



Department of Industry, Science, Energy and Resources:

Proposed Carbon Credit Rule changes

submission

January 2022



About the Carbon Market Institute

The Carbon Market Institute (CMI) is the independent industry association for business leading the transition to net-zero emissions. CMI has over 120 corporate and associate members representing the spectrum of business engaged in emissions reduction and carbon sequestration from primary producers to emissions intensive companies. CMI's 2050 vision is for a prosperous, climate-resilient net-zero emissions world. Our mission is to help business manage risks and capitalise on opportunities in the transition to a net-zero emissions economy.

A. Introduction

On 10 December the Department of Industry, Science and Energy and Resources opened a consultation on a proposed change to the Carbon Credits (Carbon Farming Initiative) Rule 2015. The proposal involves additional consideration and approval from a separate Minister and Department for new or expanded projects under two carbon farming methods: human-induced regeneration (HIR) and native forest from managed regrowth (NFMR). The proposed changes are stated to be in response to concerns raised about unintended consequences of carbon farming projects on agricultural productivity and regional communities as well as concerns about management of feral animals, weeds, pests and fire risks.

While these concerns should be considered, the proposed changes are not supported by CMI. The thresholds proposed and as yet uncertain decision-making criteria will have potentially arbitrary impact on most, if not all, new HIR and NFMR projects that farmers and other landholders may consider. The proposed mandate for notification and potential ministerial veto power represent an extraordinary intervention into farmers' and landholders' decision-making, based on non-comparable plantation forestry notification requirements.

The intervention and significant extra administrative burden proposed is not supported by evidence showing the need for these changes. The proposal duplicates other safeguards covering agricultural land under the CFI Act and at state and territory levels. A current government-funded study is about to commence in Southwest Queensland, the results of which should provide some objective evidence for required changes. CMI urges that this and any additional research that has been undertaken in other regions be considered, and that regional context is embedded into any rule changes. If changes are required, further research should be undertaken on less burdensome alternatives.

The amendments proposed may serve to undermine the stability of Australia's carbon market, stifling critical investment into the supply of Australian Carbon Credit Units (ACCUs) as well as regional economic development, Indigenous, environmental stewardship and farm business resilience goals. This may further imperil Australia's international commitments on emission reductions and to reverse deforestation by 2030.

Uncertainties about the proposal and its proposed timelines for notifications significantly undermine participation in the forthcoming ERF Auction. The Agriculture Minister's up to 75-day period for consideration of adverse findings jeopardises many projects in the pipeline for this ERF auction's bid window of 5-6 April. At a time when the Government has been seeking to expand supply of ACCUs and decrease unnecessary red tape, the proposal at best mixes the message but also raises significant sovereign risk concerns.

CMI's primary concerns relate to:

- **the lack of appropriate consultation**
- **the lack of evidence informing the proposed changes**
- **the additional administrative burden in an already heavily regulated industry, and**
- **stifling investor and project developer confidence in Australia's climate policy.**

CMI calls for a more extensive and inclusive consultation process that includes evidence-based research into the potential adverse consequences of HIR and NFMR projects. This should extend until at least the next ERF Auction on 5-6 April. Existing safeguards relating to on-farm management, agriculture, community impacts, and feral animal, pest, weed and fire management should be appropriately reviewed, then strengthened if deemed necessary. This should be prioritised over creating additional compliance burden in the ACCU and Emissions Reduction Fund (ERF) frameworks. Legislated and proposed Climate Change Authority (CCA) reviews, backed by both major parties, would be more ideal vehicles for proper consideration of these issues.



