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Dear CER Market Engagement Team

RE: Carbon market infrastructure for holding and trading certificates and units.

Thank you for allowing the opportunity to provide feedback in this consultation.

I had to ask whether I could do so because the website did not make it clear that customers and end users could participate. Whilst this was clarified for me, it is disappointing that the CER chose to not clarify this matter on its website and some stakeholders may have been discouraged from making a submission as a result.

I have actively engaged with the CER and the former Office of the Renewable Energy Regulator (as well as the other agencies DCCEEW, ACCC, ASIC CCA and more) for nearly 20 years on issues relating to systemic and structural double counting of renewables and carbon abatement. The identified issues are never properly acknowledged and little progress has been made within Australia.

Some general feedback - Clean Energy Regulator

The Discussion document refers to a "reformed Safeguard Mechanism", yet within that Safeguard Mechanism ACCUs are still not legally defined to include negative emissions.

Furthermore, Safeguard Mechanism Credits (SMCs) are tradable emissions permits that enable increased pollution, yet these are presented as Australian Emission Reduction Units. That is deception in the legislation. To refer to the Safeguard Mechanism as reformed (in talking point language) is greenwashing in my view.

Regarding the section of the Discussion Paper that says "*We provide market integrity by ensuring units and certificates are underpinned by the best available science and are validly registered/issued against legislative requirements including,* I argue that that sentence is deception because there is no integrity in markets built on certificates that do not include the attributes that they are traded for.

Please reflect the content of the paragraph above paragraph as something that was heard in the Consultation Summary Report.

- ACCUs do not include the negative emissions attribute in legislation and the abatement can or is claimed on site and within the sector of creation, whilst also being claimed by ACCU end use customers and in other sectors.
- LGCs do not legally include the 'renewable use' and 'zero scope 2 emissions' attributes that they are traded and claimed for. Continued government and CER support for location-based greenhouse accounting methods to claim progress towards net zero emissions as an equal choice, ensures that the lack of legal clarity results in double counting, free riding and greenwashing.

- The proposed Renewable Energy Guarantee of Origin Certificates (REGOS) which are supposedly for a scheme based on trading, tracking and claiming ***attributes*** also does not define REGOS as including the attributes of 'renewables use' and 'zero scope 2 emissions'.

This situation is farcical.

So how dare the CER claim that it provides market integrity when the CER does not and cannot do so.

If the CER is preparing for new schemes being implemented by the Government, then it would be a good idea to ensure that DCCEEW and the Government **legally** establish the essential attributes of the schemes in the certificates of those schemes and stop the multiple pathways for systemic and structural double counting, free riding and greenwashing. This includes the following schemes:

- Renewable Energy Guarantee of Origin (REGO) certificates
- Guarantee of Origin (GO) certificates
- Nature Repair Market Scheme – biodiversity certificates

> ***For renewable electricity, where the Renewable Electricity Certificates created under the Renewable Energy (Electricity) Act 2000 were immediately used to underpin voluntary markets, the reform to legally establish 'renewable electricity use' and 'zero scope 2 emissions' in the renewable certificates is already 24 years overdue.***

The rest of the Discussion Paper omits the necessary discussion on the foundational requirements of certificates, debit and credit rules, key register fields and market disclosure commitments that must be sufficient for the markets to work with integrity.

For example, the discussion paper states:

> ***Accessibility and transparency of unit and certificate attributes***
> ***e****nsuring buyers and sellers have access to the same, complete, trusted and accurate data that underpins units and certificates is central to efficient and effective markets.*

No renewable or carbon offset abatement claims in Australia can be trusted when systemic and structural double counting is normalised.

No attribute markets or trading platforms in Australia can be trusted when certificates are not legally defined to include their attributes and double counting is systemic and structural. Any proposition that Government policies and carbon trading schemes are approaching integrity CANNOT BE TRUTHFUL.

When the Registers do not provide adequate detail regarding debiting and crediting of attributes then transparency is lacking. Claims continue to be made on site by project owners as well as being claimed off site by buyers and end users.

