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National Greenhouse Accounts
Department of Climate Change, Energy, the
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Submission via DCCEEW's Consultation Hub

To Whom It May Concern

Carbon Credits and Other Legislation Amendment (Integrity and Transparency) Bill Consultation - 2026 Public Consultation

Woodside provides this submission to the consultation on the *Carbon Credits and Other Legislation Amendment (Integrity and Transparency) Bill* (the Bill) Exposure Draft released on 30 April 2026 by the Department of Climate Change, Energy, the Environment and Water (**DCCEEW**). The consultation seeks feedback on a suite of legislative amendments to both the *Carbon Credits (Carbon Farming Initiative) Act 2011* (**CFI Act**) and the *National Greenhouse and Energy Reporting Act 2007* (**NGER Act**).

Woodside acknowledges DCCEEW's ongoing efforts referred to in the consultation paper to implement previous review recommendations, respond to stakeholder feedback and bolster the integrity of the Australian Carbon Credit Unit (**ACCU**) Scheme.

Woodside's role in the ACCU market

Woodside has made substantial investments in the ACCU market, reflecting its ongoing commitment to supporting carbon abatement initiatives and ensuring compliance with its regulatory requirements as operator of, and equity owner in, multiple Safeguard Mechanism (SGM) facilities. These investments encompass both the development of Woodside's own ACCU projects as a project proponent (16 registered ACCU projects to date) and the acquisition of credits from various ACCU market participants. Woodside expects to continue to be a significant participant in the ACCU market through to 2030 and beyond.

Woodside acknowledges the unique connection that Indigenous communities have to land, waters and the environment. Woodside's Indigenous Communities Policy[1] defines and sets out our approach to engaging with Indigenous communities and is subject to regular review and update. The Policy states that "Woodside partners and engages with Indigenous communities to create positive economic, social and cultural outcomes that leave a lasting legacy. We do this through building respectful relationships and partnerships with Indigenous communities where we are active, in the areas where they are most interested in." The Policy applies to all Woodside activities including the development of ACCU projects as the Proponent.

Amendment A1. *Registered native title claimants as eligible interest holders* – impact to freehold title

As set out in Section A of the DCCEEW consultation paper, proponents for all area-based ACCU projects are required to obtain consent from people and parties who hold an 'eligible interest' in the land where a project is

[1] https://www.woodside.com/docs/default-source/about-us-documents/corporate-governance/woodside-policies-and-code-of-conduct/indigenous-communities-policy.pdf

proposed to be carried out. The proposed amendments would expand eligible interest holders to include registered native title *claimants*.

Woodside supports the principle that Eligible Interest Holder (EIH) consent should apply where native title rights may continue to exist, notwithstanding that a claim has yet to be determined. However, Woodside's view is that the amendment should specifically address the circumstances where *a native title claim covers validly granted freehold land*. As drafted, the amendment may require all freehold landholders, within a registered native claim area, to obtain consent from native title claimants prior to registering ACCU projects on freehold land.

Woodside believes that better alignment of the proposed EIH consent amendments with the operation of the *Native Title Act 1993 (Cth)* (**Native Title Act**) could be achieved through amendments to Schedule 1, Part 1 of the Bill. For instance, by expressly excluding land subject to a valid Category A past act (including freehold land) or tying consent triggers to land where native title exists or may exist at law, rather than the registration of a native title claim or register area(s). Further information on this issue and this proposed amendment can be found in **Appendix A** of this letter.

Woodside advocates for better alignment between the operation of the CFI Act and the Native Title Act for the following reasons:

- Requiring native title claimant consents in relation to validly granted freehold land, is inconsistent with the Native Title Act and the public understanding of the indefeasibility of freehold title and may create broader community concerns by introducing uncertainty regarding freehold titleholder interests that the Native Title Act sought to address.

- It is likely to create investment uncertainty which may reduce and delay ACCU supply. A robust, liquid ACCU market is critical to support the balance between climate ambition and national productivity. The time and complexity in obtaining native title holder claimant consent, over freehold land may disincentivise landowners from establishing ACCU Scheme Projects in areas subject to native title claims that include validly granted freehold land.

- Indirect amendments to restrict the use of freehold title, with minimal consultation, could set a precedent for land use changes on freehold title under any other new and emerging legislation.

- Paradoxically, while the "*entry on the Register* of Native Title Claims under Part 7 of the Native Title Act" may cover freehold land - a native title applicant is prevented by the Native Title Act from legally *claiming* native title over freehold land (other than in very limited circumstances). Therefore, consent cannot be legally obtained, because the persons who would be required to provide the consent (the applicant(s) on behalf of the claim group) may not have the legal authority to provide that consent as they are not "applicants" for the purposes of the relevant area(s) of freehold within the external boundaries of their claim.

Additional comments relating to the ACCU and NGER Schemes

In line with Woodside's submission to the Climate Change Authority's (CCA) fifth review of the ACCU Scheme in December 2025[2], we also recommend amendments to the ACCU scheme including:

- Using evidence from real industry decarbonisation opportunity planning, rather than scenario-base trendlines, to develop an ACCU Market Statement of Opportunity to assess future ACCU supply and demand and guide policy decisions.

- Improving processes and resourcing to ensure the proposed Carbon Abatement Integrity Committee quickly develops new methods in parallel to improve ACCU market liquidity and avoid shortages.

- Adopting Article 6 implementation to allow carbon credits to be traded internationally, initially for the purpose of ensuring an adequate reserve in the Safeguard Mechanism's Cost Containment Measure.

