

Independent Review: Operational Stage Expression of Interest

October 2023



Australian
Carbon Industry
Code of Conduct



Introduction

The Carbon Market Institute (CMI) is seeking to engage a consultant to undertake an independent review of the Australian Carbon Industry Code of Conduct (Code).

On 1 of July 2018, the **Carbon Market Institute** (CMI) commenced one of the world's first voluntary domestic Carbon Industry Code of Conduct, designed to promote market integrity, consumer protection and accountability for industry practitioners and service providers across Australia.

CMI is the current Code Administrator and undertakes this role via identified personnel who are subject to non-disclosure agreements and an Independent Code Review Panel. Code Administrator activities and operations are separated from other CMI activities and databases. Developed with input from a wide range of industry, community and government stakeholders, and foundational support from the Queensland Government, the Code provides guidance for project developers, agents, aggregators and advisers undertaking carbon offset projects including under the Australian Government's Australian Carbon Credit Unit (ACCU) Scheme (formerly known as the Emissions Reduction Fund (ERF) Scheme) and other Voluntary Offset Schemes.

The Code has been implemented in a staged manner, commencing with the initial **Foundation Stage** on 1 July 2018. The Foundation Stage was in place for two years, and the Code is now in an **Operational Stage** which includes annual self-audit reporting and commenced on 1 July 2020.

CMI is committed to strengthening the integrity and transparency of the Australian carbon market and carbon industry, and as required by the Code, proposes to appoint an independent person to conduct the second ever review of the Code and to make recommendations in relation to its future direction and scope.

For the Operational Stage, the following was established:

- an independent Code Review Panel;
- delivery of annual compliance audits of Signatories and reporting;
- investigation of complaints and breaches; and
- implementation/enforcement of sanctions where breaches of Code are made out.

The approach taken to administering the Code has been to allow industry to become familiar with the requirements of the Code during the Foundation Stage and then to build in every year continual improvement in the Operational Stage to promote best practice behaviours in the carbon industry.

There have also been some significant policy developments that will affect the industry which are relevant to the Code review. These include the Independent Review of ACCUs led by Professor Ian Chubb, which made several recommendations directly touching on the Code including that "carbon service providers and carbon market advisors, including agents, should be accredited and regulated" (Recommendation 12). Also, the *Safeguard Mechanism (Crediting) Amendment Bill 2023* was assented to on 31 March 2023, will create a substantial new (compliance) demand for ACCUs which will also significantly affect the ACCU market. These developments and the implications for the industry and best practise should be considered in the forthcoming review of the Code.

Currently, the Code has 37 Signatories, one Industry Supporter (Clean Energy Finance Corporation) and 3 Government Partners that have confirmed their support (NSW, Queensland and Western Australia Governments).



The Reviewer

The CMI is seeking a consultant to undertake this Review. The deliverables and key milestones for the review are set out further below. The Reviewer will be appointed by the CMI on consideration of an Expression of Interest submitted by applicants.

The Expression of Interest must address:

- **Overall approach** – Briefly explain the overall approach you will take for this project;
- **Methodology** – Briefly step out the proposed methodology for the project. As part of this, please include planned deliverables, timeframe and stakeholder engagement proposed with reference to the key deliverables set out further below;
- **Experience, capacity, suitability and availability** – Provide details of relevant experience, capacity, suitability and availability of the staff who will be delivering this project, including addressing the eligibility and expertise criteria below and how you have the capacity to address the Terms of Reference for the review set out further below;
- **Program of works and timeline** to indicate capacity to develop the final report by 31 May 2024;
- **Pricing** – Provide a lump sum fee for the project. The indicative budget range for this project is around \$50,000. A schedule of rates for variations or additional work should also be provided. Any opportunities to add value or improve outcomes by adjusting the scope should be clearly identified as additional options;
- **Resourcing breakdown** – Provide time estimations for personnel working on the project; and
- **Insurances** - Identify the relevant insurances included and held by the applicant.

