

Cruisin' for an exclusion

Submission to Proposed amendments to the Carbon Credits (Carbon Farming Initiative) Rule 2015 relating to excluded offsets projects

Government efforts to increase the supply of carbon credits in Australia suggest that proposed administrative changes to the Carbon Farming Initiative Regulations may be used as an opportunity to allow excluded projects to participate in the Emissions Reduction Fund (ERF).

Allowing carbon credit projects on land that has been recently or illegally cleared would both incentivise land clearing and undermine the purpose of the ERF in reducing emissions.

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Summary

The Department of Industry, Science, Energy and Resources (DISER) is proposing amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* relating to the excluded offsets projects.

In considering these amendments DISER has invited comment on whether projects that are currently excluded from participating in the ERF because of their negative impacts still need to be excluded. These include projects on recently or illegally cleared land or issuing carbon credits for planting weed species.

The Department has provided no evidence or information as to why projects that were previously deemed to be environmentally harmful under the Carbon Farming Initiative would no longer be so.

While it has been framed as an administrative exercise, even asking the question of whether it is still necessary to exclude these projects raises concerns about the Department's intentions, especially in a context where the government is trying to boost the supply of carbon credits in Australia and seems willing to overlook numerous integrity concerns in doing so.

Removing land that has been recently or illegally cleared from the list of excluded projects will actively incentivise land clearing in Australia, in turn increasing emissions from clearing and undermining the sole purpose of the Emissions Reduction Fund.

Introduction

The Australia Institute welcomes the opportunity to make a submission to the Department of Industry, Science, Energy and Resources (DISER) on the Proposed Amendments to the *Carbon Credits (Carbon Farming Initiative) Rule 2015* relating the excluded offsets projects.

We are concerned about the short consultation time on this report. Three weeks of consultation is insufficient for thorough assessment of the proposed changes and any implications that they might have.

We are also concerned that the Department is attempting to use the opportunity afforded by the sunseting of the Regulations on 1 April 2022 to remove the excluded projects list from the Emissions Reduction Fund (ERF) entirely.

DISER has claimed on social media that this exercise is purely administrative, simply relocating the list of excluded projects to another area of the legislation with no intention of removing the list.¹ While bringing the Regulations into the Rule is a sound administrative exercise at face value, the very first question the Department has invited comment on is whether it is *“still necessary to exclude these project types from participation in the ERF”*.

Even asking this question opens up the prospect of an argument favouring the removal of the excluded projects.

Prohibiting carbon credits from being generated on managed investment scheme plantations or on illegally/recently cleared land, or for planting weeds was designed to ensure the integrity of the ERF and remove the incentive for engaging in environmentally harmful practices. Any change to this prohibition is likely to result in offsets of low integrity, other forms of environmental degradation, or both.

¹ <https://twitter.com/IndustryGovAu/status/1500946294294351878>

Policy context

The Department has provided no evidence or information in its consultation paper that indicates that environmental management practices have changed in a way that warrants a reconsideration of the excluded projects list. It has not indicated how the integrity of the ERF would be retained if these projects were no longer excluded.

What *has* changed since the Carbon Farming Initiative (CFI) Regulations were drafted is that the Department and the Clean Energy Regulator (CER) appear to be operating under a mandate to increase the supply of Australian Carbon Credit Units in Australia. The entire goal of the Climate Solutions Fund is to “to deliver a step change to the offsets market in Australia by boosting the supply of Australian carbon credit units”.² The Minister for Energy and Emissions Reduction has released multiple public statements to this effect with a recent announcement stating that the government is working to “halve timeframes for ERF project registration and crediting” and to “slash the time it takes to develop new methods”.³⁴

Other administrative changes to the ERF to boost supply to the secondary market include the move to optional delivery auctions (where the government will buy ACCUs if proponents are unable to sell them on the voluntary market) and allowing proponents to exit existing fixed delivery auctions.

The concerted effort to increase supply of carbon credits raises concerns about the quality of ACCUs and additionality of carbon credit projects. “Slashing” the time it takes to develop a method also “slashes” the time put in to ensuring that the method has integrity. Quickly developing new methods or amending existing methods in the name of ‘lowest cost abatement’ and ‘boosting supply’ is, if anything, a disincentive to ensuring integrity.

