an independent power to conduct reviews of expiring methods, and the making, varying or revoking of methods. The CAIC's review powers should not be restricted to only reviewing methods at the request of the Minister.

Recommendation 7: The CAIC should be required to conduct compulsory periodic reviews of methodology determinations. Currently, periodic reviews only occur by a written request and are not mandatory or regular.

Recommendation 8: Conflict of interest safeguards should apply to instances in which the CAIC requests assistance to fulfil its functions, such as requiring the CAIC to provide details in relation to the assistance it has received.

Recommendation 9: The Exposure Draft Bill should address integrity concerns in relation to the Clean Energy Regulator (**CER**). This includes amending the CFI Act for consistency with the proposals in the Exposure Draft Bill, with the effect of prohibiting CER members from engaging in any paid work (not just employment) that conflicts with their duties. This prohibition should apply to both full- and part-time members of the CER. Post-employment and unpaid work restrictions should also apply, as per recommendation 4.

Proponent-led method development

Recommendation 10: Proponent-led method development should cease and be replaced with a new independent expert panel which can interrogate and propose new methodologies. Proponents and other stakeholders interested in method development would be able to make submissions to this panel but would not lead development.

Integrity Risk Method Declarations

Recommendation 11: In designing the IRMD, the primary consideration should be whether the ACCU Scheme operates to deliver real carbon abatement and meet Australia's GHG emissions reduction targets consistent with its international obligations. The interests of project proponents should not be equally balanced with these considerations.

Recommendation 12: The ‘material risk’ component of the integrity risk threshold must be removed so that the only criterion for whether a method meets the integrity risk threshold is whether the method does not comply with one or more Offsets Integrity Standards (**OISs**). This ensures IRMDs are made on the basis of scientific evidence and advice only.

Recommendation 13: The condition requiring that a project must be able to transition to a new method and this new method be in place for the Minister to make an IRMD must be removed.

Recommendation 14: The 2-5 year timeframe in which an IRMD can come into effect must be shortened to 12 months, to ensure limited reliance on ineffective ACCUs.

Recommendation 15: The Minister should be required to publish reasons for not following the CAIC’s advice where the CAIC has advised that a method has met the integrity risk threshold, if this has occurred.

Recommendation 16: The Exposure Draft Bill should be amended to include a mechanism for members of the public to initiate the process for an IRMD.

Recommendation 17: The 2026-27 Safeguard Mechanism Review must address what happens to facility reporting requirements under the Mechanism in circumstances where an IRMD is issued for a method that has previously generated ACCUs relied on by Safeguard Mechanism facilities to meet their declining baseline obligations.

Changing the ‘newness’ requirement for Research and Development participants

Recommendation 18: The Exposure Draft Bill should include an option to register research and development (**R&D**) activities, with the ‘newness’ exemption limited to those activities that have been formally registered.

Enabling methods to include both emissions avoidance activities and sequestration activities

Recommendation 19: A proposal which enables methods to include both emissions avoidance activities and sequestration activities should not proceed.

Outstanding reforms required to the ACCU Scheme

Recommendation 20: The Exposure Draft Bill must comprehensively address issues regarding the integrity of methodologies and rules, in particular the use of carbon capture and storage.

Recommendation 21: Binding ACCU Scheme Principles must be operationalised through the CFI Act, to ensuring they are applied consistently, and that compliance must be demonstrated. These Principles should also include detail about the standards and procedures required to achieve the desired outcome.

Recommendation 22: Australia must not allow any form of international carbon offsets in a way that may count towards Australia’s national emissions reduction targets, or to meet Safeguard Mechanism requirements.

Recommendation 23: Outstanding Chubb Review recommendations relating to accreditation of carbon service providers, evidence of project co-benefits, and legislative integration of a carbon industry code of conduct must be incorporated into the Exposure Draft Bill.

Recommendation 24: The Exposure Draft Bill should be amended to include third-party enforcement rights or merits appeal rights.

Introduction

- 1 The Environmental Defenders Office (**EDO**) welcomes the opportunity to comment on the Credits and Other Legislation Amendment (Integrity and Transparency) Bill Exposure Draft (**Exposure Draft Bill**). The Exposure Draft Bill makes amendments to the *Carbon Credits (Carbon Farming Initiative) Act 2011* (**CFI Act**) and the *National Greenhouse and Energy Reporting Act 2007* (**the NGER Act**).
- 2 The CFI Act sets out the rules established for the Australian Carbon Credit Unit Scheme (**ACCU Scheme**). Broadly speaking, ACCUs are credits generated from projects that use methods which avoid the release of greenhouse gas (**GHG**) emissions or remove and sequester carbon from the atmosphere.⁴ The Minister is responsible for making determinations of methodologies that can generate ACCUs,⁵ and these methods must meet legislated criteria as set out in offsets integrity standards (**OISs**).⁶
- 3 This Exposure Draft Bill follows recommendations made by Professor Ian Chubb AC in his Independent Review of ACCUs, whose final report was delivered in December 2022 (**the Chubb Review**).⁷ It also follows recommendations made by the Climate Change Authority in its 2023 Review of the ACCU Scheme (**CCA Review**).⁸
- 4 EDO has made a number of submissions in the past on the use of ACCUs to reduce GHG emissions, including to the Chubb Review.⁹ A summary of key points made in those submissions which we wish to reiterate is as follows:
 - **ACCUs must be used as a last resort:** While EDO recognises that ACCUs may play a role in offsetting residual emissions in hard to abate sectors, EDO is of the view carbon offsetting using ACCUs must only be utilised as a last resort, once emissions have been reduced and mitigated, rather than the default option used to justify continued and increasing emissions.
 - **ACCUs must deliver real carbon abatement:** Research on the integrity of carbon credits has identified material issues with the realness, additionality and permanence of credited abatement along with how it is verified, raising questions about ACCUs'

⁴ Department of Climate Change, Energy, the Environment and Water, 'Australian Carbon Credit Unit (ACCU) Scheme' (Web Page, 2026), available at <<https://www.dcceew.gov.au/climate-change/emissions-reduction/accu-scheme>>.

⁵ *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth) (**CFI Act**), s 106.

⁶ *Ibid*, s 106(4AA).

⁷ Department of Climate Change, Energy, the Environment and Water, 'Independent Review of ACCUs' (2022), available at <<https://www.dcceew.gov.au/climate-change/emissions-reduction/accu-scheme/reviews-and-reforms/independent-review-accus>>; EDO made a submission to this review available at <<https://www.edo.org.au/wp-content/uploads/2022/10/220930-Independent-review-of-ACCUs-EDO-submission.pdf>>.

⁸ Climate Change Authority, 'Review of the ACCU Scheme' (2023), available at <<https://www.climatechangeauthority.gov.au/2023-review-accu-scheme-0>>.

