



Environmental
Defenders Office

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

9 October 2026

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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.

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Environment and Communications Legislation Committee
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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 and present 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 the right to self-determination of First Nations peoples, including their right to freely determine their own political status and freely pursue their economic, social and cultural development. This 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 Carbon Credits and Other Legislation Amendment (Integrity and Transparency) Bill 2026 (the **Bill**). The Bill proposes amendments to the following pieces of legislation:

- *Carbon Credits (Carbon Farming Initiative) Act 2011* (**CFI Act**);
- *National Greenhouse and Energy Reporting Act 2007* (**NGER Act**); and
- *New Vehicle Efficiency Standard Act 2024* (**NVES Act**).

This submission focuses on the amendments to the CFI Act and broader further changes needed to improve integrity in the regulation of carbon offsets in Australia.

The CFI Act sets out the rules established for the Australian Carbon Credit Unit Scheme (**ACCU Scheme**). This ACCU Scheme forms a significant part of the Federal Government's policy response to climate change and meeting its climate change obligations, with entities (including Safeguard Mechanism facilities) relying heavily on ACCUs to meet their net zero emissions plans and regulatory obligations. However, integrity issues with the ACCU Scheme have been substantially documented over the course of its operation, including in relation to a number of ACCU methodologies.¹ A robust regulatory framework is therefore of paramount importance to address these shortfalls and ensure the ACCU Scheme operates with high integrity. Importantly, ACCUs must:

- deliver real carbon abatement;
- be used as a last resort;
- not replace or disincentivise real action to reduce carbon emissions where it can be taken.

To this end, overall EDO supports the amendments proposed in the Bill to the CFI Act. However, more action is needed to improve integrity in carbon offsets to ensure they are capable of effectively compensating for greenhouse gas (**GHG**) emissions to reduce the risk of climate change faced across Australia and globally.

This submission first addresses overarching amendments that should be made to the Bill to address broader integrity risks to the ACCU Scheme and outstanding recommendations from previous reviews that are not addressed by this Bill. These measures broadly include recommendations for a comprehensive and robust review of the Offset Integrity Standards (**OIS**) and all methodologies to ensure they are consistent with achieving the objects of the CFI Act and achieving the emissions reductions claimed. To reduce associated integrity risks, the use of international carbon credits should be removed from the ACCU Scheme entirely. Broad third party enforcement and merits appeal rights and improved transparency provisions in relation to

¹ See, for example, 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/climate-change/publications/review-four-methods-generating-australian-carbon-credit-units>> (**Australian Academy of Science, Review of ACCU Methods**).

publication of information and data should be introduced to improve accountability, transparency, quality of decision-making and public confidence in the ACCU Scheme.

The submission then addresses key changes proposed in the Bill, including ways in which these changes could be further strengthened. These include recommendations to improve alignment of consent provisions with the principles of Free, Prior and Informed Consent (**FPIC**), ensuring the newly established Carbon Abatement Integrity Committee (**CAIC**) operates independently and is equipped with scientific expertise through robust conflict of interest provisions and improved CAIC membership requirements. The CAIC's functions should be further expanded to improve its abilities to conduct independent reviews of methodologies. The proposed method transition declaration (**MTD**) process must prioritise the delivery of real carbon abatement and achievement of the CFI Act's objectives, ensuring that any projects required to transfer to an alternative method remain subject to equivalent or higher assurance checks (subject to CAIC advice on the appropriateness of these checks). Proposed combined or hybrid methods that would allow sequestration and emissions avoidance activities to be carried out under the same project would introduce further complexity into the ACCU Scheme, increasing integrity risks. These amendments should not proceed.

Summary of Recommendations

Overarching reforms and unaddressed integrity and transparency recommendations

Offset Integrity Standards must be strengthened

Recommendation 1: The OIS be strengthened to prevent the development and implementation of flawed methods and to improve abatement integrity.

Recommendation 2: Binding ACCU Scheme Principles must be operationalised through the CFI Act, to ensure 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 3: 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 Bill.

Outstanding issues with methodologies

Recommendation 4: The newly established CAIC should undertake a robust review of each method against the OIS and objects of the CFI Act to ensure they are achieving the emissions reductions claimed.

Recommendation 5: The Bill must comprehensively address issues regarding the integrity of methodologies and rules, in particular the use of carbon capture and storage (**CCS**).

International carbon credits

Recommendation 6: 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. We recommend amendments to remove references to international carbon units and credits in the CFI Act.

Third party submission and appeal rights are essential for integrity, accountability, transparency and public interest decision-making

Recommendation 7: The Bill should be amended to include additional public consultation and submission opportunities, as well as third party enforcement and merits appeal rights with broad standing to improve accountability, transparency and quality of decision-making under the ACCU Scheme.

Improving transparency of the ACCU Scheme

Recommendation 8: The Bill should increase the transparency around the effective operation of the ACCU Scheme, including with respect to requiring publication of all applications and reports for methods and projects, and detailed ACCU information, with clear rules as to what can be considered commercial-in-confidence and what is not.

Recommendations for other changes made by the Bill

Native title holder and claimant consent

Recommendation 9: The FPIC requirements in the 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.

Recommendation 10: 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 11: 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 Bill could be amended to require the Minister to appoint members with expertise under each of the areas outlined in proposed Bill subsections 257A(b), (d), (f), (g), and (j).

Recommendation 12: 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 13: The CAIC should be required to undertake public consultation when reviewing a method about to expire, rather than leaving this to its discretion.

Recommendation 14: 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 15: In addition to undertaking a recommended robust review of all methods upon commencement (**Recommendation 4** above), 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 16: 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 17: The Bill should address integrity concerns in relation to the Clean Energy Regulator (**CER**). This includes amending the CER Act for consistency with the proposals in the 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 12** above in relation to CAIC members.

Governance arrangements for proponent-led method development

Recommendation 18: 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 method development.

Method Transition Declarations (MTDs)

Recommendation 19: In designing the MTD, 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 achievement of these objectives, based on real carbon abatement, should be prioritised over and above interests of project proponents.

Recommendation 20: The 'material risk' component of the method transition threshold criteria must be removed so that the only criterion for whether a method meets the method transition threshold is whether the method does not comply with one or more of the OIS. This ensures MTDs are made on the basis of scientific evidence and advice only. Alternatively, that the

second limb of the ‘material risk’ component be amended to reflect that any adverse effect (not just material adverse effects) on the CFI Act’s ability to deliver on Australia’s GHG emissions reduction obligations constitutes a ‘material risk’.

Recommendation 21: The condition requiring that a project must be able to transition to a new/alternative method as a condition for making an MTD must be removed. If this remains as a barrier to making an MTD, unless a method is revoked or suspended, projects with serious integrity risks may continue to generate ACCUs.

Recommendation 22: Specific provision must be made to ensure that any assurance and integrity requirement from previous methods are brought across or strengthened for projects under alternative methods through the MTD process. The MTD conditions should be amended to require the Minister be satisfied that appropriate transition requirements are made for the continued application of certain requirements or assurance checks that applied to projects under the superseded method and legislative rules. In making this decision, the Minister must consider any advice from the CAIC, the Regulator and any submissions.

Recommendation 23: In providing advice to the Minister in relation to making an MTD, the CAIC must consider and provide advice on the appropriateness of continuing the application of a requirement, estimate, projection or assumption to the kind of eligible offsets projects to which an alternative method is to apply that applied to the same kind of projects under a superseded method.

Recommendation 24: Whether or not an MTD is made, to further mitigate integrity risks, interim benchmark indicators, targets, and recurring 5-yearly assurance checks should be included in each methodology to determine whether projects are on track with emissions reductions outcomes. These can be tailored to each method and activity type and should be based on expert scientific advice.

Recommendation 25: Advice on, and consideration of, adverse environmental, economic and social impacts must be mandatory.

Recommendation 26: The 2-5 year timeframe in which an MTD can come into effect must be shortened to 12 months, to ensure limited reliance on ineffective ACCUs.

Recommendation 27: The Bill should be amended to include a mechanism for members of the public to initiate the process for an MTD.

Recommendation 28: In circumstances where an MTD is issued for a method that has previously generated ACCUs relied on by entities, including Safeguard Mechanism facilities, to meet climate change commitments or their declining baseline obligations, guidance should be developed as to what happens to those ACCUs and how the emissions they erroneously represented must be accounted for. This should also be considered and addressed in the

2026-27 Safeguard Mechanism Review including what happens to facility reporting requirements under the Mechanism.

Changing the ‘newness’ requirement for Research and Development (R&D) participants

Recommendation 29: The Bill should include an option to register R&D activities to demonstrate when they commence, with the ‘newness’ exemption limited to those activities that have been formally registered within a reasonable timeframe of the application for a project to be declared as an eligible offsets project under the ACCU Scheme.

Enabling methods to include both emissions avoidance and sequestration activities

Recommendation 30: Allowing projects to undertake both sequestration and avoidance activities under a single method would introduce significant complexity in an already complex legislative framework. These amendments should not proceed.

