

An Environmental Fig Leaf?

Restoring integrity to the Emissions Reduction Fund

Emissions have increased under Australia's only climate policy, the Emissions Reduction Fund (ERF).

The ERF requires a comprehensive and independent review to assess its integrity and, most importantly, its role in helping Australia meet its climate targets.

Discussion paper

Polly Hemming

Alia Armistead

Sumithri Venketasubramanian

May 2022

ABOUT THE AUSTRALIA INSTITUTE

The Australia Institute is an independent public policy think tank based in Canberra. It is funded by donations from philanthropic trusts and individuals and commissioned research. We barrack for ideas, not political parties or candidates. Since its launch in 1994, the Institute has carried out highly influential research on a broad range of economic, social and environmental issues.

OUR PHILOSOPHY

As we begin the 21st century, new dilemmas confront our society and our planet. Unprecedented levels of consumption co-exist with extreme poverty. Through new technology we are more connected than we have ever been, yet civic engagement is declining. Environmental neglect continues despite heightened ecological awareness. A better balance is urgently needed.

The Australia Institute's directors, staff and supporters represent a broad range of views and priorities. What unites us is a belief that through a combination of research and creativity we can promote new solutions and ways of thinking.

OUR PURPOSE - 'RESEARCH THAT MATTERS'

The Institute publishes research that contributes to a more just, sustainable and peaceful society. Our goal is to gather, interpret and communicate evidence in order to both diagnose the problems we face and propose new solutions to tackle them.

The Institute is wholly independent and not affiliated with any other organisation. Donations to its Research Fund are tax deductible for the donor. Anyone wishing to donate can do so via the website at <https://www.australiainstitute.org.au> or by calling the Institute on 02 6130 0530. Our secure and user-friendly website allows donors to make either one-off or regular monthly donations and we encourage everyone who can to donate in this way as it assists our research in the most significant manner.

Level 1, Endeavour House, 1 Franklin St
Canberra, ACT 2601

Tel: (02) 61300530

Email: mail@australiainstitute.org.au

Website: www.australiainstitute.org.au

ISSN: 1836-9014

Table of Contents

- Summary 1
- Introduction..... 4
- What is the ERF and how does it work?..... 7
 - Safeguard Mechanism..... 9
 - Governance of the ERF 9
 - Origins of the ERF 10
 - The ERF as a legitimate climate policy 12
- Success of The ERF to date..... 15
 - The role of the ERF in Australia’s Net Zero future 18
- Integrity issues in the ERF 21
 - Integrity of ERF methodologies..... 22
 - Governance and administrative issues 27
 - The impact of integrity issues in the ERF 30
 - Risks to market participants..... 32
- What has caused the ERF’s integrity issues? 35
 - The influence of industry on the ERF 36
 - Changes to governance and administration following the King Review 38
 - Increasing supply, lowering price & quality 43
- A review of the ERF and Australia’s carbon credits 48
- Conclusion 51

Summary

Australia's climate policies are inadequate in ambition and failing in their execution. An urgent assessment of effective climate policy is required by the next Australian Government. Specifically, a comprehensive and fully independent review is needed of the \$4.5 billion Emissions Reduction Fund (ERF), Australia's only legislated climate policy.

The ERF claims to incentivise emissions reductions across the Australian economy. It also forms the basis of Australia's 'carbon market'. The scheme awards Australian Carbon Credit Units (ACCUs) to projects carrying out abatement (emissions reduction) activities across the economy, which can be sold to the government or private sector.

The ERF was never designed to carry the full weight of Australia's climate policy. As a result of being placed under such pressure, it is unsurprising that – despite its name – the scheme has not only failed to reduced emissions, but its foundations have begun to crumble. This pressure will only intensify as emissions from fossil fuel production increase in Australia, and the ERF is pushed to deliver increasingly more 'abatement' to offset this growth.

It has been suggested that up to 80 per cent of the 108 million ACCUs issued to abatement projects under the ERF since 2012 have no integrity. Concerns have also been raised regarding the independent government bodies tasked with method development and regulation of ACCUs, casting doubt over the integrity of every component of the ERF.

To date, these concerns have not been addressed by the Australian Government. This may be because there is limited appetite to acknowledge flaws in the only mechanism to meet Australia's climate targets. It may also be that integrity issues are being overlooked as part of the Clean Energy Regulator's concerted efforts to increase the number of carbon credits available to the private sector.

The ERF features to varying degrees in the climate policies of both the major parties in Australia. The private sector is also relying heavily on carbon credits, including ACCUs, to meet its climate commitments. However, in its current state, and under the current governance arrangements, the risks to government and industry participating in or subsuming responsibility for the ERF as part of a net zero emissions strategy are significant.

There are two main outcomes when carbon credits with no integrity are purchased by the government or the private sector.

Purchased by government, the outcome is that hundreds of millions of dollars of public money are wasted, and Australia is no closer to meeting its climate targets. Beyond the biophysical risks associated with climate change if emissions are not curbed, Australia will come under even more scrutiny by the international community to demonstrate that it is acting on climate change.

Purchased by the private sector, and subsequently used to ‘offset’ emissions, means that emissions are not in fact being offset, increasing private sector costs of production and enabling polluting activities to continue.

Domestic and international attention is increasingly turning to the veracity of net zero claims being made by industry and the overreliance on offsets by the private sector. Net zero claims underpinned by ‘hot air’ carbon offsets, regardless of whether they were made in good faith, will not be seen favourably by shareholders, consumers or regulators. Indeed, the Chair of the ACCC has recently supported the need for stronger regulation of carbon offsets and carbon neutral claims to prevent ‘greenwashing’ as a competitive strategy.

Furthermore, traditional owners, landholders and conservation advocates, who have been relying on the ERF to deliver environmental outcomes and support their livelihoods, have now been placed at risk by a scheme that has promised to deliver benefits beyond carbon abatement. In short, if ACCUs cannot deliver the carbon abatement they have promised, they will likely be unable to deliver the ‘co-benefits’ sought by others.

The ERF could have a valuable role to play in Australia’s climate policy and net zero future. However, for this role to be credible, the scheme requires a comprehensive assessment of its interaction with other climate policies, along with a review of its governance and the integrity of its methods. Not doing so risks the ERF being a “con, an environmental fig leaf to cover a determination to do nothing”, as Malcolm Turnbull once warned.

This paper provides an overview of the evolution of the ERF from a system designed to provide for a small percentage of Australia’s emissions reductions into the country’s only legislated climate policy and the problems this has created. Given the centrality of carbon credits to Australia’s climate policy, and growing criticism regarding the efficacy of the scheme, it then recommends a review of the ERF and its governance to ensure these issues are resolved.

The shape and depth of such a review may depend on the extent to which governments see the ERF’s role in future climate policy. While a robust review would assess the success of the ERF to date and ask the fundamental question, ‘is the ERF an effective mechanism to reduce emissions?’, there are three broad areas for review that should be addressed in the short term collectively or separately:

- The extent of the ERF’s interaction with other climate policies (including the Safeguard Mechanism, which already imposes limits on the emissions of Australia’s biggest polluters).
- The governance and administration of the ERF.
- The integrity of the individual ERF ‘methods’.

This review should be fully independent, free from any vested interests in any related industries that may stand to benefit from the ERF, carbon farming or the trade of carbon credits.

Until such a review is carried out, the ERF will not be regarded as a sound climate policy by Australians or the international community. Without a thorough review, the next government will not be able to restore confidence in Australia's carbon credits scheme or carbon market. Australia's reputation as a climate laggard will continue.

Introduction

Regardless of which party wins the 2022 federal election, or which members of parliament it may rely on, the fact that Australia's climate targets are inadequate and unlikely to be met with current policies is very clear.

Effectively, Australia only has one climate policy at present – the purchase of greenhouse gas emissions abatement by the \$4.5 billion Emissions Reduction Fund (ERF). Given that \$2.7 billion has already been committed for the purchase of just 217 million tonnes of abatement since the scheme began (less than half of Australia's annual emissions), the ERF is clearly insufficient.

The ERF has been plagued by controversy ever since it was first mooted by former Prime Minister Tony Abbott as a replacement for the Gillard Government's economy-wide carbon price. In 2009 Malcolm Turnbull warned that the proposed ERF was "a con, an environmental fig leaf to cover a determination to do nothing".¹

Mr Turnbull also later described the scheme as "where industry was able to freely pollute...and the Government was just spending more and more taxpayers' money to offset it...that would become a very expensive charge on the budget in the years ahead".²

Despite this assessment, the Direct Action policy that included the ERF was cautiously (and with caveats) supported by a number of non-state actors, including the Australia Institute, which conceded that the ERF was better than having no climate policy at all.^{3 4} The ERF now exists as Australia's flagship climate policy, and is supported by the Federal Labor Party.

Concerns have been raised regarding the effectiveness of the ERF since its inception. These concerns have multiplied and diversified significantly over the last twelve months, highlighting issues with the integrity of the scheme's governance and the carbon credits designed and issued under its auspices. Concerned parties include market participants such as the CEOs of Telstra and Qantas, the former and incoming chair of the Australian Competition and Consumer Commission (ACCC), independent academics, the former chair

¹ Lane (2009) *Coalition's climate policy 'bullshit': Turnbull*, <https://www.abc.net.au/worldtoday/content/2009/s2763922.htm>

² Jones (2011) *Turnbull discusses broadband and climate policy*, <https://www.abc.net.au/lateline/turnbull-discusses-broadband-and-climate-policy/2719046>

³ Parliament of Australia (2014) *The Government's Direct Action Plan*, chapter 5, https://www.aph.gov.au/parliamentary_business/committees/senate/environment_and_communications/direct_action_plan/report/c05

⁴ Grattan (2014) *Labor should compromise on Direct Action: Australia Institute chief*, <https://theconversation.com/labor-should-compromise-on-direct-action-australia-institute-chief-28689>

of the government's Emissions Reduction Assurance Committee (ERAC), the Australia Institute, the Australian Conservation Foundation, Senator Rex Patrick and the Greens.^{5 6 7}

In addition to these integrity concerns, there are fundamental questions about success of the ERF to date, along with the goal of the ERF, and ability to meet that goal (even if the integrity concerns referred to above were addressed). That is, despite its name there is no strong evidence to demonstrate that the ERF is reducing emissions in Australia. There is, however, significant evidence to show that it is maintaining or even facilitating increased emissions in Australia.

While the Australian Government supports a significant expansion of emission-intensive gas extraction and processing industries, it is simultaneously relying on the ERF to 'offset' the resulting increase in greenhouse gas emissions. However, if the ERF and the methods for creating Australian Carbon Credit Units (ACCUs) are flawed then it will be impossible for Australia to meet its stated 'Net Zero' target.

In addition to allocating billions in public funding to purchase ACCUs through the ERF, the Government and the Opposition both expect that, in the coming decades, private companies will spend billions of dollars of their shareholders' money on ACCUs in order to meet either the legislative 'Safeguard Mechanism' imposed on Australia's biggest polluters or to help them meet their own voluntary net zero commitments.

Given the significant amount of public and private money expected to be spent purchasing ACCUs in the coming decades, and the environmental and reputational risks associated with ACCUs with compromised integrity, it seems prudent to ensure that the current system is not just working as intended, but that it be seen to be working as intended.

As discussed throughout this paper, the ERF was never designed to carry the full weight of Australia's climate policy and, as a result of being placed under such pressure, the foundations of the scheme have begun to crumble.

In light of the bipartisan commitment for Australia to meet a net zero target, and the bipartisan support for an ongoing role for the ERF in Australia's climate policy, it is important to carefully consider both what that role should be and how the structure and governance of the ERF would need to be reformed, not just to overcome the integrity concerns

⁵ Hare (2022) *Politicians are basking in the 'thrill' of fossil fuels, but this election is Australia's last chance to reset our climate attitude*, <https://www.theguardian.com/commentisfree/2022/apr/30/politicians-are-basking-in-the-thrill-of-fossil-fuels-but-this-election-is-australias-last-chance-to-reset-our-climate-attitude>

⁶ Baxter & Gilligan (2017) *Verification and Australia's emissions reduction fund: integrity undermined through the landfill gas method?* <https://search.informit.org/doi/10.3316/INFORMIT.213968113774497>

⁷ Burke (2016) 'Undermined by adverse selection: Australia's Direct Action abatement subsidies', *CCEP Working Paper 1605*, <https://ccep.crawford.anu.edu.au/publication/ccep-working-paper/7618/undermined-adverse-selection-australias-direct-action-abatement>

that have been raised, but to play an effective role in the broad suite of Australian climate policy.

With those goals in mind this paper outlines the broad terms of reference that a comprehensive review of the ERF requires, namely with regard to:

- The extent of the ERF's interaction with other climate policies (including the Safeguard Mechanism, which already imposes limits on the emissions of Australia's biggest polluters).
- The governance and administration of the ERF.
- The integrity of the individual ERF 'methods'.

The ERF is overseen by bodies such as the Clean Energy Regulator (CER), the Emissions Reduction Assurance Committee (ERAC) and the Climate Change Authority (CCA). As this paper will discuss, significant perceived and actual conflicts of interest exist with recent appointments within these organisations and also in relation to the functions that these organisations carry out. The CER, for example, is not only responsible for buying abatement via the ERF, but also for supplying and regulating the carbon credits that it is the main purchaser of. This conflict was highlighted by the CCA but has not been resolved.

The CER is also responsible for rapidly increasing the supply of carbon credits available to the private sector to use as offsets. This has raised significant questions over whether the integrity of carbon credit methods is being overlooked in order to boost their quantity and availability. A review of the governance of the ERF and the integrity of individual ERF methods would seek to answer this question and numerous others that this paper raises in relation to the scheme's oversight.

If the ERF is to be used in future climate policy, it will need not just to be recognised as a high integrity source of carbon credits but as a reliable pillar in a broader platform of economy wide climate policies. This paper begins by providing an overview of the history and the structure of the ERF before providing a wide range of evidence to support the need for the kind of broad ranging review described above.

What is the ERF and how does it work?

The Australian Government's Emissions Reduction Fund (ERF) is a framework and body of funding that issues Australian Carbon Credit Units (ACCUs) to projects for carrying out various 'abatement' or 'emissions reductions' activities across the economy. The scheme is intended to provide an incentive for organisations, businesses and individuals to adopt new practices and technologies to reduce or avoid emissions, or sequester carbon.

Projects earn one ACCU for every tonne of carbon dioxide equivalent (CO₂-e) stored or avoided by a project.

Eligible projects are governed by ERF 'methods', which explain how to carry out an activity and measure the resulting emissions reductions. To date there are 38 carbon credit methods under the ERF, covering most sectors of the economy, but the majority of projects occur in the land sector through vegetation management.⁸ Since 2012, around 108 million ACCUs have been issued to projects under the ERF.

The Australian Government's 2021 emissions projections assume that the ERF and the Climate Solutions Fund (CSF - the 2019 top-up funding to the ERF) combined will deliver 337 Mt CO₂-e of abatement by 2030.⁹

ACCUs can be sold back to government through a carbon abatement contract (primary carbon market) or to a private entity seeking to offset their emissions, either for compliance reasons (secondary market) or to meet voluntary targets (voluntary market). ACCU purchases by government are guided by a 'lowest cost abatement' mandate and occur via a reverse auction process.

The Australian Government is by far the biggest buyer of ACCUs and has committed \$2.7 billion from the \$4.5 billion Emissions Reduction Fund for the delivery of 217 million ACCUs through carbon abatement contracts. Only 76 million of these contracted ACCUs have been delivered to the Government so far at a cost of \$963 million.