⁹ See Environmental Defenders Office, 'Submission to the Climate Change Authority 2026 review of the ACCU Scheme' (15 December 2025), available at <<https://app.converlens.com/cca/2026-accu-scheme-review/accureview/view/96>> (**EDO 2025 Submission**); Environmental Defenders Office, 'EDO submission to the Independent Review of Australian Carbon Credit Units' (30 September 2022), available at <<https://www.edo.org.au/publication/edo-submission-to-the-independent-review-of-australian-carbon-credit-units-accus/>> (**EDO 2022 Submission**); Environmental Defenders Office, 'Submission on implementing the recommendations from the Independent Review of Australian Carbon Credit Units' (10 October 2023), available at <<https://www.edo.org.au/publication/submission-on-implementing-the-recommendations-from-the-independent-review-of-australian-carbon-credit-units-accus/>> (**EDO 2023 Submission**).

effectiveness in assisting decarbonisation.¹⁰ EDO's 2025 submission to the CCA Review summarised specific concerns with three ACCU methods: human induced forest regeneration carbon offset projects, landfill gas and avoided deforestation.¹¹ Despite these documented concerns, ACCUs are often used as the basis for many companies' net zero emissions plans. It is therefore critical that the legal regulatory framework of the ACCU Scheme is robust, to ensure ACCUs operate with high integrity, and deliver real carbon abatement. To do this, the ACCU Scheme must be developed in line with expert scientific advice that is transparent and verifiable and meets best practice. Failure to do so undermines efforts to rapidly cut GHG emissions and transition to a more sustainable economy by allowing companies to falsely claim they are taking action in relation to emissions reduction, when in reality they continue business as usual.

- **ACCUs should not replace or disincentivise real action to reduce carbon emissions where it can be taken:** ACCUs are currently a key component of Australia's Safeguard Mechanism, which is the only mandatory emissions reduction policy that exists at a federal level. Facilities under the Safeguard Mechanism may comply with requirements to reduce their emissions in line with a declining baseline rate by purchasing ACCUs, rather than undertaking meaningful on-site emissions reduction. In the 2024-2025 compliance period (the second year of the reformed Safeguard Mechanism), about 10.8 million ACCUs, representing a purported carbon avoidance or reduction of 10.8 million tonnes of carbon dioxide, were surrendered by Safeguard Mechanism facilities in order to meet their baseline decline rate.¹² By comparison, aggregate onsite emissions reduction accounted for only 500,000 tonnes of carbon dioxide reduction.¹³ About 80% of the ACCUs surrendered in 2024-2025 were from methods with low credibility.¹⁴

- 5 The heavy reliance on ACCUs by companies (including under the Safeguard Mechanism) and ongoing concerns with the Scheme mean that the need to ensure a high integrity ACCU Scheme is more important than ever.
- 6 EDO generally welcomes the reforms in the Exposure Draft Bill to 'bolster integrity [and] transparency' of the ACCU Scheme.¹⁵ This submission addresses the following key changes proposed in the Exposure Draft Bill, including ways these changes could be further strengthened:
 - Changes to consent requirements for native title holders and claimants.

¹⁰ UC Berkeley Goldman School of Public Policy, 'Berkeley Carbon Trading Project' (Web Page, 2025).

<<https://gspp.berkeley.edu/research-and-impact/centers/cepp/projects/berkeley-carbon-trading-project>>, see in particular footnotes 13-25; See also EDO's Greenwashing Guide lists some of the major concerns about carbon offsets: additionality, verifiability, leakage, permanent reductions and double counting, available at <https://www.edo.org.au/wp-content/uploads/2023/04/EDO_Greenwashing_Guide_03.pdf>, page 17.

¹¹ EDO 2025 Submission, pages 7-10.

¹² Clean Energy Regulator, 'Safeguard data' (Web Page, 2026), available at <<https://cer.gov.au/markets/reports-and-data/safeguard-data>>. This represents an increase of about 49% of unit surrenders from the previous year (see 2024-25 Safeguard Mechanism data insights, page 10).

¹³ Naru Research, 'Reflections on the operation of the Safeguard Mechanism after two years of public data' (2026), available at <<https://naruresearch.com.au/wp-content/uploads/2026/04/Safeguard-2024-25-data-release.pdf>>, page 3.

¹⁴ Ibid; These ACCUs are 'low credibility' because they were all targeted for review in the Chubb Review.

¹⁵ Consultation Paper, page 5.

- Replacement of the ACCU Scheme Emissions Reduction Assurance Committee (**ERAC**) with the new Carbon Abatement Integrity Committee (**CAIC**).
 - Amendments to the governance arrangements for proponent-led method development.
 - Introduction of new powers for the Minister to make an Integrity Risk Method Declaration (**IRMD**).
 - Changes for requirements to Research and Development (**R&D**) participants.
 - Enabling methods to include both emissions avoidance activities and sequestration activities.
- 7 This submission also briefly addresses flaws in the Chubb Review, which did not adequately address all issues regarding the integrity of the ACCU Scheme. Notable flaws include a failure to address the integrity of methodologies and rules, and support for carbon capture and storage in circumstances where this has proven to be an unsuccessful and risky option for emissions reduction. We also note that many of the recommendations of the Chubb Review have still not yet been addressed by the federal government, notably recommendations relating to accreditation of carbon service providers, evidence of project co-benefits, and legislative integration of a carbon industry code of conduct.
- 8 In relation to the below comments on the changes native title holder and claimant consent, please note EDO is a non-Indigenous community legal centre that acts on behalf of and assists First Nations peoples across mainland Australia and the Torres Strait Islands in their efforts to protect their Country and Cultural Heritage.
- 9 EDO has and continues to work with First Nations clients who have interacted with western laws, including litigation and engaging in western law reform processes.
- 10 Out of respect for First Nations self-determination, EDO has provided high-level key recommendations for western law reform to strengthen First Nations in protecting their Country and Cultural Heritage.

Native title holder and claimant consent

- 11 The Exposure Draft Bill proposes the following amendments:¹⁶
- Section 45A of the CFI Act is expanded to ensure an ‘eligible interest in an area of land’ includes both native title land and claimed native title land. This change will recognise that registered native title claimants are eligible interest holders. The current CFI Act only allows registered native body corporates to have an eligible interest in land.
 - A new subsection is inserted to create a two-stage process to obtain native title eligible interest consents for:
 - **Stage 1:** the making of an application for area-based offsets projects on native title land or claimed native title land,¹⁷ and

¹⁶ In this submission, any reference to a section of the Exposure Draft Bill refers to the section as numbered in the **Bill Compilation** showing the CFI Act as it would appear following the passage of the amendments. The Bill Compilation is available here <<https://consult.dceew.gov.au/cc-legislation-amendment-integrity-transparency-bill>>.

¹⁷ Bill Compilation, subs 27(7)(b)(i).

- **Stage 2:** The manner in which the project on the land will be carried out as an area-based offsets project by the project proponent.¹⁸ The Clean Energy Regulator (**CER**) must not declare that a project is an eligible offsets project unless it is satisfied of these requirements.¹⁹

12 EDO supports both these amendments.

13 EDO has previously recommended that the CFI Act should be amended to require Free, Prior and Informed Consent (**FPIC**) of First Nations communities prior to any project taking place on or impacting First Nations land or Cultural Heritage.²⁰ FPIC is enshrined in articles 19 and 32 of United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**), and is the right of Indigenous Peoples to give or withhold consent to any project that may affect them or their lands, and, if consent is granted, to negotiate conditions for the design, implementation and monitoring of projects. Implementation of FPIC is critical for all types of projects which take place on First Nations peoples' lands and waters, or impact or affect the rights and interests of First Nations peoples. We maintain our strong support for the Chubb Review's recommendation that the ACCU Scheme align with FPIC.²¹

14 We support the new provisions to improve native title holder consents to land-based offsets projects as a positive step towards achieving FPIC. In particular, we support the new provisions which require consent to be obtained from native title claimants, where there is no finalised native title determination.²²

15 In principle, EDO considers the FPIC requirements in the current Bill should be strengthened further, including by explicit provision for continued and ongoing FPIC processes and the withdrawal of consent to ACCU projects where Stage 1 consent has been obtained. Consideration could also be given to the further expansion of the definition of eligible interest to encompass other recognised traditional rights and interests in land. However, EDO defers to the expertise of relevant First Nations stakeholders on these issues.