Introduction

1. Environmental Defenders Office (**EDO**) welcomes the opportunity to comment on the Carbon Credits and Other Legislation Amendment (Integrity and Transparency) Bill 2026 (the **Bill**).² The Bill proposes amendments to the following pieces of legislation:
 - *Carbon Credits (Carbon Farming Initiative) Act 2011* (**CFI Act**);
 - *National Greenhouse and Energy Reporting Act 2007* (**NGER Act**); and
 - *New Vehicle Efficiency Standard Act 2024* (**NVES Act**).
2. This submission focuses on the CFI Act and broader further changes needed to improve integrity in the regulation of carbon offsets in Australia. Overall, EDO supports the amendments proposed in this Bill to the CFI Act. However more action is needed to improve integrity in carbon offsets to ensure they are capable of having a high chance of compensating for greenhouse gas (**GHG**) emissions to reduce the risks of climate change faced across Australia and globally.
3. The CFI Act sets out the rules established for the Australian Carbon Credit Unit (**ACCU**) Scheme (**ACCU Scheme**). Broadly speaking, ACCUs are credits generated from projects that use methods which avoid the release of GHG emissions or remove and sequester carbon from the atmosphere. The Minister is responsible for making determinations of methodologies that can generate ACCUs, and these methods must meet legislated criteria as set out in the offsets integrity standards (**OIS**) in the CFI Act.

² In this submission, any reference to a section of the Bill refers to the section as numbered in the Bill as introduced to the House of Representatives, available here https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbills%2Fr7532_first-reps%2F0000%22;rec=0.

4. The Bill proposes a number of reforms to the ACCU Scheme recommended by the 2022 Independent Review of Australian Carbon Credit Units (**Chubb Review**) and statutory reviews conducted by the Climate Change Authority (**CCA**) in 2017, 2020, and 2023.³
5. While this Bill is a step forward, there are further reforms which are essential to improve integrity in the ACCU Scheme and the use of ACCUs to reduce GHG emissions. EDO has stipulated these reforms in submissions to the Chubb Review and the CCA reviews, and in relation to the previous Exposure Draft Bill ([EDO 2026 Submission](#)).⁴ We reiterate here these essential reforms:
- **ACCUs must deliver real carbon abatement:** Research on the integrity of carbon credits has identified material issues with realness, additionality and permanence of credited abatement along with how it is verified, raising questions about ACCUs' effectiveness in assisting decarbonisation. 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. 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 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 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

³ Explanatory Memorandum, Carbon Credits and Other Legislation Amendment (Integrity and Transparency) Bill 2026 (**Explanatory Memorandum**), pp 1, 226.

⁴ See EDO, '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**); EDO, '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**); EDO, '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/>> (**EDO 2023 Submission**); EDO, 'Submission on the Carbon Credits and Other Legislation Amendment (Integrity and Transparency) Bill 2026' (26 May 2026), available at <<https://www.edo.org.au/wp-content/uploads/2026/06/260526-FINAL-EDO-submission-to-the-Carbon-Credits-Integrity-and-Transparency-Bill-2026.pdf>> (**EDO 2026 Submission**).

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. By comparison, aggregate onsite emissions reduction accounted for only 500,000 tonnes of carbon dioxide reduction. About 80% of the ACCUs surrendered in 2024-2025 were from methods with low credibility. This trend was also captured in a recent report by The Australia Institute, which found ‘the majority of compliance obligations under the Safeguard Mechanism over the period to 2030 could be met using [ACCUs]’, anticipating less than half of emissions reductions will come from on-site abatement and decarbonisation.⁵ While the focus should be real decarbonisation, with such heavy reliance on ACCUs, ensuring integrity of the ACCU Scheme must be the highest priority.

6. EDO generally welcomes the reforms in the Bill to ‘strengthen the integrity, transparency and effectiveness’ of the Federal Government’s key climate policies, including the ACCU Scheme.⁶ This submission first addresses overarching amendments that should be made to the Bill to address broader integrity risks to the ACCU Scheme and outstanding recommendations from previous reviews that are not addressed by this Bill.
7. The submission then addresses the following key changes proposed in the Bill, including ways in which these changes could be further strengthened:
 - changes to government purchasing of ACCUs;
 - changes to consent requirements for native title holders and claimants;
 - replacement of the ACCU Scheme Emissions Reduction Assurance Committee (**ERAC**) with the new Carbon Abatement Integrity Committee (**CAIC**);
 - introduction of new powers for the Minister to make a Method Transition Declaration (**MTD**);
 - changes to requirements for Research and Development (**R&D**) participants; and
 - enabling methods to include both emissions avoidance activities and sequestration activities under the same project.

⁵ Broad trends across facilities covered by the Safeguard Mechanism indicate that as baselines are reduced, facilities exceeded emissions caps and ‘dramatically increased their use of offsets’ with ‘over 7 million ACCUs and 1.4 million [Safeguard Mechanism Credits (SMCs)] ...surrendered in lieu of real decarbonisation’, see Fergus Green and Frances Medlock, *Safeguarding the Fossil Fuel Industry? How Carbon Offsetting Undermines the Safeguard Mechanism*, The Australia Institute, June 2026, available at <<https://australiainstitute.org.au/report/safeguarding-the-fossil-fuel-industry/>>, p 25.

⁶ Explanatory Memorandum, p 1.

Overarching reforms and unaddressed integrity and transparency recommendations

Offset Integrity Standards must be strengthened

8. EDO supported previous amendments to the CFI Act that required the Minister to be satisfied new methods or method variations comply with the OIS.⁷ However, we are concerned that there have been no changes to the OIS themselves under the Bill, in circumstances where the OIS have led to the development and implementation of flawed methods with questionable abatement integrity (see below).⁸
9. We recommend that the OIS be strengthened under the Bill. For example, the Bill does not address the Chubb Review's recommendation that the OIS should be supplemented with ACCU Scheme Principles 'to support their consistent application in method development and project implementation and administration'.⁹
10. Here, we draw attention to EDO's previous comments on the proposed principles to ensure they are binding by being operationalised through the CFI Act, applied consistently, and that compliance must be demonstrated.¹⁰
11. We also recommend these 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 ACCUs are not issued for reductions that would have occurred anyway.
12. We also note that many of the other recommendations of the Chubb Review have still not yet been addressed by the Federal Government, notably recommendations relating to accreditation of carbon service providers,¹¹ evidence of project co-benefits,¹² and legislative

⁷ CFI Act ss 106(4AA), 114(2AA).

⁸ CFI Act s 133.

⁹ We note the Department is currently developing these principles, with guidance to be finalised in the 'latter half of 2026', see: DCCEEW, 'Reforming the ACCU Scheme: Progress Report 2023-2025' (Report 2026) p 17, available at <<https://www.dcceew.gov.au/climate-change/publications/reforming-accu-scheme-progress-report-2023-25>> (**Progress Report 2023-2025**); Ian Chubb et al, *Independent Review of Australian Carbon Credit Units: Final Report* (December 2022), available at <<https://www.dcceew.gov.au/sites/default/files/documents/independent-review-accu-final-report.pdf>> (**Chubb Review**), recommendation 6, p VIII.

¹⁰ EDO 2023 Submission, above n 4, pp 8-9; EDO 2026 Submission, above n 4, p 28.

¹¹ DCCEEW, *Independent Review of Australian Carbon Credit Units: Implementation Plan* (June 2023), available at <<https://www.dcceew.gov.au/sites/default/files/documents/accu-review-implementation-plan.pdf>> (**Implementation Plan**) Recommendation 12, p 20. We note the Department has said it does not intend to introduce an accreditation framework in the 'short term', see Progress Report 2023-2025, above n 9, p 22.

¹² Though we note the proposed amendments under Part 12 of Schedule 2 of the Bill establishing an information-sharing framework for information provided to the CER under the CFI Act and biodiversity

integration of a carbon industry code of conduct.¹³ Further reforms are needed to address these recommendations.

Recommendation 1: The OIS be strengthened to prevent the development and implementation of flawed methods and to improve abatement integrity.

Recommendation 2: Binding ACCU Scheme Principles must be operationalised through the CFI Act, to ensure 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 3: 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 Bill.

Outstanding issues with methodologies

13. The Bill also does not comprehensively address issues regarding the existence, and potential for further development, of methodologies and rules with integrity issues. For example, the Australian Academy of Science identified numerous flaws in the methods and governance procedures of human induced regeneration of native forests, combusting methane from landfills, and carbon capture and storage in a 2022 report.¹⁴
14. We are concerned that carbon capture and storage (**CCS**) in particular remains an available method under the ACCU Scheme,¹⁵ 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.¹⁶ CCS is not currently effective in reducing GHG emissions to the extent it is promoted as achieving.¹⁷ It is unclear whether it will ever be effective, at least on the

schemes provides a starting point for transparency across CER-administered schemes, see Bill pt 12; Explanatory Memorandum, [1173]; Chubb Review, above n 9, pp 28-29. See also Progress Report 2023-2025, above n 9, p 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'.

¹³ Chubb Review, above n 9, Recommendation 12, p 20; Implementation Plan, above n 11, Recommendation 12, p 20. We note the Code is currently voluntary, see Progress Report 2023-2025, above n 9, p 22.

¹⁴ See Australian Academy of Science, Review of ACCU Methods, above n 1.

¹⁵ CER, 'Carbon capture and storage method' (Web Page, updated 20 December 2024), available at <<https://cer.gov.au/schemes/australian-carbon-credit-unit-scheme/accu-scheme-methods/carbon-capture-and-storage-method>>.

¹⁶ See EDO '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/>>.

¹⁷ Climate Council, 'What is carbon capture and storage', (Web Page, 8 February 2023) available at <<https://www.climatecouncil.org.au/resources/what-is-carbon-capture-and-storage/>>.

