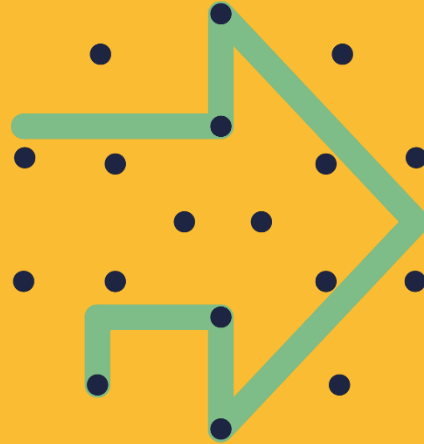


Department of Climate Change, Energy, the Environment and Water

ACCU Review Discussion Paper

submission

October 2023

DCCEEW: ACCU Review Discussion Paper **submission**

The Carbon Market Institute (**CMI**) welcomes this opportunity to provide feedback to the Department of Climate Change, Energy, the Environment and Water (**DCCEEW**) on its ACCU Review Discussion Paper (**Discussion Paper**).

CMI is an independent member-based institute accelerating the transition to net zero emissions. CMI's 2025 Strategy, 'Accelerating Climate Action', sets forth our vision towards a prosperous negative emissions, nature positive world and organisational mission to accelerate the best practice use of market-based solutions to support decarbonisation and limit global warming to 1.5°C.[1] Well-designed carbon markets complemented by ambitious targets and adequate regulation will play a crucial role in directing and leveraging investment to better align with the Paris Agreement goals and international cooperation.

CMI's 150-strong membership includes organisations from across the entire carbon value chain, including First Nations organisations, primary producers, carbon service providers, legal and financial institutions, technology firms and emissions intensive companies. CMI consults with our members to support consultation responses, with policy positions informed by our vision and mission, and approved by our Board. CMI also administers the Australian Carbon Industry (ACI) Code which has very broad coverage of the carbon market and aims to move Signatories towards best practice in carrying out carbon projects.

Strategic outlook

CMI welcomes the Government's ongoing efforts to ensure and bolster the integrity of Australia's carbon crediting framework, in commissioning and accepting all 16 recommendations of the Independent Review of Australian Carbon Credit Units (**ACCU Review**).

We commend efforts to implement the first and second stages of associated reforms to the ACCU Scheme and note our broad support for the Discussion Paper's proposals for continuing this work.[2] It is vital that implementation timelines do not slip, and adequate resourcing should be made available to ensure that reforms are enacted in a timely manner to strengthen community and investment confidence in the ACCU Scheme. CMI's comments and recommendations aim to provide practical insights that will maximise ACCU Scheme transparency and integrity, while ensuring the scheme remains investible—all of which will support a durable and scalable carbon crediting framework.

Building confidence in an evolving market

Ensuring the integrity of carbon markets, both internationally and in Australia, is a continuous, iterative process. While the ACCU Review ultimately found Australia's carbon crediting framework is "essentially sound", CMI strongly supports recommendations to improve governance, increase transparency, broaden opportunities for participation, and ultimately ensure the integrity of the ACCU Scheme.[3] All of these are

[1] CMI 2022, 'CMI's 2025 Strategy: Accelerating climate action', https://carbonmarketinstitute.org/app/uploads/2022/12/CMI-2025-StrategIc-Plan.pdf.

[2] The Government's three-stage approach to implementing the Independent ACCU Review recommendations is outlined in: DCCEEW 2023, 'Independent Review of Australian Carbon Credit Units Implementation Plan', June, https://www.dcceew.gov.au/sites/default/files/documents/accu-review-implementation-plan.pdf.

[3] I Chubb, A Bennett, A Gorring & S Hatfield-Dods 2022, 'Final Report: Independent Review of Australian Carbon Credit Units', December, https://www.dcceew.gov.au/sites/default/files/documents/independent-review-accu-final-report.pdf.

critical in scaling up abatement and ensuring Australia's carbon markets keep pace with evolving international best practice.

For over a decade, the ACCU Scheme has been the lynchpin of Australian climate change policy, providing important incentives for farmers, First Nations groups, other landholders and investors to contribute to national emissions reduction efforts.

As CMI elaborated in our response to the ACCU Review,[4] Australia's carbon crediting framework will continue to play a critical role in supporting Australia's economy-wide transition, particularly in the context of hard-to-abate sectors where decarbonisation pathways entail complex technological and economic transformations. A robust, high-integrity ACCU Scheme underpinned by public and investor confidence is moreover critical to the success of the reformed Safeguard Mechanism and will be a pivotal enabler of ratcheting national climate ambition as Australia prepares to submit a stronger 2035 Nationally Determined Contribution (NDC) under the Paris Agreement in 2025.

Governance and transparency

To improve ACCU Scheme governance, CMI considers that the proposed scheme principles should be incorporated into the the objects of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (**CFI Act**), with additional principles to address the risks of net harm and leakage. We also support efforts to facilitate greater transparency at both the project and market levels.

As Australia's carbon market transitions to one with greater private sector engagement under the reformed Safeguard Mechanism, the Government's purchasing role should be revised to support strategic investment priorities and avoid market distortions where the government competes with private market participants for least-cost ACCUs.

The Government's fixed carbon abatement contract (CAC) exit arrangements should be carefully managed to minimise market disruption and support the market's continued development and any public funds recouped should be added to an identified allocation within the Powering the Regions Fund (PRF).

The method development framework and Integrity Committee functions

CMI supports the proposed revision of method development process to be initiated outside of the Minister's mandate. This will build confidence in the ACCU Scheme and support and encourage greater industry innovation and participation.

We generally support the proposed model for revised method development, including:

- the inclusion of 'in lieu of newness' provisions;
- the 'modular' approach that will improve the flexibility and adaptability of methods; and
- the proposed public consultation process.

However, before its final launch, we would encourage the Government to test the new method development framework with industry.

The Government should also establish an ACCU Method Register to support transparent administration of the ACC Scheme. The Register should track information including the Integrity Committee's processing of EOIs, upcoming and underway method reviews, and method sunset dates.

[4] CMI 2022, 'Australian Government Independent Review of ACCUs submission', https://carbonmarketinstitute.org/app/uploads/2022/10/FINAL-CMI-ACCU-Review-submission.pdf.

To support appropriate representation of First Nations interests in the method development process, an Indigenous Advisory Body should be established to inform Committee decisions.

Native Title Consent

CMI endorses the removal of conditional project registration without Native Title holders' consent. Introducing a requirement for proponents to attain written consent ('preliminary consent', or rather 'consent to conditional registration') from Native Title holders before conditional project registration is a first practical step that better aligns with principles of free, prior and informed consent (**FPIC**). However, CMI believes the Government can go further to better align the consent process with FPIC best practice. CMI's submission includes reflections from the Australian Carbon Industry Code of Conduct (**ACI Code**) which has direct engagement with many project proponents and carbon service providers through the annual audit program relevant to these native title consent reforms.

Before operationalising ACCU Review Recommendation 11, CMI believes the Government should undertake further consultation to more clearly develop the proposed change, including the relationship between preliminary consent to conditionally register a project and full consent.[5] As the Government refines the consent process, the CER Native Title Guidance should also be updated, including to clarify that registered Native Title claimants have procedural rights under the NT Act.

The Government should also consider other avenues to improve consent processes, including funding to facilitate Native Title EIHs to participate, training programs to support landholders and project proponents to improve cultural awareness and engagement and outreach support programs for pastoralists and graziers. The Government should also look at ways to better involve native title parties during project operations and better support shared operational control models.

Broader reform program

CMI notes that the Climate Change Authority (**CCA**) is concurrently undertaking its regular statutory review of the CFI Act. The CCA Review is assessing a range of important integrity matters in the design of Australia's carbon crediting framework. Our response to the CCA Review consultation provides feedback that is also pertinent to the Government's ACCU Review Implementation Plan[6].

Where possible, CMI encourages the Government to streamline amendments to the CFI Act associated with ACCU Review implementation with those that may eventuate from the CCA's CFI Act Review.

More broadly, CMI reiterates the need for the Government to take a strategic, considered approach to developing Australia's carbon markets to maximise abatement, support associated policy objectives such as climate resilience and sustainable development, and limit the potential for unintended or perverse outcomes.

As we elaborated in our response to the CCA consultation,[7] Australia should develop a national carbon market strategy to guide the role of markets in Australia's transition towards net zero and negative emissions, including to:

a) support efficient domestic decarbonisation and nature repair;
b) inform Australia's approach to participating in international carbon markets by assessing the

[5] CMI's understanding is a two-stage consent process could work is as follows: proponents proposing an ACCU project on Native Title held land would be required to (1) obtain initial written consent ('preliminary consent', or rather 'consent to conditionally register') from Native Title Prescribed Body Corporate (NT PBC) in order to conditionally register a project, and later (2) obtain full consent before ACCUs can be issued.
[6] CMI 2023, 'Climate Change Authority: Setting, tracking and achieving Australia's emissions reduction targets submission', July, https://carbonmarketinstitute.org/app/uploads/2023/07/FINAL_CMI-submission_CCA-2023-consultation.pdf, pp. 9-11.
[7] CMI 2023, 'Climate Change Authority: Setting, tracking and achieving Australia's emissions reduction targets submission', July, https://carbonmarketinstitute.org/app/uploads/2023/07/FINAL_CMI-submission_CCA-2023-consultation.pdf, pp. 9-11.

costs and benefits of participation; and

c) provide policy direction and transparency to investors, businesses and communities about the intended roles for carbon markets, crediting and trading.