Other opportunities for First Nations engagement with the ACCU Scheme

16 We acknowledge the possible benefits that offset projects can present for First Nations where projects occur on native title land. However, we also note that First Nations engagement with the ACCU Scheme involves a generally inherent tension: offset methodologies are often about restoring land that has been damaged or degraded in the past,²³ for example, human induced forest regeneration carbon offsets projects are supposed to involve the regeneration of land impacted by livestock and feral animals. This means the generation of offsets can be a type of reward for past harm which has occurred. By contrast, First Nations have cared for Country for

¹⁸ Bill Compilation, subs 27(7)(b)(ii).

¹⁹ These requirements also apply as a condition when making a new Integrity Risk Method Determination as set out below (Compilation Bill subs 132A(4)(d)(iii)).

²⁰ EDO 2023 Submission, page 13.

²¹ Ibid.

²² Ibid.

²³ For example, see Macreadie, P.I., Singleton, B., Costa, M.D.P. *et al.* Additionality requirements of carbon markets could penalize Indigenous stewardship. *Nat. Clim. Chang.* **16**, 234–235 (2026), available at <<https://doi.org/10.1038/s41558-026-02576-2>>.

many thousands of years and ongoing, therefore providing limited opportunities to generate ACCUs on their land, other than via savanna burning. It must be recognised that maintaining intact ecosystems often requires active, under-funded governance, particularly where altered fire regimes, feral animals and changing water flows create threats. We query whether the ACCU Scheme can be generally improved to explore the development of further methodologies that provide more opportunities for First Nations to participate in the ACCU Scheme based on their caring for Country.

- 17 With this in mind, we welcome the requirements under the Exposure Draft Bill for the Minister to appoint to the CAIC at least one committee member who is an Aboriginal and/or Torres Strait Islander person.²⁴ We consider that requiring a First Nations representative on the CAIC is a possible step towards achieving expanded opportunities for First Nations participation in the ACCU Scheme.

Recommendation 1: The FPIC requirements in the Exposure Draft Bill should be strengthened further, including by explicit provision for continued and ongoing FPIC processes and the withdrawal of consent to ACCU projects where preliminary consent has been obtained. Consideration could also be given to the further expansion of the definition of eligible interest to encompass other recognised traditional rights and interests in land.

Recommendation 2: Consideration should be given to whether the ACCU Scheme can generally be improved to explore the development of further methodologies that provide more opportunities for First Nations to participate in the ACCU Scheme based on their caring for Country.

Establishment of the Carbon Abatement Integrity Committee (CAIC)

- 18 EDO supports the replacement of the Emissions Reduction Assurance Committee (**ERAC**) with a new Committee – the CAIC – as an independent statutory committee tasked with assuring ACCU method integrity. This forms a key component of the governance of ACCUs, which is strongly linked to their integrity.
- 19 The CAIC is proposed to have the same key functions as the former ERAC in relation to the ACCU Scheme, plus several new functions,²⁵ including functions to:
- monitor the compliance of methodology determinations with the OISs.²⁶
 - assess draft methods and variations against the OIS to advise the Minister whether methods should be made or varied.²⁷ A method cannot be made or varied by the Minister until they receive advice from the CAIC.
 - undertake periodic reviews of methodology determinations.²⁸
 - advise the Minister of the outcomes of reviews and method assessments.²⁹

²⁴ Bill Compilation, s 257(2B).

²⁵ CFI Act, s 255.

²⁶ Ibid, s 255(d).

²⁷ Ibid s 123A.

²⁸ Ibid s 255(e).

²⁹ Ibid s 255(g).

- undertake public consultation in relation to methods.³⁰
- 20 EDO is broadly supportive of the establishment of the CAIC and the proposals in the Exposure Draft Bill to enhance transparency and integrity of the CAIC, including the expanded timeframe in which CAIC can undertake consultation from 28 to 45 days,³¹ and formalisation of requirements for the CAIC to publish its advice and any related public consultation. This includes, for example, the outcomes of reviews of methods about to expire and advice about making an IRMD.³² We make the following comments and recommendations as to how some these amendments to the CFI Act could be strengthened further.

Expertise requirements of CAIC members

- 21 The Exposure Draft Bill strengthens expertise requirements for the CAIC, including the Committee members and the Chair. For the CAIC to properly fulfil its functions as listed above, the appropriate expertise for this role is critical.
- 22 We support the fields of expertise for CAIC members listed under new section 257A which include climate change adaptation and resilience, environmental and climate science, GHG abatement measures, technologies, measurement and reporting.³³ A focus on independent scientific expertise is particularly important given the requirements for developing and assessing methodologies, especially the proponent led method development process (**PLMD**) discussed below.
- 23 The Exposure Draft Bill requires the Minister to appoint a CAIC member with substantial experience or knowledge, and significant standing, in at least one of these fields,³⁴ in addition to the existing requirements that at least one member of the CAIC is an officer of the Commonwealth Scientific and Industrial Research Organisation (**CSIRO**).³⁵
- 24 Given the importance of scientific expertise, we recommend amendments so that the Minister further prioritises the identification and retention of independent scientific experts to serve on the CAIC as listed in subsection 257A. For example, the Exposure Draft Bill could be amended to require the Minister to appoint members with expertise under section 257A(b), (d), (f), (g), or (j).

Prohibition on CAIC members engaging in paid work conflicting with their duties

- 25 The Exposure Draft Bill updates the safeguard against CAIC members engaging in conflicts of interest, by expanding the requirement to prohibit a CAIC member from engaging in any form of paid *work* that conflicts with their duties, not just paid employment.³⁶ This is an important

³⁰ Ibid s 255(f).

³¹ Bill Compilation, sub 12D(2).

³² Ibid s 255C.

³³ Ibid s 257A (b), (d), (f), (g), or (j).

³⁴ Ibid s 257(2).

³⁵ Ibid s 257(6).

³⁶ Ibid s 263.

response to the documented cases of ERAC members engaging in other work conflicting with their ERAC duties during their membership.³⁷

- 26 We welcome this change and recommend it be further strengthened by also prohibiting a CAIC member from engaging in any form of paid work that conflicts with their duties for at least 5 years after their CAIC membership ceases.
- 27 Post-employment conflicts may arise where a CAIC member who is preparing to leave may no longer make decisions consistent with their functions and is instead influenced by an emerging private interest connected to future employment. Further, CAIC members who quickly move to a relevant private sector may use contacts or confidential information gained during their membership in their new position.³⁸
- 28 These safeguards should also be extended to unpaid work. The CFI Act requires ERAC (in future CAIC) members to disclose to the Minister all interests, including non-pecuniary interests, that could conflict with their functions.³⁹ They must also disclose these interests to the ERAC, and must not be present during any deliberations (including methodology determinations) where their interests conflict with a matter before them.⁴⁰ We consider that preventing CAIC members from undertaking unpaid work that may conflict with their functions (consistent with amended section 263), for example, voluntary board memberships, would ensure these conflicts of interests are appropriately managed.