Should the proposal proceed, CMI strongly recommends further measures to reduce market uncertainty, including:

- Postponing potential implementation (including the retrospectivity element) until after the forthcoming ERF auction process and after an adequate consultation process
- Clear published guidelines and criteria for assessment by the Agriculture Department and Minister
- Publication of adverse impact assessment reports as well as rights of appeal and review
- Earlier notification to the proponent that a project may proceed if it is found to have no adverse impacts
- Projects in Indigenous Protected Areas and Indigenous-owned or managed land should be excluded from the potential operation of the Ministerial veto
- Areas of high carbon and biodiversity conservation value should be excluded from the operation of the Ministerial veto, specifically, areas that enhance ecosystem function for high conservation value habitats, highly intact ecosystems and sites critical to biodiversity, and
- Higher thresholds triggering notification.

These concerns are shared by many of our members working with farmers and landholders in the supply and procurement of ACCUs. CMI is also aware of concerns held by state government agencies regarding this proposal and urge the federal government's consultation with them. Note that the positions put forward in this submission are not representative of any CMI individual, member company, or industry sector.

This Submission covers summary positions (Part B), key issues behind those positions (Part C) and then provides answers to the questions raised in the Consultation Paper (Part D).

B. Summary Positions

- 1. The proposed rule changes will have significant impacts on new and existing carbon farming projects across Australia. Such proposals should therefore be accompanied by a more adequate consultation process that is sufficiently extensive and rigorous, and engages a wide range of industry, regional and community stakeholders.**
- 2. There is little firm evidence of the concerns being sufficient to justify the significant new administrative burden and bureaucracy that is proposed. Past and current research should be concluded and assessed before this significant change is enacted.**
- 3. To avoid creating unnecessary administrative and compliance burdens for landholders, project developers and scheme regulators, existing ERF safeguards should be relied upon and reviewed, to manage potential 'adverse effects' noted in the Consultation Paper.**
- 4. Amendments to carbon farming rules should seek to improve investment confidence in the scheme, minimise market instability, create added value in the sector and promote on-farm resilience.**



C. Key Issues

- 1. The proposed rule changes will have significant impacts on new and existing carbon farming projects across Australia. Such proposals should therefore be accompanied by a more adequate consultation process that is sufficiently extensive and rigorous, and engages a wide range of industry, regional and community stakeholders.**

CMI and many of its member organisations consider the proposal and consultation process to be both rushed and inadequate. The proposed rule changes undermine crucial elements of the ERF, with the potential to create market instability and generate distrust in the scheme's efficacy. CMI appreciates the small extension enabling this submission. However, the Christmas, New Year and Australia Day holidays combining with COVID impacts have made submissions challenging and not allowed for proper consultation with industry, regional and community stakeholders including farmers and landholders.

One of the reasons for proper consultation is that the large proportion of the ERF scheme's success to date has been bolstered by HIR and NFMR projects. These projects have already delivered over 32 million tonnes of abatement (ACCUs issued) across Australia – constituting over half of the total abatement generated from all vegetation projects under the scheme to date. The 240+ registered and contracted HIR and NFMR projects are contracted to deliver 44% (over 101 million tonnes) of the scheme's total contracted abatement. Based on average auction prices, contracted HIR and NFMR projects are estimated to channel \$786.7million of investment, most of which will be invested into regional areas where the projects are located¹.

Our members have reported that many carbon farming participants reinvest the carbon revenue back into the farm in order to improve productivity and increase drought resilience – carbon farming can support the continuation and enhancement of agricultural productivity, particularly through drought conditions. The changes potentially impact on the ability of farmers and landholders to support further supply to ERF and other ACCU markets as well as into their own farming businesses.

Credit supply to both the ERF and other ACCU markets from HIR and NFMR projects is required in order not to exacerbate current supply constraints. The proposed changes will impact future supply for Commonwealth purchases under the ERF, as well as for the growing corporate demand for ACCUs under Safeguard compliance and voluntary carbon markets. Climbing ACCU spot compliance and voluntary market prices highlight these supply shortages, which will be further impacted by the Government's encouragement of further voluntary ACCU use through Climate Active changes. It is apparent that such broader market impacts have not been considered in the proposal.

