

Committee Secretary  
Standing Committee on Climate Change, Energy, Environment and Water  
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Sent via online parliamentary portal and cc Committee Secretariat

**NAME WITHHELD - SUBMISSION REGARDING AMENDMENTS TO THE 1996  
PROTOCOL TO THE CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY  
DUMPING OF WASTES AND OTHER MATTERS 1972**

We are writing in relation to the House of Representatives Standing Committee on Climate Change, Energy, Environment and Water inquiry regarding the 2009 and 2013 amendments to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Protocol), with regard to:

- a. the environmental benefits and impacts of exporting and importing carbon dioxide streams for the purpose of sub-seabed sequestration
- b. the environmental benefits and impacts of marine geoengineering activity, such as ocean fertilisation, for scientific research
- c. the international market for carbon dioxide streams
- d. the interaction of the proposed amendments with greenhouse gas inventories and regulatory and reporting streams.

For the purposes of this letter, the 2009 amendment to the London Protocol is referred to as the 'Proposed Amendment'. Comments in respect of the 2013 amendment are limited to its response in section (b) below.

**Executive Summary**

The carbon capture and storage (CCS) industry is well underway globally across a range of industry sectors. This is underpinned by large, secure geological storage sites and technologies that are well developed, commercially ready, and financially viable to deliver material economic and emissions reduction benefits. There is also growing recognition that the only realistic path for the world to achieve net zero emissions by 2050 is with a portfolio of initiatives that includes CCS.

Australia is fortunate to have a number of world-class geological storage sites and a comprehensive regulatory framework to ensure safe and permanent storage of CO<sub>2</sub>.

Australia's geographic proximity to Southeast Asia also provides it with a unique opportunity to demonstrate its commitment to the London Protocol and provide regional environmental benefits in mitigating CO<sub>2</sub> emissions from neighbouring countries. If Australia asserts itself as a premier CCS operator in the region, there are also potential economic and employment benefits to be gained. In addition to the potential export of hydrogen and ammonia, the enablement of CO<sub>2</sub> imports to and exports from Australia (for transport and permanent geological storage) is in the country's national interest and the adoption of the Proposed Amendment should be supported.

## Portfolio of carbon abatement strategies to meet global emission reduction targets

All available carbon abatement strategies are required to meet global emission reduction targets, and this is supported by:

- In October 2018 the IPCC special report on limiting global warming to 1.5°C reconfirmed the need for CO<sub>2</sub> removal technologies, including CCS.<sup>1</sup> IPCC's 6th synthesis report (AR6) is due out March 2023.
- 'Australia's carbon sequestration potential' report released by CSIRO on 12 December 2022 advises that carbon sequestration, including CCS, is a key component of achieving net zero emissions by 2050<sup>2</sup>.
- This report states that "Permanently removing significant amounts of Greenhouse Gases (GHG) from the atmosphere, combined with ambitious emissions reductions, is the only realistic path for the world to reach the goals of the Paris Agreement (UNFCCC, 2015) and limit the worst impacts of climate change."
- Leading global economies are increasingly adopting CCS as part of climate change action plans. These include the UK, EU (Norway), USA (under President Biden), Canada and China.
- Globally, there are 30 large-scale CCS projects successfully operating and a further 164 in various stages of development. This demonstrates that CCS is technically feasible at commercial scale<sup>3</sup>.

Our studies also indicate that CCS could be commercially viable in Australia across several industries (i.e. hydrogen, natural gas, fertiliser and bioenergy).

## Driving the commercialisation of CCS in Australia

The CCS industry is well underway globally across a range of industry sectors. This is underpinned by large, secure geological storage sites and technologies that are well developed and commercially available. CCS technologies are commercially ready, financially viable and available now to deliver material economic and emissions reduction benefits as evidenced by the significant progress internationally over the past five years. However, as noted by the Global CCS Institute in its annual Global Status of CCS report, while the momentum behind CCS continues to build, "ambition must now translate to urgent, broad, and large-scale action if the world is to maintain a liveable climate".

In order to drive the commercialisation of CCS in Australia, there is a role for government support underpinned by legislative and regulatory certainty. Without this support, Australia's CCS industry is unlikely to flourish, and Australia will forgo significant economic and emissions reduction opportunities on the journey to achieving net zero. According to a newly released CSIRO study on Australia's carbon sequestration potential, one of the key barriers to geological storage in Australia is permitting and regulatory complexity.<sup>2</sup> The report also notes that, "before any storage may occur, there will need to be alignment between the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* and the Sea Dumping regulations, which are yet to be designed".