The goal of the ERF is to incentivise additional emissions reductions in Australia. This means it is critical that projects being issued with ACCUs are actually resulting in genuine

² Clean Energy Regulator (n.d) Climate Solutions Fund At a glance, <http://www.cleanenergyregulator.gov.au/csf/Pages/at-a-glance.aspx>

³ Taylor (2020) Cutting red tape to support emissions reductions – media release, <https://www.minister.industry.gov.au/ministers/taylor/media-releases/cutting-red-tape-support-emissions-reduction>

⁴ Greber (2021) Taylor fast-tracks use of green carbon credits, <https://www.afr.com/policy/energy-and-climate/taylor-fast-tracks-use-of-green-carbon-credits-20210625-p584b3>; Chambers(2021) *Big business receives a net-zero emissions rocket from Angus Taylor*, <https://www.theaustralian.com.au/nation/politics/big-business-receives-anetzero-emissions-rocket-from-angus-taylor/news-story/c7f8ac4800dbab60e3c9d4f75f8790a3> ; Taylor (2021) 2021 A record year for Australia's carbon markets, <https://www.minister.industry.gov.au/ministers/taylor/media-releases/2021-record-year-australias-carbon-markets>

emissions reductions. There is little to no evidence that that new carbon credit methods such as carbon capture and storage (CCS), soil carbon and blue carbon will result in genuine additional reductions.⁵

The 2022 plantation forestry method is a clear example of where a method has been 'updated' to increase the amount of credits that can be issued to activity that is not additional. The method awards ACCUs for the retaining hardwood plantations that are not at risk of being lost.⁶

We are concerned that in its search for new activities that can 'earn carbon credits', the Department may have identified the excluded projects list as a means to do this. We are particularly concerned that allowing carbon credit projects on illegally or recently cleared land provides an active incentive for land clearing in Australia.

⁵ Ogge et al. (2021) Santos' CCS scam, <https://australiainstitute.org.au/report/santos-ccs-scam/>; Casben (2022) Offsets 'handed out like Monopoly money', <https://www.canberratimes.com.au/story/7586235/offsets-handed-out-like-monopoly-money/>

⁶ Australian Department of Agriculture, Water and the Environment (2021) Plantation and log supply, <https://www.awe.gov.au/abares/research-topics/forests/forest-economics/plantation-and-log-supply>

Excluded projects on cleared land

The ERF excludes projects on land where native forest has been illegally cleared or wetland illegally drained; and on land that has been subject to clearing or draining that was not illegal, within 7 years of application for registration of a project (or 5 years where land ownership has changed).

This exclusion, in theory, has the effect of discouraging people from clearing their land because it removes the material incentive that replanting it to earn ACCUs would provide. Removing this exclusion would potentially incentivise people to clear land that may not be economically productive, but that is already providing existing sequestration and biodiversity benefits.

The consultation period has allowed insufficient time to carry out a comprehensive assessment of the implications of removing illegally or recently cleared land off the 'negative list'. Several factors limit the usefulness of the consultation, notably:

- Land clearing data that would allow members of the public to assess the proposed changes are usually only available in shapefiles that require specialist software and knowledge of spatial data to interpret.
- Government data rarely explicitly describes 'illegal' land clearing or wetland draining – instead it uses opaque language that does not align with the “certain circumstances” outlined in the Consultation list.
- State land clearing data such as the NSW Landcover Change report, and the NSW EPA State of the Environment Report is incongruent.
- Neither NSW nor Queensland have published Statewide Landcover and Trees Study (SLATS) data since 2019.

These barriers make it difficult to make a comprehensive submission to this consultation even if there was adequate time.

While it is difficult to obtain accurate data on land clearing in Australia, available information shows that averages of 425,000ha and 55,000ha of land are cleared each year

in Queensland and New South Wales respectively, possibly more.^{7 8} The beef industry is the primary driver for land clearing. Allowing carbon credit projects on recently cleared land would likely see this number rise even higher.