I repeat:

- ACCUs do not include the negative emissions attribute in legislation and the abatement can or is claimed on site and within the sector of creation whilst also being claimed by ACCU end use customers and in other sectors.
- LGCs do not legally include the 'renewable use' and 'zero scope 2 emissions' that they are traded and claimed for. Continued government and CER support for location-based methods to claim progress towards net zero emissions as an equal choice ensures that the lack of legal clarity results in double counting, free riding and greenwashing.
- The Proposed Renewable Energy Guarantee of Origin Certificates (REGOS) which are supposedly for a scheme based on trading, tracking and claiming attributes also does not define REGOS as including the attributes of 'renewables use' and 'zero scope 2 emissions'.

Some reference to what legislation actually says

Australian Carbon Credit Units ACCUs

Part 2, Division 1, Section 11 of the Carbon Farming Initiative (Carbon Credits) Act 2011 describes how Australian Carbon Credit Units are created but does not describe what they are, nor does it describe attributes that the units contain any attributes, nor does it describe how any attributes might be traded in a way that prevents double counting. No debit and credit rules apply to the abatement.

No debit and credit rules apply to the abatement claimed through ACCUs under this Act or any other legislative instrument.

Large-scale Generation Certificates

Legislation does not assign attributes to large-scale Generation Certificates

Part 2, Subdivision A Section 18 of the Renewable Energy (Electricity) Act 2000 describes how Large-scale Generation Certificates (LGCs) are created but does not describe what they are, nor does it describe attributes that the units contain any attributes, nor does it describe how any attributes might be traded in a way that prevents double counting.

No debit and credit rules apply to the renewable electricity use at zero emissions under this Act or any other legislative instrument.

The Clean Energy Regulator's use of LGCs to underpin voluntary claims is fundamentally flawed and applied through a convention that is applied inconsistently

The July 2023 inclusion of market-based claims under the NGER Determination has not addressed this matter and is no better than accepting monopoly money. Consumers are still misled under Australian Consumer Law and Investors are misled in relation to Renewable Projects including Renewable Hydrogen and Green Steel Projects under Corporate Law.

DCCEEW has confirmed that renewable electricity is not legally allocated to anyone via the grid (Location or market-based)

Voluntary Renewable schemes remain vulnerable to a legal challenge that they are unlawful

Renewable Guarantee of Origin Scheme

The section of the proposed legislation that describes the attributes of REGO Certificates does not define 'renewable electricity use' or 'zero scope 2 emissions' as attributes. There is a generic but ambiguous statement about REGOs representing a MWh of renewable electricity, but this is not sufficient and does not provide clarity. All of the systemic and structural double counting, free riding and greenwashing loopholes will continue whilst the CER keeps claiming false integrity by not considering that the government schemes are part of a much broader market and ignoring the contradictions even within government schemes like the Voluntary LGC markets, ACCU markets and proposed REGO, GO and Biodiversity markets.

4.5 Consultation questions

Registry

1 What registry features and functionality will be the most important to address the current challenges faced by carbon markets?

ANSWER

- Certificates need to include the essential defined attributes for which they are traded and claimed for.
- For renewable electricity, the consumption and percentage consumption of renewable electricity is necessary for state-based claims.
- For Renewable electricity, when companies are claiming use of renewables to power their operations, anyone should be able to check and validate this on the REC Registry.
- For ACCUs, the Register must address debit and credit rules so that abatement is not claimed on site and by the end consumers at the same time.
- For any and every certificate, if attributes are being claimed then those attributes need to be legally defined and integrated with the certificate.

<u>REC Registry</u>

One major failing of the REC Registry is that it does not collect nor disclose information on LGCs created and sold from facilities where the renewable electricity has been produced, consumed and claimed on site. This ***'Behind the meter loophole for large scale renewables'*** is blatant double counting on a scale that is likely larger than the entire voluntary renewables market.

Whilst the CER has no role in enforcement action on sustainability claims, that does not mean that it gets a green light to promote scheme concepts that are not underpinned by legislation, nor does it mean that the CER should fail to create the functionality and disclosure of information that would expose free riding and double counting.