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<sup>1</sup> IPCC, 2018. Global warming of 1.5 °C. An IPCC special report on the impacts of global warming of, available at <<https://www.ipcc.ch/sr15/>>.

<sup>2</sup> CSIRO, 2022. Australia's carbon sequestration potential, available at <<https://www.csiro.au/en/research/environmental-impacts/emissions/carbon-sequestration-potential>>.

<sup>3</sup> Global CCS Institute, 2022. Global status of CCS 2022, available at <<https://www.csiro.au/en/research/environmental-impacts/emissions/carbon-sequestration-potential>>.

In relation to the regulatory framework for CCS in Australia, there is a need for it to be straightforward, fit-for-purpose, proportionate, risk-based, and not overly prescriptive or complex in approach or application. Proponents and investors are looking for regulatory certainty and where possible, streamlined assessment processes for duplicative regulatory regimes. Regulatory frameworks also need to be cognisant of the commercial environment in which new industries such as CCS are evolving. Projects may be delivered via different models, such as a single proponent of a hub and spoke model that involves multiple companies/consortia through various commercial arrangements across various parts of the value chain (from capture through to storage). Regulatory frameworks need to be able to support this.

If the Proposed Amendment were adopted, any imported CO<sub>2</sub> would potentially increase the number CCS projects involving geological storage in Australian waters), and the number of companies/consortia associated with them. This potential complexity reinforces the need for bilateral agreements between Australia and other participating countries, and regulatory frameworks to support these multilateral/international project structures.

CCS projects also require significant upfront investment and may span decades requiring billion-dollar investments from multiple companies/consortia. This investment will not be forthcoming if proponents and investors lack confidence in the regulatory framework underpinning a project.

In relation to the areas of the Committee's inquiry, we would like to make the following submission:

**a. Environmental benefits and impacts of exporting and importing carbon dioxide streams for the purpose of sub-seabed sequestration**

CCS has been in safe commercial operation globally for over 45 years. There are multiple facilities successfully and safely operating globally with minimal environmental impact. The CO<sub>2</sub>CRC Otway International Test Centre has successfully stored CO<sub>2</sub> for 15 years - since first injection in 2008. In this time, 100% of the injected CO<sub>2</sub> has been safely and securely stored underground in a geological trap, similar to those nearby to the site that have held hydrocarbon gas and CO<sub>2</sub> for millions of years. A recent phase of the Otway project - Stage 3 - has been operating since 2020 and has conducted additional highly-informative trials about non-intrusive monitoring of CO<sub>2</sub> storage. The latest phase of the Otway Project - Stage 4 - is investigating how CO<sub>2</sub> interacts with existing faults. For this latest stage, a shallow fault safely away from the storage zone has been selected for tests with relatively low-pressure CO<sub>2</sub>. The CO<sub>2</sub>CRC Otway Project also conducts extensive research with international industry and academic partners to develop and improve processes, reduce uncertainty, develop monitoring techniques and decrease the cost of CCS.

In Australia, robust consideration has been given to the regulatory framework that applies to CCS projects. The Commonwealth *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (OPGGS Act) and the *Environment Protection (Sea Dumping) Act 1981* (EPSD Act) prescribe for comprehensive approvals for CCS, including environmental approvals and the monitoring of the pipelines and stored CO<sub>2</sub>.

An applicant must undergo a rigorous assessment to ensure the nominated storage site has an appropriate seal and is suitable for CO<sub>2</sub> containment by meeting all of the fundamental suitability determinants as set out under the OPGGS Act. As assessment

of the loading for disposal and disposal of CO<sub>2</sub> by offshore CCS must also be undertaken to demonstrate that any impacts will be minimal with the implementation of best environmental practices. CCS proponents are also required to prepare a comprehensive risk assessment and monitoring and verification plan, and a long-term management plan prior to conducting any injection operations. Further, approval must be sought under the OPGGS and EPSDA Acts for the particular CO<sub>2</sub> substance to be injected and stored.