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.¹⁸

Case Study: CCS underperformance

The Gorgon project (not an ACCU Scheme project) operated by Chevron in Western Australia promised to reduce scope 1 CO₂ from LNG production by around 40% over the life of the system.¹⁹ Chevron initially claimed that as much as 80% of the total separated CO₂ would be stored.²⁰ Instead, the project was delayed by 3.5 years and missed its target by more than 50% due to unforeseen engineering challenges.²¹ At this rate, less than 3% of the project's total GHGs (including scope 3 emissions) are currently being stored. Over the life of the project, CO₂ storage will be less than 6% of total emissions, even with perfect implementation.²²

15. CCS also presents new challenges in environmental regulation and harm, particularly in relation to water impacts.²³ All stages of the CCS process generally require energy, or fuel, to operate and therefore produce GHG emissions additional to those being stored (known as the

¹⁸ 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) available at <<https://royalsociety.org/geological-carbon-storage>> (**The Royal Society, Geological Carbon Storage Policy Briefing**), p 4; Noting analysis by the International Energy Agency of global carbon capture utilisation and storage concluded contributions of these solutions is not on track: with current projects at approximately 40% of the Net Zero Scenario requirement by 2030, and current operating CCS stalled at 50 Mt CO₂ (50 million tonnes annually), far below the 'large-scale' gigatonnes (billion tonnes) of CO₂ required to be sequestered each year to 2050, see EDO, 'Factsheet: Evaluating Offshore Carbon Capture and Storage (CCS)' (updated 26 June 2026), available at <https://www.edo.org.au/wp-content/uploads/2026/06/260626_Evaluating-offshore-CCS-factsheet.pdf> (**EDO CCS Factsheet**), p 2, citing International Energy Agency, *Carbon Capture Utilisation and Storage* (2023, accessed March 2026), available at <<https://www.iea.org/energy-system/carbon-capture-utilisation-and-storage>>.

¹⁹ D Drugman, 'Big Oil's Been Secretly Validating Critics' Concerns about Carbon Capture' *DeSmog* (2023) available at <<https://www.desmog.com/2023/02/13/exxon-shell-bp-api-concerns-carbon-capture/>>; Chevron, 'Gorgon Gas Development and Jansz Feed Gas Pipeline Five-year Environmental Performance Report 2015–2020' (October 2020) available at <<https://australia.chevron.com/-/meida/australia/our-businesses/documents/gorgon-and-jansz-feed-gas-pipeline-5-year-environmental-performance-report-2015-2020.pdf>> (**Chevron, Gorgon Environmental Performance Report**) p 45.

²⁰ B Robertson, M Mousavian, 'The Carbon Capture Crux: Lessons Learned', Institute for Energy Economics and Financial Analysis (IEEFA) (2022), available at <<https://ieefa.org/resources/carbon-capture-crux-lessons-learned>> (**Robertson and Mousavian (IEEFA), 'The Carbon Capture Crux'**); The Royal Society, Geological Carbon Storage Policy Briefing, above n 18.

²¹ Robertson and Mousavian (IEEFA), 'The Carbon Capture Crux', above n 20; Chevron, Gorgon Environmental Performance Report, above n 19, p 45.

²² Perfect implementation would be 3.4 MTCO₂e sequestered out of 59.2MTCO₂e per year, see Chevron, Gorgon Environmental Performance Report, above n 19, p 14.

²³ The Royal Society, Geological Carbon Storage Policy Briefing, above n 18, p 12; see also Minh Ha-Duong and David Keith, '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); EDO CCS Factsheet, above n 18, p 10.

CCS ‘energy penalty’).²⁴ Further, it has been repeatedly demonstrated that CCS is uneconomic in most cases, particularly without ongoing government subsidies.²⁵

16. EDO raises serious concern at reliance on ACCUs that may be generated with respect to CCS in the event that the projects and consequent ACCUs are based on overstated and inaccurate actual emissions sequestration.
17. Given the importance of the ACCU Scheme for Australia’s emissions reduction efforts, including to meet our international obligations,²⁶ and need to avoid enabling corporate greenwashing, EDO urges the Federal Government to continue assessment and improvement of ACCU methodologies and additional ACCU Scheme integrity measures. As part of this, in addition to its other advisory and review functions (also discussed **below** in relation to **Recommendation 15**), the newly established CAIC should undertake a robust review of each method against the OIS and objects of the CFI Act to ensure they are achieving the emissions reductions claimed.

Recommendation 4: The newly established CAIC should undertake a robust review of each method against the OIS and objects of the CFI Act to ensure they are achieving the emissions reductions claimed.

Recommendation 5: The Bill must comprehensively address issues regarding the integrity of methodologies and rules, in particular the use of CCS.

International carbon credits

18. We continue to hold concerns about ongoing use of international carbon offsets by Australian companies in voluntary carbon markets.²⁷ Unlike ACCUs, overseas units come from diverse schemes with varying integrity standards, making it far more difficult for Australian regulators to ensure consistency, prevent double counting, and maintain public confidence in reported emissions reductions. We strongly recommend international carbon offsets are never able to

²⁴ EDO CCS Factsheet, above n 18, p 4.

²⁵ Robertson and Mousavian (IEEFA), ‘The Carbon Capture Crux; CIEL, ‘Confronting the Myth of Carbon-Free Fossil Fuels: Why Carbon Capture is Not a Climate Solution’ (2011) 11 available at <<https://www.ciel.org/wp-content/uploads/2021/07/Confronting-the-Myth-of-Carbon-Free-Fossil-Fuels.pdf>>.

²⁶ Including as articulated in the International Court of Justice, *Obligations of States in Respect of Climate Change* [2025] ICJ Rep 187, available at <<https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>>, where the Court found that ‘States have a duty to prevent significant harm to the environment by acting with due diligence and to use all means at their disposal to prevent activities carried out within their jurisdiction or control from causing significant harm to the climate system and other parts of the environment, in accordance with their common but differentiated responsibilities and respective capabilities’, see [457], finding B(a).

²⁷ 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”’.

be counted towards Australia's national emissions reduction targets, or to meet Safeguard Mechanism requirements.²⁸ To that end, we recommend that the Bill include amendments to remove the definitions that refer to or capture credits that are not Australian credits, including the definitions of 'prescribed eligible carbon unit' and 'eligible carbon credit' in section 5 of the CFI Act.

Recommendation 6: 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. We recommend amendments to remove references to international carbon units and credits in the CFI Act.

Third party submission and appeal rights are essential for integrity, accountability, transparency and public interest decision-making

19. There are no third party enforcement rights or merits appeal rights under the CFI Act. The only review right outside of narrow judicial review is the power for affected persons to ask the regulator to reconsider a decision, which must be requested under a strict time limit of 28 days from the decision.²⁹ There are important public consultation requirements and submission rights at various points in the method-making process and other review processes,³⁰ including welcome additional submission rights introduced by the Bill in relation to the MTD process and the CER's making or varying of audit instruments.³¹ However, we consider additional opportunities for public consultation and submissions be provided for in the Bill, including at the project level, for example, decisions by the CER in relation to declaring a project an eligible offsets project, or other decisions listed under Part 24 of the CFI Act.³²

- Third party enforcement is the ability for community members to seek enforcement measures in relation to breaches of the law (for example it could include enforcement action to address breaches of conditions or method requirements applicable under the CFI Act).
- Third party merits appeal rights enable community members to seek review on the merits of whether the best decision was made on the criteria and evidence available.

²⁸ For more information, see EDO 2025 Submission, above n 4, pp 10-11.

²⁹ CFI Act s 241(4).

³⁰ See, for example, where the ERAC (in future, the CAIC) is to provide advice to the Minister on making or varying a methodology determination, and when the ERAC is undertaking reviews of methodologies and crediting period extensions, see CFI Act ss 123A(2), 123D, 255, 255A(3), noting also the public consultation requirements in relation to reviews of the CFI Act undertaken by the CCA, see s 306.

³¹ See proposed consultation requirements and submission rights in the Bill in relation to making, varying or revoking an MTD, see Bill ss 132A(4)(c)-(e), 132A(8)(d), 132A(9)(c), 132C(4), and taking 'method transition action', see Bill ss 132E(3)-(6); and further proposed amendments in relation to the CER making or varying audit instruments, see Bill ss 75B(5)-(9),

³² CFI Act s 27, Pt 24 'Review of Decisions'.

20. The role of public consultation and independent arbitration by a tribunal or court in improving decision making is well accepted.³³ Third party merits appeal rights are lauded by integrity institutions for their important role in improving the quality of environmental decision making in the public interest.³⁴
21. Merits review of decisions improves the consistency, quality and accountability of decision-making in environmental matters. For example, the ability for the public to be involved in decision making and to seek review of a decision in the courts:
- ‘facilitates the rigorous analysis that is fundamental to the making of sound decisions (whether by testing the evidence and material advanced by proponents by advancing evidence and material informed by particular and sometimes local knowledge)’;³⁵
 - ‘gives a level of confidence to members of the public that the decision has been reached through a process which has openly examined and scrutinised all of the available evidence - whether or not the result is universally accepted.’;³⁶
 - ensures the process of decision making is effective;³⁷
 - safeguards against corruption;³⁸
 - provides a forum which allows for and encourages greater public debate on development issues;
 - improves, encourages and aids public participation in land-use decision making;
 - allows multiple views and concerns to be expressed and ‘provide[s] a forum where collective rights and concerns can be weighed against the rights and concerns of the individual’;³⁹
 - recognises that third parties can bring detailed local or specialist expert knowledge, not necessarily held by the designated decision maker;⁴⁰

³³ Brenton Holmes, ‘Citizens’ engagement in policymaking and the design of public services’ (Research Paper No 1, Parliamentary Library, Parliament of Australia, 2011-2012), available at <www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1112/12rp01>; Independent Commission Against Corruption NSW, ‘Anti-Corruption Safeguards and the NSW Planning System’ (Report, February 2012) available at <<https://www.icac.nsw.gov.au/media-centre/media-releases/2012-media-releases/icac-recommends-changes-to-the-nsw-planning-system-to-minimise-corruption-risks>> (**ICAC NSW, Anti-Corruption Safeguards and the NSW Planning System**), p 22; Productivity Commission, Major Project Development Assessment Processes (Research Report, November 2013), available at <<https://www.pc.gov.au/inquiries-and-research/major-projects/report/>>, p 223.