It is also problematic that the proposal has created confusion around whether or not the changes would apply to corporate contracting. This is perhaps due to the opening framing in the Consultation Paper that the potential changes introduce a new category of excluded projects “under the Emission Reduction Fund” (pointing to a problem with broader understanding of ACCU issues which are conflated with the ERF scheme). However, the proposed notification process draws upon s.56 of Part 3 of the Carbon Credits (Carbon Farming) Initiative Act 2011 which applies to the creation of eligible offset ACCUs beyond those provisions relating to the purchase of units by the Commonwealth (Part 2A). CMI urges for clarity be provided on the scope of the proposed rule changes to quell this confusion, which has the potential to disrupt not just the ERF scheme but the broader ACCU market.

There is further concern and confusion around the premise of the proposed changes, which are based on the plantation forestry notification process. The plantation forestry notification is premised on land use change that generally fully displaces traditional agricultural production in the planted area. This approval process is not relevant to HIR and NFMR projects, in which traditional agricultural production generally co-exists with the carbon farming project.

¹ Data from the ERF project and contract registers located at: <http://www.cleanenergyregulator.gov.au/ERF>. The dollar figure is extrapolated based on aggregate auction prices as it is not possible to ascertain the exact dollar amount using publicly available data.



The plantation forestry notification process also applies to a smaller number of projects than what is likely to be affected by these proposals. There have only been 39 plantation forestry projects registered by the CER since the process began in 2017, 11 contracted under the ERF and only nine registered in 2021. CMI is advised that 42 plantation projects have been notified to the Department of Agriculture Water and the Environment (DAWE) since 2017. While none of these projects have been excluded to date, the comparison is not directly relevant as a guide for HIR and NFMR projects – it is not known how many projects would have been registered if the existing notification process did not exist.

In contrast, HIR projects total 381, with 35 projects registered in 2021. Most, if not all, of these would have triggered the proposed notification process as most project areas cover all or large portions of farms. This is another reason for an improved consultation process, as the ability for the DAWE to respond to this workload is uncertain especially as no guidelines for their interpretation or application specific to HIR and NFMR projects are provided.

CMI welcomes the short extension granted to it on this consultation, however notes that it is likely that key ‘on-ground’ carbon farming stakeholders across the country have been denied that same opportunity. For this reason, we seek an extension to the consultation period until at least the next ERF Auction on 5-6 April. We also call for the consultation process to include a series of regional forums across the country and a stakeholder roundtable. This will allow for any potential adverse consequences of HIR and NFMR projects to be presented and solutions constructively explored by industry experts. It will also allow for impacted communities – those that are integral to the success of the ACCU and ERF scheme – to engage in the consultation process.

2. There is little firm evidence of the concerns being sufficient to justify the significant new administrative burden and bureaucracy that is proposed. Past and current research should be concluded and assessed before this significant change is enacted.

The Consultation Paper offers no evidence for the need for the proposed changes beyond noting that concerns have been raised. It is important to address and consider these concerns appropriately, however this must be done based on firmer evidence before changes of such potential impact are introduced.

CMI has been working with DISER, the Queensland Government and the South-West Regional Organisation of Councils in Queensland and will participate in a directly relevant study into ‘*The Impacts of Carbon Farming on South West Queensland Communities*’ currently out for tender². This will provide important information that should be used to inform any changes to carbon farming rules.

The CCA has noted the absence of evidence substantiating concerns about adverse effects of ERF projects, and has called for further research into such claims (see answer to question 3 in part D below). CMI is also aware of other state jurisdictions concerned about the lack of relevant evidence to justify this proposal.

The Climate Change Authority (CCA) will this year be commencing their review of the ERF as well as being requested to do an additional study of offset methodologies. These reviews could also provide important additional information and propose alternative solutions that are fit-for-purpose. Any proposed reform should wait for the findings of this review.

Moreover, the consultation paper indicates that the rule changes may be reviewed at the next five-yearly review as part of the government’s Long-Term Emissions Reduction Plan. The first of these reviews is due to commence in 2024, meaning the rule change would not be assessed for at least two years. If the proposed changes are enacted, CMI calls for an independent assessment of their impact to be undertaken at a minimum of six months after the promulgation of the rule amendment.