The environmental benefit to exporting and importing CO<sub>2</sub> streams is that it provides countries with options to export CO<sub>2</sub> streams to a jurisdiction with the appropriate geological attributes and, in particular, one where there is a framework for, and regulation of, CCS activities and associated environmental regulation. At the fourth meeting of the contracting parties to the London Protocol on 30 October 2009, the resolution adopting the Proposed Amendment (Resolution) noted '*that not all countries have suitable sub-seabed geological formations for the sequestration of carbon dioxide streams*'. While not explicit in the resolution, this is consistent with the international environmental principle for 'good neighbourliness' and cooperation.<sup>4</sup> Furthermore, to the extent that CCS activities are deployed globally, the Proposed Amendment has the potential to facilitate that deployment in regions with strong track records in respect of CCS technologies and environmental health and safety. As indicated in the introduction, there is an essential environmental benefit in CO<sub>2</sub> being captured and stored rather than emitted to the atmosphere. The facilitation of cross boundary trade of CO<sub>2</sub> streams for offshore injection and storage is an option for potentially increasing the scale and pace of deployment of CCS projects, and as such may assist countries in global cooperation to address climate change.

In terms of environmental impacts, the main difference with domestic projects is the potential length of transport of CO<sub>2</sub> streams where they are imported or exported across international borders - and the potential emissions involved in that transportation depending on whether the CO<sub>2</sub> streams are transported by ship, road or pipeline. The environmental impact of long-distance transport was also identified in the Resolution which emphasised that '*Contracting Parties should ensure that the long-distance export of carbon dioxide streams between UN regions is reduced to the minimum consistent with the protection and preservation of the marine environment - from all sources of pollution, taking into account the special position of developing countries*'.

Australia's geographic proximity to Southeast Asia coupled with its enormous CO<sub>2</sub> storage potential, provides it with a unique opportunity to demonstrate its commitment to the London Protocol and the environmental benefit of mitigating regional CO<sub>2</sub> emissions. If Australia asserts itself as a premier CCS operator in the region, it will provide net environmental and economic benefits to the region and contribute to the international target of achieving Net Zero by 2050 (whilst potentially offsetting impacts of CO<sub>2</sub> transport).

On the issue of any emissions associated with the process of capture, transport, injection and storage, this is a matter that is capable of being worked through contractually between the participating parties, including through the potential retirement of any carbon credits generated by the project in proportion to those emissions generated (see section (d) below).

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<sup>4</sup> P Sands, Principles of International Environmental Law, 2nd edition, Cambridge University Press, United Kingdom, 2003

If Australia, or Australian bodies or entities, were seeking to engage with non-Contracting Parties to the London Protocol, the Proposed Amendment places obligations on the Australian Government to ensure that the non-Contracting Party has appropriate legislative and regulatory frameworks in place to receive the CO<sub>2</sub> streams in a manner that complies with the requirements of the London Protocol. We discuss this issue further below in the context of leakage and liabilities (see section (d) regarding the OPGGS Act).

**b. Environmental benefits and impacts of marine geoengineering activity, such as ocean fertilisation, for scientific research**

Our intention and purpose to permanently store the CO<sub>2</sub> geologically in traps similar to those that have safely stored oil and gas over geological history. Ocean fertilisation is not an outcome that is contemplated by or planned with this project. Environmental impacts that may arise from a CO<sub>2</sub> reversal from the subsurface storage facility are considered during the Injection Licence and Sea Dumping Permit risk assessment and mitigation processes.

**c. International market for carbon dioxide streams**

Article 6 of the London Protocol as it currently applies to Australia, provides that '*Contracting Parties shall not allow the export of wastes or other matter to other countries for dumping or incineration at sea*'. 'Waste or other matter' is defined broadly to mean '*any material and substance of any kind, form or description*' and includes CO<sub>2</sub> streams. Existing amendments to the London Protocol clarify that CO<sub>2</sub> streams from CO<sub>2</sub> capture processes for sequestration can be considered for offshore injection provided a permit is obtained from the appropriate authority of each Contracting Party and certain conditions are met, including in respect of the composition of the CO<sub>2</sub> stream as '*overwhelmingly of carbon dioxide*'. However, the effect of Article 6 (in the absence of the Proposed Amendment) is to prohibit the cross-border import and export of CO<sub>2</sub> streams for offshore geological storage.