³⁴ ICAC NSW, Anti-Corruption Safeguards and the NSW Planning System, above n 33, p 19; see also Brian Preston, ‘Third Party Appeals in Environmental Law Matters in New South Wales’ (1986) 60 *Australian Law Journal* 215, p 221 (**Preston, ‘Third Party Appeals in Environmental Law Matters in NSW’**).

³⁵ Adrian Finanzio, ‘Public Participation, Transparency and Accountability – Essential Ingredients of Good Decision Making’ (2015) 2(1) *Australian Environmental Law Digest* 3, 3.

³⁶ Ibid.

³⁷ Preston, ‘Third Party Appeals in Environmental Law Matters in NSW’, above n 34, p 221.

³⁸ ICAC NSW, Anti-Corruption Safeguards and the NSW Planning System, above n 33, p 22.

³⁹ Christine Trenorden, ‘Third-Party Appeal Rights: Past and Future’ (Speech, Town Planning Law Conference, Western Australia, 16 November 2009) available at <<https://www.studocu.com/en-au/document/university-of-melbourne/design-and-property-principles/abpl20031-conference-paper-appeal-rights-in-town-planning-law/162752134?sid=ca519e2d-7f2c-4d52-b027-2b278f498cd81791497136>> (**Trenorden, ‘Third Party Appeal Rights’**).

⁴⁰ Ibid.

- allows for the development of environmental jurisprudence, clarifying the meaning of legislation;⁴¹
- enhances the quality of decision making, including the quality of reasons for decisions;⁴²
- ensures adherence to legislative principles and objects by administrative decision makers;
- fosters natural justice and procedural fairness;
- focuses attention on the accuracy and quality of policy documents, guidelines and legislative instruments and highlights problems that should be addressed by law and policy reform;⁴³
- ensures greater transparency and accountability within the decision-making process; and⁴⁴
- preserves the rule of law.⁴⁵

22. The NSW Independent Commission Against Corruption (**ICAC**) has identified third party merits appeals as of vital importance to a transparent and accountable decision-making framework and recommended to the NSW Government that the scope of merits appeals be extended as an anti-corruption measure. ICAC found,

*'[t]he limited availability of third party appeal rights under the Environmental Planning & Assessment Act 1979 (NSW) means that an important check on executive government is absent... The absence of third party appeals creates an opportunity for corrupt conduct to occur, as an important disincentive for corrupt decision-making is absent from the planning system.'*⁴⁶

23. While the references cited above were focused on planning merits appeals, they are equally as relevant for third party review rights for any environmental or other public interest decision-making matter.

24. In essence, the mere existence of the right to challenge decisions before an independent arbiter gives the public confidence that the decision-making process has integrity rather than taking place behind closed doors. There is also an additional benefit that application material is likely to be of a higher quality due to the potential that it may be under scrutiny by objectors, experts and the Court.

25. These rights to access justice are fundamental to the rule of law which underpin our stable democracy and is essential for investment and economic growth.⁴⁷

⁴¹ Brian Preston and J Smith, 'Legislation needed for an effective Court' in *Promises, Perception, Problems and Remedies: The Land and Environment Court and Environmental Law 1979-1999* (Nature Conservation Council of NSW, 1999), p 107 (**Preston and Smith, 'Legislation needed for an effective Court'**).

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Trenorden, 'Third Party Appeal Rights', above n 39, p 41; Stephen Willey, 'Planning Appeals: Are Third Party Rights Legitimate? The Case Study of Victoria, Australia' (2006) 24(3) *Urban Policy and Research* 369–389; Preston and Smith, 'Legislation needed for an effective Court', above n 41, p 107.

⁴⁵ Rachel Pepper and Rachel Chick, 'Ms Onus and Mr Neal: Agitators in an age of "green lawfare"' (2017) 35(2) *Environmental and Planning Law Journal* 177 (**Pepper and Chick, 'Agitators in an age of "green lawfare"'**).

⁴⁶ ICAC NSW, Anti-Corruption Safeguards and the NSW Planning System, above n 33.

⁴⁷ Pepper and Chick, 'Agitators in an age of "green lawfare"', above n 45, p 177.

26. 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.
27. For example, enabling third party enforcement or merits appeal rights in relation to the following decisions would improve accountability, transparency and quality of decision-making with respect to ACCU projects, especially at key points in method development or project progress:
- whether to make, vary, or revoke a methodology declaration;
 - whether or not to declare, vary or revoke an eligible offsets project;
 - whether or not to issue a certificate of entitlement; and
 - whether to make an MTD.

Recommendation 7: The Bill should be amended to include additional public consultation and submission opportunities, as well as third party enforcement and merits appeal rights with broad standing to improve accountability, transparency and quality of decision-making under the ACCU Scheme.

Improving transparency of the ACCU Scheme

28. In line with the Government's stated proactive approach to continuous improvement and to strengthen transparency,⁴⁸ we recommend that information provided to the Clean Energy Regulator (**CER**) in relation to projects under ACCU Scheme reporting and audit requirements, be made publicly available wherever possible.
29. The CCA's 2026 Review of the CFI Act recommended (among other things) that there should be improved 'access to detailed, standardised and reusable project, unit and market information', including by:
- 'improving visibility of material ACCU attributes and project-level information relevant to due diligence and valuation across the Project Registry and the Unit and Certificate Registry;
 - improving the accessibility, comparability and reusability of project, unit, holdings and transaction information; [and]
 - progressing any legislative, regulatory or system changes needed to support modern registry interoperability and secure system-to-system functionality'.⁴⁹

⁴⁸ Explanatory Memorandum, pp 2, 6-7.

⁴⁹ CCA, *2026 Review of the Carbon Credits (Carbon Farming Initiative) Act 2011* (September 2026), available at <<https://www.climatechangeauthority.gov.au/sites/default/files/documents/2026-09/2026%20ACCU%20Scheme%20Review.pdf>>, Recommendation 4, pp 54-55, 84.

30. Building on this recommendation, the Bill should include provisions to maximise transparency, information and data access and sharing, while enabling protection of privacy and commercial-in-confidence information, to support greater public trust and confidence in the ACCU Scheme, with the default that information and data should be made public.⁵⁰ This should include publication of all applications and reports for methods and projects.
31. In addition, we recommend the development of specific guidance to provide clarity around the types of information and data that will be published and what information is able to legitimately be claimed as commercial-in-confidence. This would clearly establish transparency expectations for project proponents, the public and the Federal Government and prevent inappropriate reliance on the commercial-in-confidence nature of information to prevent its release.

Recommendation 8: The Bill should increase the transparency around the effective operation of the ACCU Scheme, including with respect to requiring publication of all applications and reports for methods and projects, and detailed ACCU information, with clear rules as to what can be considered commercial-in-confidence and what is not.

Changes to purchasing role to separate from CER supported

32. A key concern in relation to the CER having dual roles has been addressed in the 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’.⁵¹ The Chubb 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 perceived conflicts of interest’.⁵² We support the changes in the Bill to amend the CFI Act to alter who has responsibility for the purchase of Government ACCUs from the CER to the Secretary of the Department of Climate Change, Energy, the Environment and Water (**DCCEEW**).⁵³

⁵⁰ Ibid.

Recommendations for other changes made by the Bill

Native title holder and claimant consent

33. In relation to the below comments on the changes to native title holder and claimant consent, please note EDO is a non-Indigenous community legal centre that works on behalf of First Nations peoples around Australia and the Torres Strait Islands in their efforts to protect their Countries and Cultural Heritage from damage and destruction. EDO works with First Nations clients who have interacted with western laws, including litigation and engaging in western law reform processes. Out of respect for First Nations self-determination, EDO has provided high-level key recommendations in respect of the Bill to empower First Nations to protect their Countries and Cultural Heritage and to strengthen recognition of First Nations rights and interests in the ACCU Scheme, consistent with Australia's obligations under the UN Declaration on the Rights of Indigenous Peoples.

34. The Bill proposes the following amendments:

- 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.⁵⁴ This change will recognise registered native title claimants as eligible interest holders. The current CFI Act only allows registered native title 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 an area-based offsets project on native title land or claimed native title land;⁵⁵ and
 - **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.⁵⁶

The CER must not declare that a project is an eligible offsets project unless it is satisfied of these requirements.⁵⁷

35. For completeness, these consent requirements would also apply where (under proposed amendments, discussed below) there is an application to change a project type (between a sequestration project or an area-based emissions avoidance offsets project).⁵⁸ In short, the CER must be satisfied that written consent has been obtained from each eligible interest holder in a project area before approving any application for a change in project type.

⁵⁴ Bill ss 5 'native title or claimed native title land' and 'registered native title claimant' and 45A.

⁵⁵ Bill s 27(7)(b)(i).