The Reviewer must have suitable qualifications, experience, capacity and independence to deliver the Review, at reasonable cost.

Deadline for Expression of Interest

Closing Date: 5 pm on 6 November 2023

Method of Lodgement: email to the Code Administrator at code.administrator@carbonmarketinstitute.org

Further Information

Please contact Dayana Flores at code.administrator@carbonmarketinstitute.org for more information.

Eligibility Criteria

- Must not be a current Signatory to the Code.
- Must not include individuals from the Carbon Market Institute Executive Team or the Code Administrator.
- Can either be an individual, an organisation or a combination of both.
- Can be a Carbon Market Institute member organisation as long as any conflicts of interest can be appropriately managed and there are no conflicts with the above criteria.



Expertise Criteria
<ul style="list-style-type: none"> • Significant understanding of the role of voluntary codes in Australian industry and demonstrated knowledge of government policy and legislative systems in Australia generally. • Good understanding of the Australian carbon industry, particularly the operation of the ACCU Scheme and obligations, opportunities and associated issues within the carbon market, and emerging international best practise standards relevant to the integrity of the carbon market. • Acceptable level of knowledge of the development and implementation of carbon projects in Australia. • Knowledge of the <i>Carbon Credits (Carbon Farming Initiative) Act 2011</i> and associated subordinate legislation, including the <i>Carbon Credits (Carbon Farming Initiative) Regulations 2011</i> and the <i>Carbon Credits (Carbon Farming Initiative) Rule 2015</i>, which form the legislative framework of the ACCU Scheme. • General level of knowledge about carbon project methods both under the ACCU Scheme and under other voluntary schemes such as Verra or Gold Standard.

Stakeholders

For the purposes of the Process section of this Terms of Reference, the following listed entities are to be considered Key Stakeholders*.

Entity	Description
Carbon Market Institute*	Includes CMI Board, CMI Executive and the Code Administrator
All Code Signatories*	Current signatories to the Code
Queensland, NSW and Western Australian Governments*	Government Partners of the Code
Clean Energy Regulator*	Responsible for administration of the ACCU Scheme
Emissions Reduction Assurance Committee (ERAC) or when established, Carbon Abatement Integrity Committee (CAIC)*	Important stakeholder in the development and review of ACCU methods and scheme integrity
Department of Climate Change, Energy, the Environment and Water (DCCEEW)*	Responsible for policy oversight of the ACCU Scheme and the implementation of ACCU Review recommendations

*An entity that becomes an approved Signatory to the Code prior to commencement of the review will be considered a Key Stakeholder.

For the purposes of the Process section of this Terms of Reference, the following listed entities are to be considered as Relevant Stakeholders.

Entity	Description
CMI Corporate Members**	Members of the CMI, including entities purchasing ACCUs.
ASIC (Australian Securities and Investments Commission)	Stakeholder, regulator of AFSLs
ACCC (Australian Competition and Consumer Commission) (voluntary code and consumer protection angle)	Stakeholder, regulator of voluntary codes for industry and markets
Clean Energy Council	Important stakeholder in the original development of the Code having designed, developed and administered multiple voluntary industry Codes of Conduct. May be opportunities for combined administration.



Energy Efficiency Council	Administering energy and energy efficiency accreditation/certification schemes. May be opportunities for combined administration.
Indigenous Groups, including Indigenous Carbon Industry Network, Kimberley Land Council, Northern Land Council, Indigenous Land and Sea Corporation and the National Native Title Council.	Core requirements of the Code relate to Native Title interests and engagement with indigenous groups.
Natural Resource Management Groups	Important stakeholder engaging with land holders involved in Code-related emission reduction projects
Other relevant State & Territory Governments such as the Tasmanian Government where Code membership is a requirement for carbon project funding and the South Australian Government, which is considering joining the Code	Important stakeholders for State/Territory schemes related to the Code.
National Farmers Federation Australian Farm Institute NSW Farmers Association Queensland Farmers Federation Western Australian Farmers Federation (WA Farmers) Meat and Livestock Australia	Important stakeholders engaging with land holders and operators involved in Code-related emission reduction projects.