⁸ Clean Energy Regulator (2022) *Auction April 2022*, <http://www.cleanenergyregulator.gov.au/ERF/auctions-results/april-2022>

⁹ Department of Industry, Science, Energy and Resources (2021) *Australia's emissions projections 2021*, <https://www.industry.gov.au/data-and-publications/australias-emissions-projections-2021>

Australia's carbon market

Australia's carbon market is not a market in the true sense of the word. It is controlled and almost entirely subsidised by the Australian Government as the biggest buyer of ACCUs. The Government also intervenes in the design of the market and the supply of ACCUs to the market, as this paper will discuss.

The true voluntary carbon market in Australia is small: voluntary purchases by the private sector equalled 950,000 ACCUs in 2021.^{10 11} Voluntary buyers include states and territories meeting government commitments and subnational policies to offset emissions, such as from facilities like desalination plants and vehicle fleets. Private sector buyers making voluntary 'carbon neutral' claims also purchase ACCUs to supplement their carbon offset portfolios.

Market analysts deem that the majority of the private sector buyers of ACCUs are investors and speculators looking to profit from carbon credits, as well as big emitters buying up and holding on to ACCUs to use against future compliance requirements, rather than businesses looking to meet voluntary climate targets in the short term.^{12 13} This is because price is the biggest driver of carbon credit demand.¹⁴ ACCUs are expensive relative to some forms of cheaper international voluntary carbon credits. Corporates looking to meet voluntary climate targets are still predominantly purchasing international units.

ACCUs currently cannot be traded internationally, which means price fluctuations are dictated by activity in Australia, including government intervention. In 2014 the Abbott Government introduced a prohibition on the export of ACCUs. The reason for the restriction on exports was to ensure the Australian Government had access to domestically produced ACCUs from the ERF without having to pay international carbon prices.¹⁵

While Australia may allow the export of ACCUs with Article 6 of the Paris Agreement resolved, it is possible that holders of ACCUs would then only sell them at prices equivalent

¹⁰ Clean Energy Regulator (2022) *Quarterly Carbon Market report – December Quarter 2021*, <http://www.cleanenergyregulator.gov.au/Infohub/Markets/quarterly-carbon-market-reports/quarterly-carbon-market-report-%E2%80%93-december-quarter-2021>

¹¹ Clean Energy Regulator (2019) *Statement of opportunities in the ACCU market – March 2019*, <http://www.cleanenergyregulator.gov.au/Infohub/Markets/buying-accus/australian-carbon-credit-unit-market-updates/statement-of-opportunities-in-the-accu-market-%E2%80%93-march-2019>

¹² Lin (2021) *Australia to enjoy carbon trading boom despite climate laggard reputation*, <https://cleanenergynews.ihsmarkit.com/research-analysis/australia-to-enjoy-carbon-trading-boom-despite-climate-laggard.html>

¹³ Foley (2022) *Australia's big emitters look offshore to offset their carbon pollution*, <https://www.smh.com.au/politics/federal/australia-s-big-emitters-look-offshore-to-offset-their-carbon-pollution-20220106-p59mag.html>

¹⁴ Reputex (2021) *A closer look at the Australian carbon market in 2021 – a year of records*

¹⁵ Section 93 of the Carbon Credits (Carbon Farming Initiative) Rule 2015 states: "Australian carbon credit units must not be transferred from a Registry account to a foreign account"

to those they could fetch in international markets. Big emitters in Australia purchasing ACCUs for compliance or voluntary reasons and subnational governments meeting offset commitments with ACCUs would subsequently be faced with much higher prices such as that of the European Union Carbon Allowance (EUA) as the price of carbon credits in compliance markets increases.

SAFEGUARD MECHANISM

To ensure that abatement purchased by the government is not negated by increased emissions elsewhere in the economy, the ERF also features a regulatory framework called the Safeguard Mechanism. The aim of the Safeguard Mechanism is to limit emissions in industrial sectors economy by keeping emissions at or below ‘business as usual’ scenarios.

The Safeguard Mechanism places caps on net emissions from large industrial facilities that have direct scope 1 emissions of more than 100,000 tonnes of CO₂ equivalent (t CO₂-e) per year.¹⁶ Caps or ‘baselines’ were originally set according to historical emissions levels, with facilities encouraged not to exceed these limits, however they have since shifted to be based on emissions intensity based on production (e.g. emissions per tonne of coal produced) such that baselines increase or fall in proportion to (expected) production.¹⁷

Facilities that do exceed emissions baselines can ‘surrender’ ACCUs or apply for their baseline to be recalculated and/or managed over a multi-year period.¹⁸

GOVERNANCE OF THE ERF

The Emissions Reduction Fund is governed and administered by three parties: the Clean Energy Regulator (CER), the Emissions Reduction Assurance Committee (ERAC) and the Minister for Industry, Energy and Emissions Reduction.

The CER is an independent statutory authority overseeing the demand, supply and regulation of the ERF and ACCUs.¹⁹

¹⁶ Clean Energy Regulator (2019) *The safeguard mechanism*,
<http://www.cleanenergyregulator.gov.au/ERF/About-the-Emissions-Reduction-Fund/the-safeguard-mechanism>

¹⁷ Swann (2020) *Submission: Climate Change Authority Review of Emissions Reduction Fund*,
<https://australiainstitute.org.au/report/submission-climate-change-authority-review-of-emissions-reduction-fund/f>

¹⁸ Clean Energy Regulator (2019) *The safeguard mechanism*,
<http://www.cleanenergyregulator.gov.au/ERF/About-the-Emissions-Reduction-Fund/the-safeguard-mechanism>

¹⁹ Clean Energy Regulator (2020) *The role of the Clean Energy Regulator*,
<http://www.cleanenergyregulator.gov.au/ERF/About-the-Emissions-Reduction-Fund/The-role-of-the-Clean-Energy-Regulator>

The ERAC is an independent statutory committee established to ensure the continued integrity of the ERF.²⁰ Its primary function is to ensure that the ERF methods meet the legislated Offsets Integrity Criteria, thus helping to ensure the overall integrity of the ERF.²¹ It also monitors compliance and conducts reviews of emissions reduction methods against offset integrity standards. The ERAC provides advice to the relevant Minister about whether carbon credit methods have integrity and should be approved, as well as any advice resulting from its reviews.

The CER currently sits within the Industry, Science, Energy and Resources portfolio and is overseen by the Minister for Industry, Energy and Emissions Reduction. The Minister determines which ERF methods should be developed as a priority by the CER and approves ERF methods on the advice of the ERAC.

ORIGINS OF THE ERF

To understand the pressures the ERF is now under, and how to resolve the resulting problems with the integrity and scalability of the current system, it is important to understand how the scheme functions and how it evolved from the CFI into the ERF.

The ERF was established in 2014 by the Abbott Government as the centrepiece of its Direct Action policy, following the repeal of the Gillard Government's carbon pricing mechanism (CPM). The Coalition's ERF expanded on the Carbon Farming Initiative (CFI) framework that had been established in 2011 as part of the CPM.

The CPM was a cap-and-trade emissions trading scheme (which had a three-year fixed-price phase-in period). The CPM implemented a carbon price on around 500 of the largest polluters, covering around 80 per cent of Australia's emissions, compelling emissions reductions in sectors including electricity generation, transport, manufacturing, and industrial processes.²² The CPM required that any facility emitting above an annual threshold must surrender 'emission permits' (including carbon credits purchased under the CFI) to the government.

The CFI was a voluntary offset project-based, baseline-and-credit carbon offset certification scheme designed to complement the CPM and cover sectors not covered by CPM such as

²⁰ Clean Energy Regulator (2021) *Emissions Reduction Assurance Committee*, <http://cleanenergyregulator.gov.au/ERF/method-development/emissions-reduction-assurance-committee>

²¹ Emissions Reduction Assurance Committee (2021) *Information Paper: Committee considerations for interpreting the Emissions Reduction Fund's offsets integrity standards Version 2.0 March 2021; Carbon Credits (Carbon Farming Initiative) Act 2011 (Cth)*, s 133.

²² Parliament of Australia (2011) *Bills Digest No. 68, 2011–12 | Clean Energy Bill 2011*, https://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/1185490/upload_binary/1185490.pdf;fileType=application%2Fpdf#search=%22r4653%22

landfill waste, land, forestry and agriculture sectors.²³ Activities in these sectors could generate emission reduction ‘credits’ to sell on the voluntary market or to entities covered by the CPM to meet their carbon price liability.²⁴

The CPM was framed by the Coalition as a ‘tax’ that was damaging to Australian households and put Australian businesses at an unfair competitive advantage.²⁵ Rather than burden the private sector, Prime Minister Abbott proposed shifting the financial responsibility of emissions reductions to the taxpayer through the ERF – an ‘incentive-based approach’ with a broad scope covering additional sectors.²⁶

At the time, even those who stood to benefit from the ERF continuing, such as founder and CEO of the giant environmental markets company GreenCollar, said that for reducing emissions it was “not economically efficient to have the taxpayer pay for it rather than private industry”.²⁷

Nevertheless, after winning the 2013 federal election, the Coalition Government integrated the CFI into the ERF.²⁸ All existing CFI projects were automatically transitioned to the ERF, which was extended to include new carbon credit methods for industrial activities.

At the time of its creation, three principles were said to guide the design of the ERF:

- Lowest-cost emissions reductions – “identify and purchase emissions reductions at the lowest cost”
- Genuine emissions reductions – “real and additional contribution to reducing Australia’s greenhouse gas emissions”
- Streamlined administration – accessible for businesses²⁹

²³ Australian Parliamentary Library (2011) *Bills Digest No. 5, 2011–12 | Carbon Credits (Carbon Farming Initiative) Bill 2011*, https://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/888842/upload_binary/888842.pdf;fileType=application%2Fpdf#search=%22legislation/billsdgs/888842%22

²⁴ Macintosh and Waugh (2012) *An introduction to the carbon farming initiative: Key principles and concepts*, CCLP Working Paper Series 2012/1

²⁵ Griffiths (2014) *Carbon tax scrapped: PM Tony Abbott sees key election promise fulfilled after Senate votes for repeal*, <https://www.abc.net.au/news/2014-07-17/carbon-tax-repealed-by-senate/5604246>

²⁶ Abbott (2010) *Direct Action on the Environment and Climate Change*, https://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/GMSV6/upload_binary/gmsv60.pdf;fileType=application%2Fpdf#search=%22media/pressrel/GMSV6%22

²⁷ Morton (2018) *Up in smoke: what did taxpayers get for the \$2bn emissions fund?*, <https://www.theguardian.com/environment/2018/jun/03/up-in-smoke-what-did-taxpayers-get-for-their-2bn-emissions-fund>

²⁸ Clean Energy Regulator (2016) *Carbon Farming Initiative*, <http://www.cleanenergyregulator.gov.au/Infohub/CFI/Carbon-Farming-Initiative>

²⁹ Australian Government (2014) *Emissions Reduction Fund White Paper*, <https://www.industry.gov.au/data-and-publications/white-paper-on-the-emissions-reduction-fund>

THE ERF AS A LEGITIMATE CLIMATE POLICY

As the name suggests, the ERF should be facilitating genuine emissions reductions, both at a project and system level. For the ERF and carbon credits to play a legitimate role in Australia's net zero future it is critical that integrity is restored to the scheme and that it is just one part of a broader suite of climate policies.

Concerns with the ability of the ERF alone to drive Australia's emissions rapidly downward are not new. In 2014 the CCA carried out a review of the CFI's performance to assist in the design and management of the forthcoming ERF. The review warned of the inherent risks of the ERF as a stand-alone climate policy, noting that "by itself and as currently funded, the scheme is unlikely to deliver sufficient emissions reductions" and "Further, it will only support emissions reductions at the project and facility level, rather than change incentives at the sector- and economy-wide level".³⁰

The CCA also highlighted "the limitations inherent in ERF-type schemes—together with the obvious budgetary limitations—again highlight the imperative of policymakers having access to the widest possible range of policy instruments to achieve Australia's targets for both 2020 and the period beyond".

High-quality carbon credits can be used to offset emissions in genuinely hard-to-abate and necessary sectors of the economy, such as agriculture or steel or cement. There is a role for carbon credits in Australia's net zero plan, but not if they are 'hot air' and not when they are used to give social licence to fossil fuel production or conceal emission increases in sectors that should be rapidly decarbonising as opposed to offsetting.

Where carbon credits do have integrity and represent genuine additional abatement, they are still only meant to be used to offset emissions after *everything* has been done to reduce or avoid producing greenhouse gases in the first place. This concept has been supported by Grant King, the chair of the Climate Change Authority and Blair Comley, the former Secretary of the Department of Climate Change and Energy Efficiency.^{31 32}

The Australian Government's own carbon neutral certification scheme, Climate Active, also states that "to become carbon neutral, businesses and organisations calculate the greenhouse gas emissions generated by their activity, such as fuel or electricity use and travel. They reduce these emissions as much as possible by investing in new technology or

³⁰ Climate Change Authority (2014) *Carbon Farming Initiative Review*, <https://www.climatechangeauthority.gov.au/publications/carbon-farming-initiative-review-2014>

³¹ Greber (2022) *There aren't enough offsets for business-as-usual*, <https://www.afr.com/politics/federal/renewable-energy-can-t-do-all-the-heavy-lifting-says-government-body-20220118-p59p6p>

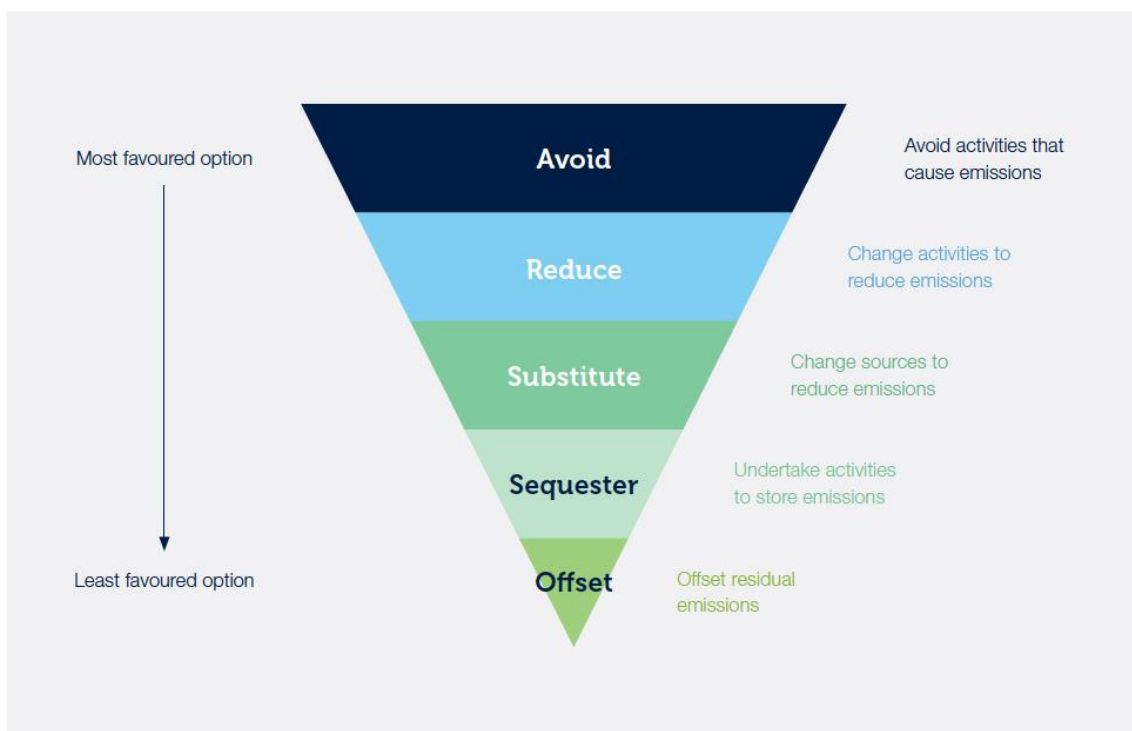
³² Greber (2022) *Businesses are underestimating net zero timeline: EY's Blair Comley*, <https://www.afr.com/policy/energy-and-climate/businesses-are-underestimating-net-zero-timeline-ey-s-blair-comley-20220204-p59twl>

changing the way they operate. Any remaining emissions can be 'cancelled out' by purchasing carbon offsets."³³