⁵⁶ Bill s 27(7)(b)(ii).

⁵⁷ Bill s 27(7)(c). These requirements also apply as a condition when making a (new) method transition declaration as set out below (see Bill, para 132A(4)(e)).

⁵⁸ See Bill ss 130(b)(ii) and (c); Explanatory Memorandum, [579]-[580].

36. EDO supports these amendments to consent requirements. However, acknowledging the work and [recommendations](#) of the Indigenous Carbon Industry Network (**ICIN**) in relation to the Bill,⁵⁹ there are further improvements to be made to ensure that consent provisions in the Bill further align with the principles of Free, Prior and Informed Consent (**FPIC**).
37. FPIC is enshrined in articles 19 and 32 of the 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.⁶⁰ Implementation of FPIC is critical for all types of projects impacting 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.⁶¹
38. 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 be obtained from native title claimants, where there is no finalised native title determination.⁶² We also support consideration being given to extension of consent rights to land rights land and other indigenous tenures, consistent with the recommendations of the ICIN in its May 2026 submission on the Exposure Draft Bill.⁶³
39. 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. However, EDO defers to the expertise of relevant First Nations stakeholders on particular drafting changes required to achieve this.

Other opportunities for First Nations engagement with the ACCU Scheme

40. 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 often related to restoring land that has been damaged or degraded in the past,⁶⁴ for example, human induced

⁵⁹ Indigenous Carbon Industry Network (**ICIN**), 'Indigenous Carbon Industry Network submission on changes to the ACCU Scheme: Carbon Credits and Other Legislation Amendment (Integrity and Transparency) Bill Consultation', 26 May 2026, available at

<https://assets.nationbuilder.com/icin/pages/6194/attachments/original/1780448892/ICIN_ACCU_Scheme_Bill_amendment_submission_26_May_2026.pdf?1780448892> (**ICIN Submission**).

⁶⁰ United Nations Declaration on the Rights of Indigenous Peoples (**UNDRIP**), Arts 3, 10, 18-19, 25-26 and 32; see also, for example, EDO 2023 Submission, above n 4, p 13.

⁶¹ EDO 2023 Submission, above n 4, p 13; EDO 2026 Submission, above n 4, p 13.

⁶² Ibid.

⁶³ ICIN Submission, above n 59, p 3, Recommendation 1.10.

⁶⁴ For example, see P I Macreadie, B Singleton, M D P Costa, et al. 'Additionality requirements of carbon markets could penalize Indigenous stewardship' (2026) 16 *Nature Climate Change*, pp 234–235 available at <<https://www.nature.com/articles/s41558-026-02576-2>>.

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 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.

41. With this in mind, we welcome the requirements under the Bill for the Minister to appoint to the CAIC at least one committee member who is an Aboriginal and/or Torres Strait Islander person.⁶⁵ 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 9: The FPIC requirements in the 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.

Recommendation 10: 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)

42. EDO supports the replacement of the 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.
43. The CAIC is proposed to have the same key functions as the former ERAC in relation to the ACCU Scheme, plus several new functions. CAIC functions would include:
- monitoring the compliance of methodology determinations with the OIS;⁶⁶
 - advising the Minister on priorities for development of new or varied methodology determinations;⁶⁷

⁶⁵ Bill s 257(2B).

⁶⁶ CFI Act s 255(d).

⁶⁷ Bill s 132E.

- assessing draft methods and variations against the OIS to advise the Minister whether methods should be made or varied.⁶⁸ A method cannot be made or varied by the Minister until they receive advice from the CAIC;
- undertaking periodic review of methodology determinations, including methods about to expire;⁶⁹
- advising the Minister of the outcomes of review and method assessments;⁷⁰
- advising the Minister on the appropriateness of the application or continuing application of requirements, estimates, projections or assumptions in relation to eligible offsets projects under (new) MTDs;⁷¹
- in relation to the making of an MTD, advising the Minister whether the method transition threshold criteria are met (either at the request of the Minister or at the initiative of the CAIC).⁷² An MTD cannot be made or revoked by the Minister until they receive advice from the CAIC;⁷³
- advising the Minister on varying an MTD;⁷⁴
- obtaining advice, information or documents relevant to the performance of its functions;⁷⁵ and
- undertaking public consultation in relation to methods, and MTDs.⁷⁶

44. EDO is broadly supportive of the establishment of the CAIC and the proposals in the Bill to enhance transparency and integrity of the CAIC, including the expanded timeframe in which the CAIC can undertake consultation from 28 to 45 days,⁷⁷ and formalisation of requirements for the CAIC to publish its advice and other documents, and any related public consultation.⁷⁸ This includes, for example, the outcomes of reviews of methods about to expire and advice about making an MTD.⁷⁹ We make the following comments and recommendations as to how some of these amendments to the CFI Act could be further strengthened.

Expertise of CAIC members should be further stipulated to ensure adequate knowledge to undertake role

45. The Bill strengthens expertise requirements for the CAIC, including the Committee members and the Chair.⁸⁰ For the CAIC to properly fulfil its functions (including those listed above), the appropriate expertise for this role is critical.

⁶⁸ CFI Act s 123A.

⁶⁹ CFI Act s 255(e).

⁷⁰ CFI Act s 255(g).

⁷¹ Bill s 123A(5)(b).

⁷² Bill ss 132A(4)(a) and 132B

⁷³ Bill ss 132A(7) and 132A(9)(a).

⁷⁴ Bill ss 132B(5)-(6).

⁷⁵ Bill s 255B.

⁷⁶ CFI Act ss 132B(11), 132C, 255(f).

⁷⁷ Bill ss 123D(2)-(3).

⁷⁸ Bill s 255C.

⁷⁹ Bill s 255C(2).

⁸⁰ Bill ss 257(2)-(2A) and 257A.

46. We support the fields of expertise for CAIC members listed under the new sections 257(2A) and 257A, which include climate change adaptation and resilience, environmental and climate science, GHG abatement measures, technologies, measurement and reporting, and land resource management.⁸¹ A focus on independent scientific expertise is particularly important given the requirements for developing and assessing methodologies, especially for the proponent-led method development process (discussed below).
47. The Bill requires the Minister to appoint a CAIC member with substantial experience or knowledge, and significant standing, in at least one of these fields,⁸² 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**).⁸³
48. 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 Bill could be amended to require the Minister to appoint members with expertise under subsections 257A(b), (d), (f), (g), or (j).

Recommendation 11: 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 Bill could be amended to require the Minister to appoint members with expertise under each of the areas outlined in proposed Bill subsections 257A(b), (d), (f), (g), and (j).

Extend conflict of interest regulations to any work to reduce risks

49. The 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.⁸⁴ This is an important response to the documented cases of ERAC members engaging in other work conflicting with the ERAC duties during their membership.⁸⁵
50. 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. 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

⁸¹ Bill ss 257A, in particular, subsections (b), (d), (f), (g) and (j).

⁸² Bill s 257(2).

⁸³ CFI Act s 257(6).

⁸⁴ Bill s 263(2).

⁸⁵ 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>> (Long, 'Potential conflicts of interest' *ABC News*).

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.⁸⁶

51. 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.⁸⁷ They must also disclose those interests to the ERAC, and must not be present during any deliberations (including those regarding methodology determinations) where their interests conflict with a matter before them.⁸⁸ 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.

Recommendation 12: 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.

Method development and review powers

52. The amendments propose to empower the CAIC to undertake review of methods before they expire, and then to advise the Minister on the outcome of the review.⁸⁹ ACCU methods are legislative instruments which automatically expire after 10 years. In its review, the CAIC would have regard to the OIS and any other criteria set out by the Minister.⁹⁰ The amendments would also enable the CAIC to undertake public consultation in relation to its assessment of expiring methods, where it considers appropriate.⁹¹ The CAIC would only be empowered to assess expiring methods at the request of the Minister.⁹²
53. We welcome the expanded powers of the CAIC to review ACCU methods against the OIS. 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 Bill be amended to require the CAIC to directly engage with any communities potentially affected or impacted by the resulting projects, along with relevant experts. Given the substantial concerns with several methodologies accredited under the ACCU Scheme,⁹³ ensuring there is an opportunity for public participation in the review of any expiring methods that may have attracted similar

⁸⁶ See, for example, NSW Independent Commission Against Corruption, 'Post-separation employment' (undated) available at <<https://www.icac.nsw.gov.au/prevention/basic-standards/post-separation-employment>>.

⁸⁷ CFI Act s 261.

⁸⁸ CFI Act s 262.

⁸⁹ Bill s 122A(2).

⁹⁰ Bill s 122A(3).

⁹¹ Bill s 122A(5).

⁹² Bill s 122A(1).

⁹³ See EDO 2025 Submission, above n 4, it summarises significant concerns with two ACCU methods in particular: human induced forest regeneration carbon offset projects (**HIR projects**) and landfill gas.

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:** The Bill provides that the CAIC would be empowered to assess expiring methods at the request of the Minister.⁹⁴ 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.⁹⁵ 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,⁹⁶ however these are only undertaken at the written request of a person and are not mandatory.⁹⁷ EDO has previously recommended that: *‘To uphold scheme integrity and ensure projects are achieving 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.’*⁹⁸ This has not been addressed in the Bill, and we repeat this recommendation here.

Recommendation 13: The CAIC should be required to undertake public consultation when reviewing a method about to expire, rather than leaving this to its discretion.

Recommendation 14: 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 15: In addition to undertaking a recommended robust review of all methods upon commencement (**Recommendation 4** above), 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.