As the Government develops sectoral decarbonisation plans and a Net Zero 2050 Plan, now is an opportune time to establish a national carbon market strategy to help drive these outcomes as well as guide and build upon the ACCU Review implementation.

CMI's Key Positions on each of the three sections of the Discussion Paper are summarised over the page. CMI's responses to the questions raised in the Discussion Paper are provided in the **Attachment**.

Should you have questions or wish to discuss CMI's submission in greater detail, please contact Gabriella Warden (**Manager, Research and Government Relations**) at gabriella.warden@carbonmarketinstitute.org.

Yours sincerely

John Connor

CEO

Key Positions

Section 1: Governance and transparency

1.1 CMI endorses the concept of ACCU Scheme principles and recommends that the Government insert a reference to these principles in the objects of the CFI Act, to underscore their importance in upholding scheme governance and integrity. To align the ACCU Scheme with international best practice, we also recommend consideration of a "no leakage" test and the extent to which the principles support a "no net harm" principle.

1.2 The Government should amend the CFI Act 'Offsets Integrity Standards' and rename them 'Carbon Credit Integrity Standards', to better reflect the use case for ACCUs, which is broader than as offsets—including the role of the ACCU Scheme in supporting demand-side decarbonisation policy under the reformed Safeguard Mechanism.

1.3 CMI endorses ACCU Review Recommendation 4 to maximise transparency, data access and data sharing, while enabling protection of privacy and commercial-in-confidence information, to support greater public trust and confidence in scheme arrangements.

1.4 To facilitate accessible, transparent disclosure of ACCU project information, Government should expedite the development of a national data platform (ACCU Review Recommendation 4.2) and begin consultation on this by March 2024; this could be integrated with Environment Information Australia.[8]

1.5 To increase market visibility, the CER should publish, on a quarterly basis, deidentified, aggregated information about the number of Safeguard Mechanism Credits (SMCs) and ACCUs issued and traded among ANREU Accounts, including the following details: ACCU method, vintage, and state or territory of origin.

1.6 The Government should review the CFI Act's 'least cost' ACCU purchasing mandate to allow Commonwealth procurement to target high priority abatement methods that more holistically service the objects of the CFI Act. Government ACCU investment priorities should be outlined in a strategic plan, which should be periodically reviewed, and could be nested within a national carbon market strategy.[9] Government contracts should require robust benefit-sharing arrangements with project stakeholders, including First Nations groups. The purchasing entity or entities should be clarified after development of such a strategic plan.

1.7 CMI recommends that the Government's strategic investment priorities focus on purchases from ACCU projects that:

- **a.** facilitate emerging abatement and removals technologies;
- **b.** support benefit sharing and social and environmental co-benefits aligned with sustainability objectives, including goals to reverse deforestation; and
- **c.** partner with First Nations groups to support social and economic opportunities, including in remote communities.

[8] The Government announced $15.5 million to establish Environment Information Australia in the May 2023 Budget – see: DCCEEW 2023, 'Budget 2023-24: Protecting, repairing and better managing the environment', May, https://www.dcceew.gov.au/sites/default/files/documents/protecting-repairing-and-better-managing-the-environment-fs.pdf.

[9] CMI gives the example of the Queensland Land Restoration Fund Priority Investment Plan – see more detailed under Q6 in Attachment.

1.8 The Government should earmark and disclose a quantum of remaining Powering the Regions Fund (PRF) monies for Government ACCU purchases, and recommit any public funds recouped from fixed CAC exit arrangements to this quantum.

1.9 CMI recognises the Government's interest in ensuring delivery of a set amount of contracted ACCUs to secure certainty of supply for the Safeguard Mechanism cost containment measure. If taking a percentage-based approach to fixed CAC exits, the Government should ensure percentage figures are informed by robust modelling on ACCU market supply/demand dynamics, which should be released for public scrutiny.[10] The Government's approach should also minimise market disruption by prioritising:

- fairness/equity for fixed CAC holders;
- durability of any decision, including appropriate lead time; and
- potential need for further consultation with both market design experts and ACCU Scheme participants.

Section 2: Proponent-led method development framework and Integrity Committee functions

2.1 CMI endorses ACCU Review Recommendation 5 and broadly supports the framework proposed in the Discussion Paper that will allow method development to be initiated outside Ministerial mandate. However, we consider the term 'proponent-led' to be potentially misleading. To reflect the intent of the revised method and ongoing supporting role of DCCEEW, we recommend the Government refer to the new process as being a 'stakeholder-led' or 'co-design' framework.

2.2 CMI supports the Discussion Paper proposal that will allow the Minister to be a 'proponent' and propose methods. To ensure the new method development process provides an even playing field for all stakeholders, ministerial methods could be proposed through a reverse EOI that would invite stakeholders to apply to progress the method (rather than having DCCEEW developing ministerial methods)..

2.3 To support the smooth introduction of the revised method development process, CMI recommends the Government create an ACCU Scheme Stakeholder and Industry Reference Group (**Reference Group**) to support the following:

- review the final framework and advise Government on potential issues ahead of its launch;
- support a Government review of the revised process once it is launched, which should occur within the first 18 months of its operation; and
- help identify method gaps that could, for example, help inform cases where a Ministerial method proposal may be appropriate.
- Review and provide advice on key issues as methods are developed, like the role the Method Advisory Panel played with CER as a support to broader public consultation.

2.4 In addition to the Integrity Committee having at least one First Nations Australian member (ACCU Review Recommendation 2.1), an Indigenous Advisory Body should be established to ensure Committee decisions are informed by a more diverse representation of First Nations interests.

[10] CMI notes that modelling was undertaken in the context of the Safeguard Mechanism reforms that was not published and further modelling is currently being undertaken by the Climate Change Authority to support its advice to Government. CMI considers it important that these sources of information are made available for public scrutiny.

2.5 To support the transparent administration of the ACCU Scheme, the Government should establish an ACCU Method Register that lists the following:

- available ACCU methods, including information about their scheduled reviews and sunset date;
- historical ACCU methods that are no longer available (including details about when/why, e.g., legislative instrument sunsetting, or if they were revoked and why);
- ACCU methods under development;
- ACCU methods under review and/or subject to update and why; and
- EOIs for new methods received and the Integrity Committee's assessment of these (including reasons for any rejection).

2.6 CMI notes the importance of strict, transparently operationalised separation of Integrity Committee functions from broader DCCEEW operations, particularly if DCCEEW is housing the Integrity Committee and performing secretariat functions. The Government should publish information about how this separation is assured.

Section 3: Native Title Consent

3.1 Eligible interest holder (EIH) consents

3.1 CMI endorses the removal of conditional project registration without Native Title consent and considers introducing a requirement for proponents to attain written consent ('preliminary consent', or rather 'consent to conditional registration') from Native Title holders before conditional project registration as a practical step that better aligns with principles of free, prior and informed consent (FPIC). Before operationalising ACCU Review Recommendation 11, CMI believes the Government should undertake further consultation to more clearly develop and articulate the proposed change, including the relationship between preliminary consent to conditionally register a project and full consent. This consultation should consider, but not be limited to, the following:

- relationship between the proposed 'preliminary consent' (consent to conditional project registration) and 'full' Native Title holder consent that must be provided before ACCUs are issued;
- the process that must be followed before 'preliminary consent' may be provided, incorporating minimum requirements that proponents must step through to enable Native Title holders to make an informed decision (see elaborated on pp. 28-29);
- corresponding changes that may be required to the EIH Consent form for Native Title holders;
- the potential value of, and appropriate time windows for, a sunset clause for projects that achieve 'preliminary consent' (consent to conditional registration) so that projects that do not achieve full Native Title consent do not remain on the register indefinitely, balancing this (in cases where Native Holders do not dissent to a project) with the ability to allow a project to extend its reporting period deadline past six months to allow for any negotiations to continue with agreement from Native Title holders;
- the gaps and appropriate funding solutions needed to support Native Title EIHs to better understand carbon projects and the industry more generally (including potential risks, benefits and trade-offs of engaging in ACCU projects) and to make the timing of these resources a priority so that this capacity for Native Title holders may start to be built right now and not at the end of the Government's ACCU implementation process (which is when funding is scheduled to be addressed in the implementation plan);

3.2 If a provision permitting the withdrawal of 'preliminary agreement' (consent to conditionally register) is introduced into the CFI Act, the Government should clarify what this means—including introducing a clear process that sets out how withdrawal would occur, and its legal implications for a project.

3.3 If the Government determines that native title claimants should not be treated as eligible interest holders under the CFI Act, the Government should update and elevate existing CER Native Title Guidance to clarify that registered native title claimants have procedural rights under the *Native Title Act 1993* (NT Act). The Guidance should make it clearer that project proponents will benefit from engaging with Native Title claimants, including to insure against future acts under the NT Act and other risks to a carbon project's legal standing.

3.4 The Government should provide resources to ICIN or relevant Indigenous agency to develop best practice guidance on proper benefit-sharing and consent arrangements for carbon projects on Native Title land, and then, after consultation with relevant stakeholders, adopt the guidance developed under the CFI Act as best practise.

3.5 Funding support is needed to support Native Title EIHs to participate in consent processes, including for high quality legal and financial advice to support decision making. To identify and address gaps, the Government should consult further with Native Title Representative Bodies (NTRBs), Land Councils, NT PBCs and other Indigenous stakeholders and organisations. It should be noted there is a great lack of financial advisers available in the carbon market in Australia and especially in areas where many Native Title holders live. The Australian Financial Services Licensing (AFSL) regime also makes it very difficult for trusted advisors such as NTRBs to provide advice.