To be used with integrity it is necessary to determine which sectors of the economy can use carbon offsets and how heavily they can rely on them. Emissions reductions are possible in most sectors of the economy. The role of offsets in achieving climate emissions goals is sometimes referred to as a 'hierarchy of mitigation' that follows the steps 'Avoid, Reduce, Restore, Compensate/Offset', taken from natural resource management theories.³⁴

A hierarchy of mitigation should place offsets close to something as a 'last resort' in which offsets can be used to negate emissions *after* reasonable efforts have been made to reduce emissions. For example, the global Science-Based Targets Initiative (SBTI), which helps organisations set targets in line with 1.5 degrees, specifies that carbon credits cannot be counted as emissions reductions towards short- or long-term science targets, but should only be used after organisations have reduced emissions by more than 90 per cent.³⁵

Figure 1: Mitigation hierarchy for reducing greenhouse gas emissions



Source: Paia Consulting, <https://paiaconsulting.com.sg/wp-content/uploads/2020/09/RMIT-Carbon-Management-Hierarchy.png>

Carbon credits are not intended to justify maintaining or increasing emissions. The risk of carbon credits being too affordable or readily available is it may be cheaper for Australian

³³ Climate Active (n.d.) *How it works*, <https://www.climateactive.org.au/what-climate-active/how-it-works>

³⁴ WWF (2020) *First Things First: Avoid, Reduce...and only after that-Compensated*, https://wwf.panda.org/wwf_news/?362819/First-Things-First-Avoid-Reduce--and-only-after-thatCompensate

³⁵ Science Based Targets (2021) *SBTI Corporate Net-Zero Standard*, <https://sciencebasedtargets.org/net-zero/>

businesses to maintain a polluting business model and simply offset their rising or stable emissions rather than implement the technological and structural changes that would drive emissions lower.

Carbon credits will only be effective in helping Australia to meet its net zero target if they are part of a broad scheme that incentivises the generation of legitimate, additional and permanent carbon credits, coupled with broader regulation that simultaneously enforces emissions reductions by industry.

Success of The ERF to date

Despite the clear recommendation that the ERF be implemented as just one of multiple policy instruments to achieve Australia's climate targets, the scheme is currently the only legislated Commonwealth climate policy.

The 2014 Emissions Reduction Fund White Paper indicated that the ERF would operate “alongside existing programs that are already working to offset Australia's emissions growth, such as the Renewable Energy Target (RET) and energy efficiency standards on appliances, equipment, and buildings”.³⁶ However, the RET concluded in 2020 and was not renewed, nor replaced with other policies designed to bring down emissions.³⁷

While electricity emissions have declined 9 per cent between 2014 to 2021 (a legacy of the RET and subnational government renewable energy targets), stationary energy emissions increased 5 per cent during the same period.^{38 39}

Currently, the only other government initiative nominally aimed at reducing emissions is the Australian Government's Technology Investment Roadmap, which prioritises funding and development opportunities for ‘low emissions’ technologies. However, to date, hydrogen made from fossil fuels and carbon capture and storage have received billions of dollars in public funding under the guise of reducing emissions.

Since the introduction of the ERF, emissions in Australia have increased and Australia's emissions trends are among the worst in the developed world.⁴⁰ Where emissions have dropped significantly it is largely related to historical changes in the land sector confined to

³⁶ Australian Government (2014) *Emissions Reduction Fund White Paper*, <https://www.industry.gov.au/data-and-publications/white-paper-on-the-emissions-reduction-fund>

³⁷ Sydney Morning Herald (2018) *Angus Taylor confirms government ‘won't be replacing’ renewable energy target*, <https://www.smh.com.au/politics/federal/angus-taylor-confirms-government-won-t-be-replacing-renewable-energy-target-20180918-p504j1.html>

³⁸ Australian Government (2022) *National Greenhouse Gas Inventory Quarterly Update: September 2021*, <https://www.industry.gov.au/data-and-publications/national-greenhouse-gas-inventory-quarterly-update-september-2021>

³⁹ It should be noted that government policies designed to drive the increase of renewables in Australia pre-date the current federal government, which came to power in 2013. While the Australian Government is now taking credit for the dramatic increase in renewable energy deployment in Australia, many of these policies were opposed to by the coalition government and were only saved thanks to crossbench Senators.

⁴⁰ Saddler (2021) *Back of the pack: An assessment of Australia's energy transition*, <https://australiainstitute.org.au/post/new-analysis-australias-energy-transition-among-worst-in-oecd/>

a very specific timeframe, as well as the impact caused by two major exogenous shocks: the 2017-2019 drought and the COVID-19 pandemic.⁴¹

Land sector emissions

Land clearing in Australia has increased dramatically, despite one of the functions of the ERF being specifically to reduce deforestation.^{42 43 44 45} Hundreds of millions of public dollars have been spent purchasing ACCUs for ‘avoided deforestation’ from Australian landholders, yet the annual rate of land-clearing in NSW has actually risen since the ERF was created.⁴⁶ Significantly, this outcome is unlikely to be a coincidence, with one candid landholder stating publicly that he had used the millions of dollars he had received for ‘avoided deforestation’ on one parcel of his land to fund the deforestation of an adjoining block of land.⁴⁷

The full extent of deforestation in Australia and the subsequent emissions impact of this has not yet been revealed as it is difficult to obtain accurate and transparent data on deforestation across Australia. However, one commentator has described the impacts as a ‘carbon bomb’.⁴⁸ The 2020 review of the Environment Protection and Biodiversity Conservation (EPBC) Act 1999 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.⁴⁹

⁴¹ Merzian & Hemming (2021) *Banking on Australia’s Emissions*, <https://australiainstitute.org.au/report/banking-on-australias-emissions/>

⁴² NSW EPA (2021) *NSW State of Environment*, <https://www.soe.epa.nsw.gov.au/>

⁴³ Hannam & Cox (2021) *Australia’s emissions from land clearing likely far higher than claimed, analysis indicates*, <https://www.theguardian.com/environment/2021/nov/08/australias-emissions-from-land-clearing-likely-far-higher-than-claimed-analysis-indicates>

⁴⁴ Hemming, Merzian & Schoo (2021) *Questionable integrity: additionality in the Emissions Reduction Fund’s Avoided Deforestation Method*, <https://australiainstitute.org.au/report/questionable-integrity-non-additionality-in-the-emissions-reduction-funds-avoided-deforestation-method/>

⁴⁵ Cox (2022) *‘Worst it’s ever been’: a threatened species alarm sounds during the election campaign – and is ignored*, <https://www.theguardian.com/environment/2022/apr/25/worst-its-ever-been-a-threatened-species-alarm-sounds-during-the-election-campaign-and-is-ignored>

⁴⁶ NSW EPA (2021) *NSW State of Environment*; Department of Planning, Industry and Environment (2021) *Results Woody Vegetation Change, Statewide Landcover and Tree Study (SLATS) 2019*

⁴⁷ Thompson (2021) *Boom time in carbon farming country*, <https://www.abc.net.au/radionational/programs/backgroundbriefing/boom-time-in-carbon-farming-country/13637436>

⁴⁸ 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>

⁴⁹ 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>

Industrial emissions

For a policy like the ERF to succeed it needs to work in conjunction with other policies to restrict emission growth in those sectors that are not being paid by taxpayers to reduce their emissions. The original design of the ERF placed a heavy emphasis on the so-called ‘Safeguard Mechanism’, which was intended to “ensure emissions reductions contracted through the Emissions Reduction Fund are not offset by significant increases in emissions above business-as-usual levels elsewhere in the economy”.⁵⁰ In his National Press Club speech Greg Hunt, former Minister for the Environment, said the Safeguard Mechanism would “see about 200 million tonnes come from best practice adoption of progressively changing the standards for new entrants to the market in Australia”.⁵¹

However, industrial emissions in Australia are rising.⁵² Since 2005, industrial emissions have increased by about 17 per cent. Since the safeguard mechanism began operating in 2016, industrial emissions have increased by about 7 per cent.⁵³ ⁵⁴ Analysis has projected those emissions from Australia’s largest industrial facilities will increase 77 per cent above 2005 levels by 2030.⁵⁵

Emissions from facilities covered by the Safeguard Mechanism have eclipsed the abatement from the ERF (despite the mechanism existing as a safeguard to prevent this from happening). The total covered emissions by safeguard facilities since 2016 is 693 million tonnes of CO₂-e, with a total of around 1.6 million ACCUs surrendered by facilities to ‘offset’ emissions during this time. Total emissions from facilities covered in 2020-21 alone was 137 million tonnes CO₂-e, more than one-fifth of Australia’s national annual emissions and more abatement than has allegedly been delivered under the ERF to date.⁵⁶

Proposals for a stronger safeguard mechanism, such as from the Business Council of Australia, have included reducing the eligibility threshold to allow the mechanism to cover

⁵⁰ Greg Hunt (2016) *Safeguard mechanism will support emissions reduction*, <https://www.greghunt.com.au/safeguard-mechanism-will-support-emissions-reduction/>

⁵¹ WaybackMachine (2016) *National Press Club Speech: Q&A*,

⁵² Merzian & Hemming (2021) *Banking on Australia’s emissions: Why creative accounting will not get us to net zero emissions*, <https://australiainstitute.org.au/report/banking-on-australias-emissions/>

⁵³ Morton & Murphy (2022) *Coalition climate policy forced big polluters to pay \$15m for carbon credits in past year*, <https://www.theguardian.com/environment/2022/apr/28/coalition-climate-policy-forced-big-polluters-to-pay-15m-for-carbon-credits-in-past-year>

⁵⁴ Department of Industry, Science, Energy and Resources (2022) *National Greenhouse Gas Inventory Quarterly Update: September 2021*, <https://www.industry.gov.au/data-and-publications/national-greenhouse-gas-inventory-quarterly-update-september-2021>

⁵⁵ Reputex (2020) *Aligning Australian industry with net-zero emissions under the Paris Agreement*, <https://www.reputex.com/research-insights/aligning-industry-with-net-zero-emissions-under-the-paris-agreement/>

⁵⁶ Clean Energy Regulator (2022) *Safeguard facility reported emissions 2020-21*, <http://www.cleanenergyregulator.gov.au/NGER/National%20greenhouse%20and%20energy%20reporting%20data/safeguard-facility-reported-emissions/safeguard-facility-reported-emissions-2020-21>

facilities emitting more than 25 thousand tonnes CO₂-e and declining emissions baselines, which would increase pressure on covered facilities reduce their emissions.⁵⁷ Minister for Energy and Emissions Reduction, Angus Taylor, responded to such proposals by saying, “The safeguard was never meant to be a tool to force businesses to reduce their emissions”.⁵⁸

The Government has instead opted to ‘incentivise’ reductions by the industrial sector with the introduction of a below baseline crediting mechanism called the Safeguard Crediting Mechanism (SCM). This mechanism, which would also be adopted by Labor if elected, would see facilities earning a new form of tradeable credit (Safeguard Mechanism Credits – SMCs) for staying below their safeguard baselines. It is not clear how the SCM and ACCU markets would interact, but if implemented effectively, such a mechanism would take some emphasis off the ERF as emissions that were previously offset with ACCUs by safeguard facilities would theoretically be managed by adoption of new ‘lower emissions’ technologies and trading of safeguard credits between facilities. Many of the existing industrial ERF methods would also likely become redundant under the SCM.

THE ROLE OF THE ERF IN AUSTRALIA’S NET ZERO FUTURE

The ERF and Australia’s carbon credits are still touted as a success by the current Australian Government.⁵⁹ ⁶⁰ In spite of its failure to reduce emissions and the wide range of integrity issues discussed throughout this paper the scheme remains a key feature of both the Coalition Government and Opposition Labor Party’s respective net zero plans.

The Coalition’s Long Term Emissions Reduction Plan assumes that 10-20 per cent of emissions reductions in 2050 will come from international and domestic land-based offsets, including voluntary soil carbon of at least 17 million tonnes. The Plan assumes that 27 million domestic land-based offsets will be available and that 94 million tonnes of international offsets will be available. The inclusion of international offsets is relevant as Prime Minister Scott Morrison has noted that these will be modelled on “Australia’s

⁵⁷ Business Council of Australia (2021) *Achieving a net zero economy*,
https://www.bca.com.au/achieving_a_net_zero_economy

⁵⁸ Mazengarb (2021) *Taylor concedes key government policy was never intended to cut emissions*,
<https://reneweconomy.com.au/taylor-concedes-key-government-policy-was-never-intended-to-cut-emissions/>

⁵⁹ Clean Energy Regulator (2022) *Confidence high in Emissions Reduction Fund*,
<http://www.cleanenergyregulator.gov.au/About/Pages/News%20and%20updates/NewsItem.aspx?ListId=19b4efbb-6f5d-4637-94c4-121c1f96fcfe&ItemId=1087>

⁶⁰ Taylor (2021) *Emissions reduction fund proves cost effective carbon cuts*,
<https://www.minister.industry.gov.au/ministers/taylor/media-releases/emissions-reduction-fund-proves-cost-effective-carbon-cuts>

successful Emissions Reduction Fund and is designed to develop a high-integrity carbon offset scheme in the Indo-Pacific region.”⁶¹

The Labor Party’s Powering Australia Plan, its climate policy to 2030, aims to reduce emissions through investment in electricity, new industry, and transport policy, and pursuing carbon farming and offsets.

Shadow Minister for Climate Change and Energy, Chris Bowen, has highlighted the Labor Party’s support for the “the huge potential of carbon markets”.⁶² Under their policy, the Federal Government will still be able to purchase ACCUs through the Powering the Regions Fund, a new grant body for decarbonising existing industry in regional areas. Labor’s policy modelling indicates that public sector demand for ACCUs under the ERF will be retained under the Powering the Regions Fund and private sector demand will grow, leading to 19 per cent of abatement to 2030, 40 million tonnes of emissions, coming from the carbon farming industry.⁶³

Labor’s Plan includes the Safeguard Mechanism as central to its emissions reduction strategy, with carbon credits used to negate emissions above facilities’ baselines.⁶⁴ A key difference is a more strategic use of the Safeguard Mechanism, reflecting changes proposed by the BCA for reducing baselines for facilities by 5 million tonnes of emissions annually. The ERF will continue to generate carbon credits under Labor’s policies.

