

Monday, 11 April 2022

Clean Energy Regular

Via email: erf-contracts@cleanenergyregulator.gov.au

Dear Clean Energy Regular,

Re: Consultation paper: Benefit sharing for the fixed delivery exit process

Thank you for the opportunity to provide a submission for the Benefit sharing for the fixed delivery exit consultation process the Clean Energy Regular (“Regulator”) is undertaking.

Corporate Carbon is actively engaged across all major sectors of the Australian Emissions Reduction Fund (ERF). We value the efforts made by the Regular to work together with key stakeholders to seek their views on the proposed benefit sharing framework, and whether there are other options that should be considered?

Our specific comments are provided below. Please let me know if I can provide any additional information in relation to this submission, or if you would like to discuss this submission in further detail.

Sincerely,

Gary Wyatt

Managing Director



1. Submission - Corporate Carbon - Benefit sharing for the fixed delivery exit process

- 1.1. The changes made by the Clean Energy Regulator ('Regulator') to the Carbon Abatement Contracts ('CACs') were announced prior to any industry consultation. As a result, the changes took the industry by surprise and were disruptive and divisive. It is our view that a better outcome could have been achieved by engaging industry. This consultation around benefit sharing is thus welcomed.
- 1.2. We welcome and support a benefit sharing arrangement. However, we are concerned about the public statements made by the Regulator about 'windfalls'. The actual attainment of such benefits will depend on several factors, the most significant being the continuing evolution of the spot ACCU price.
- 1.3. The proposed requirement for "declaration and signatures from each relevant party" is unworkable. For example, consider the case where an Aggregator has multiple CACs being supplied from multiple projects, just working out who the parties are to any particular CAC will be practically impossible.
- 1.4. We would suggest that rather than requiring a prescriptive "declaration and signatures from each relevant party", the Regulator require a declaration from the party holding the CAC that they have adequately engaged in the principals of benefit sharing. This approach would be more focused on the intent of benefit sharing, rather than the legal form in which this is demonstrated. The Regulator could then have a grievance mechanism where parties who feel they have not received shared benefits could approach the Regulator.
- 1.5. For the sharing of benefits, the Regulator will need to take contractual arrangements into account, as they specifically dealt with risk sharing e.g. how was delivery risk shared between the parties.
- 1.6. A landholder who holds a CAC should be able to exit fixed-contract delivery obligations regardless of whether or not the landholder has a carbon service provider, or if that service provider has been appointed as an agent. It is not obvious to us what possible reason there could be for penalising a landholder for having appointed a service provider or agent.