Method development and review powers

- 29 The amendments propose to empower the CAIC to undertake reviews of methods before they expire, and then to advise the Minister on the outcome of the review.⁴¹ ACCU methods are legislative instruments which automatically expire after 10 years. In its review, the CAIC would have regard to the OISs and any other criteria set out by the Minister.⁴² The amendments would also enable the CAIC to undertake public consultation in relation to its assessment of expiring methods, where it considers appropriate.⁴³ The CAIC would only be empowered to assess expiring methods at the request of the Minister.⁴⁴
- 30 We welcome the expanded powers of the CAIC to review ACCU methods against the OISs. However, we recommend these powers could be strengthened as follows:
- **Public consultation on expiring methods should be mandatory:** It should be a mandatory requirement for the CAIC to undertake public consultation when reviewing a method about to expire. EDO also recommends the Exposure Draft Bill be amended to

³⁷ Stephen Long, 'Potential conflicts of interest abound in Australia's carbon credits market', *ABC News* (2 April 2022), available at <<https://www.abc.net.au/news/2022-04-02/carbon-credit-conflicts-of-interest-in-clean-energy-regulator/100952758>>.

³⁸ See, for example, NSW Independent Commission Against Corruption, 'Post-separation employment'. Available online at <<https://www.icac.nsw.gov.au/prevention/basic-standards/post-separation-employment>>.

³⁹ CFI Act, s 261.

⁴⁰ CFI Act, s 262.

⁴¹ Bill Compilation, s 122A.

⁴² *Ibid*, s 122A(3).

⁴³ *Ibid*, s 122A(5).

⁴⁴ *Ibid*, s 122A(1).

require CAIC to directly engage any communities potentially affected or impacted by the resulting projects. Given the substantial concerns with several methodologies accredited under the ACCU Scheme,⁴⁵ ensuring there is an opportunity for public participation in the review of any expiring methods that may have attracted similar criticism is vital to ensuring any recommendations the CAIC makes to the Minister are fully informed.

- **The CAIC should be able to conduct its own reviews of methods:** Under the Exposure Draft Bill, the CAIC would only be empowered to assess expiring methods at the request of the Minister. To allow the CAIC to operate independently and not be subject to political intervention, the CAIC should not be restricted to only reviewing expiring methods at the request of the Minister. The CAIC should have the independent power to conduct reviews as well as to make, vary or revoke methodology determinations.⁴⁶ That is, the CAIC should not be required to wait for a request from the Minister to undertake such reviews.
- **The CAIC should conduct compulsory periodic reviews:** Periodic reviews of methodology determinations are a function of the CAIC,⁴⁷ however these are only undertaken at the written request of a person⁴⁸ and are not mandatory. EDO has previously recommended that: *‘To uphold scheme integrity and ensure projects are achieving the real and additional abatement required by the OIS and CFI Act, there must be mechanisms in place for the maintenance of methods so that they are up to date with the latest technologies and scientific knowledge. Compulsory periodic reviews, conducted by the Integrity Committee and required under the Act would ensure methods continue to comply with OIS.’*⁴⁹ This has not been addressed in the Exposure Draft Bill, and we repeat this recommendation here.

Assistance to CAIC must be transparent

- 31 The CAIC may seek assistance to fulfil its functions from the CER, the Department of Climate Change, Energy, the Environment and Water (**DCCEEW**), or another department, agency or authority of the Commonwealth.
- 32 The Exposure Draft Bill proposes to allow the CAIC to obtain advice or information from persons or bodies with relevant experience or knowledge.⁵⁰ The Consultation Paper explains the policy rationale for this as being that ‘methods are highly technical, and relevant expertise and knowledge may sit with technical experts and specialists outside the government’.⁵¹
- 33 Such technical experts and specialists may have vested interests in the advice they give the CAIC. In particular, this may include financial interests in the ACCUs market, which may conflict with any advice provided to the CAIC on methods. For example, industry stakeholders and carbon service providers may be biased towards advancing the interests of the carbon

⁴⁵ See EDO 2025 Submission, it summarises significant concerns with two ACCU methods in particular: human induced forest regeneration carbon offset projects (**HIR projects**) and landfill gas.

⁴⁶ Bill Compilation, s 123A.

⁴⁷ CFI Act, s 255(e).

⁴⁸ CFI Act, s 255AA.

⁴⁹ EDO 2023 Submission, page 12.

⁵⁰ Bill Compilation s 255B.

⁵¹ Consultation Paper, page 13.

industry, rather than creating methods which ensure real and additional emissions reductions. Similar conflicts of interest have been identified in relation to membership of the CAIC.⁵²

- 34 We recommend similar conflict of interest provisions to those in proposed subsection 263(2), which prevent a CAIC member from engaging in paid work that conflicts with their duties, also apply to those persons or bodies with relevant experience or knowledge from whom CAIC seeks advice or information relevant to the performance of their functions.
- 35 In the alternative, the Exposure Draft Bill should at least strengthen transparency of reporting in relation to advice received by the CAIC under section 255B, including who any advice was received from (including their qualifications and any personal or professional interests), and the purposes for which the advice was received. This could include requiring the CAIC to report whether section 255B was engaged when it publishes advice under section 255C (publication of advice and documents).

Outstanding governance issues the Exposure Draft Bill should address

- 36 The CER sits alongside the CAIC in governance of the ACCU Scheme. The CER administers the ACCU Scheme by ensuring projects comply with the CFI Act. The Exposure Draft Bill enhances the CER's compliance and publication powers to ensure ongoing integrity and transparency of the ACCU Scheme, including by giving the CER additional powers to vary, revoke or set aside any decision under the CFI Act where that decision was attributable to false or misleading information,⁵³ to issue infringement notices for low-level contraventions,⁵⁴ and to allow the CER to require ACCUs be relinquished in instances where updated information in offset reports leads to lower modelled abatement than has previously been credited.⁵⁵
- 37 While we support these changes, we have outstanding concerns about the integrity of the CER that are not addressed in the Exposure Draft Bill. These include that the *Clean Energy Regulator Act 2011 (Cth) (CER Act)* continues to state only that a full-time member of the CER must not engage in paid employment outside the duties of his or her office without the Minister's approval.⁵⁶ The requirements for part-time members of the CER are different: they must not engage in any paid employment that conflicts or may conflict with the proper performance of their duties.⁵⁷ We recommend the CER Act be amended to be consistent with the proposals in the Exposure Draft Bill, with the effect of prohibiting CER members from engaging in any paid work (not just employment) that conflicts with their duties, and that this apply to both full- and part-time members of the CER. Post-employment and unpaid work restrictions should also apply, as per recommendation 4.

Recommendation 3: The expertise requirements of the CAIC should be strengthened by requiring the Minister, when appointing a member, to prioritise the identification and retention

⁵² Stephen Long, 'Potential conflicts of interest abound in Australia's carbon credits market', *ABC News* (2 April 2022), available at <<https://www.abc.net.au/news/2022-04-02/carbon-credit-conflicts-of-interest-in-clean-energy-regulator/100952758>>.

⁵³ Bill Compilation, s 287A.

⁵⁴ *Ibid* pt 22A.

⁵⁵ *Ibid* s 88A.

⁵⁶ *Clean Energy Regulator Act 2011 (Cth)* s 24(a).

⁵⁷ *Ibid* s 24(b).

of independent scientific experts to serve on the CAIC. For example, the Exposure Draft Bill could be amended to require the Minister to appoint members with expertise under section 257A(b),(d), (f), (g), or (j).

Recommendation 4: The prohibition on CAIC members engaging in paid work conflicting with their duties should be extended to 5 years post-employment and to unpaid work.

Recommendation 5: The CAIC should be required to undertake public consultation when reviewing a method about to expire, rather than leaving this to its discretion.