There has been no commitment from Labor to cut fossil fuel subsidies or halt government-funded gas industry expansion. Labor’s climate policy is contextualised with its aims to “Protect the competitiveness of emissions-intensive trade exposed industries by ensuring they will not face a greater constraint than their competitors”.⁶⁵

The Greens are supportive of using carbon credits to achieve net negative emissions after a net zero 2035 target is reached. They would introduce a guaranteed \$50 per tonne floor price for “trusted and verified” carbon offsets. Green leader Adam Bandt is explicit that offsets should have integrity and not be used for companies “to greenwash their brands”.⁶⁶

⁶¹ Prime Minister of Australia (2021) *Australia and Fiji partner on high integrity carbon offsets to reduce emissions*, <https://www.pm.gov.au/media/australia-and-fiji-partner-high-integrity-carbon-offsets-reduce-emissions>

⁶² Carbon Market Institute (2021) *CMI Summit Day 2: Summit sparks ideas boom on the path to Net Zero*, <https://summit.carbonmarketinstitute.org/2021/12/10/cmi-summit-day-2-wrap-summit-sparks-ideas-boom-on-the-path-to-net-zero/>

⁶³ Reputex Energy (2021) *The Economic Impact of the ALP’s Powering Australia Plan*, <https://www.reputex.com/research-insights/report-the-economic-impact-of-the-alps-powering-australia-plan/> p. 23-24

⁶⁴ Reputex Energy (2021) *The Economic Impact of the ALP’s Powering Australia Plan*

⁶⁵ ALP (2021) *Powering Australia*, <https://www.alp.org.au/policies/powering-australia>

⁶⁶ Mazengarb (2022) *Greens aim for negative emissions with generous floor price for carbon offsets*, <https://reneweconomy.com.au/greens-aim-for-negative-emissions-with-generous-floor-price-for-carbon-offsets>

How this guaranteed floor price would improve integrity issues is unclear. The Greens have referred the ERF to the Auditor General for investigation.⁶⁷

Some independents, such as Warringah MP Zali Steggall, support using Australian offsets from agriculture and land use domestically and in international carbon markets. Steggall's net zero plan also proposes to expand agricultural methods from the ERF to "further support low emissions agricultural practices and technologies".⁶⁸

State governments in Australia have also expressed support for the ERF. Queensland's \$500 million Land Restoration Fund aims to expand carbon farming in the state by supporting land-based carbon offset projects. Western Australia announced a \$15 million Carbon Farming and Land Restoration Program in January 2022 that aims to "realise agriculture's potential to sequester carbon in the landscape and contribute to growing the WA carbon market".⁶⁹ In 2021 the WA Government announced that 3 million hectares of land would be made available to lease for carbon farming, with prospective contenders for the land including WA-based LNG operators Woodside and Chevron.⁷⁰

Given the ongoing emphasis by federal, state and territory governments, not just to meet climate targets but also to support the economy, it is critical that the ERF is capable of meeting all the expectations being placed on it. Whatever role the ERF plays in current or future climate policies, it appears that there is a clear need to improve its transparency, accountability and integrity.

⁶⁷ Mazengarb (2022) *Greens refer carbon scheme to watchdog after whistleblower labels offsets "fraud to the environment"*, <https://reneweconomy.com.au/a-fraud-on-the-environment-whistleblower-slams-australias-carbon-offset-regime/>

⁶⁸ Steggall (2022) *5 Steps to Net Zero*, <https://www.zalisteggall.com.au/climate>

⁶⁹ WA Department of Primary Industries and Regional Development (2022) *Western Australian Carbon Farming and Land Restoration Program*, <https://www.agric.wa.gov.au/carbon-farming/western-australian-carbon-farming-and-land-restoration-program>

⁷⁰ Milne (2021) *Three million hectares of WA land to be released for carbon farming*, <https://www.smh.com.au/environment/sustainability/three-million-hectares-of-wa-land-to-be-released-for-carbon-farming-20211214-p59hkv.html>

Integrity issues in the ERF

The decision to rely solely on the ERF as a climate policy, rather than an economy-wide instrument such as the CPM, has placed enormous pressure on what was originally intended to be a small scheme designed to generate offsets for the hard-to-abate sectors of the economy.

Because emissions from fossil fuels are rising across so many parts of the Australian economy, and because emission-intensive industries like gas extraction and refining are expected to continue to grow, there is now overwhelming pressure on the ERF to deliver increasingly more 'abatement'.

Simultaneously, carbon credits are seemingly being used by the Australian Government and industry to reconcile a public commitment to net zero with a commitment to increased fossil fuel extraction and production, such as through the 'gas-fired recovery' policy. If the fossil fuel industry can demonstrate that it is 'offsetting' its emissions in alignment with regulation or voluntary climate targets, it benefits and protects both the industry and the government endorsing it.

Concerns over the ERF are not new and have been raised since the scheme's inception by numerous independent experts and reported in the media.^{71 72 73 74 75 76}

Most recently, the former chair of the ERAC, along with a number of independent academics, have released research demonstrating that up to 80 per cent of ACCUs issued in

⁷¹ Burke (2016) 'Undermined by adverse selection: Australia's Direct Action abatement subsidies', *CCEP Working Paper 1605*, <https://ccep.crawford.anu.edu.au/publication/ccep-working-paper/7618/undermined-adverse-selection-australias-direct-action-abatement>

⁷² Taylor (2015) *Greg Hunt hasn't a lot to show for \$660m spent on reducing greenhouse emissions*, <https://www.theguardian.com/environment/2015/may/01/greg-hunt-660m-spent-reducing-greenhouse-emissions>

⁷³ Burke (2016) *Direct Action not giving us bang for our buck on climate change*, <https://theconversation.com/direct-action-not-giving-us-bang-for-our-buck-on-climate-change-59308>

⁷⁴ Emissions Reduction Assurance Committee (2019) *Review of the Carbon Credits (Carbon Farming Initiative – Avoided Deforestation 1.1) Methodology Determination 2015: Discussion paper*, <https://consult.industry.gov.au/review-of-the-carbon-credits-carbon-farming-initiative-avoided-deforestation-11-methodology-det>

⁷⁵ Thompson (2021) *Boom time in carbon farming country*, <https://www.abc.net.au/radionational/programs/backgroundbriefing/boom-time-in-carbon-farming-country/13637436>

⁷⁶ Baxter & Gilligan (2017) *Verification and Australia's emissions reduction fund: integrity undermined through the landfill gas method?* <https://search.informit.org/doi/10.3316/INFORMIT.213968113774497>

Australia do not represent real or additional abatement.^{77 78 79} Similarly, physicist and climate scientist Bill Hare has stated that “every single [ERF] method we've looked at has serious problems”.⁸⁰

A recent commitment by the ACCC to crackdown on “sham” carbon credits and public statements by ASX-listed companies on their lack of confidence in the ERF show that these problems can no longer be ignored by the current or prospective governments.^{81 82 83}

Below is a broad summary of the integrity issues relating to methods under the ERF as well as the scheme’s governance and administration. The causes of these are also discussed in more detail in a later section.

INTEGRITY OF ERF METHODOLOGIES

Concerns with existing methods

It has been revealed that the three biggest and long-standing carbon credit methods under the ERF, Human Induced Regeneration (HIR), Landfill Gas and Avoided Deforestation, do not represent real or additional abatement and that projects under these methods have been earning ACCUs for almost a decade.^{84 85}

⁷⁷ Macintosh et al. (2022) *The ERF’s Human-induced Regeneration (HIR): What the Beare and Chambers Report Really Found and a Critique of its Method*, <https://law.anu.edu.au/research/publications?nid=51424>

⁷⁸ Macintosh, Butler & Ansell (2022) *Measurement Error in the Emissions Reduction Fund’s Human-induced Regeneration (HIR) Method*, <https://law.anu.edu.au/research/publications?nid=51434>

⁷⁹ Macintosh (2022) *The Emissions Reduction Fund’s Landfill Gas Method: An Assessment of its Integrity*, <https://law.anu.edu.au/research/publications?nid=51444>

⁸⁰ RN Breakfast (2022) *UN probes business climate plans*, <https://www.abc.net.au/radionational/programs/breakfast/un-probes-business-climate-plans/13858214>

⁸¹ Mason & Wootton (2022) *‘Sham’ carbon credits, banks in ACCC’s sights*, <https://www.afr.com/policy/energy-and-climate/sham-carbon-credits-banks-in-accs-sights-20220324-p5a7kp>

⁸² Ziffer (2022) *Dropping seeds by drone, Telstra starts carbon farming to offset its emissions*, <https://www.abc.net.au/news/2022-03-24/dropping-seeds-by-drone-telstra-starts-carbon-farm-to-offset-its/100933458>

⁸³ Baird (2022) *Vexed carbon credit scheme needs more oversight: Qantas*, <https://www.afr.com/companies/transport/qantas-to-cut-emissions-by-25pc-by-2030-20220331-p5a911>

⁸⁴ See Macintosh et. Al (2022);

⁸⁵ Hemming, Merzian & Schoo (2021) *Questionable integrity: additionality in the Emissions Reduction Fund’s Avoided Deforestation Method*, <https://australiainstitute.org.au/report/questionable-integrity-non-additionality-in-the-emissions-reduction-funds-avoided-deforestation-method/>

Under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth), all ERF methods must meet statutory offsets integrity standards.⁸⁶ These standards are meant to ensure the ACCUs issued to participating projects are real and additional and supported by clear and convincing evidence. Put simply, abatement must actually be occurring, and the abatement should be additional to what was going to happen in the ordinary course of events. It has been established that much of the abatement being carried out under these three methods was either not real or was going to happen even without the ERF:

- **Human Induced Regeneration**

The HIR method issues carbon credits to projects that remove vegetation ‘suppressors’ off land (such as cattle, feral grazers and weeds) to allow the return of native forest.⁸⁷ Analysis has shown that this method is likely to be allowing ACCUs to be issued to areas of land that were already forested. It also appears to be crediting abatement for the return of forest cover driven by rainfall, rather than as a result of removing cattle.

- **Landfill Gas**

The Landfill Gas method issues carbon credits to projects that capturing gas emitted from landfill sites and combusting the methane using either a flare or an electricity generator. Issues of additionality in relation to the landfill gas method existed even before the ERF, with a number of landfill gas projects existing before CFI was established (meaning they do not meet the ‘newness’ criteria of carbon credit projects).⁸⁸ Further to this existing issue, landfill gas projects that combust methane to generate electricity can earn revenue through the sale of electricity and LGCs, meaning there is a significant material incentive for the activity to be undertaken without the need for ACCUs.

- **Avoided Deforestation**

The Avoided Deforestation method issues ACCUs to projects for not clearing land in Western NSW (that was eligible to be cleared through the provisions granted by a particular type of clearing permit). Analysis of historical clearing rates in the relevant areas of NSW has demonstrated that it would be impossible to clear the land in

⁸⁶ Emissions Reduction Assurance Committee (2021) *Information Paper: Committee considerations for interpreting the Emissions Reduction Fund’s offsets integrity standards Version 2.0 March 2021; Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth), s 133.

⁸⁷ *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*.

⁸⁸ Baxter & Gilligan (2017) *Verification and Australia’s emissions reduction fund: integrity undermined through the landfill gas method?*, <https://research.monash.edu/en/publications/verification-and-australias-emissions-reduction-fund-integrity-un>

question in the period of time assumed under the method. Put simply, the method awards ACCUs for clearing land that was never going to be cleared.⁸⁹

HIR, Landfill Gas and Avoided Deforestation represent a majority of ACCUs issued under the ERF, with around 80 million ACCUs issued to projects under these methods to date. Close to 60 million of these ACCUs have been purchased by the government to help Australia meet its climate targets (the government has spent close to a billion dollars on ACCUs to date with over \$2.5 billion in total committed). HIR and Avoided Deforestation credits have also been purchased voluntarily by big emitters in the private sector including Ampol, Origin Energy and Lion Pty Ltd, among others, against claims of carbon neutrality.⁹⁰ Most recently, Coles has unwittingly claimed to have a carbon neutral beef product using non-additional ACCUs from a HIR project in Queensland.⁹¹

The integrity issues of the HIR, Landfill Gas and Avoided Deforestation methods have been well-documented.^{92 93 94 95} Additionality issues were first raised regarding avoided deforestation and landfill gas in 2016 and 2017, respectively. However, projects under these methods have continued to be credited with ACCUs by the CER.

Other issues with existing and long-standing ERF methods may also exist, but have not been rigorously or independently assessed to date. For taxpayers and market participants to have complete confidence in the ERF, a full and independent audit of all ERF methods is warranted.

⁸⁹ Hemming, Merzian & Schoo (2021) *Questionable integrity: additionality in the Emissions Reduction Fund's Avoided Deforestation Method*, <https://australiainstitute.org.au/report/questionable-integrity-non-additionality-in-the-emissions-reduction-funds-avoided-deforestation-method/>

⁹⁰ Climate Active (n.d.) *Certified Brands*, <https://www.climateactive.org.au/buy-climate-active/certified-brands>; Ampol Energy (2021) *Public Disclosure Statement: Product*; Origin Energy (2021) *Public Disclosure Statement: Product*; Lion Pty Ltd (2020) *Public Disclosure Statement: Organisation*; Lion Pty Ltd (2019) *Public Disclosure Statement: Organisation*

⁹¹ Packham (2022) *Query on Coles' offsets for carbon-neutral beef*, <https://www.afr.com/companies/energy/query-on-coles-offsets-for-carbon-neutral-beef-20220426-p5ag8e>

⁹² Macintosh (2022) *The Emissions Reduction Fund's Landfill Gas Method: An Assessment of its Integrity*, <https://law.anu.edu.au/research/publications?nid=51444>

⁹³ Hemming, Merzian & Schoo (2021) *Questionable integrity: additionality in the Emissions Reduction Fund's Avoided Deforestation Method*, <https://australiainstitute.org.au/report/questionable-integrity-non-additionality-in-the-emissions-reduction-funds-avoided-deforestation-method/>

⁹⁴ Hasham (2019) *Experts find 'integrity issues' with Coalition's direct action policy*, <https://www.smh.com.au/politics/federal/experts-find-integrity-issues-with-coalition-s-direct-action-policy-20190416-p51eoj.html>

⁹⁵ Slezak & Timms (2021) *Many carbon credits for deforestation could be 'nothing more than hot air', report finds*, <https://www.abc.net.au/news/2021-09-22/deforestation-carbon-emissions-credits-questioned-by-report/100479212>

Concerns with new and amended methods

Instead of addressing the problems raised by independent parties regarding existing methods, the Australian Government has continued to facilitate the increased supply of ACCUs by developing new ERF methods and by amending existing methods to increase the amount of ACCUs that can be issued for carrying out the same activity.⁹⁶

However, there is limited to no evidence that new or amended carbon credit project types being approved have integrity either.^{97 98} If anything, new methods such as the government's carbon capture and storage (CCS) carbon credit method will incentivise emissions increases, not emissions reductions.

CCS method

The new CCS method allows gas companies who add a CCS component to their operations and capture a small amount of reservoir CO₂ from their gas extraction and production to earn carbon credits. CCS only ever captures a small percentage of emissions from fossil fuel projects meaning that the net result is more greenhouse gases in the atmosphere, yet Angus Taylor has said that the new method will allow gas production to 'scale-up' in Australia.⁹⁹ By making such a claim, the method immediately does not comply with Australia's Carbon Credits (Carbon Farming Initiative) Act 2011. That is, if a gas project already exists and adds a CCS component that will capture and store the carbon from extraction (that would normally be vented into the atmosphere) then the activity is considered 'additional' and can earn carbon credits. If a gas project, which wouldn't have otherwise existed, is built with CCS with the sole intention of being able to earn ACCUs, that is not considered additional and does not meet legislated integrity criteria governing all ERF methods.¹⁰⁰

A carbon capture utilisation and storage (CCUS) ERF method has also been prioritised for development by the CER. While there are some other applications, CO₂ 'use' generally refers to its use in a process known as enhanced oil recovery (EOR). EOR is a process where CO₂ or other substances are pumped into depleted reservoirs to help extract more oil and gas. This results in a project releasing more emissions, not less.