Assistance to CAIC must be transparent

54. The CAIC may seek assistance to fulfil its functions from the CER, DCCEEW, or another department, agency or authority of the Commonwealth.

⁹⁴ Bill, s 122A.

⁹⁵ Bill s 123A.

⁹⁶ CFI Act s 255(e).

⁹⁷ CFI Act s 255AA.

⁹⁸ EDO 2023 Submission, above n 4, p 12.

55. The Bill proposes to allow the CAIC to obtain advice or information from persons or bodies with relevant experience or knowledge.⁹⁹ A Consultation Paper on the Exposure Draft Bill (**Exposure Draft Consultation Paper**) explained that the rationale for these amendments (which were also in the Exposure Draft Bill) was that ‘methods are highly technical, and relevant expertise and knowledge may sit with technical experts and specialists outside the government’.¹⁰⁰
56. 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 ACCU 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 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 ERAC.¹⁰¹
57. 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 the CAIC seeks advice or information relevant to the performance of their functions.
58. In the alternative, the Bill should at least strengthen the 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 of which the advice was received. This could include requiring the CAIC to report whether section 255B was engaged when it publishes advice and documents under section 255C (publication of advice and documents).¹⁰²

Recommendation 16: 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.

Outstanding governance issues the Bill should address

59. 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 Bill enhances 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 the decision was attributable to false or misleading

⁹⁹ Bill s 255B(1).

¹⁰⁰ DCCEEW, *Cabron Credits and Other Legislation Amendment (Integrity and Transparency) Bill: Consultation Paper* (2026), available at <https://storage.googleapis.com/files-au-climate/climate-au/p/prj3c44c68acaad1c5c29a1e/page/Consultation_paper_FINAL.pdf>, (**Exposure Draft Consultation Paper**), p 13; Exposure Draft Bill s 255B.

¹⁰¹ Long, ‘Potential conflicts of interest’ ABC News, above n 85.

¹⁰² Bill s 255C.

information,¹⁰³ to issue infringement notices for low-level contraventions,¹⁰⁴ and the 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.¹⁰⁵

60. While we support these changes, we have outstanding concerns about the integrity of the CER that are not addressed in the 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 Ministers' approval.¹⁰⁶ 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.¹⁰⁷ We recommend that the CER Act be amended to be consistent with the proposals in the 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 12** in relation to CAIC members.

Recommendation 17: The Bill should address integrity concerns in relation to the Clean Energy Regulator (**CER**). This includes amending the CER Act for consistency with the proposals in the 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 12** in relation to CAIC members.

Governance arrangements for proponent-led method development

61. The Bill carries over the ERAC's role in relation to proponent-led method development 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.¹⁰⁸ The Minister must have regard to this advice when deciding to make the methodology determination,¹⁰⁹ and they must not make the determination if the CAIC advises the determination does not comply with the OIS.¹¹⁰ The Bill expands this role by providing the CAIC with an explicit advisory function to provide the Minister with written advice on the appropriate priority for the development of new methods or the variation of existing methods.¹¹¹
62. While we support these safeguards in relation to the proponent-led method development process, we continue to raise concerns that the process may create conflicts of interest in

¹⁰³ Bill s 287A.

¹⁰⁴ Bill pt 22A – Infringement notices, see in particular s 235B(1).

¹⁰⁵ Bill s 88A.

¹⁰⁶ *Clean Energy Regulator Act 2011* (Cth) (**CER Act**) s 24(a).

¹⁰⁷ CER Act s 24(b).

¹⁰⁸ CFI Act s 255; *Carbon Credits (Carbon Farming Initiative) Rule 2015* (Cth) (**CFI Rule**) s 105.

¹⁰⁹ CFI Act ss 106(4)(b) and 106(10).

¹¹⁰ CFI Act ss 106(4B) and 123A(2).

¹¹¹ Bill ss 123E and 255C.

developing methods that create a genuine reduction in emissions.¹¹² 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 proponent-led method development 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 18: 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 method development.

Method Transition Declarations (MTDs)

63. To uphold ACCU Scheme integrity and ensure projects achieve the real and additional abatement required by the OIS 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.
64. The introduction of the new Ministerial power to make MTDs is a positive step toward strengthening the ACCU Scheme. However, its proposed application is too limited to effectively ensure its integrity. Further, there are risks in transitioning between methods that need to be insured against, including that key assurance checks and requirements from a superseded method and/or applicable legislative rules will not be carried over under any identified suitable alternative method.
65. This new power builds on existing powers under the CFI Act for the ERAC (in future, the CAIC) to suspend a method where there is reasonable evidence the method no longer meets the OIS, and for the Minister to vary a method to address integrity issues or revoke a method if it no longer meets the OIS. Existing powers however only apply to prevent registration of new projects under suspended or revoked methods; the new MTD process extends that power to existing projects.¹¹³ When the Minister makes an MTD, 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.¹¹⁴

¹¹² EDO 2023 Submission, above n 4, p 11.

¹¹³ Explanatory Memorandum, [260]-[261].

¹¹⁴ Explanatory Memorandum, [263].

MTD criteria should prioritise consideration of ACCU integrity above all else

66. It is our view that the primary concern of the MTD process should be to ensure the ACCU Scheme operates with high integrity, is based on robust scientific expert advice, and delivers real carbon abatement. From the earlier consultation process in relation to the Exposure Draft Bill, and the amendments put forward by the Bill, there is a clear attempt to balance the adverse impacts of the exercise of this power on affected existing project proponents, and overall method and ACCU Scheme integrity.¹¹⁵ The conditions set out in the Bill for the exercise of this power are designed to ensure the power will only be exercised in ‘appropriately limited circumstances’.¹¹⁶ When considering whether there is a suitable alternative method for existing projects to transition to, the Minister must be satisfied that there is at least one suitable alternative method whose eligibility requirements all projects affected by the MTD would be capable of meeting (including by making reasonable changes).¹¹⁷ What might amount to reasonable changes is not defined, and is a subjective consideration.
67. While we understand the need for this consideration to encourage participation and investment in the ACCU Scheme and provide a level of certainty,¹¹⁸ there is a risk that the amendments favour protecting the investment in, and economic value of, ACCUs, rather than ensuring that the ACCU Scheme operates with high integrity to effectively counter GHG emissions. We draw attention to the following objects of the CFI Act:¹¹⁹

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.*

¹¹⁵ See EDO 2026 Submission, above n 4, p 20-21; Explanatory Memorandum, [263]-[264].

¹¹⁶ Explanatory Memorandum, [297].

¹¹⁷ Bill s 132A(4)(e); Explanatory Memorandum, [264].

¹¹⁸ Explanatory Memorandum, [261].

¹¹⁹ CFI Act s 3.

68. While the second object refers to the creation of ‘incentives’ for project proponents, the first, third and fifth objects 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 MTD process.
69. The following provisions in the Bill relating to the MTD process (discussed below) demonstrate that these economic considerations are being inappropriately prioritised in the design of the MTD process. Such drafting risks the MTD being an insufficient tool to remove low integrity offsets from the ACCU Scheme.

Recommendation 19: In designing the MTD, 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 achievement of these objectives, based on real carbon abatement, should be prioritised over and above interests of project proponents.

The two-part threshold for making an MTD is overly high

70. The criteria for making an MTD under subsection 132A(2) are that:

- a) the methodology determination does not comply with one or more of the OIS; **and**
- b) the issue or continued 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’ (together, the **method transition threshold criteria**).¹²⁰

71. For subsection 132A(2)(b), a material risk to the integrity of the ACCU Scheme is defined in the Bill as arising if the issue or continued issue of ACCUs ‘would have a material adverse effect on the ability of the [CFI] Act to contribute to the objects under subsections 3(2) and (6)’, being the removal of GHG from the 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.¹²¹

72. ‘Material risk’ itself is not a defined term in the Bill or the CFI Act. It is an unnecessarily high threshold, open to subjective interpretation by the Minister as to what they consider to be a ‘material risk’ to the integrity of the ACCU Scheme, and what 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 one or more of the OIS, but may fail to meet the method transition threshold because the Minister considers that it does meet the second limb of the criteria, and does not meet the high threshold of posing a ‘material risk’ to the integrity of the ACCU

¹²⁰ Bill s 132A(2).

¹²¹ Bill s 132A(3).

Scheme. This discretionary application of the threshold risks undermining the intent of the MTD process, being to remove low integrity offsets from the ACCU Scheme.

73. We recommend removing subsections 132A(2)(b) and 132A(3) from the Bill. This would have the effect of amending the criteria for an MTD to be (only) that the method does not comply with one or more of the OIS. Combined with other conditions (other than the requirement to transition to a new method – discussed further below),¹²² this should be the only threshold for the Minister to make an MTD. This would reduce the risk of decision-making being based on politics or subjective determination, rather than scientific evidence and advice.
74. Alternatively, we recommend that subsection 132A(3) be amended to remove the word ‘material’ from ‘material adverse effect’ – in our view any adverse effect on the ability of the CFI Act to ensure effective removal and avoidance of GHG emissions to meet Australia’s international obligations, and achievement of Australia’s GHG reduction targets, poses a material risk to the integrity of the ACCU Scheme.

Recommendation 20: The ‘material risk’ component of the method transition threshold criteria must be removed so that the only criterion for whether a method meets the method transition threshold is whether the method does not comply with one or more of the OIS. This ensures MTDs are made on the basis of scientific evidence and advice only. Alternatively, that the second limb of the ‘material risk’ component be amended to reflect that any adverse effect (not just material adverse effects) on the CFI Act’s ability to deliver on Australia’s GHG emissions reduction obligations constitutes a ‘material risk’.