The international market for CO<sub>2</sub> streams is acknowledged in the Resolution. The Resolution identifies that CCS is one of a 'portfolio of options' to reduce levels of atmospheric CO<sub>2</sub> and as such is 'an important interim solution'. As above in section (a), the Resolution also notes that not all countries have suitable sub-seabed geological formations for domestic sequestration of CO<sub>2</sub> streams which means if CCS is to be deployed by such countries it will need the cooperation of other countries to enable access to suitable storage sites.

Within the international market for CO<sub>2</sub> streams there is the emergence of proposals to develop CCS networks to link international CO<sub>2</sub> streams with centralised storage 'hubs'. The Global CCS Institute state that this is "*emerging as the lowest-risk and most cost-effective method of CCS development*".<sup>5</sup> For example, the UK and Norwegian Governments have committed to the developing CCS hubs or 'clusters', including alongside the corporate sector.<sup>6</sup> One such project in development is the Northern

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<sup>5</sup> Global CCS Institute, 2021. CCS Networks in the circular carbon economy: linking emissions sources to geological storage Sinks, available at <<https://www.globalccsinstitute.com/resources/publications-reports-research/ccs-networks-in-the-circular-carbon-economy-linking-emissions-sources-to-geologic-storage-sinks/>>.

<sup>6</sup> Global CCS Institute, 2020. UK government set to fund four CCS hubs and clusters, available at <<https://www.globalccsinstitute.com/news-media/press-room/media-releases/uk-government-set-to-fund-four-ccs-hubs-and-clusters/>>.

Lights/ Longship project, which aims to receive CO<sub>2</sub> from across Europe to be injected and stored in the sub-seabed in the North Sea.<sup>7</sup>

In the context of the proposed environmental benefits of exporting and importing CO<sub>2</sub> streams for the purpose of sub-seabed geological formation as set out in (a) above, Australia has access to multiple suitable geological storage sites, and a leading regulatory framework in respect of CCS activities. This places Australia in a strong position to trade in CO<sub>2</sub> streams for offshore geological storage. The anticipated likely market would be in the Asia Pacific (where many countries have legislated decarbonisation rather than Europe or the US given the emphasis the Contracting Parties to the London Protocol have placed on minimising the long-distance export of CO<sub>2</sub> streams between UN regions. Furthermore, the Global CCS Institute states Australia *"is increasingly identified by countries throughout the region, as a potential destination for exported CO<sub>2</sub>, a factor that may also further strengthen its position as a leader in the region"*.<sup>8</sup> Key factors underpinning Australia's suitability include the policy and regulatory support for CCS, robustness of environmental assessment requirements, relevant technical expertise and knowledge, and the storage potential of a number of 'highly suitable' offshore areas.<sup>9</sup>

**d. Interaction of the proposed amendments with greenhouse gas inventories and regulatory and reporting streams**

The Proposed Amendment to the London Protocol interacts with greenhouse gas inventories and regulatory and reporting streams in a number of ways.

At the domestic level, the Proposed Amendment has implications for the following legislation relevant to the interaction with greenhouse gas inventories and regulatory and reporting streams:

- (a) the EPSD Act;
- (b) the OPGGS Act;
- (c) the *National Greenhouse and Energy Reporting Act 2007* (NGER Act);
- (d) the *Carbon Credits (Carbon Farming Initiative) Act 2011* (CFI Act); and
- (e) other relevant legislation, including those governing the obtaining of necessary environmental approvals and permits.

As indicated above, notwithstanding that Australia has one the world's leading frameworks for CCS activities, the number of interrelated laws and approval requirements add complexity to the process of obtaining approvals domestically. In particular, the need for permits and associated reporting requirements under both the EPSD Act and OPGGS Act in the context of the Proposed Amendment. Accordingly, the Proposed Amendment provides an opportunity to the Australian Government for consideration to be given to greater coordination amongst regulators and within the applicable legislative frameworks and streamlining assessment processes. We set out below some examples of opportunities for greater integration between the regulatory frameworks in respect of greenhouse gas inventories and regulatory and reporting

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<sup>7</sup> International Energy Agency. CCUS around the world: Northern Lights, available at <<https://www.iea.org/reports/ccus-around-the-world/northern-lights>>.