⁹⁶ Taylor (2021) *Emissions reduction fund proves cost effective carbon cuts*, <https://www.minister.industry.gov.au/ministers/wilson/media-releases/emissions-reduction-fund-proves-cost-effective-carbon-cuts>

⁹⁷ Ogge, Hemming & Campbell (2021) *Santos' CCS scam*, <https://australiainstitute.org.au/report/santos-ccs-scam/>

⁹⁸ Casben (2022) *Offsets 'handed out like Monopoly money'*, <https://www.canberratimes.com.au/story/7586235/offsets-handed-out-like-monopoly-money/>

⁹⁹ Taylor (2021) *New ERF method and 2022 priorities announced*, <https://www.minister.industry.gov.au/ministers/taylor/media-releases/new-erf-method-and-2022-priorities-announced>

¹⁰⁰ Ogge, Hemming & Campbell (2021) *Santos' CCS scam*, <https://australiainstitute.org.au/report/santos-ccs-scam/>

Blue carbon and soil carbon

Methods such as ‘blue’ carbon and the new soil carbon method similarly fail to provide robust assurance that they will be crediting additional and permanent abatement and appear to be limited in how much they take Australia’s changing climate into account.^{101 102}

The blue carbon method credits activities that restore tidal flows to the land and increases the carbon stored in soil and vegetation. However, it unclear whether this method is crediting abatement that would have happened anyway, in light of the fact that sea levels are rising as a result of climate change and mangroves in many places are returning on their own. There are also uncertainties in the measurement of carbon flows in coastal systems, and risks regarding how permanent coastal abatement is or whether abatement will be displaced by coastal change elsewhere.^{103 104 105}

Soil carbon

The soil carbon method incentivises landholders to carry out soil management and amended farming activities to increase the amount of carbon that is held in the soil on their property.¹⁰⁶ It is worth outlining the limitations of soil carbon in some detail as it plays such a significant role in the Australian Government’s net zero plan and there are currently over 200 new soil carbon projects registered under the ERF.

Accurately measuring the amount of carbon that is sequestered in soil requires a high degree of physical sampling, and very conservative crediting due to the high risk of reversal and measurement uncertainty. Producing high integrity, conservative soil carbon credits is costly and requires ongoing work to retain carbon in biomass even after activities have been credited.¹⁰⁷ However, as discussed throughout this paper, ACCUs are generated with the goal of producing ‘lowest cost abatement’, an approach that may risk sacrificing the quality of credits in exchange for reduced costs of producing them. This inherent tension in the

¹⁰¹ White, Davidson & Eckard (2021) *A landholder’s guide to participate in soil carbon farming in Australia*, <https://www.farminstitute.org.au/publication/a-landholders-guide-to-participate-in-soil-carbon-farming-in-australia/>

¹⁰² MacKenzie & Shoebridge (2022) *Blue carbon accounting set to open coastal floodgates for abatement credits*, <https://www.abc.net.au/news/rural/2022-01-25/blue-carbon-accounting-carbon-credit-but-skepticism-remains/100777876>

¹⁰³ Climate Analytics (2017) *The dangers of Blue Carbon offsets: from hot air to hot water?* <https://climateanalytics.org/publications/2017/the-dangers-of-blue-carbon-offsets-from-hot-air-to-hot-water/>

¹⁰⁴ Young (2021) *It stores pollution 30 times faster than forest. What is blue carbon?*, <https://www.theage.com.au/environment/climate-change/it-stores-pollution-30-times-faster-than-forest-what-is-blue-carbon-20210427-p57mx2.html>

¹⁰⁵ Moraes (2019) *Blue carbon is not the silver bullet the Coalition wants it to be*, <https://theconversation.com/blue-carbon-is-not-the-silver-bullet-the-coalition-wants-it-to-be-128925>

¹⁰⁶ Clean Energy Regulator (2021) *Soil carbon*, <http://cleanenergyregulator.gov.au/ERF/Pages/Method%20development%20tracker/Soil-carbon.aspx>

¹⁰⁷ White, Davidson & Eckard (2021) *A landholder’s guide to participate in soil carbon farming in Australia*, <https://www.farminstitute.org.au/publication/a-landholders-guide-to-participate-in-soil-carbon-farming-in-australia/>

design of the scheme between low cost ACCUs and high integrity ACCUs is a strong reason for why there needs to be ‘structural separation’ in the design of the ERF’s oversight and regulatory structures .

Significantly, the amount of carbon stored in soil also fluctuates in response to climate, particularly rainfall (rainfall influences plant growth, which influences soil carbon inputs). Any attempt to use soil carbon to achieve emission reduction targets must account for the fact that Australia’s climate is going to become more variable over the coming decades, with southern Australia becoming hotter and drier. Increasing droughts will see the gradual release of carbon from the soil, bringing into question the permanence of soil carbon credits.^{108 109}

Amended methods

Other methods such as the 2022 Landfill Gas (Generation) and 2022 Plantation Forestry method are clear examples of where methods have been updated or varied to increase the number of credits that can be issued to the same project and where the new activity being credited is not additional. The landfill gas method credits electricity generation on landfill that was already financially viable while the plantation method awards ACCUs for the retaining hardwood plantations that are not at risk of being lost.^{110 111 112} Both these methods are currently subject to a motion for disallowance in the Australian Senate in recognition of their low integrity.¹¹³

GOVERNANCE AND ADMINISTRATIVE ISSUES

The overarching governance of the ERF and recent administrative changes to the scheme also appear to have undermined its integrity and independence.

The Clean Energy Regulator (CER) is a regulatory body and an independent statutory authority and carries out a surprising number of functions for a single organisation,

¹⁰⁸ Luo, Wang and Sun (2021) Soil carbon change and its responses to agricultural practices in Australian agro-ecosystems: A review and synthesis, *Geoderma*, <https://www.sciencedirect.com/science/article/abs/pii/S0016706109004170?via%3Dihub>

¹⁰⁹ State of NSW and Department of Planning, Industry and Environment (2021) *Determining baselines, drivers and trends of soil health and stability in New South Wales forests*.

¹¹⁰ Department of Industry, Science, Energy and Resources (2022) *Plantation forestry method: proposed new method under the Emissions Reduction Fund*, <https://consult.industry.gov.au/2021-plantation-forestry-method>

¹¹¹ Department of Industry, Science, Energy and Resources (2021) *Landfill gas (generation) method: proposed new method*, <https://consult.industry.gov.au/landfill-gas-generation-method>

¹¹² Department of Agriculture, Water and the Environment (2022) *Australian plantation area and log availability – National plantation inventory regions and Regional forestry hubs*, <https://www.awe.gov.au/abares/research-topics/forests/forest-economics/plantation-and-log-supply>

¹¹³ Parliament of Australia (2022) *Disallowance Alert 2022*, https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Disallowance_Alert

including designing and regulating method for creating ACCUs. The CER also staffs the Emissions Reduction Assurance Committee (ERAC), an independent committee advising the relevant Minister on the integrity of carbon credit methods.

In addition, and perhaps most significantly, the CER has also been tasked with purchasing ACCUs at lowest cost on behalf of the Australian Government, and with boosting supply of ACCUs available to the voluntary carbon market.

If the CER has been mandated to buy the product it is designing and regulating as cheaply as possible, and to increase the supply of that product, it is not clear what incentives exist to ensure the quality of its product. It is also unclear what safeguards exist within the CER to prevent the organisation from ‘cutting corners’ to ensure that it can deliver on its mandate.

Beyond the issue of a separation of functions within the CER, questions have been raised about potential conflicts of interest within the CER, the ERAC and the Climate Change Authority (CCA), which carries out periodic reviews of the ERF.¹¹⁴ All three nominally ‘independent’ statutory bodies have representatives from the fossil fuel or other related industries employed in key advisory or executive roles. Several of these appointments may be in contravention of relevant legislation.

Similar questions have been raised over the disproportionate involvement private industry has in the design and function of the ERF, namely the extent to which the CER engages with, and defers to, industry (including being a paying member of a carbon industry lobby group) and the degree to which industry is involved in designing carbon credit methods.¹¹⁵ The issues of conflicts and industry influence are outlined in more detail later in this report.

Recent administrative changes to the ERF are related to the concerted effort by the CER to facilitate “increased and faster supply of ACCUs” available to polluters needing to offset their emissions.¹¹⁶ The reasons behind these changes and the specific mechanisms being used to achieve this are also discussed later in this report. However, the result is that the quality of ACCUs appears to be being overlooked or sacrificed to increase quantity. Supply of ACCUs has increased as a result of these changes, but it is important to note that while credits are being issued there is little evidence that the corresponding amount of abatement is occurring.

¹¹⁴ Hemming, Campbell, Ogge & Armistead (2022) *Come clean: How the Emissions Reduction Fund came to include carbon capture and storage*, <https://australiainstitute.org.au/report/come-clean-how-the-emissions-reduction-fund-came-to-include-carbon-capture-and-storage/>

¹¹⁵ Hemming, Campbell, Ogge & Armistead (2022) *Come clean: How the Emissions Reduction Fund came to include carbon capture and storage*, <https://australiainstitute.org.au/report/come-clean-how-the-emissions-reduction-fund-came-to-include-carbon-capture-and-storage/>

¹¹⁶ Clean Energy Regulator (2021) *Media release: Developing an Australian carbon exchange*, <http://www.cleanenergyregulator.gov.au/About/Pages/News%20and%20updates/NewsItem.aspx?ListId=19b4efbb-6f5d-4637-94c4-121c1f96fcfe&ItemId=922>

The lack of robust evidence that Australia’s existing, new and proposed carbon credit methods have integrity and are resulting in real, additional and permanent abatement raises questions about the efficacy of the ERF as a whole.

The CCA’s 2014 review of the CFI advised that “Governance arrangements for the ERF will need to be responsive to unexpected problems and render new projects ineligible should they become non-additional”.¹¹⁷

However, to date neither this issue nor other documented concerns raised by scientists, academics, independent experts, or media investigations have been acknowledged by the Australian Government except to defend the scheme. The CER and Minister Taylor appear to have adopted a policy of deflecting scrutiny by attempting to discredit its critics in public statements, media and in senate estimates.^{118 119 120 121 122 123}

Aside from government, it appears that the only other parties vigorously defending the ERF in its current state are industry proponents who currently benefit from the scheme, with criticism of the ERF by independent parties labelled “sensationalist” and “hysterical” “attacks”.^{124 125 126 127}

¹¹⁷ Climate Change Authority (2014) *Carbon Farming Industry Review*,
<https://www.climatechangeauthority.gov.au/publications/carbon-farming-initiative-review-2014>

¹¹⁸ Kelly (2021) *Clean Energy Regulator rejects junk carbon credit claims*,
<https://www.abc.net.au/radionational/programs/breakfast/clean-energy-regulator-rejects-junk-carbon-credit-claims/13631010>

¹¹⁹ Loussikian (2022) *Carbon credits scheme criticism ‘unfounded’: Angus Taylor*,
<https://www.theaustralian.com.au/business/carbon-credits-scheme-criticism-unfounded-angus-taylor/news-story/b8d5bb1eb2deec868a5d98d5e5d6ff85>

¹²⁰ Clean Energy Regulator (2022) *ERAC response to TAI Report: Come Clean – Carbon Capture and Storage CCS*,
<http://www.cleanenergyregulator.gov.au/About/Pages/News%20and%20updates/NewsItem.aspx?ListId=19b4efbb-6f5d-4637-94c4-121c1f96fcfe&ItemId=1083>

¹²¹ Clean Energy Regulator (2022) *Statement: CER Response to AAP story on the blue carbon method*,
<http://www.cleanenergyregulator.gov.au/About/Pages/News%20and%20updates/NewsItem.aspx?ListId=19b4efbb-6f5d-4637-94c4-121c1f96fcfe&ItemId=1047>

¹²² Clean Energy Regulator (2021) *Statement: CER Response to ABC story on the ACCU price*,
<http://www.cleanenergyregulator.gov.au/About/Pages/News%20and%20updates/NewsItem.aspx?ListId=19b4efbb-6f5d-4637-94c4-121c1f96fcfe&ItemId=1041>

¹²³ Clean Energy Regulator (2021) *Statement: TAI paper on Carbon Capture and Storage*,
<http://www.cleanenergyregulator.gov.au/About/Pages/News%20and%20updates/NewsItem.aspx?ListId=19b4efbb-6f5d-4637-94c4-121c1f96fcfe&ItemId=1030>

¹²⁴ GreenCollar (2022) *Statement from GreenCollar CEO, James Schultz, addressing discussions about the Australian Carbon Market*, <https://greencollar.com.au/statement-from-greencollar-ceo-james-schultz-addressing-claims-about-the-australian-carbon-market/>

¹²⁵ CorporateCarbon (2022) *LinkedIn Post*,
<https://www.linkedin.com/feed/update/urn:li:activity:6915577862762762240/>

¹²⁶ Carbon Market Institute (2022) *Carbon market participants refute sensational accusations*,
<https://carbonmarketinstitute.org/2022/03/27/carbon-market-participants-refute-sensational-accusations/>

¹²⁷ SBS (2022) *Carbon market industry rebukes claims Australia’s emissions reduction fund is a ‘fraud’*,
<https://www.sbs.com.au/news/article/carbon-market-industry-rebukes-fraud-claim/y7in5211q>

THE IMPACT OF INTEGRITY ISSUES IN THE ERF

The technical and accounting details of the ERF may seem to be an obscure area for consideration. However, given the centrality of the ERF to Australia's current climate policies, the significant planned expenditures from the ERF and the reliance of a wide range of private sector customers on the integrity of ACCUs, unless the ERF is reformed there will be significant risks to a wide range of parties, including but not limited to market participants, consumers, project proponents, Indigenous communities, and landholders.

The mere perception of integrity issues in any financial product should be sufficient to trigger independent inquiries to restore market confidence, however, despite significant concerns with the integrity of ACCUs being raised by a range of independent and market participants no such review or inquiry has to date been held.

The most obvious impact of the current regulatory regime is that billions of dollars of taxpayer money are being wasted on ACCUs from projects that deliver no actual reduction in greenhouse gas emissions. Carbon aggregators, project owners, developers, brokers, environmental consultants, and investors have been profiting from a public fund that is effectively delivering 'hot air'. As the former chair of the ERAC and his colleagues put it: the ERF is an "environmental and taxpayer fraud".¹²⁸

The budget for the ERF is currently \$4.5 billion, a significant amount of public money. Money that has been committed to the ERF, but not yet spent, could instead be invested in proven technologies and mechanisms that have been shown to avoid emissions in the first place such as scaling up renewable energy and battery storage. Money could also have been paid directly to farmers, landholders, and traditional owners to manage their land in a sustainable way, rather than through a unitised incentive scheme tied to a market-based system.

In the current context, the ERF is resulting in an increase in emissions, not a reduction. When there is a significant number of low integrity ACCUs in circulation, emissions from those entities who are using ACCUs to make voluntary or compliance offsetting claims are not being offset, yet the CO₂-e from their operations has still been emitted into the atmosphere. The net result is that climate change is worsening under the ERF.

Beyond the financial waste and environmental impact of the ERF's failures to date, there is also the risk of the significant collateral damage to those parties who rely on the co-benefits delivered by the ERF.¹²⁹

¹²⁸ Australian National University (2022) *Australia's carbon market a 'fraud on the environment'*, <https://law.anu.edu.au/news-and-events/news/australia%E2%80%99s-carbon-market-fraud-environment>

¹²⁹ Co-benefits refer to the environmental, social, cultural and economic benefits that carbon farming brings. Clean Energy Regulator (n.d.) *Purchasing carbon credits with co-benefits*,

Concerns around the ERF have been described as an “attack” on “a vast network of farmers, traditional owners, service providers, investors, auditors, conservationists and public servants” by industry proponents.¹³⁰

However, it is worth noting that in designing the ERF the Australian Government appears to have decided that co-benefits were not a priority for the scheme, or at least that it was not willing to pay for them. The CCA review of the CFI noted:

Some stakeholders have argued that the ERF should pay a higher price for credits from projects with significant public co-benefits. The government has decided against this approach, and that the ERF will focus on achieving lowest cost emissions reductions. The Authority endorses this approach for two reasons:

- paying for co-benefits from the ERF would reduce the capacity of the scheme to reduce emissions, which would be at odds with its central role in achieving Australia’s targets
- the co-benefits concerned are better assessed and secured through other programs.