2 What registry features and functionality will be the most important to take advantage of the opportunities presented by the growth in carbon markets?

ANSWER

The registries need to provide sufficient information to underpin claims and for claims to be assured and checked. There should be no expectation of confidentiality in the following situations:

- When Energy Intensive Trade Exposed Industries (EITEIs) claim RET Exemption Certificates they should be doing this in their own entity name, not hiding behind the name of their entity provider. Some EITEIs are starting to claim on site renewables use and Power Purchase Agreement claims using the loopholes created by the mix of location based and market-based accounting choices as well as choosing to make claims within or not within government certification schemes.
- When large entities make public claims about building Australia's largest renewable electricity project or establishing large or largest renewable Power Purchase Agreements, are to establish massive 'Renewable Hydrogen' projects the Registries designed to disclose necessary information for stakeholders to work out if these projects or agreements include the voluntary surrender of renewable certificates when in operation. Currently there is no way of knowing whether entities are buying additional voluntary certificates of free riding on the loopholes.
- The REC Registry should be a lot easier to search on company and large end usernames and facilities.

3 Should information about the co-benefits associated with units and certificates, (for example First Nation community outcomes and environmental benefits) be made available in the registry? If so, should this include third-party verified and unverified information?

a. What existing frameworks could be relied upon to verify co-benefits?

ANSWER

The CER and DCCEEW should concentrate on **fixing the main attributes** before confusing and complicating the scheme with co-benefits. A co benefit is not an attribute so it does not need to be included in the scheme.

ACCU Exchange Registry

9 Please identify the specific carbon exchange user segment(s) applicable to you:

ANSWER

OTHER - Customer, voter, resident of the planet, campaigner against greenwashing.

The abatement associated with ACCUs continues to be double counted systemically and structurally. The ACCU carbon offset market in Australia will continue to be shambolic until there are foundational accounting reforms to:

1. Legally define ACCUs to incorporate negative emissions (as scope 3 negative emissions)

2. Established debit and credit rules for the abatement so that when it is claimed by an end user (to say offset fossil fuel projects), it is not still being claimed on the site and sector of its creation. This should not be regarded as a new scary concept. It is the foundation of currency markets across the world for thousands of years.

The ACCU Exchange Registry needs to ensure that the units used within the exchange and in Australian markets incorporate the attributes that the market is built upon

This must not become a situation like Robo Debt where every agency involved in the scandal failed to act.

10. Does the market need a central carbon exchange to be established?

ANSWER

Only if it is to exchange units that legally incorporate the attributes they are traded for, otherwise all claims are false so there is no real point.

12. What challenges do you foresee in the use of the CDI framework to support the carbon exchange and the proposed process to convert CDI holdings into ACCU holdings? How might these challenges be mitigated?

ANSWER

If there is a lack of integrity in any components being exchanged, such as the absence of debit and credit rules for the abatement, or insufficient boundary adjustment mechanisms, then the exchange will be foundationally flawed, and markets will not have credibility.

13. Do you anticipate any market implications from bifurcating listing to carbon sequestration and emissions avoidance?

ANSWER

ACCUs from carbon sequestration have major problems in the accounting of abatement and massive proportion of junk credits

ACCUs from claims associated with emissions avoidance are ten times worse and should not be a part of the market at all. This has already been a demonstrated failure with public street lighting upgrades where the project owners got to claim the benefits of reduced electricity emissions at the same time as this benefit being used to create ACCUs which were sold to third parties to also claim the same abatement. It was a scam, and I am pleased the method was quashed. It was also technically possible for project owners to create and claim the ACCU abatement for themselves to get double the abatement. This type of loophole was persisting right up and into the ACCU Independent Review and I am not even sure now that some corporations are not still benefitting from on site actions claimed on site and sold as ACCUs.

17. Would the public disclosure of the project method of an ACCU that is received, and then subsequently surrendered or cancelled, under a system generated random allocation process when converting CDIs to ACCUs:

a. adversely impact your intended use of the carbon exchange? and

b. is any such adverse impact mitigated by option 2 above, that is, limiting ACCUs received to those generated under a project method classified as

involving 'carbon sequestration' or 'emissions avoidance' (as applicable to the class of ACCUs traded)?