Recommendation 6: The CAIC should have an independent power to conduct reviews of expiring methods, and the making, varying or revoking of methods. The CAIC's review powers should not be restricted to only reviewing methods at the request of the Minister.

Recommendation 7: The CAIC should be required to conduct compulsory periodic reviews of methodology determinations. Currently, periodic reviews only occur by a written request and are not mandatory or regular.

Recommendation 8: Conflict of interest safeguards should apply to instances in which the CAIC requests assistance to fulfil its functions, such as requiring the CAIC to provide details in relation to the assistance it has received.

Recommendation 9: The Exposure Draft Bill should address integrity concerns in relation to the Clean Energy Regulator (**CER**). This includes amending the CFI Act for consistency with the proposals in the Exposure Draft Bill, with the effect of prohibiting CER members from engaging in any paid work (not just employment) that conflicts with their duties. This prohibition should apply to both full- and part-time members of the CER. Post-employment and unpaid work restrictions should also apply, as per recommendation 4.

Governance arrangements for proponent-led method development (PLMD)

38 The Exposure Draft Bill carries over ERAC's role in PLMD to the CAIC. This includes assessing expressions of interest (**EOIs**) for new methods and advising the Minister whether the Minister should make a methodology determination.⁵⁸ The Minister must have regard to this advice when deciding to make the methodology determination,⁵⁹ and they must not make the determination if the CAIC advises that the determination does not comply with the OISs.⁶⁰ The Bill expands this role by providing the CAIC with an explicit advisory function to provide the Minister written advice on the appropriate priority for the development of new methods or the variation of existing methods.⁶¹

39 While we support these safeguards in relation to the PLMD process, we continue to raise concerns that the PLMD process may create conflicts of interest in developing methods that

⁵⁸ Bill Compilation, ss 254-255.

⁵⁹ Ibid s 106(4)(b), 106(10).

⁶⁰ Ibid s 106(4B).

⁶¹ Ibid ss 123E, 255(2)(e).

create a genuine reduction in emissions.⁶² The development of methods by industry stakeholders and carbon service providers may be directed towards advancing the interests of the carbon industry, rather than creating methods which ensure real and additional emissions reductions. Given these concerns, we recommend PLMD ceases and instead a new expert panel is appointed which can interrogate and propose new methodologies. Proponents and other stakeholders interested in method development would be able to make submissions to this panel, but would not lead development.

Recommendation 10: Proponent-led method development should cease and be replaced with a new independent expert panel which can interrogate and propose new methodologies. Proponents and other stakeholders interested in method development would be able to make submissions to this panel but would not lead development.

Integrity Risk Method Declarations

- 40 To uphold ACCU Scheme integrity and ensure projects achieve the real and additional abatement required by the OISs and CFI Act, there must be mechanisms in place for the maintenance of methods so they are up to date with the latest technologies and scientific knowledge. Where methods do not achieve real and additional abatement, they must be removed from the ACCU Scheme.
- 41 The introduction of the new Ministerial power to make integrity risk method declarations (**IRMD**) is a positive step toward strengthening the scheme; however, its proposed application is too limited to effectively ensure its integrity.
- 42 This new power builds on existing powers under the CFI Act for ERAC (in future, CAIC) to suspend a method where there is reasonable evidence the method no longer meets the OISs, and for the Minister to vary a method to address integrity issues or revoke a method if it no longer meets the OISs. Existing powers only apply to prevent registration of new projects; the new IRMD extends that power to existing projects. When the Minister makes an IRMD, the method specified in that declaration can no longer be used by projects (including existing projects) to earn ACCUs. The project can only start earning ACCUs again once it has transitioned to a new method.
- 43 It is our view that the IRMD process's primary concern should be to ensure the ACCU Scheme operates with high integrity, is based on robust scientific expert advice, and delivers real carbon abatement. This view does not appear to be shared by the Department in the Consultation Paper. Question 4 of the Consultation Paper asks 'are the integrity risk threshold criteria set at an appropriate level, balancing the need for Scheme integrity with continuity, certainty for project proponents and reputational impact?'.⁶³ Further, while not reflected in the Exposure Draft Bill itself, the Consultation Paper states that a consideration for the Minister in making an IRMD is providing 'proponents an opportunity to contribute information about challenges they may face in transitioning to a new method'.⁶⁴

⁶² EDO 2023 Submission, page 11.

⁶³ Consultation Paper, question 4 on page 19.

⁶⁴ Consultation Paper, page 17.

- 44 This framing of the IRMD process in the Consultation Paper appears to be concerned with protecting the investment and economic value of ACCUs, rather than ensuring the scheme operates with high integrity. We draw attention to the following objects of the CFI Act:⁶⁵

Climate Change Convention and Kyoto Protocol etc. (2) *The first object of this Act is to remove greenhouse gases from the atmosphere, and avoid emissions of greenhouse gases, in order to meet Australia's obligations under any or all of the following: (a) the Climate Change Convention; (b) the Kyoto Protocol; (c) the Paris Agreement; (d) any other international agreement.*

Incentives (3) *The second object of this Act is to create incentives for people to carry on certain offsets projects.*

Carbon abatement (4) *The third object of this Act is to increase carbon abatement in a manner that: (a) is consistent with the protection of Australia's natural environment; and (b) improves resilience to the effects of climate change.*

Purchase of carbon abatement by the Commonwealth (5) *The fourth object of this Act is to authorise the purchase by the Commonwealth of units that represent carbon abatement.*

Australia's greenhouse gas emissions reduction targets (6) *The fifth object of this Act is to facilitate the achievement of Australia's greenhouse gas emissions reduction targets.*

- 45 While the second object refers to the object of the CFI Act being to 'create incentives' for project proponents, objects 1, 3 and 6 relate to increasing carbon abatement and removing and avoiding GHG emissions consistent with Australia's international obligations. Equally balancing the interests of project proponents with these objects is not consistent with the objects of the CFI Act, and therefore should not be reflected in the IRMD.
- 46 The following provisions in the Exposure Draft Bill relating to the IRMD demonstrate that these considerations are being inappropriately prioritised in the design of the IRMD process. Such drafting risks making the IRMD an insufficient tool to remove low integrity offsets from the ACCU Scheme.

The two-part threshold for making an IRMD is overly high and not fit for purpose

- 47 The criteria for making an IRMD under subsection 132A(2) are that (a) the methodology determination does not comply with one or more OISs, **and** (b) the issue or continuing issue of ACCUs in relation to the projects to which the method applies 'would pose a material risk to the integrity of the scheme established by the Act' (**integrity risk threshold criteria**).⁶⁶
- 48 The next subsection (132A(3)) of the Exposure Draft Bill states that for the purposes of subsection 132A(2)(b), an ACCU 'poses a material risk to the integrity of the scheme established by this Act if it would have a material adverse effect on the ability of this Act to contribute to the objects under subsections 3(2) and (6)', being the removal of GHG from the

⁶⁵ CFI Act, s 3.

⁶⁶ Bill Compilation, s 132A(2).

atmosphere and the avoidance of GHG emissions to meet Australia’s international obligations, and to facilitate the achievement of Australia’s GHG emissions reduction targets.⁶⁷

- 49 ‘Material risk’ itself is not a defined term in the Exposure Draft Bill. It is open to subjective interpretation what the Minister may consider to be a ‘material risk’ to the integrity of the scheme, and what they consider may have a ‘material adverse effect’ on the two identified objects of the CFI Act. In addition, a method may be found to be non-compliant with an OIS, but may fail to meet the IRMD threshold because the Minister considers that it does not pose a ‘material risk’ to the integrity of the scheme. This discretionary application of the threshold risks undermining the intent of the IRMD, being to remove low integrity offsets from the Scheme.
- 50 We recommend removing subsections 132(2)(b) and 132(3) from the Exposure Draft Bill. This would have the effect of amending the criteria for an IRDM to be that the method does not comply with one or more OISs. Combined with the other conditions (other than the requirement to transition to a new method - discussed further below),⁶⁸ this should be the only threshold for the Minister to make an IRMD. This would reduce the risk of decision-making being based on politics, rather than scientific evidence and advice.