Material support for co-benefits was never officially built into the ERF and the quest for lowest cost abatement has remained the underpinning driver of the policy. However traditional owners, conservationists, landholders and others all still depend, to varying but important degrees, on the economic and other benefits the government alleges the ERF delivers.

If the fundamental product on which Australia’s entire ‘carbon market’ is based is found to be flawed, the livelihoods that are dependent on the production of that abatement are immediately jeopardised. Any government claiming a commitment to reducing emissions and to supporting Australia’s farmers and Indigenous communities, and who plans on adopting the ERF in their climate policies, would subsequently need to be committed to restoring integrity to Australia’s carbon credits.^{131 132}

<http://cleanenergyregulator.gov.au/csf/how-you-can-benefit/Pages/purchasing-carbon-credits-with-co-benefits.aspx>

¹³⁰ SBS (2022) *Carbon market industry rebukes claims Australia’s emissions reduction fund is a ‘fraud’*, <https://www.sbs.com.au/news/article/carbon-market-industry-rebukes-fraud-claim/y7in5211q>

¹³¹ Saddler (2021) *Back of the Pack: an assessment of Australia’s energy transition*, <https://australiainstitute.org.au/report/back-of-the-pack/>

¹³² MacKenzie (2018) *Australia’s Emissions Reduction Fund is almost empty. It shouldn’t be refilled*, <https://theconversation.com/australias-emissions-reduction-fund-is-almost-empty-it-shouldnt-be-refilled-92283>

RISKS TO MARKET PARTICIPANTS

The Australian Government has emphasised the important role of the private sector in the goal to achieve net zero emissions.^{133 134 135} However, confidence in the carbon market is being undermined, putting the Australian Government's expectation that the private sector will be driving Australia's emissions reductions at risk.¹³⁶

Private buyers who have been voluntarily buying ACCUs in good faith, including private households offsetting their personal emissions, have effectively been misled into believing that they are contributing to climate action.

Like all financial products, the value of ACCUs is ultimately dependent on the faith that those buying those ACCUs have in their integrity and long-term value. Put simply, if taxpayers and shareholders do not have faith that ACCUs are actually delivering emissions abatement then they will not be willing to purchase those assets.

The emissions reduction claims of businesses are coming under increasing scrutiny at domestic and international levels, and a lack of credibility in the ERF poses a risk to businesses that participate in the scheme.

In March 2022, then-chair of the ACCC announced a new focus on greenwashing in their 2022-23 enforcement and compliance policy update.¹³⁷ The announcement defined greenwashing as "falsely promoting environmental or green credentials to capitalise on these consumer preferences", including misleading claims made in the manufacturing and energy sectors about carbon neutrality of production processes. Selling or claiming sham carbon offsets may face consequences under both competition and consumer law for creating "unfair advantages for untruthful companies and misled consumers".¹³⁸ The ACCC will be working closely with other regulators such as the Australian Securities and

¹³³ Department of Industry, Science, Energy and Resources (2021) *Australia's Long-Term Emissions Reduction Plan*, <https://www.industry.gov.au/data-and-publications/australias-long-term-emissions-reduction-plan/>

¹³⁴ Prime Minister of Australia (2021) *Remarks, leaders summit on climate*, <https://www.pm.gov.au/media/remarks-leaders-summit-climate>

¹³⁵ Harris (2021) *Upbeat Scott Morrison calls on businesses to step up to the climate challenge*, <https://www.smh.com.au/politics/federal/upbeat-scott-morrison-calls-on-businesses-to-step-up-to-the-climate-challenge-20211112-p598ab.html>

¹³⁶ Tilly (2022) *AU Market: Traders get pickier about project types, liquidity drops after offset criticism*, <https://carbon-pulse.com/157015/>

¹³⁷ Australian Competition and Consumer Commission (2022) *ACCC's enforcement and compliance policy update 2022-23*, <https://www.accc.gov.au/speech/acccs-enforcement-and-compliance-policy-update-2022-23>

¹³⁸ Mason & Wootton (2022) *'Sham' carbon credits, banks in ACCC's sights*, <https://www.afr.com/policy/energy-and-climate/sham-carbon-credits-banks-in-accc-s-sights-20220324-p5a7kp>

Investments Commission (ASIC) and CER.¹³⁹ ASIC is currently conducting a review into greenwashing of environmental, social and corporate governance (ESG) funds.¹⁴⁰

In the same month, the United Nations Secretary-General launched a High-Level Expert Group on the Net-Zero Emissions Commitments of Non-State Entities.¹⁴¹ The Group will address the standards, definitions, criteria, and processes to ensure and assess the integrity for net zero targets of non-State actors, including the private sector. It will also focus on the “over-use of carbon offsets and unrealistic dependence on carbon removal technology” as part of efforts to combat greenwashing.¹⁴²

Given the increasing focus on greenwashing at the national and international levels, businesses face reputational, financial and legal risks for not achieving their climate change commitments. The attention on companies’ climate commitments has already led to legal action being taken. A lawsuit was filed in August 2021 against oil and gas company Santos by the ACCR alleging misleading claims about “clean fuel” and their net zero strategy constituting “greenwashing”.¹⁴³ In September 2021, the Netherlands’ Advertising Code Committee upheld a complaint that a campaign by oil and gas company Shell encouraging petrol and diesel customers to pay a fee towards offsetting their fuel constituted greenwashing.¹⁴⁴

If the ERF is not a credible method of achieving emissions reductions, businesses participating in the ERF may therefore come under scrutiny for greenwashing when they use ACCUs to ‘offset’ their emissions. In turn, the reputational and financial risks to businesses arising from the ERF’s integrity issues may lead to them withdrawing from the scheme altogether.

Australian businesses are already expressing their uncertainty about participating in the ERF, with Telstra already looking overseas for carbon offsets, or starting its own tree

¹³⁹ Smith, Richmond, Daveson, Back & Lawrence (2022) *Regulators join forces to fight greenwashing in 2022*, <https://www.claytonutz.com/knowledge/2022/march/regulators-join-forces-to-fight-greenwashing-in-2022>

¹⁴⁰ Armour (2021) *What is “greenwashing” and what are its potential threats?* <https://asic.gov.au/about-asic/news-centre/articles/what-is-greenwashing-and-what-are-its-potential-threats/>

¹⁴¹ United Nations Secretary-General (2022) *Secretary-General Will Push Business, Investors, Cities to ‘Walk the Talk’ on Net-Zero Pledges, Launching Expert Group as Climate Crisis Worsens*, <https://www.un.org/press/en/2020/sga2109.doc.htm>

¹⁴² Lo (2022) *Canadian ex-minister Catherine McKenna named to head UN greenwash watchdog*, <https://www.climatechangenews.com/2022/03/31/canadian-ex-minister-catherine-mckenna-named-to-head-un-greenwash-watchdog/>

¹⁴³ Kurmelovs (2021) *Santos sued for ‘clean fuel’ claims and net zero by 2040 target despite plans for fossil fuel expansion*, <https://www.theguardian.com/australia-news/2021/aug/26/santos-sued-for-clean-fuel-claims-and-net-zero-by-2040-target-despite-plans-for-fossil-fuel-expansion>

¹⁴⁴ George (2021) *Shell campaign promoting carbon offsetting is greenwashing, Dutch advertising watchdog rules*, <https://www.edie.net/shell-campaign-promoting-carbon-offsetting-is-greenwashing-dutch-advertising-watchdog-rules/>

growing projects, citing uncertainty in domestic projects.¹⁴⁵ The CEO of Qantas has welcomed improved regulation of ACCUs “because you want customers to have confidence that the carbon offsets they are purchasing and investing in are of the utmost high quality.”¹⁴⁶

The risk to business is highlighted by the fact that just days after Coles supermarket launched their carbon neutral beef product, which had been offset with ACCUs from the Armoobilla Regeneration Project (a human-induced regeneration in Queensland), it was found that the project was neither real nor additional.¹⁴⁷ The product had been certified by the Australian Government’s carbon neutral certification scheme, Climate Active, leading the beef producers, Coles and consumers to believe that the product was legitimately ‘carbon neutral’.

The current government and industry proponents appear to have been willing to turn a blind eye to the risks posed to those engaging in the ERF in good faith by a scheme that has no integrity. As a result, there are numerous impacts on market participants that flow from the way the ERF is currently operating and from the circulation of ACCUs with questionable integrity.

¹⁴⁵ Ziffer (2022) Dropping seeds by drone, Telstra starts carbon farming to offset its emissions, <https://www.abc.net.au/news/2022-03-24/dropping-seeds-by-drone-telstra-starts-carbon-farm-to-offset-its/100933458>

¹⁴⁶ Baird (2022) *Vexed carbon credit scheme needs more oversight: Qantas*, <https://www.afr.com/companies/transport/qantas-to-cut-emissions-by-25pc-by-2030-20220331-p5a9l1>

¹⁴⁷ Packham (2022) *Query on Coles’ offsets for carbon-neutral beef*, <https://www.afr.com/companies/energy/query-on-coles-offsets-for-carbon-neutral-beef-20220426-p5ag8e>

What has caused the ERF's integrity issues?

The ongoing expansion of Australia's gas industry creates a dilemma for Australia's climate targets.

All stages of gas production, including extraction, processing and burning, are significant sources of emissions (Scopes 1, 2 and 3). Despite bipartisan commitment to opening up new gas basins and the resulting increase in Australia's emissions, there is also bipartisan support for achieving net zero emissions in Australia by 2050.

A similar conflict occurs within the gas industry, where most gas companies have set net zero targets and expressed public support for government net zero commitments while continuing to push governments to support gas expansion.¹⁴⁸

The only way for Australia to balance increased emissions from the gas industry while also pursuing a net zero emissions target is to generate a large supply of carbon credits, allowing the industry and government to say that emissions are being 'offset'. Physicist and climate scientist Bill Hare has noted that "relying on offsets is exactly what the gas industry wants politicians to do. And it appears to be getting its way, which is not surprising, given the cash it has stumped up for political parties".¹⁴⁹

Unless this influence is acknowledged and addressed it is difficult to see how integrity will be restored to the ERF and Australia's burgeoning carbon market.

While the ERF is labelled a climate policy, in its current form it is more accurate to describe it as a gas expansion policy. That is, the ERF is evolving into a scheme to increase the availability of low cost ACCUs for purchase by the gas industry. The government has explicitly given financial and policy support to facilitate this objective.

Over several years, the Coalition government has set in motion a number of changes designed to extract itself as the biggest buyer of ACCUs in Australia and to increase the supply of credits available to the private sector. The stated purpose of the 2019 Climate Solutions Fund (CSF) is: "a step change to the offsets market in Australia by boosting the supply of Australian carbon credit units", suggesting a transition from a government-funded

¹⁴⁸ InfluenceMap (2021) *Does Corporate Australia Support Climate Policy?*

<https://australia.influencemap.org/does-corporate-australia-support-climate-policy>

¹⁴⁹ Hare (2022) *Politicians are basking in the 'thrill' of fossil fuels, but this election is Australia's last chance to reset our climate attitude*, <https://www.theguardian.com/commentisfree/2022/apr/30/politicians-are-basking-in-the-thrill-of-fossil-fuels-but-this-election-is-australias-last-chance-to-reset-our-climate-attitude>

abatement scheme to a ‘carbon market’ driven by the private sector, where polluters buy and sell carbon credits for the purposes of offsetting.¹⁵⁰

Similarly, the King Review, commissioned shortly after the CSF, and chaired by former Origin Energy CEO Grant King, also signalled a significant change in direction of the ERF, flagging the importance of fast-tracking and increasing the supply of carbon credits to the private sector.¹⁵¹

THE INFLUENCE OF INDUSTRY ON THE ERF

While material and policy support for the gas and broader fossil fuel industry is maintained, emissions in Australia will continue to rise, regardless of the ambition of other climate policies and programs. Significant expansion of the gas developments will likely require proponents to purchase carbon offsets to meet state or federal compliance requirements even under lax regulation such as the Safeguard Mechanism’s generous baselines.

However, the current price of ACCUs (approximately \$30 on the voluntary market) will make offsetting the millions of tonnes of CO₂-e resulting from fossil fuel production prohibitively expensive for industry, which would seem to run counter to government support for the industry.

Many of the current integrity issues in the ERF appear to be a direct result of government’s desire to make ACCUs as available and affordable to the fossil fuel industry as possible.

Gas executives as climate advisers

Given that the only way for the gas industry to achieve its expansion plans while the government meets its net zero plans is through an enormous increase in the supply of carbon offsets, it should come as no surprise that the gas industry now plays a central role in the design and oversight of policies designed to generate carbon offsets.

Over the last few years, a number of individuals with links to the gas industry have been appointed by the Australian Government to official advisory and executive roles in the Clean Energy Regulator, Emissions Reduction Assurance Committee and the Climate Change

¹⁵⁰ Clean Energy Regulator (n.d.) *Climate Solutions Fund > At a glance*, <http://www.cleanenergyregulator.gov.au/csf/Pages/at-a-glance.aspx>

¹⁵¹ Department of Industry, Science, Energy and Resources (2020) *Examining additional sources of low cost abatement: expert panel report*, <https://www.industry.gov.au/data-and-publications/examining-additional-sources-of-low-cost-abatement-expert-panel-report>

Authority. The presence of these industry representatives has the potential to shape the design and function of the ERF, if it has not already.¹⁵²

For example, the presence of Grant King, former CEO of Origin Energy, and Susie Smith, Chief Executive of the Australian Industry Greenhouse Network and former Santos executive, on an ‘expert panel’ advising the government on new sources of low cost abatement appears to have resulted in substantive changes or a “shake up” to the ERF over the last two years.¹⁵³ The ‘King Review’ (officially known as the Report of the expert panel examining additional sources of low-cost abatement) was commissioned by Minister Angus Taylor in late 2019 and made a number of recommendations on how to expand the ERF and expedite the supply of carbon credits to the market.¹⁵⁴

Recommendations of the Review included the development of a CCS/CCUS method, which would allow the gas industry to earn carbon credits during gas extraction and production. Other recommendations that were accepted included:

- ERF methods covering new sectors of the economy
- Accelerated carbon credit method development
- Compressed crediting for ERF projects (in-principle agreement)
- “Stacking” different carbon credit methods on the same area of land
- Greater participation by third parties in method development
- Earlier participation by ERAC in method development
- Streamlined administration and audit requirements
- Optional delivery abatement contracts, and
- A below-baseline safeguard crediting mechanism

All recommendations were accepted by the Government in mid-2020 and have gradually been implemented, fundamentally changing the purpose and administration of the ERF.