***Where an entity is not already a Signatory to the Code*

Terms of Reference for Review

Section 1.4 of the Code requires the Code to be updated from time to time to reflect legislative or policy changes, evolving industry concerns and independent reviews of the Code. The aim is to ensure the Code remains relevant and is consistent with current best practice.

This Terms of Reference for this 3 year review are divided into the following parts:

1. Code Requirements and Current Scope;
2. Administration of the Code, including reporting;
3. Code Review Panel;
4. Code Administrator; and
5. Strategic Review, including consideration of Chubb Review Recommendations and Other Matters.

Parts 1 - 4 relate to operational review matters (Operational Review) and **Part 5** relates to a strategic review of the Code (Strategic Review).

The CMI reserves the right to split the review into two parts if this is optimal - the Operational Review and the Strategic Review and/or to appoint two different Reviewers for each part depending on the qualifications of the candidates responding to the EOI.

The Reviewer will review, and **provide advice and recommendations** on the following:

Part 1: The Code Requirements and Current Scope

- 1.1. Extent to which the current scope and interpretation under the Code in section 1.5 is appropriate or should be updated and/or expanded, including whether the scope of services the Code applies to



should be expanded and whether the distinction between signatories providing project services and advisory services should be retained, including how this relates to section 1.6 of the Code.

- 1.2. Extent to which the Code text and requirements in Section 2 of the Code currently meet the purposes and objectives in Section 1.1 of the Code.
- 1.3. Extent to which Section 2 of the Code should be amended or streamlined to better achieve the Code’s purpose and objectives (Section 1.1), vision (Section 1.2), mission (Section 1.3), listed outcomes and principles (Section 1.4) and general principles (Section 2.1).
- 1.4. When advising on 1.1 and 1.2 above, please consider:
 - 1.4.1. the recommendations of the Chubb Independent Review of ACCUs;
 - 1.4.2. any changes in legislation that need to be reflected in an updated Code;
 - 1.4.3. the costs and benefits for Signatories of the Code in complying with the requirements of an updated Code (including consideration of any additional administration and auditing requirements if the Code scope should be expanded); and
 - 1.4.4. any changes, including those recommended by relevant regulatory or administrative agencies (e.g. DCCEEW, CER, ASIC, ACCC), that could enhance the compliance of Signatories and reduce duplication between government regulation and requirements under the Code; and
 - 1.4.5. the practical aspects of administration of the Code, including the effectiveness of the review processes and the corrective action steps available to the Code Administrator.

Part 2: Administration of the Code

- 2.1 Are any amendments necessary to the Code’s auditing, breach, governance and operational procedures set out in Sections 2, 3 and 4?
- 2.2 What sort of additional guidance and/or training material covering Code Signatory obligations set out in Section 2 of the Code is necessary for the next three years?

Part 3: The Code Review Panel

- 3.1 Operation and effectiveness of the Code Review Panel.
- 3.2 What additional expertise is required for the Code Review Panel for the next 3 years (and does Section 3.2(2) of the Code need to be amended or expanded)?

Part 4: The Code Administrator

- 4.1 Operation and effectiveness of Code Administrator.
- 4.2 Are there any options for any other person/organisations to become a suitable future Code Administrator, taking into consideration the relevant recommendations of the Chubb Review and any relevant DCCEEW Implementation Plan?
- 4.3 Should the Code adopt a different legal structure to reinforce Signatories’ commitments to Code requirements? For example, should Code Signatories be required to enter into a contract with the Code Administrator?



- 4.4 Are any changes recommended to the current Code fee framework, including fees for any categories of Signatories?
- 4.5 Are sufficient human resources available to administer the Code, taking into account all the items noted in this Terms of Reference? (Including taking into account the number of increasing Code signatories and any expanded scope of the Code, and the need for effective auditing processes.