CMI strongly recommends that the current proposed changes, and any future rule changes, should be substantiated by appropriate evidence-based data and research before being considered by the scheme operators and the industry.

² <https://www.vendorpanel.com.au/PublicTenderAccess.aspx?id=45328af7ffe042528df10aed77b10ae6s285468>



3. To avoid creating unnecessary administrative and compliance burdens for landholders, project developers and scheme regulators, existing ERF safeguards should be relied upon and reviewed, to manage potential 'adverse effects' noted in the Consultation Paper.

The administrative burden created as result of the new rules is significant and will serve to impede the scheme's success. The proposed rule changes would undoubtedly limit not only the size of HIR and NFMR projects, but it would limit their number as the commercial viability of projects would decrease as well.

The additional complexity created by the proposed rule change would be most detrimental for landholders wishing to engage in carbon farming projects on their land without the support of a carbon service provider. The rule changes would also disadvantage carbon farming in states and territories that have had limited uptake of HIR and NFMR projects to date. Further impacts may include higher administrative burdens and costs for pastoralists in semi-arid regions than farmers in higher rainfall areas implementing other carbon farming methods. This has the ability to significantly hinder the development of sub-national carbon farming schemes (e.g. the WA Carbon Farming and Land Restoration Program), as well as other recently launched natural capital and biodiversity schemes. The proposal seems to be at odds with community, business, investor and international momentum to increase (rather than constrain) activity and investment in natural capital and sustainable land-sector agriculture projects.

Government departments at State and Territory levels appear not to have sufficiently been engaged with to inform the proposed changes – CMI notes the proposal's duplication of State and Territory processes such as land use and development regulation, and pastoral/agricultural land use and management functions, as well as the considerations of certain other eligible interest holders.

As an alternative approach, CMI calls for DISER to work in concert with DAWE and the CCA to jointly consider the existing safeguards in the HIR and NFRM method requirements which seek to prevent adverse project consequences. These relate to each of the agricultural, community, and pest, weed and fire-related impacts mentioned in the consultation paper, examples of which are provided in Appendix A of this submission. To address any potential adverse impacts of HIR and NFMR projects, these safeguards should be assessed for efficacy in the first instance.

Should the proposed changes proceed, regeneration projects that apply project activities consistent with increasing agricultural production should be considered for exemption from the notification requirement. For example, projects that expressly include pest, weed and feral animal management in their project activities should be excluded from the notification requirement on the basis that they are fundamentally favourable to agricultural production and 'good neighbour' objectives.

The proposed changes fail to recognise other existing initiatives that already actively mitigate adverse impacts – including on local communities. The Carbon Industry Code of Conduct administered by CMI has been designed to promote consumer protection in the carbon industry, including but not limited to farmers, landowners and pastoralists. It has recently undergone an independent review process which resulted in the majority of project development organisations that are active in ACCU supply and the ERF agreeing to further strengthen engagement with local stakeholders, particularly with Traditional Owners. This is indicative of industry leaders' commitment to mitigate negative community impacts and to drive positive outcomes for all stakeholders.

The Code of Conduct has been welcomed by the industry as a necessary tool to ensure no net harm arises from carbon projects, particularly in the land sector. It is therefore well-placed to provide industry direction on best practice community engagement. To address potential negative community impacts of carbon projects, we invite DAWE in conjunction with the CER and DISER to engage with the Carbon Industry Code of Conduct, via CMI, to explore further opportunities to improve community outcomes across the scheme. In recognition of the unique cultural rights of Indigenous Australians, exemptions should be in place for Indigenous Protected areas and for Indigenous managed or controlled land.