<sup>8</sup> Global CCS Institute, 2022. A review of national responses to CCS under the London Protocol, available at <<https://www.globalccsinstitute.com/wp-content/uploads/2022/05/Perspective-A-review-of-national-responses-to-CCS-under-the-London-Protocol-Global-CCS-Institute.pdf>>.

<sup>9</sup> National Greenhouse and Energy Reporting Act 2007 (Cth) ss 6-6B.

streams. We also include a section on Carbon Credits in respect of CO<sub>2</sub> streams injected for offshore geological storage.

### **EPSD Act**

If the Proposed Amendment were to be adopted, a project to trade CO<sub>2</sub> streams between Australia and another country would require an agreement to be entered into between the countries that reflects the standard of requirements under the London Protocol. In particular, as set out above in section (a), agreements with non-Contracting Parties must include provisions at a minimum equivalent to those in the London Protocol.

Australia has obligations under the London Protocol to report annually to the International Maritime Organisation (IMO) on all permits that have been issued (including to permit CO<sub>2</sub> injection in offshore sub-seabed geological formations) and the quantities of CO<sub>2</sub> injected, including the location and time of injection. Therefore, CO<sub>2</sub> streams that are injected and stored in offshore areas would need to be reported to the IMO and in the case of the Proposed Amendment, this would include the volumes of any imported CO<sub>2</sub> in addition to domestic CO<sub>2</sub> streams injected in sub-seabed geological formations.

If the Proposed Amendment were to be adopted, it would be beneficial to clarify the process of reporting CO<sub>2</sub> sources, including streamlining to ensure that reporting is as efficient as possible given that the frequency of injection rates in offshore geological formations may vary over time (compared with other forms of sea dumping regulated under the EPSD Act). Furthermore, if consolidated permits under the EPSD Act enable the injection of domestic and/or imported CO<sub>2</sub> streams, it will be important to have clarity on the extent to which the volumes of domestic or imported CO<sub>2</sub> streams need to be demarcated for reporting purposes. In addition, CSIRO identifies the need for standards for monitoring and verification to be developed<sup>10</sup>.

We note that under the current regime there is likely to be an overlap in the permits/approvals required under the EPSD Act and OPGGS Act to enable injection of CO<sub>2</sub> in sub-seabed geological formulations. If the Proposed Amendment were to be adopted, the process would present an opportunity to streamline those approvals where possible. For example, duplication between the information potentially required to be reported under EPSD Act and the OPGGS Act should be identified, and reporting requirements streamlined. This may potentially be achieved through linkage of the respective registries or consolidated reporting requirements or other such recognition of reporting between the two frameworks.

### **OPGGS Act**

In relation to inventories and reporting under the OPGGS Act, the National Offshore Petroleum Titles Administrator (NOPTA) maintains the National Electronic Approvals Tracking System (NEATS), a registry of the applications, permits, leases and titles issued under the Act. We understand there are currently no Greenhouse Gas Injection Licences published on NEATS.

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<sup>10</sup> Note 2 at p149

We refer to our comments above under the EPSD Act regarding examples of potential opportunities for greater integration between the EPSD Act and OPGGS Act.

At a minimum, if the Proposed Amendment were to be adopted, we consider that there would be a benefit for market participants in receiving further guidance on the interrelationship between the EPSD Act and OPGGS Act in respect of the offshore injection of domestic and international CO<sub>2</sub> streams.

Further to section (a) on environmental impacts, it is anticipated there would be a similar risk of leakage between domestic projects and projects involving exported/imported CO<sub>2</sub> streams at the injection and storage end. Additional due diligence and monitoring would likely be required in respect of capture or transportation activities occurring in foreign territories (particularly if carbon credits are proposed to be claimed in conjunction with such activities) or where there are multiple transition points for long distance transport.

Australia has existing legislative provisions regulating leakage, permanence of storage in geological formations and liabilities, including long term liabilities. However, if the Proposed Amendment were to be adopted, we envisage there would need to be amendments to clarify the position in respect of liability for leakage and other liabilities. For example, it is anticipated a leakage in Australian territory would be regulated under Australian law. However, the position on liabilities in respect of CO<sub>2</sub> streams exported or imported by Australia in circumstances where a leakage occurs in foreign territory would require clarification from the Australian Government. This would become more complicated in a hub and spoke model where the origin of the leakage CO<sub>2</sub> could not be determined due to mixing in the geological formation.