The Environment Protection and Biodiversity Conservation (EPBC) Act 1999 Review in October 2020 identified significant land clearing as a key threatening process alongside invasive species and disaster-related impacts. Land clearing terminates established resource flows with immediate mortality for the nature and wildlife affected by the clearing. Following land clearing, resource niches open up to annual and perennial plants, restarting the processes of ecological succession. In Australia, annual and perennial plant resource niches are highly vulnerable to weed invasion, like kikuyu grass among others, which in turn supports introduced pests like rabbits and deer.

Allowing carbon credit projects on recently cleared land could effectively incentivise the above scenario. Clearing land (that was never going to be cleared if not for the incentive of the ERF) and then being materially rewarded with carbon credits for subsequently regenerating it explicitly goes against the concept of additionality in the ERF.

The EPBC Review also suggested that regulating significant land clearing could contribute to reducing Australia's emissions profile, in line with our international commitments. Despite this recommendation, removing exclusions on cleared land undermines land clearing regulation.

EXCLUDED PROJECTS ON ILLEGALLY CLEARED LAND

Illegal clearing persists in Australia despite laws and regulations prohibiting it. Available data suggests that approximately 120,000ha and 35,000ha land is cleared illegally in Queensland and New South Wales respectively each year.⁹ For obvious reasons these figures are likely to be higher than what is officially reported.

⁷ Queensland Department of Environment Land and Water (2021) 2018-19 SLATS Report, <https://www.qld.gov.au/environment/land/management/mapping/statewide-monitoring/slats/slats-reports/2018-19-report#section-queensland> ; Department of Planning, Industry and Environment (2019) Summary Report, <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Native-vegetation/woody-non-woody-landcover-change-rural-regulated-land-summary-rpt-2019-210192.pdf>

⁸ Hannam (2021) 'Carbon bomb': Queensland reveals big jump in land clearing, <https://www.theguardian.com/environment/2021/dec/31/carbon-bomb-queensland-reveals-big-jump-in-land-clearing>

⁹ Queensland Department of Environment Land and Water (2021) 2018-19 SLATS Report, <https://www.qld.gov.au/environment/land/management/mapping/statewide-monitoring/slats/slats-reports/2018-19-report#section-queensland> ; Department of Planning, Industry and Environment (2019)

The Environment Protection and Biodiversity Conservation (EPBC) Act 1999 Review in October 2020 was scathing in its evaluation of the poor safeguards against illegal logging and land clearing in Australia, referencing unsatisfactory State and Federal regulations, and poor compliance and enforcement.¹⁰

Even where fines are enforced, it does not appear to be an adequate deterrent to illegal clearing.¹¹ We are concerned that there will not be adequate due diligence carried out by the Clean Energy Regulator to screen out projects that are being proposed on illegally cleared land.

Summary Report, <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Native-vegetation/woody-non-woody-landcover-change-rural-regulated-land-summary-rpt-2019-210192.pdf>

¹⁰ Samuel et al. (2021) Independent Review of the Environment Protection and Biodiversity Conservation Act 1999, <https://epbcactreview.environment.gov.au/resources/final-report/about-review>

¹¹ Moodie (2019) \$50/ha fines 'are not deterrents': Calls for tougher penalties for land clearing as Zenith investigated, <https://www.abc.net.au/news/2019-07-05/calls-for-tougher-land-clearing-penalties-shanghai-zenith/11274618>

Conclusion

We are concerned about the proposed amendments' lack of alignment with the broad goal of the ERF to “reduce emissions across our economy, including growing trees to store carbon and remove it from the atmosphere”.¹² The excluded offsets projects were implemented for good reason – because they improve the integrity of the scheme. The onus is on the Department to explain how it may longer be necessary to exclude these projects from the ERF.

Allowing carbon credits to be generated on legally and illegally cleared land risks incentivising all land clearing, jeopardising the biodiversity and carbon sequestration values of existing vegetation. In a hotter and drier climate, there is also the risk that more forest and land would be lost than regenerated, and there would be an overall increase in emissions.

¹² Australian Department of Industry, Science, Energy and Resources (2022) [Consultation Paper: Proposed Amendments to the Carbon Credits \(Carbon Farming Initiative\) Rule 2015 relating to excluded offsets projects](#)