3.6 Careful consideration of an accreditation program to support landholders and project proponents to improve cultural awareness and engagement with First Nations stakeholders, including Native Title holders and claimants, would be beneficial. CMI notes that the ACI Code is already delivering a greater focus on cultural awareness training and is actively seeking Indigenous stakeholders to partner with in developing this work further. The ACI Code would welcome further discussion with Government about increasing the reach and impact of this work across the broader industry, noting this must be first consulted on with Indigenous stakeholders in the industry and should follow a partnership approach.

3.7 Pastoralists and graziers that may hold pastoral leases where there is non-exclusive Native Title determination are important interests that should be considered alongside First Nations groups, project proponents and other stakeholders in future Government consultation and may benefit from funding and outreach support. The Government should look to involve ICIN or relevant Indigenous agency and CMI in rolling out any information and extension work on the benefits of Indigenous engagement for carbon projects for pastoralists.

Australian Carbon Industry (ACI) Code of Conduct and FPIC

Established by CMI in 2018, the ACI Code is a formal, voluntary industry code that oversees the carbon market in Australia. The Code aims to define industry best practice for carbon service providers; enhance existing regulatory frameworks and support Australia's carbon market to meet regulatory obligations and Code commitments; and promote and steward carbon market integrity, including best practice engagement between carbon service providers and Native Title Eligible Interest Holders (NT EIH) and claimants, Traditional Owners, other Indigenous stakeholders, farmers and other landholders, as well as local communities.

The Code covers 69% of all land-based ACCU projects registered since 2018 and currently has 36 Signatories. Code Signatories are obliged to conduct business in line with industry best practice and engage with other carbon market participants and stakeholders in a professional and ethical manner. More information about the Code can be found on the CMI website (linked here).

- Regarding Native Title consent, latest Version 2.0 of the Code *requires Signatories to use reasonable efforts to follow best practice processes for FPIC* as set out in:
  - Indigenous Carbon Industry Network's February 2020 guidance Seeking free, prior and informed consent from Indigenous communities for carbon projects (ICIN Guidance – linked here) and
  - Clean Energy Regulator's June 2018 guidance Native title, legal right and eligible interest holder consent guidance (CER Guidance – linked here).

52% of Code Signatories reported having an area-based project on Native Title Land in FY23.

ATTACHMENT

Detailed Consultation Response

Section 1: Governance and transparency

1.1 ACCU Scheme Principles

1. **Are the proposed principles fit for purpose and how should they be applied to improve ACCU Scheme governance and integrity?**

CMI supports the introduction of ACCU Scheme Principles into the ACCU Scheme, as recommended by the Independent ACCU Review Report.[11] We endorse the proposed six principles and consider them to be conceptually fit for purpose to uphold ACCU Scheme governance and integrity, however recommend that the Government consider the applicability oftwo additional principles:

- 'no net harm', to ensure that the ACCU Scheme causes no net harm; and
- 'no leakage', to ensure that projects registered under the ACCU Scheme do not lead to increases in emissions elsewhere.

These two principles are commonly embedded in global voluntary and regulatory carbon market governance and integrity frameworks, including the Integrity Council for the Voluntary Cabron Market's Core Carbon Principles (IC-VCM CCPs)[12] and Singapore's recently published eligibility criteria for carbon credits under its carbon tax.[13] Embedding these as ACCU Scheme Principles will ensure Australia's carbon crediting framework keeps pace with evolving international best practice on market integrity.

CMI has previously advocated for the introduction of a 'no net harm' principle in the ACCU Scheme.[14] We acknowledge that 'no net harm' is implied by the Government's proposed principle on 'Environmental and Regional Sustainability', which instructs that the ACCU Scheme should "avoid adverse impacts".[15] However, a more overt reference to this in a distinct principle may better embed 'no net harm' and better align with international practice.

While supportive of the concept and proposed six principles, CMI recommends that the Government legislatively enshrine the concept of ACCU Scheme Principles in the CFI Act, even as individual principles are elaborated in a subordinate Rule. To do so, the Government should contemplate elevating the ACCU Scheme Principles through a reference in the CFI Act objects. This may help operationalise the principles and reflect their role in upholding scheme governance and integrity, particularly if the principles themselves are to be articulated and specified through subordinate legislation. Elevating the ACCU Scheme Principles (as a concept) into the CFI Act objects may also support a future state where Australia's carbon markets seek to link internationally and will be expected to align with Article 6 rules and voluntary integrity initiatives, such as

[11] Chubb et al. (2022), Independent Review of Australian Carbon Credit Units: Final Report, p.16.

[12] The Core Carbon Principles reference 'no leakage' within the Assessment Framework's operationalisation of '3. Robust quantification of emissions reductions and removals', and 'no net harm' within '9. Sustainable development benefits and safeguards'; Core Carbon Principles and Assessment Framework documents available for download at: Integrity Council for the Voluntary Carbon Market (IC-VCM) (2022), 'The Core Carbon Principles Assessment Framework', https://icvcm.org/assessment-framework/.

[13] From 2024, polluters covered by Singapore's carbon tax will be able to use international credits that meet its eligibility criteria to offset part of their carbon tax liability – see more: Singapore Ministry of Sustainability and the Environment (2023), 'Singapore sets out eligibility criteria for international carbon credits under the carbon tax regime' (media release), 4 October, https://www.mse.gov.sg/resource-room/category/2023-10-04-eligibility-criteria-for-international%20carbon%20credits.

[14] Carbon Market Institute (2022), Australian Government Independent Review of ACCUs: Submission, p. 17.

[15] Department of Climate Change, Energy, the Environment and Water (2023), ACCU Review Discussion Paper, p. 7.

the IC-VCM Core Carbon Principles. It is also important that the ACCU Scheme Principles consider and articulate the role of the CFI Act and ACCU Scheme in Australia's broader climate policy suite and objectives.

We also note that feedback from CMI members indicated confusion about the intended role and application of the ACCU Scheme Principles. Some members expressed concern that introducing scheme principles as another layer or 'Rule' under the CFI Act may introduce ambiguity into the ACCU Scheme if not clearly operationalised. Further information on how these principles could or would be operationalised to uphold ACCU Scheme governance and integrity, including examples, may support better understanding and ease concerns.

Finally, CMI suggests that the Offsets Integrity Standards should be renamed the 'Carbon Credit Integrity Standards'. This would more accurately reflect the character of ACCUs, whose use case is broader than offsetting. Referring to ACCUs wholly as 'offsets' is reductive. Moreover, this does not reflect the role the ACCU Scheme on the whole can play in supporting demand-side decarbonisation as part of market-based policy solutions, namely the reformed Safeguard Mechanism.

1.2 Maximising ACCU Scheme transparency

2. Is there other information that could be published or collected to improve the transparency of the ACCU Scheme?

CMI endorses Independent ACCU Review Recommendation 4 to maximise transparency, data access and data sharing, while enabling protection of privacy and commercial-in-confidence information, to support greater public trust and confidence in scheme arrangements.[16] The introduction of the proposed ACCU Scheme Principles, which include one on 'Transparency', will moreover require transparent data and information sharing arrangements. Project-level transparency is the norm in most international voluntary carbon market certification schemes.[17] It is one of the IC-VCM's Core Carbon Principles,[18] which we have recently recommended the Government should review to ensure Australia's carbon markets are complaint with international ones. Such compliance will enable smoother integration as Article 6 rules mature.[19]

CMI stresses that project-level information and data must be accessible to support true transparency and disclosure. The proposal to publish project-level data variables and other information on the CER Register is therefore welcome but inadequate and should be a limited, time-bound interim measure while the Government prioritises the development of a national data platform to display ACCU Scheme project-level information in a more accessible manner. We urge the Government to expedite the development of such a platform. A national data platform may make it administratively simpler to withhold certain details from disclosure, in cases where such protections are warranted. CMI notes that a data platform for ACCU Scheme project information could be integrated with Environment Information Australia, for which the Government has already committed $15.5 million, which may help realise synergies and efficiencies.

3. What information should be published about ACCU holdings that delivers greater transparency in the market?

CMI acknowledges that the proposal to publish all information about ANREU Account holdings stems from a previous Climate Change Authority recommendation and would bring the ACCU Scheme in line with the

[16] Chubb et al. (2022), Independent Review of Australian Carbon Credit Units, p. 8.
[17] Verra (2022), VCS Quality Assurance Principles; Gold Standard (2023), Program of Activity Requirements and Procedures, pp. 67-8.
[18] Integrity Council for the Voluntary Carbon Market (2022), The Core Carbon Principles.
[19] Carbon Market Institute (2023), Setting, Tracking and Achieving Australia's Emissions Reduction Targets: Submission, p . 5.

Renewable Energy Certificates (REC) Scheme. CMI also strongly supports efforts to improve market liquidity and integrity, alongside efforts to reduce market risks such as those posed by speculators through greater transparency. However, it is not clear that full disclosure of individualised ANREU Account holdings would support transparency or price discovery. We reiterate points made in previous submissions below.[20]

CMI maintains that the Government should undertake a cost-benefit analysis of all three options for ANREU Account holding disclosure before coming to a final decision.[21] This analysis could be used alongside responses to this consultation to inform a decision on displaying ANREU Account holdings in a way that genuinely supports transparency. Terms of reference for this analysis should clearly state the intended purpose of increasing ANREU Account disclosure.

While analysis is being undertaken, the Government should commence more comprehensive ANREU Account holding disclosure by publishing information about holdings in an aggregate and deidentified manner. This should be operationalised based on the approach under California Cap-N Trade outlined in the Discussion Paper and noted in CMI's previous submissions.[22] Information included should be: ACCU method, vintage, and state or territory of origin.