### **NGER Act**

CO<sub>2</sub> is a greenhouse gas for the purpose of NGER Act and emissions of CO<sub>2</sub> are required to be reported to the Clean Energy Regulator if certain circumstances are met, including the specified emission, energy production or energy consumption thresholds (as applicable). The reporting obligations under the NGER Act are unlikely to be triggered by any imported CO<sub>2</sub> streams because the NGER Act only applies to emissions, energy consumption or energy production that occur within Australia.<sup>11</sup> However, this does warrant guidance from the Clean Energy Regulator if the Proposed Amendment is to be adopted. Similarly, further guidance may assist on the question of proposed exported CO<sub>2</sub> streams and NGER reporting requirements.

We note the emissions, energy consumption or energy production associated with CCS activities (such as any capture, transportation, storage and injection of the CO<sub>2</sub> streams) within Australian territory would be calculated towards determining NGER Act reporting obligations (if any).

The consideration of greenhouse gas inventories raises an additional question as to which party or parties has the legal title to the greenhouse gas reductions underlying any imported or exported CO<sub>2</sub> streams. We anticipate that this a question that would likely be raised between the Australian Government and the other country or countries with which it is seeking to enter into an agreement for the export or import of CO<sub>2</sub> streams pursuant to the London Protocol. We briefly discuss the interaction of the

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<sup>11</sup> *National Greenhouse and Energy Reporting Act 2007* (Cth) ss 6-6B.

Proposed Amendment with Article 6 of the Paris Agreement<sup>12</sup> below. However, in addition to the interest in the rights to the underlying reductions in the greenhouse gases that would likely occur in Australia's international negotiations, we anticipate that there would likely be strong private sector interest in the generation, issuance and trade of carbon credits in respect of those underlying emission reductions. The aforementioned CSIRO report also identifies the need for alignment between the Proposed Amendment and offset markets and mechanisms<sup>13</sup>.

### **Carbon Credits**

Any adoption of the Proposed Amendment would require consideration of the interaction between the cross-border transportation of CO<sub>2</sub> streams and carbon crediting frameworks, both domestically and internationally. Given that only one carbon credit can be issued for the same underlying reduction in greenhouse gases (representing 1 tonne of CO<sub>2</sub> equivalent) and given the potential interest in the domestic and international market in generating such units from the export/import of CO<sub>2</sub> streams, it would assist if the Australian Government were able to clarify its position in respect of emission reductions generated through international trade of CO<sub>2</sub> streams. In the absence of such guidance, the Proposed Amendment raises questions in relation to the interrelationship between the domestic market for Australian Carbon Credit Units (ACCUs), the international market under Article 6 of the Paris Agreement and the voluntary carbon market which may have implications for the deployment of CCS projects at scale as set out below.

### **Australian Domestic Market**

At the domestic level, the CFI Act establishes a scheme for the issue of ACCUs in relation to eligible offset projects. The main eligibility requirements for eligible offset projects are twofold. First, that the project is, or is to be carried on in Australia (including Australia's offshore waters that comprise its exclusive economic zone and continental shelf).<sup>14</sup> Secondly, the project must be covered by a methodology determination under the CFI Act.

While there is no question that the CFI Act applies to Australia's offshore waters, there is a legal question as to whether any injection of imported CO<sub>2</sub> streams into the subsurface seabed of those waters is an activity carried out in Australia. The question arises because, in such an activity, the CO<sub>2</sub> capture would occur overseas, but the injection and storage would occur in Australia. In the circumstances, it is anticipated that a legislative amendment to the CFI Act would be required to enable ACCUs to be generated in respect of the injection of imported CO<sub>2</sub> streams into sub-seabed geological formations if the policy position supported such an amendment. Similarly, the Commonwealth *Carbon Credits (Carbon Farming Initiative - Carbon Capture and Storage) Methodology Determination 2021* (CCS Method) would require amendment to clarify the requirements in respect of capture for a project resulting in injection and storage in Australian territory to be eligible for ACCUs.

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<sup>12</sup> The agreement adopted on 12 December 2015 by the Conference of the Parties to the United Nations Framework Convention on Climate change at its 21st meeting in Paris, France, as reflected in Decision 1/CP.21 (Adoption of the Paris Agreement)

<sup>13</sup> Note 10 above

<sup>14</sup> CFI Act s 27(4)(a) and s9A(2).