The requirement for an ability to transition to a new method undermines the intent of the IRMD process

- 51 When making an IRMD the Minister may specify ‘one or more suitable alternative methods that may be applied to an eligible offsets project’ for which an IRMD has been made.⁶⁹ A condition for the Minister making an IRMD is that they are satisfied that ‘each offsets project to which the [IRMD] applies is of a kind to which one or more other methodology determinations (each of which is an **alternative method**)’ applies (no emphasis added).⁷⁰ In other words, to make an IRMD, it must be feasible for projects subject to the IRMD to transition to an alternative method.
- 52 Projects which have used methods with significant integrity issues and for which no alternative method is available would therefore still be able to generate ACCUs, as they would not be able to be subject to an IRMD. This undermines the purpose of an IRMD, being to end the generation of ACCUs from projects that use methods which are not achieving carbon abatement and reducing GHG emissions.
- 53 We recommend that the requirement that the Minister be satisfied an alternative methodology is available for an offset project in order for the Minister to make an IRMD be removed.

⁶⁷ Ibid s 132A(3).

⁶⁸ Ibid s 132A(4).

⁶⁹ Ibid s 132(1)(b).

⁷⁰ Ibid s 132A(d)(ii).

The 2-5 year delay before an IRMD comes into effect is too long

- 54 An IRMD can come into effect no later than 5 years for sequestration offsets projects, and no later than 2 years for emissions avoidance offsets projects, after the day the declaration is made.⁷¹
- 55 During this 2-5 year period, projects subject to an IRMD can continue to generate ACCUs, despite a finding by the Minister that those projects lack integrity and do not achieve real carbon abatement. This means ACCUs with low integrity can continue to be purchased during this period, and projects relying on those ACCUs may continue to produce carbon emissions which are not offset.⁷²
- 56 We recommend the Exposure Draft Bill shorten the timeframes before an IRMD can come into effect. We consider 12 months is an appropriate period for an IRMD to come into effect, so that projects can either transition to a new method (if that is available) or conclude.

Minister must be transparent when they do not follow CAIC advice to make an IRMD

- 57 If requested by the Minister, the CAIC may give advice to the Minister regarding whether the integrity risk threshold criteria are met. The CAIC may also give such advice if it forms the opinion that a method meets the integrity risk threshold criteria during the course of reviewing methodologies under the CFI Act.⁷³
- 58 While the Exposure Draft Bill requires that the Minister must not make an IRMD if the CAIC advises that the integrity risk threshold criteria are not met,⁷⁴ the reverse does not apply. That is, if the CAIC advises that a methodology meets the integrity risk threshold criteria, the Minister is not obligated to follow this advice and make an IRMD.
- 59 The Exposure Draft Bill requires the Minister to publish the CAIC's advice.⁷⁵ We recommend this section be further strengthened by requiring the Minister to publish reasons for not following the CAIC's advice that a method meets the integrity risk threshold criteria, if this has occurred. This amendment is important given the Exposure Draft Bill's purpose to establish the CAIC as an independent statutory body, whose role is to provide independent expert advice to the Minister.

Opportunity for public participation in the IRMD process must be expanded

- 60 We welcome the public consultation requirements the CAIC and the Minister must undertake when considering whether a method meets the integrity risk threshold criteria and whether to make an IRMD.⁷⁶ However, public participation should be available beyond mere consultation.

⁷¹ Ibid s 132(7). For both sequestration offsets projects and emissions avoidance offsets projects, an IRMD can have effect no earlier than 6 months after the declaration is made.

⁷² Consultation Paper, page 17, states: 'The IRMD would not come into effect immediately, providing a period of time during which projects would be able to continue earning credits under the method'.

⁷³ Bill Compilation s 132B(1).

⁷⁴ Ibid s 132A(7).

⁷⁵ Ibid s 132D(3).

⁷⁶ See for example, Bill Compilation ss 132C, 132D(5), (8), 132E.

61 We recommend the Exposure Draft Bill be amended to include a mechanism for members of the public to initiate the process for an IRMD by, for example, referring projects to the CAIC for investigation as to whether they meet the integrity risk threshold criteria, with certain procedural and substantive thresholds required for such a referral. Due to the high level of discretion afforded to the Minister under the Bill to make an IRMD, allowing avenues for the CAIC to conduct an inquiry after referral from a member of the public would enhance the operation of the IRMD.

How the IRMD interacts with the Safeguard Mechanism must be clarified

62 The introduction of the IRMD, while welcome, raises questions regarding what happens to the issuing and use of ACCUs which are subsequently subject to an IRMD. For example, as explained above, many Safeguard Mechanism facilities rely heavily on ACCUs to comply with the requirements to reduce their emissions in line with a declining baseline rate. If these ACCUs are based on methods subsequently subject to an IRMD, it is unclear what implications this may have for those Safeguard Mechanism Facilities. For example, it is unclear whether facilities will be required to ‘make up’ for prior retirement of ACCUs now subject to IRMD, or report that previously retired ACCUs have been found to have an integrity risk.

63 We recommend this be addressed in the upcoming 2026-27 Safeguard Mechanism Review.⁷⁷

Recommendation 11: In designing the IRMD, the primary consideration should be whether the ACCU Scheme operates to deliver real carbon abatement and meet Australia’s GHG emissions reduction targets consistent with its international obligations. The interests of project proponents should not be equally balanced with these considerations.

Recommendation 12: The ‘material risk’ component of the integrity risk threshold must be removed so that the only criterion for whether a method meets the integrity risk threshold is whether the method does not comply with one or more OISs. This ensures IRMDs are made on the basis of scientific evidence and advice only.

Recommendation 13: The condition requiring that a project must be able to transition to a new method and this new method be in place for the Minister to make an IRMD must be removed.

Recommendation 14: The 2-5 year timeframe in which an IRMD can come into effect must be shortened to 12 months, to ensure limited reliance on ineffective ACCUs.

Recommendation 15: The Minister should be required to publish reasons for not following the CAIC’s advice where the CAIC has advised that a method has met the integrity risk threshold, if this has occurred.

Recommendation 16: The Exposure Draft Bill should be amended to include a mechanism for members of the public to initiate the process for an IRMD.

⁷⁷ Department of Climate Change, Energy, the Environment and Water, ‘Safeguard Mechanism Overview: 2026-27 Review of the Safeguard Mechanism’ (2025), available at <https://www.dcceew.gov.au/climate-change/emissions-reporting/national-greenhouse-energy-reporting-scheme/safeguard-mechanism/overview#_202627-review-of-the-safeguard-mechanism>.

Recommendation 17: The 2026-27 Safeguard Mechanism Review must address what happens to facility reporting requirements under the Mechanism in circumstances where an IRMD is issued for a method that has previously generated ACCUs relied on by Safeguard Mechanism facilities to meet their declining baseline obligations.

