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Shorting the Environment

Submission to the proposed voluntary national biodiversity market

Australia's proposed federal biodiversity market should not proceed. Both economic theory and lived examples show that it is likely to fail Australia's threatened species and fragile environments.

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Introduction

The Australia Institute welcomes the opportunity to make a submission to the Department of Climate Change, Energy, the Environment and Water (the Department) on the proposed voluntary national biodiversity market.

The nature and duration of the consultation for new legislation and such a significant policy framework is thoroughly inadequate. The Australian *Government's Best Practice Consultation* guidance note states that "genuine consultation process ensures that you have considered the real-world impact of your policy options" and that the consultation period for significant proposals should be at least 30 days.[1]

The consultation period for the proposed biodiversity market is 18 days and is based on limited information: a three-page 'fact sheet' [2], a Ministerial media release [3] and several public addresses (prior to the scheme even being officially announced) which contain conflicting information on the scheme.[4] [5] [6]

Furthermore, according to the guidance note, consultation should ensure that "stakeholders can readily contribute to policy development". However, the consultation period for the biodiversity market overlaps with the consultation periods of two other highly interrelated, highly significant policies – the Independent review of Carbon Credits and the Safeguard Mechanism reform – both of which have relatively short timeframes. This makes it difficult for the public or stakeholders to engage adequately with the policies collectively or individually.

[1] Department of Prime Minister and Cabinet, Office of Best Practice Regulation (2020) *Best Practice Consultation*

[2] Department of Climate Change, Energy, the Environment and Water (2022) *A Market for Biodiversity*

[3] Albanese and Plibersek (2022) *Joint media release: Biodiversity certificates to increase native habitat and support Australian landholders*, https://minister.dcceew.gov.au/plibersek/media-releases/joint-media-release-biodiversity-certificates-increase-native-habitat-and-support-australian-landholders

[4] Plibersek (2022) *National Press Club address, Minister for the Environment and Water Tanya Plibersek*, https://minister.dcceew.gov.au/plibersek/speeches/national-press-club-address-minister-environment-and-water-tanya-plibersek

[5] Plibersek (2022) *National Biodiversity Conference address*, Minister for the Environment and Water Tanya Plibersek, https://minister.dcceew.gov.au/plibersek/speeches/national-biodiversity-conference-address-minister-environment-and-water-tanya-plibersek

[6] Plibersek (2022) *Speech to Udayana University on environmental markets, Minister for the Environment and Water Tanya Plibersek*, https://minister.dcceew.gov.au/plibersek/speeches/speech-udayana-university-environmental-markets-minister-environment-and-water-tanya-plibersek

The lack of information and rushed consultation period suggests that the "real-world" impacts of such significant environmental policies are not being considered, and are instead being treated as an afterthought by the Government and Department.

Beyond the consultation process, the Australia Institute has a number of concerns about the proposed biodiversity market which will be outlined in this submission.

The key concern is that a biodiversity market is an ineffective and fraught means to achieve the conservation and biodiversity outcomes so desperately needed in Australia. The entire scheme is necessitated on the false premise that the Australian Government cannot afford to restore and protect Australia's environment and therefore private sector investment is required.

Another concern is that the development of the scheme appears to be being driven by an ideological commitment to neoliberalism, not because it is good policy or because it will work. Announcements on how the scheme would work have been light on detail, confusing and contradictory, referring to certificates, credits and offsets at different times with varying degrees of government involvement.

The policy tools to protect and restore Australia's environment - including public investment, direct incentives and regulation already exist. While there is compelling evidence that environmental markets often drive perverse and detrimental outcomes – demonstrated in Australia's own carbon market - the government has provided no evidence to the contrary nor indicated how this scheme will be different to any other, instead relying on the glamorous promise of a 'Green Wall Street'.[7]

Australia's existing environmental markets – water, carbon and biodiversity – have been characterised by controversy and perverse outcomes. [8] [9] Australia's carbon market is under review because independent experts have provided compelling evidence that the majority of Australia's carbon credits have no integrity. Carbon emissions have increased under Australia's carbon credit framework. It is alarming that the Government is proposing to model a biodiversity market on the legislation underpinning the carbon market and have it interact with the carbon credit market in spite of these issues. Similarly alarming is that the scheme may be overseen by the Clean Energy Regulator, the body responsible for many of the failures of the carbon market and which is also currently under review.