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[2] https://www.woodside.com/docs/default-source/sustainability-documents/transparency-documents/2025-government-submissions/woodside-submission---cca-accu-scheme-review-2026---15-december-2025---redacted.pdf?sfvrsn=9b983388_1

Woodside supports clear, stable and pragmatic emissions reporting frameworks and recognises the important role the NGER Scheme makes to the integrity and confidence in Australia's greenhouse gas emissions inventories. Regarding the proposed new publication rule-making power, Woodside recommends the amendment explicitly require industry consultation prior to prescribing information to be published. This may enable industry to advise on appropriate context to support accurate interpretation of data and to identify any commercial sensitivities.

In addition to this submission, as a member of the Australian Energy Producers, the Australian Industry Greenhouse Network, the Chamber of Minerals and Energy of Western Australia and the Business Council of Australia, we also draw your attention to their respective submissions.

Woodside would appreciate the opportunity to meet with DCCEEW to discuss the contents of this submission.

Yours sincerely,

[redacted]

Vice President, Carbon Solutions

Attachment: APPENDIX A

APPENDIX A – FURTHER INFORMATION IN RELATION TO THE INTERACTION OF THE CFI ACT WITH THE NATIVE TITLE ACT

As set out in Section A of the DCCEEW consultation paper, project proponents for all area-based ACCU projects are required to obtain consent from people and parties who hold an 'eligible interest' in the land where a project is proposed to be carried out. The proposed amendments would expand eligible interest holders to include registered native title claimants. ACCU projects on land subject to a native title claim are not currently required to obtain eligible interest-holder consent (**EIH consent**) from each registered native title claimant. However, if a native title claim is determined in respect to an area where native title rights may continue to exist, between an ACCU project being conditionally registered and the end of the first reporting period, consent from the native title holder may then be required before the conditional registration can be removed.

The consultation paper provides that "[a]*mending the law to recognise registered native title claimants as eligible interest holders brings the Scheme into closer alignment with the Native Title Act which provides registered native title claimants procedural rights, including the right to negotiate. This helps improve the integrity of ACCU projects, ensuring all relevant rights holders have consented to the future potential impact on the land."*

Woodside would like to see this proposed amendment to the CFI Act to be better aligned with the operation of the Native Title Act and Commonwealth laws so that the proposed extension of the EIH consent requirement is tied to land where native title exists or may exist at law, rather than the registration of a native title claim or register area(s). This alignment could be achieved with simple edits to the drafting in the exposure draft proposed in paragraph 7 below. This will more accurately align the proposed expansion to the EIH consent requirement with the intent as expressed in the consultation paper. We have set out this issue below in more detail:

1. As a starting proposition, under Australian common law a valid grant of freehold (fee simple) extinguishes native title because the incidents of fee simple are inconsistent with the continued existence of any native title rights and interests.

2. Woodside has concerns that the drafting of the above enhanced EIH consent amendment may result in uncertainty and ambiguity as to the legislature's intention in relation to EIH consents required for freehold land. This is because the expanded consent requirement is not drafted by reference to areas where native title does or may exist (the legal basis for a native title claim being able to be made), but instead to the native title claims register. The proposed expanded consent requirement is using the incorrect reference point in the Native Title Act to tie the concepts together.

3. A native title claim filed in the Federal Court of Australia and referred to the Native Title Register in respect to an Area may, in some cases legally and in some cases on face-value practically, be expressed to include validly granted freehold land in respect of which native title would ordinarily have been extinguished at law. This is because the EIH consent amendment is linked to claim register status rather where native title may or does actually exist at law, and there will inadvertently be freehold landowners whose land falls within a registered native title claim area (but will never be found to be the subject of native title).

4. We also note that the registration test under Part 7 of the Native Title Act does not require claimants to exclude Category A past acts such as freehold land from their applications. Consequently, while we understand that areas where extinguishment is apparent on the face of the application will not be registered <u>if they are identified during the registration process</u>, claim areas may still, on face value mapping within the National Native Title Tribunal and within claim application forms themselves, include areas of freehold land.

5. Indeed, an applicant who brings a native title claim is prevented by the Native Title Act from legally claiming native title over freehold land (other than in very limited circumstances). Any legislative requirement that requires consent from a claim group over freehold land therefore cannot even be legally obtained, because the persons who would be required to provide the consent (the applicant(s) on behalf of the claim group) m*ay not have the legal authority* to provide that consent for they are not "applicants" for the purposes of the relevant area(s) of freehold within the external boundaries of their claim.

6. Woodside understands that the amendments as currently proposed, may inadvertently require freehold landowners within registered native title claim areas to obtain consent to register an ACCU Project.

7. This may be addressed by amendments to Schedule 1, Part 1 of the Bill. For instance, by expressly excluding land subject to a valid Category A past act (including freehold land) or tying consent triggers to land where native title exists or may exist at law, rather than by claim or register area(s) which are incorrect reference points to utilise.

Example of an area-based ACCU project that could be impacted

A landowner with a commercial plantation on validly granted freehold land may wish to register an ACCU project to convert an existing plantation from a short rotation to a long rotation under Schedule 2 of the Plantation Forestry method.

It is not clear, under the proposed amendments to the CFI Act which recognise registered native title claimants as eligible interest holders, whether the landowner would require registered native title EIH consent in order to register the ACCU project if the freehold land falls within a registered native title claim area notwithstanding that native title does not exist within that freehold land.