Changing the ‘newness’ requirement for Research and Development participants

64 ‘Additionality’ is fundamental to the integrity of the ACCU Scheme as it requires that credits are not issued for reductions that would have occurred anyway. In assessing ‘additionality’, the ‘newness’ of the project is currently a mandatory requirement. This means that projects must not have begun to be implemented prior to their registration. This requirement seeks to ensure that projects which exist because of the Scheme genuinely contribute to reducing GHG emissions and provide a benefit to the climate or the environment.

65 The proposed reforms would weaken the ‘newness’ requirement by excluding certain R&D activities from being considered when determining when a project has begun. Certain stakeholders have argued that the current ‘newness’ requirement discourages innovation in emissions abatement technology because early-stage testing or pilot activities may constitute commencement of the project, rendering projects ineligible for registration under the ACCU Scheme.⁷⁸

66 Whilst we recognise the importance of innovation, any weakening of the newness requirement raises concerns. It is important that a carve out for R&D activities does not allow projects that have begun but are in their early stages to qualify for the ACCU Scheme, or allow for retrospective carbon credit accounting. This would significantly undermine the integrity of the ACCU Scheme. To address this possibility, we recommend introducing an option to register R&D activities. This would ensure that there is a clear record of R&D projects whilst still allowing innovators to later register their projects for ACCUs.

Recommendation 18: The Exposure Draft Bill should include an option to register R&D activities, with the ‘newness’ exemption limited to those activities that have been formally registered.

Enabling methods to include both emissions avoidance activities and sequestration activities

67 The Consultation Paper states that the Department is assessing an option to significantly amend the CFI Act to enable a single method to include both emissions avoidance and sequestration abatement from different activities.⁷⁹ These changes are not contained in the Exposure Draft Bill.

68 We are concerned that this proposed amendment would encourage the continuance of avoidance projects, where some of these methods have previously failed to meet additionality requirements.⁸⁰ In addition, we are concerned that if a component of the method is flawed

⁷⁸ Consultation Paper, page 20.

⁷⁹ Consultation Paper, page 38.

⁸⁰ Chubb Review, page 24.

(e.g. the avoidance component), the method could remain certified because it falls below the IRMD threshold due to the inclusion of a stronger component (e.g. sequestration).

Avoidance projects

69 Avoidance projects are projects that avoid GHG emissions. They are distinguished in the CFI Act from sequestration projects which comprise of activities that actively remove carbon dioxide from the atmosphere. The impact and integrity of avoidance projects in reducing GHG emissions is heavily contested, in particular in relation to ‘additionality’. In 2023, the Minister revoked the avoided deforestation method, which was a widely implemented method, in response to concerns that ACCUs generated by this method were not additional avoided carbon emissions.⁸¹ However, the EDO notes that other avoidance methods still eligible for ACCUs continue to raise concerns, such as landfill gas.⁸²

Risks in combining the methods

70 The EDO is concerned that a method which includes both sequestration and avoidance activities may affect the integrity of the scheme. For example, we are concerned that if a component of the methodology which avoids offsets raises integrity concerns due to a lack of additionality, the methodology will continue to be accepted because the sequestration component could still be successful. This concern is further enhanced because, as described above, the threshold for making an IRMD is very high.

Recommendation 19: A proposal which enables methods to include both emissions avoidance activities and sequestration activities should not proceed.

Outstanding reforms required to the ACCU Scheme

71 As explained in the EDO’s 2023 Submission,⁸³ changes to the ACCU Scheme beyond the implementation of recommendations from the Chubb Review are still required to ensure the Scheme operates according to the science in order to ensure integrity, transparency, and efficacy in emissions abatement.

72 Given the importance of the scheme for Australia’s emissions reduction efforts, and need to avoid enabling corporate greenwashing, EDO urges the Federal Government to continue assessment and improvement of ACCU methodologies and additional Scheme integrity measures.

Unaddressed issues with methodologies

73 The Exposure Draft Bill does not comprehensively address issues regarding the integrity of methodologies and rules. For example, the Australian Academy of Science identified

⁸¹ Department of Climate Change, Energy, the Environment and Water, ‘Avoided deforestation 1.1 method’ (2025), available at <<https://www.dcceew.gov.au/climate-change/emissions-reduction/accu-scheme/methods-closed/avoided-deforestation-11>>.

⁸² See, for example: Andrew Macintosh, ‘The Emissions Reduction Fund’s Landfill Gas Method: An Assessment of its Integrity’ (Report 2022), available at <<https://law.anu.edu.au/files/2024-01/ERF%20Landfill%20Gas%20Method%20-%20An%20assessment%20of%20its%20integrity%20%2816%20March%202022%29.pdf>>.

⁸³ EDO 2023 Submission, pages 6-7.

numerous flaws in the methods and governance procedures of human induced regeneration of native forests, combusting methane from landfills, and carbon capture and storage (CCS) in a 2022 report, which are not adequately addressed by the Exposure Draft Bill.⁸⁴

- 74 We are concerned CCS in particular remains an available method under the ACCU Scheme⁸⁵ despite longstanding evidence that CCS is not an effective or environmentally sound solution for the urgent reductions in GHG emissions needed in Australia, or globally.⁸⁶ CCS is not currently effective in reducing GHG emissions.⁸⁷ It is unclear whether it will ever be effective, at least on the timescales in which it would be needed to achieve Australia's international obligations, as it is unscalable at the rate and extent needed to see a rapid reduction in emissions.⁸⁸ CCS also presents new challenges in environmental regulation and harm, particularly in relation to water impacts.⁸⁹ Further, it has been repeatedly demonstrated that CCS is uneconomic in most cases, particularly without ongoing government subsidies.⁹⁰

Offsets Integrity Standards must be strengthened

- 75 EDO supported previous amendments to the CFI Act that required the Minister to be satisfied new methods or method variations comply with the OISs.⁹¹ However, we are concerned that there have been no changes made to the OISs themselves⁹² under the Exposure Draft Bill, in circumstances where the OISs have led to the development of flawed methods with questionable abatement integrity.
- 76 We recommend that OISs be strengthened under the Exposure Draft Bill. For example, the Exposure Draft Bill does not address⁹³ the Chubb Review's recommendation that the OISs

⁸⁴ Australian Academy of Science, Review of Four Methods of Generating Australian Carbon Credit Units: Report for the Department of Climate Change, Energy, the Environment and Water (2022), available at <<https://www.dcceew.gov.au/sites/default/files/documents/review-four-methods-generating-australian-carbon-credit-units.pdf>>.

⁸⁵ Clean Energy Regulator, 'Carbon capture and storage method' (Web Page 2024), available at <<https://cer.gov.au/schemes/australian-carbon-credit-unit-scheme/accu-scheme-methods/carbon-capture-and-storage-method>>.

⁸⁶ See Environmental Defenders Office 'Submission to the inquiry on the Environment Protection (Sea Dumping) Amendment (Using New Technologies to Fight Climate Change) Bill 2023' (6 July 2023). Available at: <<https://www.edo.org.au/publication/edo-submission-to-the-inquiry-on-the-environment-protection-sea-dumping-amendment-using-new-technologies-to-fight-climate-change-bill-2023/>>.

⁸⁷ Climate Council, 'What is carbon capture and storage', *Climate Council* (Web Page, 2023) available at <<https://www.climatecouncil.org.au/resources/what-is-carbon-capture-and-storage/>>.

⁸⁸ Ibid; N. Mac Dowell et al., 'The role of CO2 capture and utilization in mitigating climate change' (2017), 7 *Nature Climate Change* 243; see also The Royal Society, *Locked Away: Geological Carbon Storage Policy Briefing* (2022) page 4.