[7] Plibersek (2022) *Speech to Udayana University on environmental markets, Minister for the Environment and Water Tanya Plibersek*, https://minister.dcceew.gov.au/plibersek/speeches/speech-udayana-university-environmental-markets-minister-environment-and-water-tanya-plibersek

[8] Hamilton and Kells (2021) *Dead water. The plan that failed the environment*, https://www.themandarin.com.au/168637-dead-water-the-plan-that-failed-the-environment/

[9] Hemming, Armistead, Venketasubramanian (2022) *An Environmental Fig Leaf*, https://australiainstitute.org.au/report/an-environmental-fig-leaf/

Finally, the Government has not indicated that it will stop subsidising or begin adequately regulating the practices driving ecosystem collapse in Australia so it is unclear how a 'voluntary' market mechanism will compensate for, or outpace, ongoing damage. Nor has it indicated where private investment will come from. Private investment only occurs with the promise of some sort of return or because it is driven by compliance requirements. The overwhelming risk of creating a biodiversity market is that the 'certificates' or 'credits' (both terms have been used by the Government in relation to the scheme) will be used by landowners or developers needing to 'offset' environmental damage.

The Minister for Environment and Water, Tanya Plibersek, has stated publicly that, while not the 'point' of the program, the biodiversity certificates could be used as biodiversity offsets.[10] Biodiversity offsets only ever maintain environmental decline. Biodiversity offsets have been an abject failure in New South Wales as reported recently by the NSW Auditor General. The risks of the same outcomes at a national level are overwhelming.

[10] Slezak (2022) *'Nature credits' could make Australia the 'Green Wall Street' for the world, Tanya Plibersek says*, https://www.abc.net.au/news/2022-09-01/australia-hopes-to-create-green-wall-street-with-credit-scheme/101392808

‘Government cannot foot the bill’

The Minister for Environment and Water, Tanya Plibersek, has suggested publicly on a number of occasions that private investment in nature is necessary because the government cannot ‘afford’ or ‘foot the bill’ to protect and restore Australia’s collapsing ecosystems, despite also claiming that a “healthy environment sits at the heart of our national legacy” and that her government is “not going to shy away from difficult problems”. [11] [12] [13] [14]

The cost of restoring and protecting the environment has been placed variously at $1-2 billion a year, with one estimate placing it as high as $16 million a year for extensive restoration of bushfire-damaged areas. [15] [16] [17] [18] According to the Australian Conservation Foundation federal and state investment in Australia’s environment and biodiversity has consistently declined since 2013, despite overall public spending increasing.

To put the above estimates in context, government subsidies to fossil fuels alone cost Australians $11.6 billion in 2021-22. Other recent budgeting decisions by the Australian Government include the Stage 3 tax cuts which will cost $243 billion out to 2032-33 and nuclear-powered submarines which are expected to cost over $200 billion. The Australian Government arbitrarily allocates over two per cent of Australia’s GDP to defence spending as a ‘policy target’ (receiving record funding of $48.6 billion this year).[19] To be clear, these

[11] Department of Climate Change, Energy, the Environment and Water (2022) *A Market for Biodiversity*

[12] Albanese and Plibersek (2022) *Joint media release: Biodiversity certificates to increase native habitat and support Australian landholders*, https://minister.dcceew.gov.au/plibersek/media-releases/joint-media-release-biodiversity-certificates-increase-native-habitat-and-support-australian-landholders

[13] Plibersek (2022) *National Press Club address, Minister for the Environment and Water Tanya Plibersek*, https://minister.dcceew.gov.au/plibersek/speeches/national-press-club-address-minister-environment-and-water-tanya-plibersek

[14] Plibersek (2022) *National Biodiversity Conference address*, Minister for the Environment and Water Tanya Plibersek, https://minister.dcceew.gov.au/plibersek/speeches/national-biodiversity-conference-address-minister-environment-and-water-tanya-plibersek

[15] Plibersek (2022) *National Press Club address, Minister for the Environment and Water Tanya Plibersek*, https://minister.dcceew.gov.au/plibersek/speeches/national-press-club-address-minister-environment-and-water-tanya-plibersek

[16] Note that these studies also heavily promote carbon offset revenue as a means to recoup environmental spending. The Australia Institute does not subscribe to this view.