4. What are the risks to the market from publishing information about ACCU holdings?

CMI notes that unintended or perverse outcomes may arise if measures to improve market transparency, such as publishing information about ANREU Account holdings, are not implemented in a considered manner with clear target objectives. For example, publishing information about identified ANREU Accounts (Proposals 1 and 2) may see entities that wish to obscure their holdings set up secondary ANREU Accounts under shadow companies to avoid full disclosure, which would obfuscate rather than improve market transparency.

CMI moreover questions whether it is possible to truly deidentify individual ANREU Accounts (Proposal 3), given the potential that the particular SMC and/or ACCU holdings in an account may indirectly provide information about the account holder.

Potential risks aside, CMI questions whether in-depth ANREU Account disclosure will really improve market transparency and enable price discovery. For example, the number of units held in each ANREU account does not necessarily reflect units available for trade, as certain units and volumes may be in an account but already earmarked for cancellation. Information about an owner company's intention to cancel certain units would not be made visible simply by publishing ANREU Account holdings.

Therefore before publishing ACCU and SMC holdings for all ANREU Accounts, or only for accounts over a threshold size (Proposals 1 and 2) may be appropriate, to minimise risks, the Government should first undertake a cost-benefit analysis. These proposals should be considered if the analysis demonstrates a low risk of negative outcomes and high likelihood of achieving the stated targets of market transparency and price discovery.

Here, CMI notes that these outcomes may be supported by other efforts. For example, the Government's Australian Carbon Exchange (ACX), due for launch in late 2023, will support price discovery and connect compliance buyers with sellers, reducing the need to support this through other avenues.

[20] Carbon Market Institute (2022), Safeguard Mechanism Reform - Consultation on Draft Legislation: Submission, p. 12.
[21] Ibid.
[22] DCCEEW (2023), ACCU Review Discussion Paper, p. 14; Carbon Market Institute (2022), Safeguard Mechanism Reform, p. 12.

5. Are there other grounds or circumstances where information should be withheld, for example, an exemption for existing projects?

CMI considers that all projects, including existing projects, should be subject to the requirement for full disclosure. Giving an exemption to existing projects would undermine ACCU Scheme integrity and contradict Independent ACCU Review recommendation 4.1 that recommends full disclosure be the default for projects.

While supporting full disclosure as the default, CMI notes that there may be some cases, for projects existing and new, where there may be reasonable grounds to withhold certain information. To accommodate such instances, the Government should introduce provisions so proponents can make an application for the CER to withhold certain information upon the provision of compelling, legitimate evidence.

In addition to the grounds identified in the Discussion Paper (privacy grounds, cultural or biocultural grounds by First Nations peoples, grounds that a project contains an ecologically sensitive or endangered community or species), CMI recommends that commercial sensitivity grounds be added to this list. The Government should also provide a clear definition of commercially sensitive information, and examples of appropriate supporting evidence of this. All further proposed grounds for supporting an information withholding application should be clearly defined and examples of evidence should be provided. This clarify the CER's regulatory approach to ACCU Scheme stakeholders.

If information is withheld for certain projects, projects should be clearly labelled as having certain information withheld. The reasonable grounds for this (privacy concerns, commercial sensitivities, cultural or biocultural grounds, etc.) should also be disclosed. CMI recommends that proponents have a 30-day window to make such requests, as was the case for requests to withhold CEA shapefiles when the CER published these.[23]

Finally, CMI notes that while there are circumstances where protecting information may be warranted, project proponents should also be made aware of the impact of withholding information on ACCU purchasers' ability to undertake due diligence. With increasing scrutiny on both demand- and supply-side of carbon markets, organisations are increasingly independently verifying project integrity as part of their carbon credit procurement strategies, either in house or with support from credit rating agencies such as BeZero and Sylvera.[24] CMI cautions the Government that if information protection is sought by ACCU project proponents and approved by the CER on a widescale, this could compromise public confidence and investment confidence in the ACCU market.

Therefore, CMI recommends that the Government develops Guidance that the CER is required to follow in assessing proponents' reasonable grounds and supporting evidence for protecting information, to help ensure that these provisions are exercised in limited, legitimate circumstances. This Guidance should be public and require the CER to balance the likely material impact of disclosure restrictions against the need for greater overall ACCU Scheme transparency, which CMI notes will be enshrined as a scheme principle.

[23] Clean Energy Regulator (2023), Guidance – Publication of Carbon Estimation Areas and Project Areas on the Register for the ACCU Scheme, p. 1.
[24] BeZero Carbon (2023), 'Scaling markets for environmental impact', https://bezerocarbon.com/about/; Sylvera (2023), 'To incentivize investment in real climate action', https://www.sylvera.com/about-us.

1.3 Australian Government purchasing of ACCUs

6. Should the government continue to focus its purchasing on least cost abatement? If not, what other considerations should it prioritise and why?

The introduction of the Safeguard Mechanism reforms marks a new phase in the maturing of Australia's carbon markets, with the creation of a significant and growing private sector compliance market.

In this new phase, CMI recognises a continuing but evolving role for Commonwealth-funded ACCU purchases. CMI notes that the Government's final decision on the purchasing entity, which we understand will be informed by consultation responses, must prioritise independence as well as align with the Government's eventual strategic purchasing priorities and approach. With Safeguard-covered entities likely to sustain the market for least-cost abatement, public funding in purchasing ACCUs should be redirected so that these purchases support and underwrite investment in new, priority methods, such as those that support carbon removals and/or provide significant environmental and social benefits alongside abatement, including the goal of reversing deforestation. CMI moreover notes that amending the least cost abatement mandate may allow Government-funded ACCU purchases to better service the objects of the CFI Act, namely the third object which includes environment protection and resilience building.[25] Amending the least cost abatement mandate would also better support any amendments to the CFI Act objects that may be necessary to introduce ACCU Scheme Principles, as noted in Key Position 1.1 above.

Government ACCU investment priorities should be outlined in a strategic plan and the approach taken should minimise potential of Government purchasing to create market distortion. This plan could use the Queensland Land Restoration Fund's (LRF) Priority Investment Plan as a blueprint, and/or be nested within a national carbon market strategy.[26] The plan should also outline the minimum quantum of PRF monies the Government is designating for ACCU purchasing, with an additional commitment to rehypothecating public funds recouped from fixed CAC exit arrangements into this pool.

As is the case with the Queensland LRF Priority Investment Plan, the Government's strategic priorities should be reviewed and, if required, updated periodically. This would provide flexibility so that, if required to support a strategic priority, the Government could target least-cost abatement alongside emerging priority ACCU methods from time to time. Any changes to strategic investment priorities should be transparently communicated and published alongside updated plans.

CMI recommends that the purchasing entity should be identified upon conclusion of such a strategic plan and focus.

For any future Commonwealth ACCU contracts, the Government should also consider ways to provide upfront capital to project proponents to support with the costs associated with project establishment. Provision of up-front capital could be including within a benefit-sharing framework (see Key Position 1.6, above), with repayments to Government assured through transparent revenue sharing.

[25] The third object of the CFI Act is as follows:
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.
Carbon Credits (Carbon Farming Initiative) Act 2011 (Cth).

[26] Carbon Market Institute (2023), Setting, Tracking and Achieving Australia's Emissions Reduction Targets, p. 6.

7. **Should the pilot exit arrangements for fixed delivery contracts be made permanent? Would requiring a minimum percentage be delivered to the government in each window help strengthen market confidence and reduce risk?**

CMI recognises the Government's interest in ensuring delivery of a set amount of contracted ACCUs to secure certainty of supply for the Safeguard Mechanism cost containment measure, which could be supported by a percentage-based approach to any continuation of the fixed CAC exit arrangements.

Recalling the significant market disruption caused by the snap introduction of the original fixed CAC exit arrangements in March 2022, CMI urges a cautious and considered approach in determining the future obligations of historical fixed CAC holders.[27] We note that this may require further thinking and consultation with fixed CAC holders, broader ACCU Scheme participants and market design experts.

Government intervention in the ACCU market may be necessary to ensure this regulated market is stable and supporting the objects of the CFI Act. However, the Australian carbon market is highly sensitive to overreaching or heavy-handed Government interventions so they need to be carefully considered. The initial sudden, unconsulted introduction of the fixed CAC exit arrangements, for example, caused significant market disruption, with the ACCU spot price falling from $47 to $32 overnight.[28]

To minimise ACCU market disruption, price volatility and investment uncertainty in determining the future of the fixed CAC exit arrangements, the Government should prioritise the following:

- fairness/equity to all fixed contract holders (noting that fixed CAC holders entered into agreements with the Government at different prices and may be impacted disproportionately by proposals such as blanket minimum percentage ACCU delivery windows)—although CMI recognises the Government's interest in retaining a portion of contracted ACCUs for delivery into the Safeguard Mechanism cost containment measure;
- durability of decision, including appropriate lead time (noting that this is key to minimising investment uncertainty); and
- potential need for further public consultation, including with fixed CAC holders, broader ACCU Scheme participants and market design experts.

The Government's final decision should also be informed by its existing modelling on ACCU market supply/demand dynamics, which CMI understands was undertaken to support the Safeguard Mechanism reforms. We again call for the publication of this modelling so the market and broader public can better understand the Government's final decision.[29]

If fixed contract holders are permitted to exit in the future and exit fees are involved, revenue raised should be reinvested into the ACCU Scheme through the portion of PRF funding dedicated to credit purchases.