Further, CMI notes key points raised by the Australian Land Conservation Alliance submission³ including recommendations regarding land conservation purchases and land management conservation objectives and responsibilities of all levels of government. Areas of high carbon and biodiversity conservation value should be excluded from the operation of the Ministerial veto, specifically, areas that enhance ecosystem function for high conservation value habitats, highly intact ecosystems and sites critical to persistence of biodiversity.

CMI also suggests that, if any amendments are made, the definition of ‘adverse impact finding’ does not reference the ‘opinion’ of the Minister or any other subjective measure. This confuses the scheme’s governance and oversight, and calls into question the scheme’s integrity. CMI calls for the proposal be refined so that the approval process has clear decision-making criteria, and appropriate review and governance mechanisms. The body or panel assessing the project in question should be required to consider the project’s ‘net impact’ – the balance of positive and negative agricultural and community impacts. Project continuation being determined by opinion will inevitably create uncertainty for project approval and undermine confidence in the scheme.

4. Amendments to carbon farming rules should seek to improve investment confidence in the scheme, minimise market instability, create added value in the sector and promote on-farm resilience.

Changes to the rules for ERF projects should be made with a view to improve the scheme’s overall performance and impact. With HIR and NFMR projects having driven 44% of the contracted abatement, this shows that there has been ample confidence in these methods. However, this confidence will be impeded by changes to ERF rules that undermine market stability and policy certainty. Creating uncertainty within this framework also serves to undermine these more nascent schemes, for example the *Land Restoration Fund* and *Carbon + Biodiversity* schemes which have both been linked to the ERF and ACCU framework.

Rule improvements should seek to minimise shocks to ERF auction processes. The proposal in question has already disrupted confidence in the ability for HIR and NFMR projects to proceed in the coming April 2022 auction. On average, previous ERF auctions have awarded 58% of contracted abatement volume to HIR and NFMR projects, with the most recent 12th auction having contracted a record 95% of abatement to HIR and NFMR. Except for the first auction, the minimum amount contracted to HIR and NFMR projects at any auction has been 28%. This volume means that the proposal itself may disrupt the upcoming auction, even if the changes are not adopted. It is recommended that in advance of the upcoming auction, clarity and assurance are provided that the rule changes will not be enacted retrospectively.

Further, there is scant information about how the Minister’s discretion would be exercised, and it is not indicated that there would be any guidelines or safeguards against future application of the discretion. This further undermines investor and market confidence.

The on-ground impacts of limiting carbon farming projects will also be felt. The HIR and NFMR methods under the ERF are designed to co-exist with sustainable agricultural practices, not replace them. Information provided by CMI members suggests that HIR and NFMR methods in fact contribute positively to agricultural production rather than hinder it. This includes for example increased income diversification, allowing for landholders to replenish stock after droughts, improve grazing intensity management, implement more sustainable practices and natural capital valuation, improved drought resilience, and higher agricultural productivity. By doing so, carbon farming projects and sustainable agriculture can ultimately deliver even greater profitability for land managers while also improving the health of their land, creating regional jobs and delivering important action on climate change.

Additionally, the 15ha and ‘one third of farm’ trigger would unfairly disadvantage small-scale farmers hoping to implement carbon farming projects, as the commercial viability of a project would be most significantly

³ https://alca.org.au/wp-content/uploads/2022/01/20220127-ALCA-Proposed-new-rules-native-vegetation-regeneration-projects_web.pdf



impacted for smaller properties. This would mean that the barriers to entry would be highest for those landholders that may also have more constrained cash flows. For this reason, the one third rule should be revisited and the commercial implications – for organisations as well as individual landholders – must be duly consulted on.

The proposed changes would also see private landowners disadvantaged in participating in the scheme. Limitations to the scale of projects does not apply to any other ERF project types that we are aware of (outside, perhaps, plantation-based projects), meaning that the proposed rule changes can be expected to reduce the attractiveness of Regeneration Projects (as compared with, for example, large-scale industrial and facility project types). The proposed changes would seem to unfairly disadvantage private landowners, and graziers and cropping farmers in particular. CMI is of the firm view that farmers should be able to benefit from the carbon market on an equal footing with other sectors, and that the proposed Rule change will work against this.