[17] Ward et al (2022) ‘Restoring habitat for fire-impacted species' across degraded Australian landscapes’, *Environmental Research Letters*, https://iopscience.iop.org/article/10.1088/1748-9326/ac83da

[18] Mappin, Ward, Hughes, Watson, Cosier & Possingham (2021) ‘The costs and benefits of restoring a continent's terrestrial ecosystem’, *Journal of Applied Ecology* 59 (2), https://besjournals.onlinelibrary.wiley.com/doi/abs/10.1111/1365-2664.14008

[19] Australian Government (2018) *A Safer Australia - Budget 2018–19 Defence Overview*, https://www.minister.defence.gov.au/media-releases/2018-05-08/safer-australia-budget-2018-19-defence-overview

are all arbitrary spending choices driven by political preference, not need, despite the rhetoric of politicians suggesting otherwise. As former Australian Treasurer, Josh Frydenberg, noted "Everything is affordable if it's a priority". [20]

When the Australian Government says that it cannot 'foot the bill' for the environment it is more accurate to say that it does not want to.

A simple and effective way to save money on environmental conservation and restoration would be to stop subsidising the practices causing the damage in the first place. To be clear, both subnational and successive federal governments have, and continue to, heavily subsidise native forest logging, mining and fossil fuel industries – the very industries that are driving climate change and the deterioration of the environment.[21] [22] [23]

The Labor Government has indicated that it will be reforming environmental legislation in Australia but has not indicated whether it will continue to materially subsidise environmentally destructive industries. [24] [25]The environmental reforms flagged have not been described in detail, however dramatically increased regulation of land clearing and penalties for non-compliance with regulation more generally would also significantly reduce the need for public spending on the environment after the damage has been done. Law reform that incorporates the 'Polluter Pays Principle' would automatically place the burden back on the private sector to 'invest in nature' without relying on voluntary action.

Establishing a biodiversity market because governments cannot afford manage the environment on their own is a flawed premise. Not only can the government afford to restore and conserve Australia's ecosystems through direct investment, incentives to landholders and regulation, but doing so would likely be more efficient and inexpensive than setting up a market, particularly if that market fails and the government invariably must intervene anyway.

[20] Hartcher (2022) *Radioactive: Inside the top-secret AUKUS subs deal*, https://www.smh.com.au/politics/federal/radioactive-inside-the-top-secret-aukus-subs-deal-20220510-p5ak7g.html

[21] Forestry Corporation (2021) *Annual Report 20-21*, https://www.forestrycorporation.com.au/about/pubs/corporate/annual-report

[22] Armistead, Campbell, Littleton & Parrott (2022) *Fossil fuel subsidies in Australia (2021-22): Federal and state government assistance to fossil fuel producers and major users in 2021-22*, https://australiainstitute.org.au/report/fossil-fuel-subsidies-in-australia-2021-22/

[23] The Australia Institute (2015) *Subsidise this*, https://australiainstitute.org.au/report/subsidise-this/

[24] Plibersek (2022) *National Press Club address, Minister for the Environment and Water Tanya Plibersek*, https://minister.dcceew.gov.au/plibersek/speeches/national-press-club-address-minister-environment-and-water-tanya-plibersek

[25] ALP (2022) *Environmental Law Reform and a National Environmental Protection Agency*, https://www.alp.org.au/policies/environmental-law-reform-and-a-national-environmental-protection-agency

Theoretical reasons against a biodiversity market

> A bad market can be worse than no market – if it's poorly designed, or under regulated, or if it creates perverse incentives, or if it just greenwashes bad behaviour.[26] Minister Plibersek 1/9/2022

As Minister Plibersek points out, there are a range of ways in which environmental markets can, and usually do, fail. Australia has ample experience of this. It is not just because of poor implementation that biodiversity markets have not delivered good conservation outcomes. From a purely theoretical point of view, such markets face a range of contradictions and perverse incentives.