[27] Clean Energy Regulator (2022), The Evolving Carbon Market: Transitional Arrangements for Emissions Reduction Fund Fixed Delivery Contracts.
[28] Clean Energy Regulator (2022), Australian Carbon Credit Units (ACCUs).
[29] CMI notes that modelling was undertaken in the context of the Safeguard Mechanism reforms that was not published and further modelling is currently being undertaken by the Climate Change Authority to support its advice to Government. CMI considers it important that these sources of information are made available for public scrutiny.

Section 2: Proponent-led method development framework and Integrity Committee functions

2.1 Proponent-led method development

CMI supports the revised process for method development that will allow stakeholders to propose and co-design methods outside of Ministerial mandate and prioritisation. We acknowledge significant improvements in transparency and data access in a stakeholder-design process for developing and modifying methods, which will bring the ACCU Scheme into closer alignment with international practice, including voluntary carbon certification standards such as Verra's VCS and the Gold Standard.

We note that it is important for the new proposed process to balance accessibility, participation and innovation with the right checks and balances, transparency measures, guidelines and governance oversight. CMI believes the proposals in the discussion paper largely achieve this, however recommend some adjustments as follows.

While supportive of the Government's proposed 'proponent-led method development framework', [30] we suggest reflection and reconsideration of the term 'proponent-led'. This term is potentially misleading, as it implies the process is led by interested parties such as 'project proponent', rather than method development that is open to a wider range of stakeholders—which is the intention of ACCU Review Recommendation 5. CMI recommends the new process be referred to as 'stakeholder-initiated' or 'co-design', to also reflect the important supporting role Government will continue to play.

CMI moreover notes that the proposed division of roles in the discussion paper may not make methodology assessment through to implementation more efficient, nor faster. In outsourcing the development process, there is a dependance on external expertise without contractual oversight, milestones or reporting. Success will depend on appropriate Government resourcing and process management. The Government should therefore explore improving transparency, accessibility and stakeholder inclusion under the existing co-design method development as a potentially less resource-intensive means of implementing ACCU Review Recommendation 5, which ultimately recommends a government-supported process.

CMI supports the inclusion of the Minister as a potential 'proponent' that can propose methods, noting that this should be for new methods that support government policy priorities, aligning with objectives that could be articulated in the national carbon market strategy. To ensure Ministerially proposed methods do not receive unfair advantage/resourcing, Ministerial proposals could take place via a reverse expression of interest (EOI), inviting stakeholders to apply to progress the method on the Minister's behalf. A national carbon market strategy could assist the Government to identify strategic gaps in method availability, which Ministerial method proposals could seek to fill.[31]

CMI advises that the following additional elements should be considered as additions to the proposed method development framework:

- An optional method inquiry service to provide advice on how the proposed method could be delivered under ACCU Scheme regulation akin to the Energy Innovation Service recently established through the national energy market rules; and/or

[30] See 'Figure 3 – Proponent-led process for method development and modification' in: DCCEEW 2023, 'ACCU Review Discussion Paper', August, https://storage.googleapis.com/files-au-climate/climate-au/p/prj270072e8cbe57c2824d8b/public_assets/ACCU%20Review%20Discussion%20Paper.pdf, p. 21.
[31] See Recommendation 3 of CMI's recent submission to CCA: https://carbonmarketinstitute.org/app/uploads/2023/07/FINAL_CMI-submission_CCA-2023-consultation.pdf

- A method development 'sandbox' that brings stakeholders together to co-design and co-innovate prior to EOI development and submission, CMI could assist facilitation with this based on criteria of integrity, scale and co-benefits;
- An information gateway that could serve as a first port of call, which could be a webpage with an instructional video and case studies communicating key messages and processes in a simple manner; and
- A pre-EOI 'proof of concept' stage to reduce EOIs for methods that are not appropriate, applicable, feasible, or aligned to assessment objectives; this could be in the form of an online gateway form to 'pre-approve' whether stakeholders should progress with an EOI, including check boxes on elements required before the next stage

CMI also recommends the Government consider the following potential modifications:

- Mandatory reporting milestones for the Integrity Committee to improve transparency of process,
- Mandatory reporting milestones for method developers (proponents) to enable transparent tracking of progress. The government could be charged with taking oversight or discontinuing a method development if not meeting designated timeframes.

CMI further advises the Government to consider adding the following stakeholders or bodies to the proposed method development framework to augment resource availability, stakeholder oversight and overall method development integrity:

- A Stakeholder and Industry Reference Group, to support the prioritisation and development of new methodologies and support review of the revised method development process, and provide final feedback on the Government's final proposed framework (see Key Position 2.3, above). Here, we note that CMI was a member of a similar body, the Method Advisory Panel in reforms initiated post the King Review.
- An Indigenous Advisory Body to the Integrity Committee, in addition to the minimum one Indigenous committee member, to ensure that a more diverse, accurate representation of First Nations interests can be articulated.
- A standing expert technical panel to assist the Integrity Committee in case of skills or expertise gaps.

Finally, CMI notes that the Government should undertake a review of the revised method development process and framework within the first 18 months of its operation to ensure it is running smoothly. The Reference Group should assist this.

2.2 Expression of interest (EOI) and triage

8. What assistance or guidance would proponents need to effectively participate in the EOI process?

CMI recognises that not all stakeholders have equitable access to resources to develop an EOI, particularly First Nations and not-for-profit organisations. We support the Government's approach to assisting equitable contribution and participation through support models. Safeguards need to be in place to support equitable opportunities for all stakeholders. Cost recovery or rebate schemes seem to be the most equitable model for larger organisations, whilst a fund to support method development that provides grant funding upon application might be more appropriate for NFPs. Other possible options to explore might include Government matching of funds against private sector investment, or an R&D track grant funding avenue.

CMI's consultation for this Discussion Paper response indicated that Indigenous proponents generally have the technical skills, experience, and established, preferred consultant partners required to submit an EOI following the same process as other stakeholders. However, they may benefit from funding for resourcing these processes. Funding provided should be needs-based.

Additional guidance materials that could be developed to support EOIs, which could be housed on the recommended website/ portal, include:

- framing/best practice guidelines on how those proposing method will consult relevant stakeholders; and
- requisite proponent skills and expertise, which could be supported by a skills matrix.

9. Does the proposed content of an EOI submission balance the need to deliver enough detail to enable a robust assessment, while limiting the upfront investment to a reasonable level?

The EOI template that is proposed should have a complete check list of requirements that correspond with assessment criteria used by the Integrity Committee to triage EOIs based on the proposed considerations included in the Discussion Paper.

10. Will the proposed approach to triaging EOIs promote participation and efficiency?

CMI is supportive of the proposed approach to triaging EOIs, subject to the following considerations that may improve the participation and efficiency of the process.

Firstly, we suggest that instead of allowing proponents to submit EOIs at any time, the Government should introduce regular quarterly EOI submission deadlines to enable the Integrity Committee to manage the triage process in a more timely, methodical way. Having clear deadlines and submission windows may also support stakeholders' planning and prioritisation for pulling an EOI together, creating efficiencies on both sides.

In addition to managing EOI triage in quarterly blocks, CMI raises that the Integrity Committee will need to also be adequately resourced to avoid potential bottlenecks and roadblocks during the EOI assessment and triage process.

It will be further important to ensure that the Integrity Committee has sufficient knowledge of methods and the method development process. While, as recommended by the ACCU Review (Recommendation 2), there will be an independent, merits-based process for recruiting Committee members, CMI notes that a Standing Technical Panel may assist in providing advice or assistance to the Integrity Committee to ensure that practitioner knowledge and scientific and academic expertise are complementary. CMI suggests that this Panel would need clear terms of reference and could be appointed through an approved 'standing list' of contractors.

The Integrity Committee in undertaking triage may need to consider *who* develops methods to ensure equitable participation and access to all stakeholders. The Government should consider what measures might be required to manage monopolisation of method development by the same stakeholders.

CMI agrees that it is untenable to have a situation where multiple methods in the same area are being developed separately and agrees with the proposal that stakeholders proposing similar methods would be connected to collaborate. Clarity on the connection and collaboration approach outlined in the Discussion Paper is required. Considerations include:

- what the government process to 'connect' stakeholders might look like;

- what will happen if two parties proposing a similar method refuse to cooperate and whether/how arbitration might be involved in resolving such issues;
- whether method developers might be able to recoup costs they have invested if 'blending' of methods was required, and so on.

Additional considerations for the Integrity Committee in assessing EOIs and triaging include:

- alignment to ACCU Scheme Principles;
- alignment to climate policy objectives (and/or national carbon market strategy, as relevant);
- consideration of impacts of projects under a method (dis-benefits) such as competing land use, maintenance of farm production, farm infrastructure, pest & weed control;
- demand-side appetite for credit units created under method categories—noting that the recommended Reference Group could support with fulfilling this role.

Finally, CMI notes that the triage process should prioritise quality over quantity. For example,to unlock more abatement quickly, it may be more effective to revise and increase the use of existing methods rather than developing new ones that will take time to agree and adopt. CMI recommends that DCCEEW, perhaps with assistance from CMI's proposed Reference Group, could investigate and prioritise activities with high scale of potential abatement and seeks EOIs for these methods.

11. Are there any matters not addressed appropriately by the proposed EOI process?

A publicly available ACCU Method Register should be established that includes information about the status of existing methods, as well as reporting on EOIs. It should include the following information, which should be summarised by the Integrity Committee Secretariat and distributed via email to market stakeholders on a mailing list on a quarterly basis:

- available ACCU methods, including information about their scheduled reviews and sunset date;
- historical ACCU methods that are no longer available (including details about when/why, e.g., legislative instrument sunsetting, or if they were revoked and why);
- ACCU methods under development;
- ACCU methods under review and/or subject to update and why; and
- EOIs for new methods received and the Integrity Committee's assessment of these (including reasons for any rejection).