D. Response to Consultation questions

The Department has invited comments against five questions, our response to these questions is provided below.

1. Are the rule amendments appropriately drafted?

As noted above, CMI does not believe the rule changes are justified nor appropriately drafted.

- a) The amendments are based on Plantation Forestry notification processes linked to substantial land use changes, which is rarely the case in HIR or NFMR projects, where traditional agricultural practices can co-exist alongside the carbon farming project.

It took a number of months before operational guidelines were developed for this process and the due consideration of this has been absent in the proposed changes to the HIR and NFMR methods, creating further uncertainty and potential investment delays.

As noted above the number of project activities are very different; there have only been 39 Plantation Forestry projects since 2017, only 11 of which are contracted through the ERF and only nine registered in 2021. HIR projects total 381, with 35 projects registered in 2021. The ability for the DAWE to respond to this workload is uncertain.

- b) There is no justification provided for the 15ha and one third of a farm under project area thresholds.

As noted in the below table the 15ha threshold will be triggered by almost all projects with a handful of projects under 15ha and average size being around 73,000ha. The administrative burden of this proposal will fall heaviest on smaller farmers.

	Project Area of Active Projects in Hectares Calculated using EPSG 3577				
	National	NSW	QLD	SA	WA
Min	1	1	5	395	61,821
Max	1,121,069	141,994	630,786	377,718	1,121,069
Average	73,634	25,614	49,047	111,179	198,554
NSW Notes	4 Outlier Projects of 1 or 2 ha project area, next smallest is 550 ha				
QLD Notes	Outlier Project with 5 ha project area				

Source: Market Advisory Group



- c) There has been some confusion as to whether the proposal relates to project areas or Carbon Estimation Areas (CEAs) subsequently identified after project registration. It is apparent that the Consultation Paper relates only to project area rather than to CEAs, CMI's understanding is that typically the 'project area' for these methods is the whole farm. Hence the threshold of 'a project area greater than one third of the total farm area' is restrictive in and of itself.

CMI notes that if the proposed changes were to be amended to relate to CEAs, this would be extremely restrictive as well. There is currently no clear industry consensus on whether CEA or total project area would be preferable (or less restrictive and administratively burdensome), hence the further need for a more adequate consultation process. The normal process is to register a project area based on the cadastral boundary of the property, then map out the areas that are included and excluded (i.e. the areas that have forest potential and can generate carbon credits become Carbon Estimation Areas (CEAs), and the areas that either have no potential or are existing forest are mapped into non-CEA). The combined area of the CEA and non-CEA area adds up to total project area registered with the CER.

Industry analysis by Market Advisory Group estimates the average CEA percentage of project areas is 33%, or above, triggering the 'one third of project area' threshold, ranging up to near 50% in some states. As such, even with tighter and more costly pre-determination of CEAs, which may not even be possible at early project stages, the threshold would likely be triggered in most instances. It is necessary to provide further detail and certainty around the 'project area' as referred to in the Consultation Paper.

The draft Rule does not include any decision-making criteria for when the Minister would seek to exercise the veto power to reject a project. It also does not include any opportunity to seek review of an adverse finding. Both aspects are highly problematic given a decision to veto a project has substantial implications for private property rights of the landowner and their ability to determine how they manage their land asset. Both aspects should be clarified in an appropriate, extended, consultation process.

CMI is concerned that guidelines or criteria regarding potential impact on regional communities will of necessity be broad and expose farmers, landholders and investors to considerable uncertainty. It is crucial that adverse impact assessment reports relied on by the Minister be provided to inform rights of appeal and review that should also be created.