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

75. When making an MTD the Minister may specify ‘one or more suitable alternative methods that may be applied to an eligible offsets project’ for which an MTD has been made.¹²³ A condition for the Minister making an MTD is that they are satisfied that ‘each offsets project to which the [MTD] applies is an offsets project of a kind to which one or more other methodology determinations (an **alternative method**)’ applies (emphasis in original).¹²⁴ In other words, to make an MTD, it must be feasible for projects subject to the MTD to transition to an alternative method.
76. 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 MTD. This undermines the purpose of an MTD, being to end the generation of ACCUs from projects that use methods which are not achieving carbon abatement and reducing GHG emissions.

¹²² Bill s 132A(4).

¹²³ Bill s 132(1).

¹²⁴ Bill s 132A(4)(d)(ii).

77. We recommend that the requirement that the Minister be satisfied that an alternative methodology is available for an offset project in order for the Minister to make an MTD be removed.

Recommendation 21: The condition requiring that a project must be able to transition to a new/alternative method as a condition for making an MTD must be removed. If this remains as a barrier to making an MTD, unless a method is revoked or suspended, projects with serious integrity risks may continue to generate ACCUs.

Ensuring transition between methods limits risks of losing assurance checks

78. In transitioning projects from a superseded method to a suitable alternative method, the MTD process risks losing key project assurance requirements from the superseded method and/or applicable legislative rules where a suitable alternative method does not include the same assurance requirements.
79. If the MTD process is followed in relation to a particular method, it is because that method has been identified as failing to meet integrity requirements. However, there may be eligibility and reporting requirements and/or milestones under a superseded method that, if they do not continue to apply to an affected project, may give rise to uncertainty as to whether a project has met sufficient requirements for generating ACCUs. See the case study **below** for more detail on this issue.

Case Study: Human Induced Regeneration Projects

The Human-Induced Regeneration method (**HIR method**) expired in September 2023. While no new projects can be registered under this method, existing projects remain eligible to earn ACCUs until their crediting periods end. In June 2026, Carbon Eyes reported a remaining 431 active HIR projects, 301 of which have generated a combined total of 60 million ACCUs (approximately).¹²⁵ Looking ahead, project proponents have reportedly pivoted towards either diversifying methods (under existing CFI processes for changing methods) or are awaiting the opportunity to transition to the proposed new Integrated Farm and Land Management method (**IFLM method**) currently under development.¹²⁶

¹²⁵ Carbon Eyes, 'Shifting ACCU Methods: where to after HIR?' (2 June 2026) available at <<https://www.carboneyes.io/blog/insights/carbon-eyes-in-the-loop-2026-june>>.

¹²⁶ Ibid; DCCEEW, 'Proposed Integrated Farm and Land Management method' (updated 29 July 2026), available at <<https://www.dcceew.gov.au/climate-change/emissions-reduction/accu-scheme/methods/integrated-farm-and-land-management#july-2026>>; see also DCCEEW, 'Detailed outline of the Integrated Farm and Land Management Methodology Determination 2026' (22 December 2025), available at <<https://consult.dcceew.gov.au/accu-scheme-draft-iflm-method>>, Schedule X – Integrated Farm and Land Management method proposed activity schedule for: Regeneration of native forest on suppressed land (Plain English), pt 10, p 83, which states that 'existing projects registered under the HIR method that are able to meet the eligibility criteria set out in Chapter 2 will generally be permitted to transfer to the regeneration on suppressed land activity schedule. Once drafted into the IFLM method, the department will consider whether specific transferring provisions are required to enable transferring projects to use the FullCAM-Measure Hybrid approach. It is also intended that HIR projects that can meet the regeneration on cleared land provisions will be able to transfer to IFLM under the regeneration on cleared land activity schedule'.

HIR method projects classified as ‘regeneration projects’ under the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (Cth) (**CFI Rule**) are required to attain a certain level of forest cover by set timeframes (by the ‘**forest cover assessment date**’) (referred to as **eligibility requirements**) to be issued certificates of entitlement as eligible offsets (and therefore generate ACCUs).¹²⁷ In a scenario where HIR projects would be required to transition to a suitable alternative method under an MTD prior to the forest cover assessment date, there is uncertainty as to whether the projects have or have not met the fundamental eligibility requirements but could feasibly continue to generate ACCUs under a new method. This would mean offset projects that had no carbon offset benefit for up to 15 years could still potentially continue in the market under a new method (which may or may not have equivalent requirements).

80. If these assurance checks are not undertaken, the new method may enable ACCUs to continue in the market that are not achieving emissions reductions. We recommend specific provisions are made to ensure that assurance checks, such as the eligibility requirements under the CFI Rule mentioned above in relation to the HIR method, continue to apply to those projects or that any alternative method includes equivalent, or more robust, checks. We would further recommend that other amendments to the MTD conditions to require the Minister be satisfied that appropriate transition requirements are made for the continued application of certain requirements that applied to projects under the superseded method and legislative rules. In making this decision, the Minister must consider any advice from the CAIC, the Regulator and any submissions.
81. The Bill proposes amendments to enable the CAIC, when providing advice about the making or variation of a method, to have regard to whether the determination should continue the application of a requirement, estimate, projection or assumption that applied to the same kind of eligible offsets project under a previous determination.¹²⁸ While this is an important safeguard to mitigate the identified risk, this could be further strengthened by requiring that the CAIC must provide advice on this in the MTD process. For instance, subparagraph 132B(4)(d) could be amended to reflect that the CAIC in providing advice to the Minister in relation to making an MTD, *must* include advice on the appropriateness of continuing application of eligibility requirements from a superseded method to an alternative method.

Recommendation 22: Specific provision must be made to ensure that any assurance and integrity requirement from previous methods are brought across or strengthened for projects under alternative methods through the MTD process. The MTD conditions should be amended to require the Minister be satisfied that appropriate transition requirements are made for the continued application of certain requirements or assurance checks that applied to projects under the superseded method and legislative rules. In making this decision, the Minister must consider any advice from the CAIC, the Regulator and any submissions.

¹²⁷ CFI Rule s 9AA(3).

¹²⁸ Bill ss 123A(5)(ba) and (bb); Explanatory Memorandum, [289]-[291].

Recommendation 23: In providing advice to the Minister in relation to making an MTD, the CAIC must consider and provide advice on the appropriateness of continuing the application of a requirement, estimate, projection or assumption to the kind of eligible offsets projects to which an alternative method is to apply that applied to the same kind of projects under a superseded method.

Recommendation 24: Whether or not an MTD is made, to further mitigate integrity risks, interim benchmark indicators, targets, and recurring 5-yearly assurance checks should be included in each methodology to determine whether projects are on track with emissions reductions outcomes. These can be tailored to each method and activity type and should be based on expert scientific advice.

Advice on adverse environmental, economic, and social impacts must be mandatory

82. The Bill introduces requirements at various points in the MTD process that consideration is given as to ‘whether any adverse environmental, economic or social impacts are likely to arise from making the [MTD]’.¹²⁹ These are important additional impacts to be considered, as they go to the heart of the objectives of the CFI Act (see above). However, currently, the Bill only provides that the CAIC’s advice ‘may’ include consideration of these impacts, and that the Minister ‘has regard’ to them.¹³⁰

83. These provisions could be further strengthened to ensure the CAIC must provide advice on any adverse environmental, economic or social impacts, and the Minister must consider this advice. This would ensure that any adverse impacts are meaningfully considered in the MTD process, with independent advice and broader consultation requirements to inform the CAIC’s advice and the Minister’s consideration.

Recommendation 25: Advice on, and consideration of, adverse environmental, economic and social impacts must be mandatory.

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

84. An MTD 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 MTD is made.¹³¹

85. During this 2-5 year period, projects subject to an MTD 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

¹²⁹ See, for example, Bill ss 132A (4)(f), 132B(4) and (8)(e).

¹³⁰ Bill ss 132A (4)(f), 132B(4) and (8)(e).

¹³¹ Bill s 132(7). For both sequestration offsets projects and emissions avoidance offsets projects, an MTD can have effect no earlier than 6 months after the declaration is made.

this period, and projects relying on those ACCUs may continue to produce carbon emissions which are not effectively offset.¹³²

86. We recommend the Bill shorten the timeframes before an MTD can come into effect. We consider 12 months is an appropriate period for an MTD to come into effect, so that projects can either transition to an alternative method (if that is still available) or conclude.

Recommendation 26: The 2-5 year timeframe in which an MTD can come into effect must be shortened to 12 months, to ensure limited reliance on ineffective ACCUs.

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

87. If requested by the Minister, the CAIC may give advice to the Minister regarding whether the method transition threshold criteria are met.¹³³ The CAIC may also give such advice if it forms the opinion that a method meets the method transition threshold criteria during the course of reviewing methodologies under the CFI Act.¹³⁴
88. While the Bill requires that the Minister must not make an MTD if the CAIC advises the method transition threshold criteria are not met,¹³⁵ the reverse does not apply.¹³⁶ That is, if the CAIC advises that a methodology meets the method transition threshold criteria, the Minister is not obligated to follow this advice and make an MTD.
89. The Bill requires the Minister to publish the CAIC's advice,¹³⁷ and if the Minister decides not to follow the CAIC's advice that a method meets the method transition threshold criteria and make an MTD, the Minister must publish a statement of that decision and reasons for the decision.¹³⁸ EDO welcomes these amendments and the bolstering of the CAIC as an independent statutory body tasked with providing independent expert advice to the Minister. These provisions are necessary for ensuring transparency around the Minister's decision, and consideration of, and response to, CAIC advice.