With reference to Recommendation 5.2 of the ACCU Scheme Review states that "The Minister is not obliged to approve any method", the Government should provide clarity whether the Minister's role in approving and making methods is purely ceremonial and at the direction of the Integrity Committee, or based on wider considerations To reduce unnecessary delays to the availability of new methods, CMI further recommends that the CFI Act is amended to require the Minister to make a decision on new or varied methods, as recommended by the Integrity Committee, within quarterly time frames.

2.3 Developing a method or module

CMI identifies three distinct stages of method and/or module development, and recommends that the Government articulate them as follows:

- **scientific evidence development**, i.e., getting methods 'science-ready' for development;
- **technical development**, i.e., developing 'science-ready' methods into technical guidance; and

- **legislative development**, i.e., legislative drafting and 'simple method guides'.

Each of these three stages of method/module development will require different levels of DCCEEW support, which are outlined in greater detail in CMI's response to Q12.

In the Discussion Paper outlined proponent-led method development process, the Government requires method developers to "provide robust evidence, including peer-reviewed scientific evidence where available, and demonstrate that the proposed method aligns with the OIS and, where relevant, aligns with the ACCU Scheme Principles". CMI recommends that Government provide a contextual definition of "peer review" and "robust evidence" and whether there are certain professionals that would be required to produce or authorise this evidence, to support method developers to fulfil this requirement.

In the proposal, tools and models that are developed and incorporated in methods/modules are expected to be made freely available for use by any potential project proponent. Additionally, developers are expected to outline a plan for maintenance/ housing of the tool. CMI understands this approach yet draws attention to the potential commercial tension therein. There is an opportunity here for the government to support IP development through licensing and royalty-type provisions. It would also seem prudent that the government target a technology-neutral approach to methods and also support a portal to house and access any tools related to ACCU methods.

12. Are the proposed areas where the department could provide assistance during method development the right areas or skill gaps to focus on?

The Government recognises that the ACCU Review recommendation on proponent-led method development sought to increase the number of methods available.

While the Discussion Paper recognises that method development is time and resource intensive, CMI does not consider that the assistance support examples provided in section 2.3.1 of the Discussion Paper fully address the potential needs of stakeholders at each stage.

CMI provides the following comments on the assistance options that the Department could provide, as outlined in the Discussion Paper:

- **Legislative drafting**

  CMI emphasises that the final drafting of method legislative instruments should remain the sole remit of government, as the department holds relevant legal and legislative drafting expertise that will be vital to ensuring legislative consistency across methods. This will also support the need for method standardisation and comparability oversight, which must be overseen at the government level.

- **Liaising with other public officials** and reviewing whether new emission factors to be developed do not duplicate and are consistent with existing NGER methods

  CMI supports the government coordinating and streamlining on calculations, consistency with NGER methods and between departments.

- **Advice on the policy landscape** (e.g. if an ACCU method is the best tool to drive additional emissions reductions or if other policy measures are more appropriate)

  CMI has proposed that this function take place in the form of a regulatory sandbox (see CMI response to Q11) and be informed by strategic priorities that might be outlined, for example, in a national carbon market strategy.

- **Education on the ACCU Scheme**.

  The Government should provide education on the ACCU Scheme to the broader community, to ensure that the new method development framework and process is inclusive and accessible to a broad range of stakeholders. To support this, CMI suggests the Government develop an information portal that would be a first point of contact for stakeholders exploring method development and the ACCU Scheme with resources, knowledge and educational tools such as an informational video on the ACCU Scheme and opportunities for participation (this suggestion builds on CMI response to Q8, above), including how to go about putting together and submitting an EOI.

Whilst CMI considers the above forms of Government assistance as necessary, we reiterate that the three 'stages' of method development above (under 2.3 'Developing a method or module') could support segmenting and targeting assistance and funding to different areas as needed.

13. Is the proposed approach to deal with newness appropriate to support participation in research, trials and demonstration projects needed to support method development?

CMI supports the inclusion of 'in lieu of newness' provisions in methods where trials and pilot projects are required to provide evidence required to support method development, as well as the proposal to reintroduce a 'notice of intent' process within the CFI Act rules to allow project activities under in-development methods to commence by benchmarking 'newness' to a date prior to formal method legislation.

CMI suggests the Government explore legislative amendments to allow research projects or pilots that are used to inform method development to then undertake a project under that method in the future as a practical way of implementing this. The Government should also clearly define what constitutes 'a trial' with regards to the newness provisions, noting that trials can scale up very quickly, becoming commercial, and/or operational.

14. Does the proposed modular approach ensure the method development process is adaptive to changing circumstances while ensuring there continues to be an appropriate level of Ministerial oversight to preserve integrity? If so, what kind of variation should be permitted as part of a module?

Based on how they are presented in the Discussion Paper, CMI understands that the proposed 'modular approach' is similar to that which occurs under international methods, where modules sit underneath a method framework and therefore—in the ACCU Scheme— no legislative changes would be required to implement them. CMI notes that the term 'module' has been used with a narrower definition with regards to the Integrated Farm and Land Management (IFLM) method that is currently under development, which has the potential to lead to confusion. The Government should clarify this terminology to differentiate between these two modules.

CMI is broadly supportive of the proposed 'modular' approach for changing methods, as opposed to the current requirements for variations to the primary legislative instrument under the proviso that modules are not intended to substantially change the eligibility requirements for projects nor the abatement or its measurement, nor have financial implications for existing projects. We believe that with the right settings and approach to modules for minor variations, the level of oversight does not necessarily diminish, but rather can shift the burden from Parliament to the Integrity Committee and public consultation.

CMI supports assigning the Integrity Committee the authority to decide that an EOI for a module might need to progress as a method variation where any change is considered too substantive. This would ensure appropriate safeguards are in place to ensure a project could not change its activity through a module without any procedural oversight.

As a further guardrail for assuring integrity, CMI recommends that any modules would need to be transparently reported and included in the Quarterly ACCU Method Register Report CMI proposes above (see CMI response to Q11).

CMI recommends that new method modules are subject to a public stakeholder consultation process or, alternatively to improve the agility of a modular approach, a notification of intent to introduce a new module that would allow submission of objections to the Integrity Committee for consideration.

The Government should provide clarity on whether modules themselves can be varied and what would happen in these cases, including whether this would trigger a formal method variation process, including public consultation and parliamentary scrutiny to ensure appropriate checks and balances on both sides.

2.4 Discontinuing method and module development

15. Are there any concerns with the proposed approach for discontinuing method development?

CMI considers that the process for discontinuing module and method development outlined in the Discussion Paper appears sound, including the proposal that the Integrity Committee would notify and invite other method developer stakeholders to take over methods before they are discontinued. However, we recommend some additional measures.

In cases of method developers discontinuing a method, CMI recommends that the Integrity Committee inquire about and assess the reasons for discontinuing work. This would firstly elucidate whether the method should continue being developed—for example, in cases where there is a lack of financial viability, it may be more appropriate for a method to be discontinued rather than passed onto other method developers. Secondly, the Integrity Committee could pass on feedback to DCCEEW about difficulties encountered by original method developers that may have led to the decision to discontinue work, which could inform areas where more Government support may be required and support the review of the revised process that CMI recommends (see CMI comments for Discussion Paper section 2.1, pp. 17-18).

In cases where it is clear a developing method would not meet the Offsets Integrity Standards, CMI supports proposal that the Integrity Committee could require a method developer to discontinue a proposed method. However, we note that this may have a cost implication on the method developer. Noting this, the Integrity Committee should ensure early assistance and intervention, to reduce cases of this and therefore minimise cost implications for stakeholders investing in method development.

2.5 Public consultation

CMI supports the proposal that the new method development process will continue to use a co-design approach and recognises the important role of public consultation in inviting engagement with broader stakeholders from industry, government, technical experts and the general public.

It is important that a range of stakeholders and experts can interact with methods/ modules, to assist in improving design, technical and scientific credibility and transparency, identifying possible future issues and

improving accessibility. Public consultations should not be limited to written submissions, which can be inaccessible to time- and resource-poor organisations and individuals. CMI invites the government to reflect on additional, complementary public consultation avenues that might be more accessible and invite wider consultation. Webinars, public briefing sessions and workshops or roundtables should be considered as a means of gathering public feedback to augment the written consultation process and reach a wider range of stakeholders.

We recommend that DCCEEW manage public consultation processes, rather than the Integrity Committee. The department has existing experience and expertise in running consultations, and CMI considers the Integrity Committee would be better placed to focus on assessing whether final methods meet the Offsets Integrity Standards. DCCEEW should also be responsible for collating feedback and assessing whether method developers adequately factor in feedback from consultation. This will also help keep method development at arms length from the body that assesses them against Offset Integrity Standards (more under CMI response to Section 2.9 questions, below).

CMI supports the proposal that the proposed public consultation process be part of the revised method development framework, however feels public consultation processes should be overseen and managed by DCCEEW rather than the Integrity Committee.

16. Will the proposed process for dealing with confidential data in consultation submissions balance the desire to ensure the ACCU Scheme is transparent while encouraging commercially sensitive data and information to be provided?

While full publication of submissions would be preferable, CMI believes it is important to maintain current practices permitting anonymity of submissions (or parts therein), including to protect commercial-in-confidence information. This also encourages stakeholders to be forthcoming in their feedback and responses.

CMI considers that deidentified information / feedback from confidential submissions should still be published, on aggregate, in the public-facing log of public consultation feedback and method developer responses (proposed below, in CMI answer to Q17).