The King Review also acknowledged the “powerful trend emerging in the private sector to reduce emissions beyond that required by regulatory obligations... and analyses how existing policies and possible additional measures could help accommodate this trend”. It

¹⁵² Hemming, Campbell, Ogge & Armistead (2022) *Come clean | How the Emissions Reduction Fund came to include carbon capture and storage*, <https://australiainstitute.org.au/report/come-clean-how-the-emissions-reduction-fund-came-to-include-carbon-capture-and-storage/>

¹⁵³ Baker McKenzie (2020) *Big Shake-up Planned for Australia’s Carbon Market*, <https://www.bakermckenzie.com/en/insight/publications/2020/06/big-shake-up-planned-for-australias-carbon-market>

¹⁵⁴ Department of Industry, Science, Energy and Resources (2020) *Examining additional sources of low cost abatement: expert panel report*, <https://www.industry.gov.au/data-and-publications/examining-additional-sources-of-low-cost-abatement-expert-panel-report>

also stated that “emerging demand from the states and the private sector needs a proactive effort to boost ACCU supply.”¹⁵⁵

Throughout 2020 and 2021, following the government’s interpretation and adoption of the recommendations of the King Review, Minister Taylor appointed several individuals with links to the fossil fuel industry or CCS to the ERAC.

These appointments included David Byers, a former senior executive at the Minerals Council of Australia, BHP and the Australian Petroleum Production and Exploration Association (APPEA), and Brian Fisher, long-time consultant to fossil fuel industries and former head of the Australian Bureau of Agriculture and Resource Economics (ABARE). Under Fisher’s leadership, ABARE’s economic modelling of climate policy was overseen by a steering committee that included the Australian Coal Association, the Australian Aluminium Council, BHP, Exxon and other fossil fuel interests.

Kate Vigden, the former chair of major gas and oil producer Quadrant Energy, was appointed to the board of the Clean Energy Regulator in May 2021.¹⁵⁶

After the King Review, both Mr King and Ms Smith were subsequently appointed as chair and member respectively of the Climate Change Authority (CCA) in 2021. The CCA carries out periodic reviews of the ERF.

These appointments all raise questions about the independence of the governance of the ERF, and whether the ERF is designed to reduce emissions or, in fact, serve the gas industry.

CHANGES TO GOVERNANCE AND ADMINISTRATION FOLLOWING THE KING REVIEW

The adoption of the King Review recommendations has raised further questions about the governance and administration of the ERF beyond the appointment of industry interests to advisory roles.

Attempts to “streamline” and “accelerate” carbon credit methods and participation in the ERF have seen changes made to the administrative structure of the ERF and the level of involvement that industry has on carbon credit method development.¹⁵⁷ These

¹⁵⁵ Department of Industry, Science, Energy and Resources (2020) *Examining additional sources of low cost abatement: expert panel report*, <https://www.industry.gov.au/data-and-publications/examining-additional-sources-of-low-cost-abatement-expert-panel-report>

¹⁵⁶ Clean Energy Regulator (2021) *Regulator welcomes Ms Kate Vidgen*, <http://www.cleanenergyregulator.gov.au/About/Pages/News%20and%20updates/NewsItem.aspx?ListId=19b4efbb-6f5d-4637-94c4-121c1f96fcfe&ItemId=942>

¹⁵⁷ Department of Industry, Science, Energy and Resources (2020) *Report of the expert panel examining additional sources of low cost abatement (the King Review)*, <https://www.industry.gov.au/data-and-publications/examining-additional-sources-of-low-cost-abatement-expert-panel-report>

developments have not just enhanced the involvement of the fossil fuel industry, but also seem to have enhanced the degree of influence the carbon industry has on the Clean Energy Regulator.

Despite the Clean Energy Regulator's claimed commitment to "transparency and accountability" and "well-established and rigorous" processes to address potential conflicts of interest, it is unclear what these processes are.^{158 159} Visibility of method development and the separate functions of the Regulator has decreased since it took over the function of method development following the King Review. For a report published in March 2022 by the Australia Institute on the development of the CCS method, the only way information could be obtained from the CER on the process was via Freedom of Information. Many of those documents have not been published on the CERs disclosure log. A lack of visibility and transparency by a regulator diminishes the confidence in public institutions.

Consolidation of functions

In response to the King Review the Government stated it would "conduct a review of the governance arrangements of the ERF by the end of 2020".¹⁶⁰ It is unclear whether this review occurred but in late 2020, the CER took over the function of ERF method development (a function that had previously been carried out by the Department of Industry, Science, Energy and Resources) nominally to "streamline" and "improve" the way methods were developed. This change raised significant concerns about probity and the separation of functions, notably in the October 2020 scheduled review of the ERF by the Climate Change Authority (CCA).¹⁶¹

The CCA review found a "risk of real and perceived conflicts of interests arising" after the consolidation of all demand, supply and regulation functions under the CER that were previously jointly managed by the Department.²² For any organisation to carry out all these functions, let alone a regulatory body, raises concerning issues of integrity. This is only exacerbated by the fact that the CER is also tasked with purchasing the ACCUs it designs and regulates as cheaply as possible on behalf of government.

¹⁵⁸ Clean Energy Regulator (2022) *Method development tracker*,
<http://www.cleanenergyregulator.gov.au/ERF/Method-development-tracker>

¹⁵⁹ Clean Energy Regulator (2022) *CER response to claims by Professor Andrew MacIntosh*,
<http://www.cleanenergyregulator.gov.au/About/Pages/News%20and%20updates/NewsItem.aspx?ListId=19b4efbb-6f5d-4637-94c4-121c1f96fcfe&ItemId=1084>

¹⁶⁰ Department of Industry, Science, Energy and Resources (2020) *Government response to the expert panel report examining additional sources of low cost abatement*, <https://www.industry.gov.au/data-and-publications/government-response-to-the-expert-panel-report-examining-additional-sources-of-low-cost-abatement>

¹⁶¹ Climate Change Authority (2020) *Review of the Emissions Reduction Fund*,
<https://www.climatechangeauthority.gov.au/publications/review-emissions-reduction-fund-2020>

The CCA recommended that the Australian National Audit Office undertake a performance audit of the Regulator to ensure ‘ongoing confidence’ in the administration of the ERF.

To date, no such audit has been carried out or announced despite the increasing concerns about the probity of the CER’s governance and the integrity of ERF methods being developed under its auspices.

Industry designing methods

Following the King Review, the Government agreed to give industry greater opportunity to support the development of new methods and indicated it would “investigate deeper industry involvement in method development and prioritisation through the provision of in-kind support”.¹⁶²

In response to the Review’s recommendation, the Government also indicated that it had “already given industry early-stage involvement in the initial scoping of a Carbon Capture and Storage/Carbon Capture, Use and Storage (CCS/CCUS) method.” The Australia Institute has documented extensively what this involvement looked like and revealed the extent to which Santos and the fossil fuel industry were involved in designing a carbon credit method they could ultimately benefit from. Santos has since been the first company to register a CCS project under the ERF and flag the profitable revenue stream ACCUs will bring.^{163 164}

To facilitate this “deeper” industry involvement in method development the CER has developed a ‘co-design’ framework.¹⁶⁵

There is an inherent flaw in the CER’s co-design process that allows end users to be involved in the development of rules intended to regulate their activities and determine the extent that they can financially benefit from the ERF. The term ‘co-design’ implies more than consultation – it implies that private interests are actively designing ERF methodology.

It is not clear how the ‘co-design’ of existing and future ACCU methods can be seen to be independent or transparent or not weighted heavily in industry’s favour.

¹⁶² Department of Industry, Science, Energy and Resources (2020) *Government response to the expert panel report examining additional sources of low cost abatement*, <https://www.industry.gov.au/data-and-publications/government-response-to-the-expert-panel-report-examining-additional-sources-of-low-cost-abatement>

¹⁶³ Hemming, Campbell, Ogge & Armistead (2022) *Come clean: How the Emissions Reduction Fund came to include carbon capture and storage*, <https://australiainstitute.org.au/report/come-clean-how-the-emissions-reduction-fund-came-to-include-carbon-capture-and-storage/>

¹⁶⁴ Packham (2022) *Santos eyes carbon credits as lucrative revenue stream*, <https://www.afr.com/companies/energy/santos-eyes-carbon-credits-as-lucrative-revenue-stream-20220331-p5a9sx>

¹⁶⁵ CER (2021) *Co-designing methods: a framework for collaboration*, <http://www.cleanenergyregulator.gov.au/ERF/Pages/Method-development.aspx>, p. 10

The carbon industry's involvement in the ERF

While it is apparent that the gas industry appears to have disproportionate involvement in the ERF, the carbon industry also appears to influence the scheme. The carbon industry (also sometimes referred to as the carbon farming industry in relation to land-based carbon credits) includes the parties and organisations involved in the production of carbon credits, such as carbon credit project developers, carbon aggregators and carbon industry associations. Carbon aggregators are managers of multiple carbon credit projects that form part of a larger project, allowing smaller landholders to participate in carbon farming.

Carbon industry associations and lobby groups represent the interests of both the demand and supply sides of the carbon market, including carbon project owners, carbon aggregators and carbon market participants such as big emitting businesses, carbon brokers and financial advisory services. The largest of these industry groups is the Carbon Market Institute (CMI). CMI's members include Australia's largest carbon aggregators, GreenCollar, Corporate Carbon/AgriProve and Climate Friendly, as well as large fossil fuel companies such as Woodside, Energy Australia, AGL, Inpex, BP, Shell and Origin.¹⁶⁶ Perhaps unusually for an independent statutory organisation, the Clean Energy Regulator is a paying member of CMI.¹⁶⁷

The CER and the Department of Industry, Science, Energy and Resources also appear to work closely with CMI, with the government sponsoring numerous industry events runs by CMI and paying the organisation to run 'education and training services' on its behalf. Since May 2020 CMI has been paid over \$700,000 by the Clean Energy Regulator and DISER collectively for these services and events, according to AusTender.¹⁶⁸

In 2021, in response to a paper by the Australia Institute and the Australian Conservation Foundation revealing integrity issues of the ERF's avoided deforestation method, the CER and CMI gave seemingly co-ordinated response refuting the claims made by the report. Freedom of Information document obtained by the Australia Institute demonstrate that the claims made by both parties were incorrect, but it is concerning that both released strikingly

¹⁶⁶ Carbon Market Institute (n.d.) *Our corporate members*, <https://carbonmarketinstitute.org/about/our-members/>

¹⁶⁷ The Clean Energy Regulator is an 'associate member' of the CMI and does not have voting rights. However, it is still a paid membership.

¹⁶⁸ Austender (n.d.) "*Carbon Market Institute*", <https://www.tenders.gov.au/>

similar statements at the same time and that both parties directly contradicted the CER's own technical guidance on the method.^{169 170 171 172 173}

Issues of carbon industry involvement in the ERF extend beyond the CER.

As noted earlier, Grant King has been appointed to chair the Climate Change Authority, which carries out reviews of the ERF and other related matters. Mr King is also the chair of GreenCollar, Australia's largest carbon aggregator. It is unclear whether Mr King's position at GreenCollar is remunerated, but the Climate Change Authority Act 2011 clearly states:

A Board member must not engage in any paid employment that conflicts or may conflict with the proper performance of his or her duties.

While we do not allege any impropriety by Mr King or the Authority, this clause in the Act brings into question the legality of his appointment to the CCA. It also raises concerns about findings and outcomes of any kind of future review of the ERF or ACCUs that may benefit GreenCollar.

It is similarly concerning that another large commercial carbon aggregator, AgriProve, has been involved in informing Australia's climate policy around soil carbon.¹⁷⁴ AgriProve appears to have been invited to give input into the Australian Government's Net Zero Plan, with an entire page of the Plan promoting the capacity of Australia's soils to store carbon and the potentially lucrative revenue stream available to farmers running soil carbon

¹⁶⁹ Department of Industry, Science, Energy and Resources (2022) *Freedom of information disclosure log 2022: Disclosure Log Number 22/015/70064*, <https://www.industry.gov.au/about-us/freedom-of-information/freedom-of-information-disclosure-log-2022>

¹⁷⁰ Carbon Market Institute (2021) *Avoided Deforestation Method in the spotlight – CMI's response*, <https://carbonmarketinstitute.org/2021/09/22/avoided-deforestation-method-in-the-spotlight-cmi-response/>

¹⁷¹ Clean Energy Regulator (2021) *Statement: Response to TAI-ACF Report on the Emissions Reduction Fund*, <http://www.cleanenergyregulator.gov.au/About/Pages/News%20and%20updates/NewsItem.aspx?ListId=19b4efbb-6f5d-4637-94c4-121c1f96fcfe&ItemId=977>

¹⁷² The Australia Institute (2021) *Statement in response to the Clean Energy Regulator*, <https://australiainstitute.org.au/post/statement-in-response-to-the-clean-energy-regulator/>

¹⁷³ Department of Industry, Science, Energy and Resources (2014) *White paper on the Emissions Reduction Fund*, <https://www.industry.gov.au/data-and-publications/white-paper-on-the-emissions-reduction-fund>

¹⁷⁴ AgriProve is the proponent of the Armoobilla Regeneration Project, the credits from which Coles used to make its claims of carbon neutrality for its beef product.

projects.¹⁷⁵ AgriProve's suggested rates of soil carbon sequestration is around double what best-practice soil science suggests is possible.^{176 177 178}

AgriProve claims to be "Australia's leading soil carbon project developer". The CER also plays a role in promoting AgriProve as pioneering soil carbon projects under the ERF and having the largest number of registered soil carbon projects.¹⁷⁹

AgriProve currently has 223 soil carbon projects registered under the ERF (for context the total number of registered projects is around 1200 at the time of writing).¹⁸⁰ AgriProve has current abatement contracts with the Australian government totalling over 18 million ACCUs.¹⁸¹ A majority of this abatement was contracted at a price of \$10 meaning that AgriProve stands to receive \$180 million of public money if it delivers on these contracts.¹⁸²

Regulators are meant to be impartial and at arm's length to the industries they regulate. The existing and seemingly increasing blurred lined between industry and the nominally 'independent' CER are concerning.

INCREASING SUPPLY, LOWERING PRICE & QUALITY

For emission-intensive industries (like the gas industry) planning to significantly increase their production and gross emissions, access to large quantities of low cost ACCUs is essential to the commercial viability of their plans. In the absence of an enormous increase in the supply of ACCUs, rising demand for offsets from new gas projects would drive up the price of ACCUs not just for new gas projects, but also for existing gas projects and other firms that are either covered by the Safeguard Mechanism or who have committed to use ACCUs to make their activities carbon neutral.

¹⁷⁵ Department of Industry, Science, Energy and Resources (2021) *Australia's Long-Term Emissions Reduction Plan*, <https://www.industry.gov.au/data-and-publications/australias-long-term-emissions-reduction-plan>

¹⁷⁶ Badgery, Murphy, Cowie, Orgill, Rawson, Simmons & Crean (2020) *Soil carbon market-based instrument pilot – the sequestration of soil organic carbon*, <https://www.publish.csiro.au/sr/CrossrefCites/SR19331>

¹⁷⁷ Badgery, Simmons, Murphy, Rawson, Andersson & Lonergan (2014) *The influence of land use and management on soil carbon levels for crop-pasture systems in Central New South Wales, Australia*, <https://www.sciencedirect.com/science/article/abs/pii/S0167880914003569>

¹⁷⁸ Sanderman, Farquharson & Baldock (2010) *Soil carbon sequestration potential: A review for Australian agriculture*, <https://publications.csiro.au/rpr/pub?pid=csiro:EP10121>

¹⁷⁹ Clean Energy Regulator (2021) *Farming soil carbon: a second crop*, <http://www.cleanenergyregulator.gov.au/Infohub/case-studies/emissions-reduction-fund-case-studies/farming-soil-carbon-a-second-crop>

¹⁸⁰ Clean Energy Regulator (2022) *Emissions Reduction Fund project register*, <http://www.cleanenergyregulator.gov.au/ERF/project-and-contracts-registers/project-register>

¹⁸¹ Clean Energy Regulator (2022) *Carbon abatement contract register*, <http://cleanenergyregulator.gov.au/ERF/project-and-contracts-registers/carbon-abatement-contract-register>

¹⁸² Clean Energy Regulator (2022) *Auctions results*, <http://www.cleanenergyregulator.gov.au/ERF/auctions-results>

The easiest way to significantly increase the supply of low cost ACCUs is to lower the quality of those ACCUs and the rigour of their oversight, which, as discussed throughout this paper, appears to be what has occurred.