Opportunity for public participation in the MTD process must be expanded

90. We welcome the requirements that the CAIC and the Minister must undertake public consultation when considering whether a method meets the method transition threshold criteria and whether to make an MTD.¹³⁹ However, public participation should be available beyond mere consultation.

¹³² Explanatory Memorandum, [263], which states that '...once in effect, the MTD would have the effect that projects to which the superseded method applies could not earn ACCUs (except in relation to reporting periods which ended before the MTD came into effect).'

¹³³ Bill s 132B(1)(a).

¹³⁴ Bill ss 132B(1)(b), (2).

¹³⁵ Bill s 132A(7).

¹³⁶ Bill s 132D(4).

¹³⁷ Bill s 132D(3).

¹³⁸ Bill ss 132D(6), (9).

¹³⁹ See for example, Bill ss 132C(2), 132D(5), (8), 132E.

91. We recommend the Bill be amended to include a mechanism for members of the public to initiate the MTD process, for example, by referring projects to the CAIC for investigation as to whether the method transition threshold criteria are met, 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 MTD, allowing avenues for the CAIC to conduct an inquiry after a referral from a member of the public would enhance the operation of the MTD process.

Recommendation 27: The Bill should be amended to include a mechanism for members of the public to initiate the process for an MTD.

How the MTD process affects ACCUs already issued and interacts with the Safeguard Mechanism must be clarified

92. The introduction of the MTD process, while welcome, raises questions regarding what happens to the issuing and use of ACCUs under methods which are subsequently subject to an MTD. If these ACCUs are based on methods subsequently subject to an MTD, it is unclear whether facilities will be required to ‘make up’ for prior retirement of ACCUs now subject to an MTD, or report that previously retired ACCUs have been found to have an integrity risk.
93. Given, as 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, we also recommend this be considered and addressed in the Safeguard Mechanism Review currently underway.

Recommendation 28: In circumstances where an MTD is issued for a method that has previously generated ACCUs relied on by entities, including Safeguard Mechanism facilities, to meet climate change commitments or their declining baseline obligations, guidance should be developed as to what happens to those ACCUs and how the emissions they erroneously represented must be accounted for. This should also be considered and addressed in the 2026-27 Safeguard Mechanism Review including what happens to facility reporting requirements under the Mechanism.

Changing the ‘newness’ requirement for Research and Development (R&D) participants

94. ‘Additionality’ is fundamental to the integrity of the ACCU Scheme as it requires that ACCUs 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 under the ACCU Scheme. This requirement seeks to ensure that projects which exist because of the ACCU Scheme genuinely contribute to reducing GHG emissions and provide a benefit to the climate or the environment.

95. The proposed reforms would amend the ‘newness’ requirement so that the timing of the ‘newness’ test would be at the time of application for a declaration of an eligible offsets project, prior to the CER’s assessment of the application or a declaration is made.¹⁴⁰ This effectively weakens 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.¹⁴¹
96. 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.
97. 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, including when they commence, whilst still allowing innovators to later register their projects for ACCUs.

Recommendation 29: The Bill should include an option to register R&D activities to demonstrate when they commence, with the ‘newness’ exemption limited to those activities that have been formally registered within a reasonable timeframe of the application for a project to be declared as an eligible offsets project under the ACCU Scheme.

Enabling methods to include both emissions avoidance and sequestration activities

98. The proposed reforms are designed to provide greater flexibility for project proponents to undertake both sequestration and emission avoidance activities under the same project.¹⁴² These activities can be different/unrelated. As illustrated in the Explanatory Memorandum for example, regeneration of native forest for carbon sequestration and reducing livestock emissions could occur under the same ‘sequestration offsets project’ (provided an activity under the project sequesters carbon in living biomass, dead organic matter or soil).¹⁴³
99. Currently, projects are only able to transition to/between methods for the same project type, for example, emissions avoidance projects may only transition to methods for emissions avoidance projects.¹⁴⁴ If project proponents wish to change the project type, they must submit ‘linked applications’ in order to revoke a project and obtain a declaration for a new project as a different project type.¹⁴⁵

¹⁴⁰ Bill s 27(4A)(a)(i); Explanatory Memorandum, [441]-[442].

¹⁴¹ Exposure Draft Consultation Paper, above n 100, p 20.

¹⁴² Bill s 54; Explanatory Memorandum, [495]-[497].

¹⁴³ Bill ss 5 and 54; Explanatory Memorandum, [496]-[498].

¹⁴⁴ CFI Act ss 128 and 130.

¹⁴⁵ Explanatory Memorandum, [507]-[508].

100. The proposed amendments in the Bill would allow project proponents to apply to the CER for the application of a specified method to their project (subject to requirements in section 130), enabling projects to transition between different methods, without being limited to those covering the same type of project and without needing to go through a revocation and new declaration process.¹⁴⁶ Under this new, streamlined process, projects would be ‘treated as continuing and have ongoing crediting periods, consent and permanence obligations’, with method transition ‘subject to appropriate requirements’.¹⁴⁷ We understand that the proposed IFLM method is a method that would allow both sequestration and avoidance activities under the same method/project.¹⁴⁸

101. Subsequent amendments flowing from these changes include provisions regarding applying or removing permanence periods, adjusting crediting periods, and setting reporting periods under the CFI Rule.¹⁴⁹ In terms of calculating ACCUs generated from different project types/activities, where a project type is changed under the proposed amendments, adjustments would be required to reflect the addition or removal of a permanence period to project, with further amendments to accommodate changes to crediting periods, and the carrying over/application of certain eligibility requirements.¹⁵⁰

Risks in combining methods

102. While we recognise the need for flexibility and improving processes to maximise opportunities for project proponents and increase ACCU Scheme participation, we are concerned that these proposed amendments would encourage the continuance and possible expansion of avoidance projects, where some of these single-activity methods have previously failed to meet additionality requirements.¹⁵¹ For example, 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.¹⁵² Similar concerns were raised in relation to the now-expired landfill gas method, which was not revoked and continued to be an eligible method for projects until the method expiry date.¹⁵³

¹⁴⁶ Explanatory Memorandum, [505]-[506].

¹⁴⁷ Explanatory Memorandum, [510].

¹⁴⁸ DCCEEW, ‘Proposed Integrated Farm and Land Management method’, above n 126.

¹⁴⁹ Under the existing CFI Act provisions, reporting periods for sequestration projects are 5 years, whereas emissions avoidance projects must report no later than two years after the crediting period commences, whereas under the proposed amendments, the Rules may specify periods of less than 5 years to ensure more frequent reporting for sequestration offset projects that also undertake emissions avoidance activities, see Explanatory Memorandum, [502]-[504].

¹⁵⁰ See Bill ss 16(2A), 16(2B), 18(1), 19, 19A, 19B, 130 and 131B; Explanatory Memorandum, [519], [524]-[527].

¹⁵¹ Chubb Review, above n 9, p 24, with reference to the now-revoked *Carbon Credits (Carbon Farming Initiative – Avoided Deforestation 1.1) Methodology Determination 2015* (Cth).

¹⁵² DCCEEW, ‘Avoided deforestation 1.1 method’ (2025), available at <<https://www.dcceew.gov.au/climate-change/emissions-reduction/accu-scheme/methods-closed/avoided-deforestation-11>>.

¹⁵³ See, for example, Andrew Macintosh, ‘The Emissions Reduction Fund’s Landfill Gas Method: An Assessment of its Integrity’ (Report, 16 March 2022), available at <<https://law.anu.edu.au/files/2024->

103. EDO is concerned that a method which includes both sequestration and avoidance activities may affect the integrity of the ACCU Scheme. For example, we are concerned that if a component of a methodology which avoids offsets raises integrity concerns due to a lack of additionality, the methodology will continue in force because the sequestration component could still be successful. This concern is further enhanced because, as described above, the threshold for making an MTD is very high.
104. We are also concerned that amendments to accommodate method transition to different methods and between project types, and the complexity and different requirements between project types/activities this introduces, could give rise to risks of accounting discrepancies. This could also provide incentives for project proponents to more easily transition to methods they perceive as being more advantageous to ACCU generation. Further, we are unsure if there may be a risk of project proponents switching between activity types pending market forces.
105. In these early stages of method development, how effectively these hybrid or combined methods such as the IFLM method will be implemented and work in practice remains to be seen (and will depend on the applicable methodology). However, we consider that these amendments introduce significant complexity in an already complex legislative framework. Significant care would need to be taken in the implementation, monitoring, reporting and enforcement of requirements under hybrid methods to projects that apply them, and/or seek to undertake, or change to undertake, multiple activities. We caution that while certain streamlining, efficiencies and improving opportunities for proponents to expand and diversify ACCU-generative activities seem appealing in terms of market functioning, such improvements must not come at the expense of market integrity. The anticipated technical complexities involved in ensuring measurement, verification and reporting requirements are sufficiently robust, accounting for all avoidance and sequestration activities, in any method that proposes combining activity types would introduce further integrity risks. We do not consider these amendments should proceed.

Recommendation 30: Allowing projects to undertake both sequestration and avoidance activities under a single method would introduce significant complexity in an already complex legislative framework. These amendments should not proceed.

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