17. How should proponents demonstrate that feedback was appropriately considered?

DCCEEW should publish feedback and comments from open public consultations. Method developers' responses to any concerns and opportunities should then also be logged. This information could be logged on the proposed ACCU Method Register (see CMI response to Q11 and Key Position 2.5 above). The Integrity Committee should review this as a third party.

18. Should modules be subject to the same public consultation processes that new methods are subject to? If not, what should public consultation for modules look like?

As mentioned in question 14 above, CMI believes that module modification to a method should also be subject to a form of public stakeholder consultation to assure transparency and integrity of process. Given that modules are minor variations and are not intended to significantly alter methods a limited public consultation might utilise the proposed ACCU Method Register to publish a notification of intent allowing for submission of objections.

2.6 Timeframes for method development and method assessment

19. Are the proposed timeframes reasonable? Could they be shorter?

CMI supports the proposed 18-month time frame for methods, 12 months for modules as reasonable. However, the Government should clarify that the proposed time frames are maximums, not minimums, and allow for proponents to progress through method development process faster, if possible.

CMI recognises that it may not be reasonable to include legislative drafting in these timeframes, particularly if method developers progress more quickly than the proposed time frames. While the Government should provide adequate resourcing to minimise gaps between method finalization and the availability of method legislative instruments, CMI does note that the proposed 'notice of intent' provisions will reduce the impact of delays to legislative drafting.

Noting that robust, high-integrity method development can take considerable time (IFLM for example, has been in development for around 5 years) , CMI believes that extensions should also be permissible. Timeframes often vary depending on whether abatement calculation tools are available or not and complexity levels should be taken into consideration. Extension applications, outcomes and reasoning for Integrity Committee decisions to accept or reject extension applications should be logged on the proposed ACCU Method Register, to support transparent processes and allow for public scrutiny and procedural accountability

20. Should there be a mandated requirement to complete method development within a set timeframe?

CMI believes that timeframes should be recommendations only, rather than mandated. The Integrity Committee should review method development against timeframes (following regular quarterly reporting by proponents/ developers as suggested above) and assess whether an extension is required, if additional resources are required, or if the development should be discontinued.

2.7 Review and maintenance of methods

21. Does the proposed approach for reviewing and maintaining methods properly balance the need for integrity with the industry need for certainty?

CMI supports the proposed approach, as timely periodic review of methods is critical. Some ACCU methods in the commercial and industrial sectors have not been reviewed in over 7 years. This has made them outdated, and less likely to be used.

The Integrity Committee should develop a publicly available framework for prioritising periodic reviews of methods assessing against criteria such as current and future uptake, compliance against the OIS, and technology or legislative changes. Periodic reviews should include assessment of method uptake to ensure methods' ongoing relevance and practicality.

Where external parties request a method review, CMI proposes that the Integrity Committee transparently, and publicly respond to requests against a set framework and criteria, managing both the significant resources expended to undertake a review and the related investment uncertainty.

Information about Integrity Committee-prioritised and publicly requested method reviews should be included on the ACCU Method Register, as recommended above.

CMI supports the more dynamic approach to crediting periods and their extension as appropriate for method types (industrial, land-based or other), as proposed in the Discussion Paper. CMI believes that the tasks outlined for the Integrity Committee for crediting period extensions (CPE) and periodic reviews along with sunsetting provisions will assure both integrity and support industry and investors' need for certainty.

2.8 Transition to new or varied methods, including baselines

22. What are the risks and benefits of providing for legislative rules to compel existing projects to be carried out in accordance with varied or new method requirements?

While maximising abatement outcomes of the ACCU Scheme depends on investment in projects, method uptake and broader ACCU Scheme participation, it is vital that methods are crediting real abatement.

When consulted on mandatory transition of methods, CMI members had mixed responses. Generally, members felt that mandatory transition should only occur due to integrity concerns. Some carbon project developers have highlighted the importance of past precedents in grandfathering changes for method variation, e.g., FullCAM alterations. This is seen as vital to retaining investor confidence particularly where third party contractual arrangements, e.g. with farmers, were entered based on best-available government information at the time.

The table below provides a summary of some risks and benefits of compelling existing projects to be carried out under varied or new method requirements:

Risks of mandatory transition to varied methods	Benefits of mandatory transition to varied methods
• Could deter buyers and investors from credits generated under old method that are still in circulation, who may presume these credits lack integrity • Regulatory risk of method changing mid-way through a project can deter landholders, project developers, buyers and investors from participating in ACCU Scheme • Could impose transition costs on project developers • May increase the cost of funding/finance (i.e. higher required rate of return to compensate for risk) • Could shape a market where only large developers can afford to keep up with methods	• Increased public and investor confidence in scheme integrity • Ensures best practice and up to date science • Confidence in integrity protections will support ACCU price growth • Administratively simpler if all projects on same method version.

While integrity in the credits should be paramount, abrupt variations should be avoided where possible and transition consequences carefully considered by the Integrity Committee and government more broadly. We understand the CCA in its current review is re-examining this issue but as a general rule the two-year transitional window it recommended in its 2017 statutory review of the then-Emissions Reduction Fund (ACCU Scheme) should be the minimum notice.

23. Should the Integrity Committee explicitly consider transitional arrangements as part of making new methods or method variations?

The Integrity Committee should consider transitional arrangements, but with its main priority rightly on integrity, the Government should also establish guidelines as raised in the discussion paper which might, in circumstances where the impact on project financial viability is significant, facilitate government support if compulsion is considered.

2.9 Functions and responsibilities under the proponent-led method development process

24. Does the proposed scope of the Integrity Committee's role compromise its primary role as an independent ACCU Scheme assurer?

CMI considers that a clear distinction of governance roles is required to support the integrity of and public confidence in the ACCU Scheme. We support the separation of functions as proposed in the Discussion Paper. We provide additional comments for consideration below:

It is critical to ensure strict separation of the Integrity Committee housed within DCCEEW. CMI recommends that the management of public consultation on methods be overseen by the DCCEEW, not the Integrity Committee to ensure integrity of process with regards to keeping method development at arms length from the body that assesses them against Offset Integrity Standards.

Again, CMI recommends that the management of public consultation on methods be overseen by the DCCEEW, not the Integrity Committee to ensure integrity of process with regards to keeping method development at arms length from the body that assesses them against Offset Integrity Standards.

CMI requests clarity be provided on all the functions falling under the responsibility of DCCEEW for method design and development. As detailed in above sections of our submission, CMI believes additional function amendments may be required including the following:

- Establishment of an industry reference group (or steering committee) and its coordination;
- Establishment of an Indigenous Advisory Body to the Integrity Committee (in addition to an Indigenous Integrity Committee member to ensure representation of multiple views);
- Establishment and general oversight of an information gateway on ACCU methods including addition of a proof-of-concept check-list formula to pre-test EOI concepts; a method status register; knowledge and information tools and resources;
- Quarterly reporting – in coordination with the Integrity Committee;
- Government gap assessment and review of international methods and applicability to the ACCU Scheme and potential to replicate/model on these methods. Gaps could be addressed through a call for expressions of interest process or indeed, the government acting as a proponent and developing methods, in partnership with the industry reference group and interested stakeholders (co-design).
- Oversight of support and assistance functions should be detailed more clearly, including resource and financial assistance management.

Section 3: Native Title consent

CMI's responses to Section 3 of this Discussion Paper have been informed by feedback provided in targeted meetings on Native Title consent held by CMI with stakeholders including First Nations organisations, conservation groups and project developers and carbon service providers, both from within our membership and more broadly.

CMI's submission includes some reflections from the ACI Code relevant to Native Title consent issues. The ACI Code Administrator audits Code Signatories annually and wrote the FY23 Code Compliance report.[32] CMI is the current Code Administrator, however Code activities are administratively separated from other CMI activities.

CMI's responses to Section 3 of this Discussion Paper touches on areas where CMI considers the Government's proposals have merits, and where further thinking and targeted consultation with industry and First Nations groups in particular would be welcome.

Findings from ACI Code FY23 Code Compliance Audit Report

There is evidence emerging, through the FY23 Code Compliance Audit Report (linked here), that Signatories are increasingly exploring opportunities to more actively partner and collaborate with First Nations people to better embed FPIC and benefit-sharing concepts into industry practice. Some findings from the FY23 Audit Report include:

- Some Signatories reported they went well beyond legal consent requirements, including creating strong relationships and engaging not just with Native Title holders, but also with Native Title claimants and other Indigenous stakeholders, such as Traditional Owners and Land Councils. This included contributing to and helping build Indigenous capacity for self-determination within the industry by helping some Indigenous groups to run their own projects; and
- Some Signatories report they fund or offer to independent legal and commercial advisors for NT Holders, and the time spent by Registered Native Title Bodies Corporate (RNTBC) in negotiations, to ensure a fair commercial agreement for consent can be struck, or completed an Indigenous Land Use Agreement (ILUA), prior to project registration.
- Other Signatory responses show there is still a lot of capacity that needs to be built within the industry, particularly for newer entrants, so that best practice FPIC processes can be understood, resourced, built and operationalised.

The Code Administrator is in a unique position to understand and support the ability of the industry to change its practices, including adapting to a reformed legal framework that aligns better with the principles of FPIC. This is highly relevant to the current reform proposing removal of the ability to conditionally register a project without eligible interest holder (EIH) consent.

3.1 Eligible interest holder (EIH) consents

25. Should the ACCU Scheme allow for a preliminary form of EIH consent to be given by a registered Native Title body corporate to allow a project to be registered by agreement? If yes, what form should or could that preliminary consent take?