The Inquiry is timely given that the Final Report of the Independent Review of Australian Carbon Credit Units chaired by Professor Ian Chubb was completed in December 2022 and released early this year. The Panel found that CCS *'is considered to have an important potential contribution to limiting the pace and extent of climate change'*. It also made recommendations regarding the CCS Method. In particular, *'the recommended proponent-led method development model would allow related potential methods for long-term storage, such as, biochar, to be considered'*. The terms of reference for the Panel did not include consideration of the CCS Method in the context of the Proposed Amendment. The Australian Government's response to the findings of the Panel includes working with multiple and varied stakeholders including on any legislative amendments. Accordingly, it is understood that there is some prospect of further amendment to the CCS Method in response to the findings of the Panel noting that any amendment to the CCS Method in respect of the Proposed Amendment is likely to be subject to the findings of this Inquiry and the position taken by the Australian Government in response.

If the Proposed Amendment were to be adopted in the absence of an amendment to the CFI Act, there could be a scenario where the same sub-seabed geological storage formation generates ACCUs for domestic streams but does not generate ACCUs for imported CO<sub>2</sub> streams.

### **International Market under Article 6 of the Paris Agreement**

Given that the Proposed Amendment would require the Australian Government to enter into an agreement with another country or countries to trade in CO<sub>2</sub> streams, it also presents an opportunity for those countries to engage in a dialogue on cooperative approaches under Article 6.2 of the Paris Agreement.

We have not addressed Article 6.4 projects under the new 'Sustainable Development Mechanism' (SDM) in detail in this letter on the understanding the rules, modalities and procedures are still in the process of being determined. However, we note that the preceding Clean Development Mechanism (CDM) had a methodology for CCS activities and to the extent that the CDM is or will be transitioned to the SDM under Article 6.4 there is at least at this stage some prospect for offshore storage of internationally traded CO<sub>2</sub> streams to generate Article 6.4 emission reduction units in the future.

Article 6.2 of the Paris Agreement affords flexibility to the participating parties to the Paris Agreement to agree on a cooperative approach without being prescriptive on the types of eligible approaches. There is also a degree of flexibility for the parties to agree on Mitigation Activities and Mitigation Outcomes which once transferred internationally give rise to Internationally Transferred Mitigation Outcomes (ITMOs) although there are certain requirements that must be met in respect of ITMOs.

In this context, if the participating parties agree, there is potential for the trade of CO<sub>2</sub> streams to generate ITMOs. It would be necessary for the participating parties to agree on which country is transferring Mitigation Outcomes and which country is acquiring those ITMOs. Furthermore, the transferring/host country must authorise the purpose for which ITMOs may be used, for instance, towards the acquiring country's Nationally Determined Contribution (NDC) or Other International Mitigation Purposes as defined under the Article 6 rules. This presents an opportunity for the Australian Government to consider options for meeting the Australian NDC but also to assist other countries,

in particular neighbouring countries in the Asia Pacific including small island states, in meeting their NDCs noting that any transfer of ITMOs would require corresponding adjustments to avoid double counting.

The UN and countries around the world are preparing the infrastructure necessary to register and trade ITMOs to ensure accurate reporting of national greenhouse gas inventories, progress towards the achievement of NDCs and corresponding adjustments. There are a number of reasons why this infrastructure will be separate to other international reporting requirements although there are likely to be some overlap between the requirements of the Paris Agreement and the requirements for reporting injection of CO<sub>2</sub> streams to the IMO for the purposes of the London Protocol. As set out above, there may be opportunities for the Australian Government to link these reporting requirements for international reporting purposes at a domestic level.

### **Voluntary Carbon Market**

To the extent that a domestic unit (such as an ACCU) or an ITMO is not issued in respect of an emission reduction generated by offshore storage of exported/imported CO<sub>2</sub> streams (whether in Australia or abroad), there is an emerging potential for such reductions to generate voluntary carbon market credits. For example, Verra has publicly announced it is in the process of developing a CCS methodology under its Verified Carbon Standard Program. If such a methodology were to be released and deployed voluntarily by market participants in Australia, it raises the question of the approach the Australian government would take to reporting in respect those emission reductions in the context of Australia's greenhouse gas inventory and ensuring there is not a double count in respect of those emission reductions and offset units.