Basic economic theory points out that markets are only capable of efficiently allocating resources under certain conditions including:

- That there are many buyers and many sellers
- That the product is 'homogenous'
- That all parties to a transaction have access to good information
- Parties are rational agents acting in their own self interest
- There are no externalities
- Products are excludable and rivalrous

For a market to operate efficiently, all of the conditions listed above need to be present. In the case of the proposed market for biodiversity it is not clear that any of these conditions are met. That is, the proposition that markets can allocate resources more efficiently than government regulation, government grants or direct public provision is not based on the presence of some of the assumptions of an efficient market being in place, but all of them.

This section outlines some of the fundamental tensions that would exist in any attempt to design a market for biodiversity. Even if such tensions could be resolved, for example the relative weight that should be attached to integrity versus price, given that none of the conditions for an efficient market are present, there is no reason to expect that the proposal will more efficiently allocate resources than a policy of government regulation, grants or ownership.

[26] Plibersek (2022) *Speech to Udayana University on environmental markets, Minister for the Environment and Water Tanya Plibersek*, https://minister.dcceew.gov.au/plibersek/speeches/speech-udayana-university-environmental-markets-minister-environment-and-water-tanya-plibersek

TENSION BETWEEN VOLUNTARY NATURE OF MARKET AND DEMAND

While efficient markets need many buyers and sellers, there are only three plausible buyers for biodiversity certificates - companies or individuals wishing to donate environmental services altruistically, companies seeking to destroy similar habitat, and governments. Governments, of course, have no need for a biodiversity market, they could simply conserve biodiversity through regulation and acquisition.

Demand from altruistic parties is likely to be relatively small. Its very existence is largely contrary to economic theory. If the goal was to spend its shareholders money doing something good for the environment, it is unclear what value a tradable 'biodiversity credit' has. It seems more logical to simply buy some land and invest in its restoration. The land itself could always be sold if necessary.

Even if some firms buy biodiversity credits as a gift to society or for PR benefits, if this credit comes from a site with exiting biodiversity values then there is no net benefit to the environment. If the credit came from the restoration of a site with little or no ecological value then it would take decades to confirm that remediation and species preservation had been successful.

Companies seeking to destroy habitat is a potentially large but problematic source of demand for biodiversity credits. The biggest customers for environmental offsets will likely be mines and property developers seeking to destroy some of the remaining habitat of endangered species. Indeed, they already do this in state-based biodiversity markets and the EPBC Act's existing offsetting system.

While the proposed market is being described as voluntary, there are already signs that it may be used for offsetting. The consultation 'fact sheet' refers to a certificate system at a project level, but Minister Plibersek has referred repeatedly to both biodiversity credits and biodiversity offsets.[27] The Samuel Review of the EPBC Act suggests that "greater certainty [around offsets]...could catalyse a market response," and Minister Plibersek's language around a 'Green Wall Street' suggests just this.

The biggest risk to creating a biodiversity market is that it becomes an offsetting system whereby any ecosystem restored or protected is simply used to compensate for an ecosystem destroyed elsewhere. The previous government's proposed Agriculture

[27] Plibersek (2022) *National Biodiversity Conference address*, Minister for the Environment and Water Tanya Plibersek, https://minister.dcceew.gov.au/plibersek/speeches/national-biodiversity-conference-address-minister-environment-and-water-tanya-plibersek

Biodiversity Stewardship Market Bill 2022 (on which the proposed biodiversity market may be based) indicated that the scheme could be used as a source of environmental offsets.[28]

If this activity is 'offset' by protecting an ecologically identical site (were such a site to exist) then there has still been a net reduction in the amount of habitat. If the offset took the form of a rehabilitation of site with little or no pre-existing ecological value then the restoration process would take decades before it could be certified and, as a result, offsets would be both very expensive and decades away from being of value.