- d) The retrospective application of the rule change to the commencement of the consultation period is flawed, impractical, unjustified and creates significant complications for those projects considered by landholders from 10 December. In relation to section (122) (3) & (4), CMI notes that the drafting considers extended timeframes between the 10 December 2021 and "the commencement of the Amendment Rule". This highlights the flaw in applying the Rule change retrospectively to the 10 December 2021, particularly as there are no guidelines or criteria published as to how DAWE and the Minister will consider the notification.
- e) The draft rule also does not include an option to provide a positive approval for a project and therefore the Regulator would operationally be required to wait the 75-day period to determine whether an adverse finding had been made.



- f) As noted above, the proposals are directly impacting potential participation in the forthcoming ERF Auction and its bid window of 5-6 April with the 75 day process now already extending beyond that auction, well beyond the ERF registration deadline of 15 February.
- g) The new ERF regeneration notification process is uncertain. The requirements for the previous five years of agricultural land use information to be provided is an administrative burden and not directly relevant. This time differs to the HIR and NFMR project baseline, which is ten years. The rationale for a different period is unclear. One of the eligibility requirements under the HIR method is that prior to project implementation, the agricultural practices must have been degrading land resources and preventing formation of forest cover. Such agricultural practices can lower overall farm productivity and resilience. The project involves a transition to more sustainable practices. It is unclear how the information on historic management would be utilised in an assessment as to whether the project impact was positive, neutral, or negative. It is also unclear how the specified information would inform an assessment on community impacts.

2. What types of information would be useful to support the Agriculture Minister's assessment of whether native forest regeneration projects would have adverse impacts on agriculture and the local community?

As noted above there is still no evidence that forest regeneration carbon farming projects adversely impact agriculture and the local communities, but CMI looks forward to participating in a more detailed study now out for tender in Southwest Queensland and other forthcoming research.

The Climate Change Authority in its 2020 review of the ERF⁴ noted that stakeholders have previously raised concerns about the management of ERF projects, including the impacts on communities (absenteeism), agriculture, and feral animal and weed management. However, the CCA also noted that "there has been little done in the way of monitoring and evaluation of the environmental and social impacts of land-based ERF projects making it difficult for the Authority to properly understand these concerns". In its 'Economic Recovery, Resilience and Prosperity after the Coronavirus' July 2020 publication the CCA also recommended that additional funds be allocated for research into low emissions agriculture and carbon farming⁵.

CMI members have also raised that Western Australian and South Australian Pastoral Land Management Acts do not allow for a change in land use or permanent destocking. The proposed changes do not reflect the current State legislative requirements addressing potential impacts. Carbon farming projects on pastoral lands in these States require the approval of statutory boards and State Ministers. Creating another administrative layer is not likely to result in improved outcomes for communities. We would encourage the Department to consult with State Agencies before changes are proposed or implemented.

The guidelines and criteria for the Minister's assessment should clarify the nature of evaluation and how this will integrate assessments of more sustainable agricultural practices as well as the Government's emission reduction and reversing deforestation by 2030 goals.

Historical data will need to be assessed with some caution as many farmers are using carbon revenue as part of a transition to greater drought resilience and more sustainable agricultural practices.

Such historical data is also unlikely to assist in understanding farmer or landholder environmental stewardship activities and aspirations. A more streamlined integrated carbon, biodiversity and agriculture assessment

⁴ https://www.climatechangeauthority.gov.au/sites/default/files/2020-11/ERF%20Review%20Final%20Report%2020201009_2.pdfEconomic

⁵ <https://www.climatechangeauthority.gov.au/sites/default/files/2020-09/Prosperity%20after%20Coronavirus.pdf>



program is likely to be a more efficient pathway than a separate additional veto power. In considering impact, consideration needs to be given to underlying farm condition, land degradation processes and farm financial viability in the 'without regeneration project' scenario. Notably, the approximately 360 regeneration projects that are already operating all align with Natural Resource Management Plans, and review of this forms part of the existing project registration application process.

As noted above CMI's Carbon Industry Code of Conduct encourages enhanced community engagement and consumer protection beyond legislative requirements and could be used as a valuable tool for direct engagement with carbon service providers.