As a minimum practical starting point, implementing Recommendation 11 of the ACCU Review Report by aligning with the process proposed in the Nature Repair Market Bill 2023 is positive. That proponents could only conditionally register a project with written agreement from a Native Title Prescribed Body Corporate

[32] ACI Code (2023). FY23 Code Compliance Report, https://carbonmarketinstitute.org/app/uploads/2023/10/Code-Administrator-Annual-Report-2022-2023.pdf.

(PBC)—characterised by the Government as a 'preliminary consent'—is an improvement on the current ability to conditionally register a project without engagement and is more consistent with FPIC principles.[33] However, CMI considers it would be more accurate to refer to this preliminary consent as 'consent to conditionally register'. This is a more accurate characterisation of what Native Title holders are consenting to and will avoid implying that a first agreement will necessarily lead to the outcome of full project consent, which otherwise may create pressure on Native Titleholders to provide full consent and may undermine Native Title holders right to withhold full consent. The Government should be careful not to imply that the introduction of a requirement for consent to conditionally register constitutes or guarantees FPIC in and of itself.

CMI considers that introducing a preliminary consent (or rather 'consent to conditionally register') better balances the importance of minimising project costs and investment uncertainty, while acknowledging that conditional registration without consent is out of step with FPIC principles in seeking to implement ACCU Review Recommendation 11.[34] However, the Government should provide more detail on the relationship between the proposed 'preliminary consent' and 'full' consent requirements and any supporting forms required for either consent and how any legal drafting to implement this would look.

Also, to better align with FPIC principles and to make the consent process under the CFI Act 'freer' the Government should look at ways to better involve native title parties during project operations and better support shared operational control models. The CFI Act could provide for certain touchpoints where consent from native title parties is required, such as before a project:

- can be varied under Part 3 Division 3 of the CFI Act;
- changes activities covered in Part 2 of each method; or
- re-stratifies so that project activities or project restrictions apply in area where they previously did not apply.

The Government should, in adopting any reforms to Native Title consent provisions in the CFI Act, seek to meet international best practice standards on FPIC where possible,[35] including those espoused by the ACI Code for the Australian context, namely the ICIN Guidance and CER Guidance.[36] The Government should also be consistent with other legislation in this space such as the *Native Title Act 1993 (Cth)* (NT Act).

In introducing 'preliminary consent' (consent to conditionally register), the Government should consider how to more closely align this and the full EIH consent process with FPIC best practice principles, including supporting better benefit sharing and improved capacity for self-determination of Indigenous carbon market participants, informed by the advice of the Indigenous stakeholders involved in the process.

Any form supporting 'preliminary consent' (consent to conditionally register) should include a checklist to show that project proponents have met a minimum benchmark in engaging with Native Title holders. This checklist should confirm that the right process has been followed before the consent has been obtained. See CMI Position 3.1 above.

The Government should consult further to identify what detailed requirements/steps should be included on the checklist.

[33] DCCEEW (2023), ACCU Review Discussion Paper, p. 37.
[34] Chubb et al. (2022), Independent Review of Australian Carbon Credit Units, p. 27.
[35] United Nations (2018), Declaration on the Rights of Indigenous Peoples; Conservation International (2013), Guidelines for Applying Free, Prior and Informed Consent: A Manual for Conservation International; World Wildlife Fund (2014), Free, Prior and Informed Consent and REDD+: Guidelines and Resources.
[36] Indigenous Carbon Industry Network (2020), Seeking Free, Prior and Informed Consent from Indigenous Communities for Carbon Projects: A Best Practice Guide for Carbon Project Developers; Clean Energy Regulator (2018), Native Title, Legal Right and Eligible Interest-Holder Consent Guidance.

In contemplating what is required in the form to show that 'preliminary consent' (consent to conditionally register) has been properly and validly obtained, the Government should also consider whether changes to the existing EIH Consent form for Native Title holders are needed.

26. How could the preliminary agreement be withdrawn and what guidance or processes could be provided, noting the competing interests involved? Is a dispute resolution mechanism needed?

The Government should clarify what it means by 'withdrawing' preliminary consent and a clear explanation of this should be included in the associated consent form if this is adopted. CMI recognises the FPIC principle that consent is not really free if it cannot be withdrawn, however, acknowledges the need for legal and financial certainty in running a project. If provisions to allow native title parties to withdraw consent are added to the CFI Act, the Government must ensure to provide the following details first:

- circumstances where consent could be withdrawn, e.g., if there has been a legal error in the process or at any time; and
- potential legal consequences for the project if the preliminary consent is withdrawn, e.g., would this cause a project to be deregistered/revoked?

If the Government incorporates a right for Native Title EIHs to withdraw consent from a project under the CFI Act, the Government could consider the appropriateness of introducing a dispute resolution process. This process should be consulted on first and supported by key stakeholders in the industry and reflect the following:

- clarity around whether the process is mediation or arbitration;
- any mediation process should be independent and sit outside of the CER; and
- any mediation process should be funded by the Government and proponents.

Clear rules around engagement in the process and mediators who are culturally aware and appropriately qualified.

27. How should eligible interest holders in land be defined for the purposes of the ACCU Scheme that ensures First Nations interests are appropriately respected? Are there other ways of recognising interests that fall short of a Native Title determination through benefit sharing arrangements, and how might this work?

Best practise FPIC processes begin well before project registration and should involve all relevant Indigenous stakeholders, including both Native Title holders and Native Title claimants. Moreover, following best practice FPIC guidelines—including those set out in the ICIN Guidance and CER Guidance on Native Title Consent—can significantly de-risk carbon projects.[37]

Conversely, proponents that do not engage with Native Title claimants may expose ACCU projects to legal risks – including those associated with future acts and compensation claims under the NT Act or changes in the legal right to carry out the project. Registered claimants and Native Title holders have rights, including procedural rights, under the NT Act for activities that affect Native Title, and this should also be recognised under the CFI Act.

[37] Indigenous Carbon Industry Network (2020), Seeking Free, Prior and Informed Consent from Indigenous Communities for Carbon Projects: A Best Practice Guide for Carbon Project Developers; Clean Energy Regulator (2018), Native Title, Legal Right and Eligible Interest-Holder Consent Guidance.

Entering into an Indigenous Land Use Agreement (ILUA) may be one option for proponents to ensure Native Title requirements are satisfied.[38] This type of agreement includes Native Title claimants as well as Native Title holders.

At a minimum, the Government should update and elevate existing CER Native Title Guidance to clarify that registered native title claimants have procedural rights under the *Native Title Act 1993* (**NT Act**). The Guidance should make it clearer that project proponents will benefit from engaging with Native Title claimants, including to insure against future acts under the NT Act and other risks to a carbon project's legal standing. The Government should also explore whether recognising Native Title claimants in addition to Native Title holders would lead to an improved, more legally robust consent process for ACCU projects. To do this, the Government should amend the CFI Act to align it better with the NT Act and look to better incentivise the sharing of operational control for projects on land with Native Title holdings and/or claims.

Beyond this, the Government should investigate and seek to address current gaps in the legal system regarding the CFI Act, NT Act, and land laws. Leadership is required to go above and beyond the existing minimum requirements, which focus only narrowly on whether registered Native Title rights exist on land where ACCU projects are proposed.

28. What support and resources do First Nations eligible interest holders, project proponents and communities need when considering or providing consent?

A lack of resources to access independent advice has been consistently raised as being a barrier for Native Title holders to be able to make informed decisions and CMI considers the Government has a role in addressing this.

The Government and industry should provide more support for First Nations stakeholders to participate in and understand the carbon market. However, established carbon market institutions are not necessarily well placed to advise Indigenous communities due to potential conflicts of interest and limited experience with Indigenous engagement, lack of trusted relationships and the need to provide bespoke site-specific advice with respect to Native Title.

For example, Government funding and assistance for Native Title holders is especially crucial so they can obtain high quality, independent legal and financial advice.

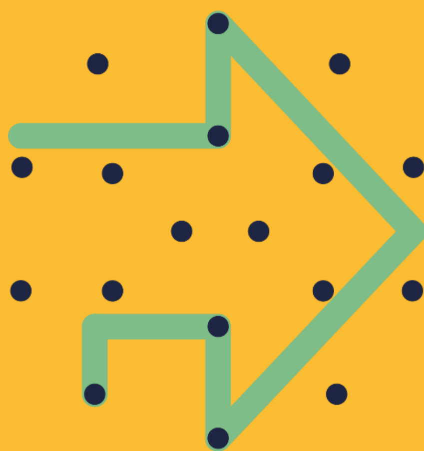
At the same time, as providing support for Native Title holders and other First Nations stakeholders, the Government should also support project proponents to become more culturally aware and better understand how to engage properly with Native Title holders. In addition, the Government should develop guidance for project proponents to identify best practice benefit sharing negotiations with First Nations communities.

The ACI Code has already identified these needs and is focusing on cultural awareness training among Signatories. The ACI Code is actively seeking Indigenous stakeholders to partner with in developing this work further and would also welcome further discussion with Government about strategic funding opportunities that could increase the reach and impact of this work across the broader industry.

The Government should undertake further consultation in this area to identify where there are knowledge or capacity gaps, and the appropriate funding means to address these. The Government should consult in

[38] For more information about ILUAs, see: National Native Title Tribunal (2023), 'About Indigenous Land Use Agreements (ILUAs), http://www.nntt.gov.au/ILUAs/Pages/default.aspx.

particular with Native Title Representative Bodies and land councils, NT PBCs, and other Indigenous organisations and First Nations leaders.



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