In drafting its legislation, the government should be clear about whether there is sufficient demand to develop a market without an offsetting aspect and if not, how it proposes to resolve the following tensions with an offsetting market.

TENSIONS BETWEEN TRANSACTION COSTS AND INTEGRITY

The identification of species on a specific plot of land is an expensive and time-consuming process. This will lead to high transaction costs, unless standards required for evaluation, monitoring and enforcement are relaxed, leading to biodiversity credits of low integrity. Without an enormous increase in the number of trained ecologists in Australia, it will not be possible to document the full extent of biodiversity on either the plots of land to be protected or the plots of land that will be destroyed (for which this market will likely be expected to provide 'offsets').

The carbon market demonstrates this. Despite have the advantage of satellite imagery to estimate tree cover and carbon sequestration, there are still significant concerns with the integrity of carbon credits. Biodiversity markets would not have even this advantage. Satellite imagery does not help with the identification of species, abundance of species, and permanence of species on a particular plot of land.

Applying assessments across different plots of land that have similar characteristics would be an easy way to reduce the measurement and compliance costs, but it would completely negate the objective of maintaining diversity. Markets work well when lots of suppliers are selling similar (preferably identical) products but the whole point of protecting biodiversity is that it is diverse. Different sites are different and contain different and diverse habitats.

[28] The Parliament of the Commonwealth of Australia (2022) *Agriculture Biodiversity Stewardship Market Bill 2022, Explanatory Memorandum*, https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;page=0;query=BillId:r6832%20Recstruct:billhome

In drafting the legislation, the Government's preference for low transaction costs or high levels of integrity should be made clear.

TENSION BETWEEN INTEGRITY AND SUPPLY

Due to the high cost of measuring and auditing the unique characteristics of each plot of land there will be a clear tension between the government's desired level of integrity in the 'market' that their legislation will create and the volume of projects that will be willing to incur the large transaction costs associated with high quality projects.

Without a large number of projects, the benefits of establishing a 'market' for biodiversity will be small (and likely less than the cost to the government of designing, implementing and auditing the scheme) but the higher the integrity of those projects the higher the transaction costs will be and, in turn, the lower the number of projects will be.

In drafting the legislation, the government's preference for high integrity or a high volume of projects need to be made clear.

TENSION BETWEEN INTEGRITY AND PRICE

As there is an inverse relationship between the integrity of biodiversity credits and the supply of biodiversity credits there will inevitably be trade-off between the integrity the scheme and the ultimate market price of biodiversity offsets.

Just as high-quality consumer goods sell for a large premium over low quality goods, high integrity offsets built on expensive measurement and verification of the ecological attributes of a plot of land over long periods of time will be far more expensive than 'cookie cutter' credits generated with reference to statistical models.

In drafting the legislation, the government should make clear its preference for high integrity or low prices.

TENSION BETWEEN PROFIT MAXIMISATION AND INTEGRITY

The idea that profit maximising firms will drive efficient outcomes is explicitly based on the assumption that the owners and managers of a firm will pursue their self-interest ahead of any broader community interest. While there is overwhelming evidence that such motivations have been apparent in the government created 'markets' for aged care, childcare, disability care, water and carbon credits, the government has yet to make clear

why they will be more effective in protecting endangered species from the profit motive than they have been able to protect vulnerable people.

To be clear, economists assume that firms will exploit any loopholes or limitations in legislation that boost their profits even if those profits come at the expense of other parties. Even in a well-functioning market fraud can occur. But in a well-functioning market the individuals who have been defrauded can easily seek regulatory redress, and it is obviously in their interest to do so. As endangered species are unlikely to be well informed 'market participants' it is not at all clear who would be responsible for representing the concerns of the endangered species.

The Government need to make clear in drafting its legislation how, if at all, it will resource agents to act on behalf of the species who are likely to be exploited by firms behaving in exactly the way economic theory assumes they will act.

Examples of failed environmental markets

AUSTRALIA'S CARBON MARKET

The proposed biodiversity market will operate in parallel with Australia's carbon credit system and will be regulated by the Clean Energy Regulator, the body responsible for regulating and administering Australia's Carbon Credit Units (ACCUs).

