

Audit Thresholds Instrument consultation

Coversheet for submissions

Contact details

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6 February 2025

Strategy and Coordination Section
Clean Energy Regulator
By email: StrategyCoordination@cer.gov.au

To whom it may concern,

RE: Consultation on the draft Audit Thresholds Instrument

Thank you for the opportunity to provide comments on the draft *Carbon Credits (Carbon Farming Initiative) (Audit Thresholds) Instrument 2015* ('the draft instrument').

Climate Friendly is one of Australia's largest and longest-established carbon farming service providers. We service carbon farming projects under a multitude of methods under the ACCU Scheme, including numerous projects registered under the Reforestation by Environmental or Mallee Plantings—FullCAM Methodology Determination 2014 ('the 2014 Environmental Plantings Method').




We support the proposal to rollover the alternative assurance arrangements that applied to the 2014 Environmental Plantings method, to the 2024 version of that method. To date, the reform has successfully reduced transaction costs and removed entry-barriers for smaller-scale environmental plantings projects.

However Climate Friendly has one key concern with the draft Instrument as summarized below. We have provided some proposed solutions for your consideration.

Issue: Requirement that proponent must be title holder: The current wording of the draft instrument requires that the proponent and the land title holder must be the same entity. This is problematic for three reasons:

1. Many carbon farming projects are set up in bespoke legal structures such as a trust, specifically established to hold the carbon project for tax and other purposes. This is often a different entity to the title holder(s). A requirement to force the carbon project to be registered in the same name as the titles reduces the proponent's flexibility to manage their assets in the appropriate structure of their choosing. It could reduce their ability to optimize financial returns from the carbon project, and it could complicate things like family succession arrangements.

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2. It is not uncommon for a single property to have many titles, and these are often held in multiple different entities. This observation is particularly relevant to farms in higher rainfall regions, where small scale environmental plantings are most likely. This is due to historical settlement patterns such as soldier settlement schemes, where titles were allocated as smaller blocks. A requirement to consolidate all titles under the same legal entity is likely to be expensive, complicated, and a significant barrier to entry for many participants.
3. The proposed requirement currently applies to the entire Project Area. This could inadvertently incentivize proliferation of projects, where proponents may seek to register one project for each land title in order to meet the eligibility requirements. This would unnecessarily increase workload for the Clean Energy Regulator, the proponent, and service providers; without strengthening project integrity or increasing climatic benefits of the project.

Potential solutions

We respect the intent of the proposed provision to ensure a close relationship between the proponent and title holder. This is aligned with Climate Friendly's business model, where projects we support are typically registered in the name of the land manager/owner. Climate Friendly is of the view that those owning and managing the land should have full control over decisions related to their carbon farming project.

To meet the intent of the legislation while removing the barriers that Climate Friendly mentions above, Climate Friendly would like to offer three potential alternative arrangements:

1. **Potential solution 1:** Require a relationship similar to the "related entity"¹ concept used in the Corporations Act between the legal right holder and the project proponent. This would still

¹ Corporations Act definition of "related entity": "related entity", in relation to a body corporate, means any of the following:

- (a) a promoter of the body;
- (b) a relative, or de facto spouse, of such a promoter;
- (c) a relative of a spouse, or of a de facto spouse, of such a promoter;
- (d) a director or member of the body or of a related body corporate;
- (e) a relative, or de facto spouse, of such a director or member;
- (f) a relative of a spouse, or of a de facto spouse, of such a director or member;
- (g) a body corporate that is related to the first-mentioned body;
- (h) a beneficiary under a trust of which the first-mentioned body is or has at any time been a trustee;
- (i) a relative, or de facto spouse, of such a beneficiary;
- (j) a relative of a spouse, or of a de facto spouse, of such a beneficiary;

provide a nexus between the legal right holder and the project proponent, but without requiring both roles to be held by the same party.

2. **Potential solution 2:** The project proponent, or nominee of multiple project proponents, must be a related entity (appropriately defined) of the legal right holder for all project areas of the project. This creates a requirement for a legal right relationship between the title holders and the proponent.
3. **Potential solution 3:** The project proponent cannot be a carbon service provider or project aggregator.²

Climate Friendly looks forward to further discussions with the Regulator on this matter.

Yours sincerely,

A handwritten signature in black ink, appearing to be "ZR" or similar initials, written in a cursive style.

Zoe Ryan

Chief Innovation Officer
Climate Friendly

(k) a body corporate one of whose directors is also a director of the first-mentioned body;

(l) a trustee of a trust under which a person is a beneficiary, where the person is a related entity of the first-mentioned body because of any other application or applications of this definition.

² CMI Code of Conduct definitions of “carbon service provider” and “project aggregator”:

Carbon Service Provider – is a broad term for organisations or individuals that offer both project services and advisory services to Carbon Offsets Projects and the Carbon Market, including the organisations or individuals defined in items 41, 42, and 44 of this Glossary.

Project Aggregator – Organisations and individuals who provide aggregation services to support the process of bringing multiple sources (projects and/or methods) of carbon abatement together under one carbon project.

They may also act as a Project Owner or Project Agent.

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