⁸⁹ The Royal Society, *Locked Away: Geological Carbon Storage Policy Briefing* (2022), page 12; see also 'Carbon storage: The economic efficiency of storing CO2 in leaky reservoirs' (2003) 5 *Clean Technologies and Environmental Policy* 181.; Lorenzo Rosa et al., *The water footprint of carbon capture and storage*, Elsevier (2020).

⁹⁰ Bruce Robertson & Milad Mousavian, 'The carbon capture crux: Lessons learned', (2022) IEEFA, <<https://ieefa.org/resources/carbon-capture-crux-lessons-learned>> (Robertson and Mousavian); CIEL, 'Confronting the Myth of Carbon-Free Fossil Fuels: Why Carbon Capture is Not a Climate Solution', (2011) 11 <[Confronting-the-Myth-of-Carbon-Free-Fossil-Fuels.pdf](#)>.

⁹¹ CFI Act ss 106(4AA), 114(2AA).

⁹² Ibid s 133.

⁹³ We note the Department is currently developing these principles, see: Department of Climate Change, Energy, the Environment and Water, 'Reforming the ACCU Scheme: Progress Report 2023-2025' (Report 2026) page 17, available at <<https://www.dcceew.gov.au/sites/default/files/documents/progress-report-reforming-accu-scheme-2026.pdf>> (**Progress Report 2023-2025**).

should be supplemented with ACCU Scheme Principles ‘to support their consistent application in method development and project implementation and administration’.⁹⁴

77 Here, we draw attention to EDO’s previous comments⁹⁵ on the proposed principles to ensure they are binding by being operationalised through the CFI Act, applied consistently, and that compliance must be demonstrated.

78 We also recommend principles include detail about the standards and procedures required to achieve the desired outcome. For example, the principle of ‘integrity’ must specify that for the ACCU Scheme to truly have integrity, ‘realness’ requires accurate and appropriate measurement of emissions and removals directly attributable to the relevant project; and that ‘additionality’ means credits are not issued for reductions that would have occurred anyway.

International carbon offsets

79 We have concerns about the continuing use of international carbon offsets by Australian companies in voluntary carbon markets.⁹⁶ Unlike ACCUs, overseas units come from diverse schemes with varying integrity standards, making it far harder for Australian regulators to ensure consistency, prevent double-counting and maintain public confidence in reported emissions reductions. We express extreme concern with Australia further allowing any form of international carbon offsets in a way that may count towards Australia’s national emissions reduction targets, or to meet Safeguard Mechanism requirements.⁹⁷

Additional integrity issues

80 Commitments to implement the Chubb Review’s recommendations relating to accreditation of carbon service providers,⁹⁸ evidence of project co-benefits⁹⁹ and legislative integration of a carbon industry code of conduct¹⁰⁰ are not addressed in the Exposure Draft Bill. EDO supports the implementation of these important recommendations and looks forward to further consultation.

⁹⁴ Chubb Review, recommendation 6.

⁹⁵ EDO 2023 Submission, pages 8-9.

⁹⁶ See, Andrew Macintosh, ‘As Australia’s carbon offset industry grapples with integrity concerns, how can companies genuinely tackle climate change?’ *The Conversation* (Web Page, 27 May 2025), available at <<https://theconversation.com/as-australias-carbon-offset-industry-grapples-with-integrity-concerns-how-can-companies-genuinely-tackle-climate-change-257124>>, which states: “*Serious doubts exist over the integrity of these credits. For example, a comprehensive review by European researchers in 2016 found the credits had “fundamental flaws” and most were “not providing real, measurable and additional emission reductions”*”

⁹⁷ For more information, see EDO 2025 Submission, pages 10-11.

⁹⁸ Department of Climate Change, Energy, the Environment and Water, *Independent Review of Australian Carbon Credit Units: Implementation Plan* (June 2023) 20 (**Implementation Plan**). We note the Department has said it does not intend to introduce an accreditation framework in the ‘short term’, see Progress Report 2023-2025, page 22.

⁹⁹ Chubb Review, pages 28-29. See also Progress Report 2023-2025, page 25: “*In November 2025 ACCUs were successfully migrated into the CER’s new Unit and Certificate Registry. The CER will continue to consider ways to introduce additional features to the registry to continue to enhance transparency and accessibility, which could include recognising ACCUs related to projects associated with co-benefits in the future*”.

¹⁰⁰ Chubb Review, 20. We note the Code is currently voluntary, see Progress Report 2023-2025, page 22.

Integrity through accountability and transparency to the public: Third party appeal rights

81 There are no third-party enforcement rights or merits appeal rights under the CFI Act, and there are strict time limits for persons affected by a decision to seek review (28 days).¹⁰¹ Third party enforcement is the ability of community members to enforce breaches of the law (e.g., including conditions or method requirements applicable under the Act), and is an integral part of ensuring integrity in decision making. Third party merits appeal powers are lauded by integrity institutions including the Independent Commission Against Corruption in NSW¹⁰² for their important role in improving the quality of environmental decision making in the public interest. Providing for third party enforcement and merits appeal rights in environmental regulation increases accountability and is an important compliance and enforcement safeguard that would bolster the transparency of, and trust in, the ACCU Scheme as a whole.

Recommendation 20: The Exposure Draft Bill must comprehensively address issues regarding the integrity of methodologies and rules, in particular the use of carbon capture and storage.

Recommendation 21: Binding ACCU Scheme Principles must be operationalised through the CFI Act, to ensuring they are applied consistently, and that compliance must be demonstrated. These Principles should also include detail about the standards and procedures required to achieve the desired outcome.

Recommendation 22: Australia must not allow any form of international carbon offsets in a way that may count towards Australia's national emissions reduction targets, or to meet Safeguard Mechanism requirements.

Recommendation 23: Outstanding Chubb Review recommendations relating to accreditation of carbon service providers, evidence of project co-benefits, and legislative integration of a carbon industry code of conduct must be incorporated into the Exposure Draft Bill.

Recommendation 24: The Exposure Draft Bill should be amended to include third-party enforcement rights or merits appeal rights.

Endorsed changes

Government purchasing of ACCUs

82 A key concern in relation to the CER having dual roles has been addressed in the Exposure Draft Bill. The Chubb Review found that the 'multiple roles' of the CER in both purchasing ACCUs and administering the ACCU Scheme resulted 'in potential conflicts of interests and risks' which 'reduced confidence in scheme arrangements and governance'.¹⁰³ The Review recommended that 'responsibility for Australian Government purchasing of ACCUs should be moved out of the CER and into another Australian Government body to avoid actual or

¹⁰¹ CFI Act, s 241(4).

¹⁰²Independent Commission Against Corruption (2012) Anti-Corruption Safeguards and the NSW Planning System at p 19: <<http://www.icac.nsw.gov.au/documents/preventing-corruption/cp-publications-guidelines/3867-anti-corruption-safeguards-and-the-nsw-planning-system-2012/file>>.

¹⁰³ Chubb Review, page 4.

perceived conflicts of interest'.¹⁰⁴ We support the changes contained in the Exposure Draft Bill to amend the CFI Act to alter who has responsibility for the purchase of Government ACCUs from the CER to the Secretary of DCCEEW.¹⁰⁵

*Thank you for the opportunity to make this submission.
Please do not hesitate to contact our office should you have further enquiries.*

¹⁰⁴ Ibid.

¹⁰⁵ Bill Compilation, pt 2A.