It is concerning that the Department is suggesting that the biodiversity market be modelled on a scheme that can largely be viewed as a failure. The Emissions Reduction Fund (ERF) is a $4.5 billion scheme that issues ACCUs to projects for carrying out various 'emissions reductions' activities across the economy. [29] The original goal of the ERF was to incentivise emissions reductions in Australia that wouldn't happen otherwise, with the aim of helping Australia meet its emissions reduction targets. The ERF has failed to reduce Australia's emissions, with evidence showing that it is in fact facilitating increased emissions.

The Emissions Reduction Fund has generated just 117 million carbon credits since the scheme began (less than a third of Australia's annual emissions). It is likely that the majority of these credits don't even represent real emissions reductions. [30] [31] [32]

Australia's carbon credit system should serve as a cautionary tale regarding who the likely buyers of biodiversity certificates will be and the perverse outcomes that could arise from a biodiversity market.

While the consultation factsheet for the proposed biodiversity market suggests that "companies are looking at ways to achieve positive outcomes for nature through their investments" voluntarily, there is little evidence to suggest that this is the case. In the case of the carbon market, voluntary demand for carbon credits is driven by the need to be seen to be offsetting emissions, not to make "positive outcomes for nature".

[29] The recently elected Labor government has flagged that the name of the Emissions Reduction Fund is likely to change, but that it will still operate under its government

[30] 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

[31] 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

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

The true voluntary carbon market in Australia is small: voluntary purchases by the private sector equalled 950,000 ACCUs in 2021.[33] [34] 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.

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. The original goal of the ERF was to incentivise emissions reductions in Australia that wouldn't happen otherwise, with the aim of helping Australia meet its emissions reduction targets. Accordingly, the Australian Government has been by far the biggest buyer of ACCUs to date.[35] [36]

After the government, the biggest buyers of carbon credits in Australia are big emitters buying ACCUs to meet current or future compliance requirements and speculative investors assuming that demand for offsets will increase under more ambitious climate policy.[37] [38]

Australia's entire carbon offset system has been clouded in scandal. Along with a number of independent experts, the former chair of the Emissions Reduction Assurance Committee (ERAC)—the statutory committee overseeing the integrity of carbon credit methods—has described the vast majority of Australia's credits as "a sham".

[33] 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 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 *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 *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

[34] 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

[35] Clean Energy Regulator (2022) *Auction October 2021*, https://www.cleanenergyregulator.gov.au/ERF/auctions-results/october-2021

[36] Clean Energy Regulator (2022) *Quarterly Carbon Market report – September Quarter 2021*, https://www.cleanenergyregulator.gov.au/ERF/auctions-results/october-2021

[37] 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

[38] 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

Land clearing in Australia has increased dramatically, despite one of the functions of the scheme being specifically to reduce deforestation.[39] [40] [41] [42] 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 carbon credit scheme was created.[43] 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.[44]

In response to these developments a government-commissioned review is currently underway, assessing the governance of the offset scheme, the three methods that currently generate the majority of Australia's carbon offsets, and the ways in which more environmental and cultural benefits could be brought into the scheme. [45]

Under these circumstances it would seem practical to exercise caution in creating an entirely new environmental market and have it regulated by the same body that has failed to adequately regulate the carbon market. The Clean Energy Regulator has come under increasing scrutiny for the lengths it goes to defending the industries it nominally 'regulates' rather than making decisions in the public interest and ensuring good environmental

[39] NSW EPA (2021) *NSW State of Environment*, https://www.soe.epa.nsw.gov.au/

[40] 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

[41] 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/

[42] 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

[43] 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*

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

[45] Bowen (2022) *Independent Review of ACCUs*, https://minister.dcceew.gov.au/bowen/media-releases/independent-review-accus

outcomes. The risk is that these practices will simply continue under a new market for biodiversity. [46] [47] [48] [49] [50] [51]

THE MURRAY DARLING BASIN

The management of Murray Darling Basin involves a range of schemes and markets with relevance to environmental markets.