ANSWER

The ACCC has established consumer rights and guarantees that are economy wide. To date, these rights and guarantees have been ignored with regard to accredited renewable electricity and carbon offset markets where critical information is withheld and consumers are misled. The rights of consumers to access information about what they are buying should be given greater weighting that any perceived adverse impacts of market providers.

18. Do you support placing controls or disincentives on the cycling of ACCUs off and onto the exchange with the intention of exchanging one ACCU with certain attributes for another, or should such cycling be allowed?

ANSWER

Yes, I would restrict as much as possible, because the market is fundamentally perverse by its nature and enabling more latitude for derivative and exchange opportunities is just going to lead to greater loophole exploitation

Right now, ACCUs do not legally incorporate any attributes so until they do so in law, it is hard to see how one could be swapped for another to get a change of non-existent attributes. The market cannot continue to be house of cards be built on perceptions rather than legal definitions.

20. Will the proposed exchange model complement the OTC market?

ANSWER

OTC markets built up by "a common industry view" that is not applied consistently and causes systemic double counting, are an additional danger to market credibility.

21. **Are there other issues beyond those set out in this paper with only identifying the project method and other specific attributes of an ACCU after conversion from a CDI?**

ANSWER

I really don't see that conversions relating to attributes, that are not legally defined, can be credible. There must be debit and credit rules which are applied to same attributes that may exist in different equivalent certificates, if those certificates are designed that way. A goat is not a banana.

If the CER and DCCEEW are going to continue to create markets based on the trading and claiming of attributes, then the Government and agencies should start to legally incorporate those attributes into legislation.

- LGCs need to include the attributes of 'Renewable electricity use' and 'zero scope 2 emissions' in legislation because that is what they are traded for.
- ACCUs need to incorporate negative emissions or negative scope 3 emissions in legislation because that is what they are traded for.

- REGOs will need to include the attributes of 'Renewable electricity use' and 'zero scope 2 emissions' in legislation because that is what they will be traded for.
- Debit and Credit Rules need to apply to the attributes being traded and claimed.

22. **Are there any other areas, suggestions or concerns with the proposed exchange trading model that should be noted?**

ANSWER

I continue to be concerned at the overall lack of integrity in policy and failure to acknowledge key concerns of systemic double counting, free riding and greenwashing identified in consultations regarding carbon abatement and renewable electricity markets.

Schemes that the CER Administers

RESPONSE

The CER omitted that it created and administers the Corporate Emissions Reduction Transparency (CERT) reporting framework.

The CER had no legislated purpose for creating this scheme and should have referred that task back to DCCEEW.

This scheme has encouraged corporations to use either location-based or market-based accounting for claiming progress towards emissions reductions or net zero emissions. It has promoted and given assurance to systemic and structural double counting.

Whilst the CER maintains that each accounting framework is different, when both frameworks are used for the same public facing claims as progress towards net zero, then of course this is double counting, not dual reporting.

For the CERT to have integrity, using the registries for ACCUs and renewable certificates, then reforms are required for the certificates for the registries and exchange platforms to operate properly.

The CER also maintains the Registry of RET Exemption Certificates claimed by corporations with Trade Exposed Energy Intensive (EITE) activities. In this registry it is also near impossible to work out which company and facility is claiming the credits. For example, a stakeholder needs to guess that the AGL or Origin exemptions for copper in South Australia actually mean BHPB exemptions, only by the fact that BHPB have the major copper mine in the state.

Why wasn't the RET Renewables Exemption Scheme mentioned, given that it is worth $231M per year to Corporations to ***not contribute*** to Australia's renewable electricity transition?

Conclusion

I trust that this time for the first time in nearly 20 years, that the concerns I have identified in this consultation will be adequately acknowledged in the CER '*What was heard summary'*.

I would very much like the opportunity to discuss my concerns on this consultation with the CER.

Yours sincerely

Tim Kelly