3. How many projects would be affected by the rule amendment?

See 1 b) above. We are advised that most, if not all, new projects will be impacted by the proposed amendment under current practices.

4. Are there any alternatives to manage unintended adverse impacts of ERF projects on agricultural production and regional communities?

Appendix A lists a number of existing safeguards that should be first reviewed and considered for improvement before these proposals are implemented. The Climate Change Authority will this year be commencing their review of ERF practices as well as being requested to do an additional study of offset methodologies, these reviews could also provide important additional information and alternatives.

5. How could the implementation of the new requirements best be monitored to inform their consideration in the Government's five-yearly reviews?

The consultation paper indicates that the rule changes may be reviewed at the next five-yearly review as part of the government's Long-Term Emissions Reduction Plan. The first of these reviews is due to commence in 2024, meaning the rule change would not be assessed for at least two years. If the proposed changes are enacted, CMI calls for an independent assessment of their impact to be undertaken at a minimum of six months after the promulgation of the rule amendment.

Conclusion

CMI supports engagement with concerns about real or potential impacts of carbon farming methods. However, it is important that this is evidence-based and considered alongside the benefits for sustainable agriculture, environmental stewardship, regional communities, and goals to reduce emissions and reverse deforestation.

Amendments to administrative scheme requirements in response to such considerations need to be proportionate, efficient and mindful of other existing processes and alternatives at national and state levels as well as in voluntary initiatives such as the Carbon Industry Code of Conduct.

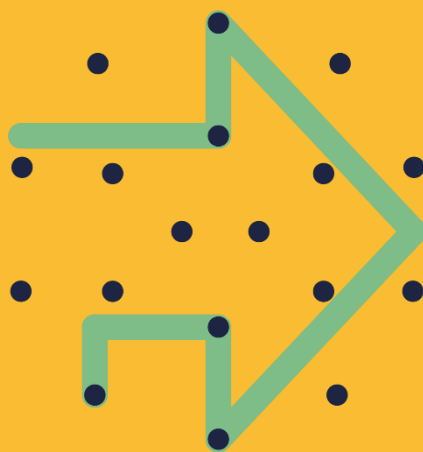
It is important to note that the proposed changes in no way question or seek to impact the integrity of carbon credits generated under the HIR and NFMR methods.

CMI does not support the proposed changes from the Consultation Paper and would welcome the opportunity to discuss identified issues, and our responses to the Consultation paper questions, directly or at industry consultation sessions as recommended in this submission.



Appendix A: examples of existing safeguards to prevent adverse consequences for HIR and NFMR projects

- Project activities under HIR and NFMR methods expressly include management of feral animals and weeds;
- HIR and NFMR projects are required to be consistent with regional NRM plans and farm management plans, including provisions related to management of pest, weeds and fire;
- All projects are already required to comply with any state, territory, and local government rules and regulations, including for managing pests and weeds. Non-compliance with regulatory requirements is also a consideration for the Clean Energy Regulator (CER) in relation to a fit and proper person test to enable an entity to become or remain a project proponent;
- All projects are required to have a permanence plan which includes a fire management plan – this is deemed to be beneficial to local communities and would not necessarily otherwise exist if the land in question did not have a carbon project;
- Eligible interest holders in the land are required to consent to the project, which commonly requires consent from state government, Traditional Owners and financial institutions. All of these parties review a similar set of considerations when assessing the project viability or impact on their interest in the land. Associated community consultation processes are rigorous, and consent for project development is a key indicator of genuine community support for the project;
- The vast majority of organisations that act as project proponents under the ERF are signatory to the Carbon Industry Code of Conduct, a best practice consumer protection tool that includes stringent requirements for active and ongoing community engagement and dispute resolution processes.



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The Carbon Market Institute is an independent industry association and centre of excellence with a 2050 vision of a prosperous, climate resilient, net-zero emissions world. Our mission is to help business manage risks and capitalise on opportunities in the transition to a net-zero emissions economy.