- Efficiency projects – land holders propose various projects to save water and the rights to the resulting savings are then shared between the government's Environmental Water Holder and the landholder. There have been ongoing scandals around the cost and integrity of these schemes.[52]
- Supply measures – less water is used for the environment while 'equivalent environmental outcomes' are allegedly achieved. These have minimal integrity, and the environmental monitoring is simply computer modelling of flows. No frogs, fishes or ducks are counted by ecologists.[53]
- Tradable water markets have seen unintended consequences, such as the emergence of large, corporate nut farms around the South Australia – Victoria border. These entities have been able to buy water at prices not possible under the business models of many local producers, resulting in damage to the NSW Murray dairy industry in particular. The delivery

[46] 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

[47] 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

[48] 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

[49] 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

[50] 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

[51] 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

[52] See Campbell and McBride (2021) *Carry on up the 'Bidgee: Submission on Murrumbidgee Irrigation Automation Finalisation Project*, https://australiainstitute.org.au/report/carry-on-up-the-bidgee/

[53] See Slattery and Campbell (2018) *Desperate Measures: Supply measures, diversion limits and the Murray-Darling Basin Plan*, https://australiainstitute.org.au/report/desperate-measures-supply-measures-diversion-limits-and-the-murray-darling-basin-plan/

of this water has seen the Murray flowing at levels that are ecologically damaging both to national parks and riparian landholders.[54]

BIODIVERSITY MARKETS IN NSW AND VICTORIA

New South Wales is a case study in what can go wrong in biodiversity offset markets. The NSW Auditor General in August 2022 released a report condemning the government's Biodiversity Offsets Scheme across all aspects of design and implementation. The Scheme has failed for a number of reasons:

- There is no strategic plan for implementation, including a lack of anticipation and prevention of risks
- There is a low supply of eligible environment to match demand
- The available data is inadequate to capture appropriate detail, monitor or course-correct the new market.[55]

Similarly, the Victorian Auditor General's Office recently found that Victoria is not achieving its biodiversity objectives, partly because "limitations in ...assessment tools mean that in some parts of the state, [the government] cannot determine the required offset to fully compensate for biodiversity loss."[56]

[54] See Slattery and Campbell (2017) *Southern Discomfort: Water losses in the southern Murray Darling Basin*, https://australiainstitute.org.au/report/southern-discomfort/

[55] Audit Office of NSW (2022) *Effectiveness of the Biodiversity Offsets Scheme*, https://www.audit.nsw.gov.au/media-release/media-release-effectiveness-of-the-biodiversity-offsets-scheme

[56] VAGO (2022) *Offsetting native vegetation loss on private land*, https://www.audit.vic.gov.au/report/offsetting-native-vegetation-loss-private-land?section=

Conclusion

The Australian Government already has the tools to make significant improvements to Australia's environment and biodiversity. It could stop subsidising the practices causing the damage in the first place such as native forest logging, fossil fuel use and production. Governments can and do spend significant amounts of money buying and restoring land for ecological purposes. There is no reason for governments to incur the transaction costs of purchasing such land through the medium of credits rather than to simply do so directly.

Environmental markets are an experiment that has not worked. It is difficult to point to a success of environmental markets, particularly in Australia. In this context it is difficult to understand why this a biodiversity market is being proposed now. This proposal should be abandoned, and no further government or stakeholder resources devoted to it.

Should a biodiversity market go ahead, the Government would need to dually commit to ending the practices it currently subsidises or allows that have led to such extreme environmental degradation in the first place. A market would need to be highly interventionist, heavily regulated and administered very closely, and government would need to be the biggest buyer of any certificates or credits generated. To avoid the most perverse outcomes that have manifested in the domestic carbon credit market the Government would also need to abandon the concept of 'lowest' cost purchasing and accept the high transaction costs of measuring and monitoring biodiversity robustly.

Run this way, a biodiversity market may arrest some of the damage currently being done in Australia, but there is no evidence to suggest that it will ever achieve the level of restoration required. The Department and Government are advised to be honest and transparent about what a biodiversity market can realistically achieve and the *actual* "real-world impact" of this policy.