The Minister for Industry, Energy and Emissions Reduction has made multiple announcements explicitly stating that the Government is boosting supply of ACCUs to the market, recently saying it is working to “halve timeframes for ERF project registration and crediting” and to “slash the time it takes to develop new methods”.¹⁸³

Other statements include:

Around one in six of the ERF’s 1,074 projects were registered this year, as the Government’s commitment to developing new methods and increasing supply stimulates private sector activity.¹⁸⁴

and

The government is incentivising greater corporate voluntary action by removing barriers to increased supply of domestic offsets. New resourcing has been provided to the Clean Energy Regulator to halve the time it takes to develop new Emissions Reduction Fund (ERF) methods...¹⁸⁵

Actions to bring a significant amount of new ACCUs on to the market include:

- **Increasing the number of methods under the ERF from new sectors of the economy, such as transport and industry.** This includes a method for carbon capture and storage, the first project under this method alleges to be able to store 1.7 million tonnes of CO₂-e annually, which would see 1.7 million ACCUs issued to the project annually if it was successful.
- **Developing new ERF methods as fast as possible.** The CER has implemented a KPI to develop methods with 12 months of starting them.¹⁸⁶
- **Varying existing methods to increase the amount of ACCUs they can earn.** This includes “stacking methods” so that landholders can carry out several different ERF projects on a single area of land. It also involves amending existing methods such as

¹⁸³ Taylor (2020) *Cutting red tape to support emissions reduction*,
<https://www.minister.industry.gov.au/ministers/taylor/media-releases/cutting-red-tape-support-emissions-reduction>

¹⁸⁴ Taylor (2021) *Media release: Emissions reduction fund proves cost effective carbon cuts*,
<https://www.minister.industry.gov.au/ministers/taylor/media-releases/emissions-reduction-fund-proves-cost-effective-carbon-cuts>

¹⁸⁵ 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>

¹⁸⁶ Clean Energy Regulator (2021) *Method Development*,
<http://www.cleanenergyregulator.gov.au/ERF/Pages/Method-development.aspx>

savanna burning, plantation forestry and landfill gas so that existing activities can earn ACCUs for longer, or new activities can be carried out under the same method to earn ACCUs.

- **‘Removing barriers’ to people setting up new offset projects.** This includes potentially compressing the time between starting up a project and earning ACCUs or giving financial assistance to set up projects. The CER announced \$5000 advance payments to soil carbon projects in 2020.^{187 188 189 190}
- **Auction and contract changes.** The CER moved to ‘optional’ delivery auctions in 2020, a change from its existing long-term fixed delivery contracts with project developers and aggregators under the ERF. This change is effectively an underwriting service where the CER agrees to purchase ACCUs if the proponent cannot fetch a higher price for them on the voluntary market. In 2022 the CER announced that it would allow existing holders of fixed delivery contracts to exit their abatement contracts early to take advantage of higher prices on the voluntary market. This change could see over 100 million ACCUs come onto the market available to private buyers.¹⁹¹
- **New administration and IT systems.** The CER has indicated it will be “building new IT systems to reduce timeframes for ERF project registration and issuing ACCUs” and developing an online ACCU exchange.¹⁹² The exchange is part of deregulation measures announced in the 2020 Federal Budget: “One of these deregulation measures will see the Clean Energy Regulator halving the time taken to develop new ERF methods and reducing the time it takes to assess applications for registering

¹⁸⁷ Clean Energy Regulator (2021) *Method development*,

<http://www.cleanenergyregulator.gov.au/ERF/Pages/Method-development.aspx>

¹⁸⁸ Department of Industry, Science, Energy and Resources (2020) *Report of the Expert Panel examining additional sources of low cost abatement*, <https://www.industry.gov.au/data-and-publications/examining-additional-sources-of-low-cost-abatement-expert-panel-report>

¹⁸⁹ Department of Industry, Science, Energy and Resources (2021) *Landfill gas (generation) method: proposed new method*, <https://consult.industry.gov.au/landfill-gas-generation-method>

¹⁹⁰ Department of Industry, Science, Energy and Resources (2022) *Plantation forestry method: proposed new method under the Emissions Reduction Fund*, <https://consult.industry.gov.au/2021-plantation-forestry-method>

¹⁹¹ Clean Energy Regulator (2022) *The evolving carbon market: transitional arrangements for Emissions Reduction Fund fixed delivery contracts*,

<http://www.cleanenergyregulator.gov.au/About/Pages/News%20and%20updates/NewsItem.aspx?ListId=19b4efbb-6f5d-4637-94c4-121c1f96fcfe&ItemId=1067>

¹⁹² Clean Energy Regulator (2020) *New funds to support ERF reforms*,

<http://www.cleanenergyregulator.gov.au/ERF/Pages/News%20and%20updates/News-item.aspx?ListId=19b4efbb-6f5d-4637-94c4-121c1f96fcfe&ItemId=853>

new ERF projects and issuing ACCUs. This will lead to increased and faster supply of ACCUs.”¹⁹³ ¹⁹⁴

By all accounts these activities are working as intended to rapidly increase the supply of ACCUs and put downward pressure on their price.

According to the Clean Energy Regulator:

Supply of new units in 2021 reached a record 17 million ACCUs, in line with the expected volume published in the December 2020 Quarterly Carbon Market Report.

This represents an increase of 6% on the 16 million ACCUs issued in 2020 and is slightly lower than the Clean Energy Regulator’s upgraded estimate of 17.3 million units published in the September 2021 Quarterly Carbon Market Report.

Supply is expected to continue to grow in 2022 to an estimated 18 – 18.5 million ACCUs ¹⁹⁵

The long-term result of increasing ACCU supply will be that the price of ACCUs will likely drop relative to what it otherwise would have been, making them more affordable for buyers. Indeed, the Federal Government announcement allowing carbon abatement projects to exit their government contracts, and instead sell those credits on the private secondary market resulted in a dramatic plunge in the price of credits on the voluntary market, falling almost 40 per cent in the days after the announcement.¹⁹⁶ ¹⁹⁷ ¹⁹⁸

What lower ACCU prices may mean is that ACCUs are so affordable that there is no incentive to reduce emissions. It may also mean that ACCUs are used as a tool to facilitate increases in emissions. For example, one of the theoretical conditions of the development of the Beetaloo Basin was that proponents offset all the emissions associated with the extraction, production, and domestic combustion of gas. Even if proponents adhere to this requirement

¹⁹³ Clean Energy Regulator (2022) *Australian Carbon Exchange*,

<http://www.cleanenergyregulator.gov.au/Infohub/Markets/australian-carbon-exchange>

¹⁹⁴ <https://ministers.pmc.gov.au/morton/2020/morrison-governments-deregulation-agenda>

¹⁹⁵ Clean Energy Regulator (2022) *Quarterly Carbon Market report – December Quarter 2021*,

<http://www.cleanenergyregulator.gov.au/Infohub/Markets/quarterly-carbon-market-reports/quarterly-carbon-market-report-%E2%80%93-december-quarter-2021>

¹⁹⁶ Mazengarb (2022) *Taylor walks away from Emissions Reduction Fund, carbon prices to plunge*,

<https://reneweconomy.com.au/taylor-walks-away-from-emissions-reduction-fund-carbon-prices-to-plunge/>

¹⁹⁷ Mazengarb (2022) *Regulator predicts surging demand for carbon credits as prices stabilise after crash*,

<https://reneweconomy.com.au/regulator-predicts-surging-demand-for-carbon-credits-as-prices-stabilise-after-crash/>

¹⁹⁸ 30-day price fall to 28/3/22; Renewable Energy Hub (2022) *Carbon Market Prices*,

<https://www.renewableenergyhub.com.au/market-prices/>

and offset the 34 Mt estimated 'local' CO₂-e per year from fracking the Beetaloo Basin, the emissions from combusting exported the gas are still around 52 million tonnes per year.¹⁹⁹

The nominal 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 abatement. The result of hastily approving new methods has been a sudden increase in new project registrations and means ACCU supply will be maintained or increased. However, there is no evidence that integrity has been maintained. In fact, it appears that integrity has been overlooked and compromised to facilitate supply.

¹⁹⁹ Reputex (2021) *Report: Analysis of Northern Territory gas basin emissions and carbon costs*, <https://www.reputex.com/research-insights/report-analysis-of-northern-territory-gas-basin-ghg-emissions-and-carbon-costs/>

A review of the ERF and Australia's carbon credits

In less than a decade, what was the Carbon Farming Initiative has evolved from a small part of a national suite of climate policies into Australia's one and only legislated national climate policy. The challenge of meeting Australia's net zero goal and the failure of the ERF to date to drive reductions in Australia's emissions means that the policy is clearly in need of urgent review.

In addition to reviewing the role and effectiveness of the ERF in Australia's climate policy, given the concerns raised throughout this paper, an independent review of the Emissions Reduction Fund's governance and methodologies is also required to restore integrity and confidence in the scheme. The shape and depth of such a review may depend on the extent to which future governments rely on the ERF in Australia's future climate policy. The more significant the role of the ERF, the more comprehensive any such review should be.

A fully independent review of the Emissions Reduction Fund and its governance is required to restore integrity and confidence in the scheme. The shape and depth of such a review may depend on the extent to which the ERF plays a role in future climate policy.

While a credible review would assess the success of the ERF to date and ask the fundamental question 'is the ERF an effective mechanism to reduce emissions?', there are three broad areas for review that could be addressed in the short term collectively or separately:

- **The interaction of the ERF with other climate policies (including the Safeguard Mechanism)**

As recommended by the CCA in 2014 the ERF should operate in partnership with multiple climate policies to be effective, and to reduce the burden on the scheme as the means of meeting all Australia's emissions reduction commitments.

An assessment and clarification of the ERF's role and its interaction with other emissions reduction policies would enable a better understanding of whether it is likely to achieve sufficient emissions reductions.

There are a wide range of emission reduction policies used around the world that federal, state and territory governments could adopt in conjunction with the ERF, including carbon pricing, subsidy removal, renewable and energy efficiency targets, fuel efficiency requirements and regulation to prevent land clearing. While beyond the scope of this paper the Safeguard Mechanism is an integral part of the ERF and a

review of the mechanism, including how baselines are set (according to absolute emissions or emissions intensity) and how they are managed is also warranted.

Guiding questions:

- *What is the role of the ERF in an ambitious climate policy?*
- *Is the ERF meeting its objective of reducing emissions at a project and system level?*
- *Should carbon offsets such as ACCUs be used solely by sectors that have been deemed to be 'hard to abate' or should they be freely available for firms seeking to offset their planned increases in emissions or as a low-cost substitute for investment in energy efficiency, renewable energy, or other existing emission reduction options?*

● **The governance and administration of the ERF**

The Clean Energy Regulator carries out an extraordinary number of functions for a single regulatory body.

In line with the CCA's warning of the "risk of real and perceived conflicts of interests arising" it is recommended that a review address which functions it is appropriate for the CER to have responsibility, and which functions should be separated.

To further address the risk of real and perceived conflicts and the ensure the independence of the ERF's governance, a review would also be well-placed to assess the degree of involvement, representation and influence of the private sector and industry on the ERF. This includes industry representation in advisory roles through to industry developing methods, as well as how closely the CER works with and promotes the private sector.

Guiding questions:

- *Is it appropriate for the CER to perform so many roles?*
- *Is there a conflict between regulating and sourcing low cost abatement?*
- *What is the role of the private sector in designing ERF methods?*
- *Is there sufficient transparency to provide citizens, investors, and customers with confidence that the ERF is governed with integrity and independence?*
- *Is there sufficient transparency to provide citizens, investors, and customers with confidence that all ACCUs generate real and additional abatement?*

- **The integrity of ERF methods**

Confidence in existing and new ERF methods is low and has undermined faith in all ACCUs. A full and independent audit of all existing, new and proposed ERF methods to ensure they represent real, additional and permanent abatement would assist in restoring the confidence of taxpayers and carbon market participants.

The three biggest methods under the ERF, Human Induced Regeneration, Landfill Gas, and Avoided Deforestation, should be assessed with some urgency. Assessment of new methods such as the CCS method and soil carbon method that are expected to be credited with a significant number of ACCUs should also be assessed against legislated offsets integrity criteria as a priority.

Recent administrative changes within the CER to expedite method development and monitoring processes may have been at the expense of thorough oversight required to ensure method integrity. A review should also assess administration and monitoring processes carried out by the CER and ERAC.

Guiding questions:

- *Are Australian Carbon Credit Units being created consistent with the legislative requirement for credits to be conservative and evidence based?*
- *Are current processes for investigating concerns and auditing projects sufficient?*
- *Are measures to expedite ERF methods and reduce barriers to participation in the ERF rigorous enough to ensure integrity in methods and governance?*

It is important to establish the most appropriate body or party to carry out a review of the ERF. Given perceived conflicts in the Climate Change Authority, and previous reviews of the ERF finding no adverse outcomes from the scheme despite manifest integrity issues now being clear, the CCA is unlikely the appropriate party to carry out a review.

Any individual or party carrying out a review for should be wholly independent, free from political or vested interests and have sufficient technical expertise to understand the issues at hand for it to have any credibility.

Conclusion

In a 2014 submission to the Direct Action Plan, Professor Frank Jotzo, of the Australian National University's Centre for Climate Economics and Policy, said: "The Emissions Reductions Fund approach...is not a suitable instrument for long-term, broad-based climate change mitigation action...It could also encourage continued lobbying by potential beneficiaries".²⁰⁰

The Emissions Reduction Fund is Australia's only legislated climate policy. However, as Professor Jotzo predicted, the scheme has come under significant criticism for failing to reduce emissions in Australia. Numerous questions have also been raised since the scheme's inception over the technical veracity of its methods and, more recently, the integrity of its governance.

While the details of the accounting and measurement processes underpinning the ERF are neither simple nor widely understood, it is not difficult to show how flawed the current approach is, nor that confidence in the scheme is failing. The ACCC, CEOs of two ASX-listed companies and numerous independent academics have all raised concerns over the integrity of Australia's carbon credits.

The ERF and ACCUs form a significant part of both the Coalition and Labor parties' respective net zero plans. The private sector is also relying heavily on carbon credits, including ACCUs to meet their climate commitments. However, any government or businesses engaging in this scheme is taking on significant risk as the ERF and its products face increasing external scrutiny and criticism.

If appetite to restore integrity to the ERF is absent and appetite to scale up the scheme by subnational and federal government persists, Australia will only get further away from being able to meet its climate targets. This will be exacerbated by the fact that there are no other climate policies designed to reduce emissions in Australia, no regulation to stem emissions from industry or fossil fuel production, and active support for gas and coal.

Australians can only have confidence in the Emissions Reduction Fund scheme if it is overseen rigorously, transparently and wholly independently, free from the influence of vested interests.

A review of the Emissions Reduction Fund that addresses the interaction of the scheme with other emissions reduction policies, the integrity of its governance and whether ACCUs are

²⁰⁰ Parliament of Australia (2014) *Carbon Farming Initiative Amendment Bill 2014 – Bills Digest*, https://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/3372556/upload_binary/3372556.pdf;fileType=application%2Fpdf#search=%22legislation/billsdgs/3372556%22

resulting real, additional and permanent abatement would be a first and fundamental step in restoring integrity and confidence in the scheme as a credible and effective climate policy.