Part 5: Strategic Review, Including Chubb Review Recommendations and Other Matters

- 5.1 What role should the Code play in light of Recommendation 12 of the Chubb Independent Review of ACCUs Final Report (December 2022), which recommended the introduction of mandatory performance standards for, and accreditation and regulation of, carbon service providers and carbon market advisors, including agents, including consideration of any implementation plan or recommendations from DCCEEW?
- 5.2 How can the Code better engage with indigenous stakeholders and ensure that Signatories are implementing and operationalising best practise Free Prior and Informed Consent principles?
- 5.3 Can the Code better facilitate delivery of credible, independently verified and additional co-benefits from Signatories? If so, how? Should the Code include stronger commitments to ensure Signatories are adopting best practise for this? Should the scope of the Code expand to better support and protect consumers on the demand side of the market, including building in additional protections for purchasers of carbon credits or people relying on integrity or co-benefit claims made by Signatories?
- 5.4 Does the Code have a role to play in supporting the development of and/or operationalising best practise industry standards such as the Core Carbon Principles from the Integrity Council for the Voluntary Carbon Market (ICVCM) and the Voluntary Carbon Market Initiative Code of Practice?
- 5.5 Are there any other best practise standards or frameworks¹ that the Code should align with to better engage with the demand side of the carbon market?
- 5.6 In what ways could the Code better support Code Signatories to understand their regulatory requirements, for example around giving financial advice and dealing in ACCUs in the Australian market or in making environmental claims?
- 5.7 Are there any new signatory or supporter categories that are recommended, or enhancements/revisions of existing categories?
- 5.8 Provide any recommendations relevant to any other strategic matter, including matters raised in consultation with stakeholders to the Code.

¹ For example, ISO Net Zero Guidelines, UK Transition Taskforce guidance, ISSB Investor Group on Climate Change's (IGCC) Statement of Commitment - <https://igcc.org.au/joining-igcc/> ; or the 6 Principles for Responsible Investment - <https://www.unpri.org/about-us/what-are-the-principles-for-responsible-investment> .



Outputs, deliverables and timelines

The Reviewer will submit outputs and deliverables 4, 5 and 6 below to the Carbon Market Institute providing advice and recommendations on the matters listed under the Scope of Work of this Terms of Reference by the associated timeframe. The Reviewer will not publish any form of the outputs and deliverables before it has been provided to, and published by, the Carbon Market Institute.

	Outputs & Deliverables	Responsible Entity	Timeframe
1	EOI out to market (4 weeks)	Carbon Market Institute	Early October 2023
2	EOI due	To Carbon Market Institute - see email address above and on last page of EOI	6 November 2023
3	Appointment of the Reviewer	Carbon Market Institute	By 27 November 2023
4	Commencement of the Review (2 weeks from appointment for background briefing)	The Reviewer	By 11 December 2023
5	Consultation with Key Stakeholders	The Reviewer	January 2024 – March 2024
6	Draft Review Report and Recommendations	The Reviewer	By 15 April 2024
7	Presentation of Draft Review Report & Recommendations to Signatories and targeted stakeholders	Carbon Market Institute The Reviewer	By 30 April 2024
8	Receipt of Signatory & other key stakeholder feedback	Carbon Market Institute The Reviewer	By 17 May 2024
9	Finalisation of Report and Recommendations	Carbon Market Institute The Reviewer	By 31 May 2024
10	Review, planning and confirmation of Code amendments (if any)	Carbon Market Institute Code Independent Panel The Code Administrator	TBC

Process

In formulating its advice, the Reviewer may obtain specialist technical advice regarding the considerations listed under the Scope of Work of this Terms of Reference with the express permission of the Carbon Market Institute.

In developing its advice and recommendations to the Scope of Work of this Terms of Reference the Reviewer must consult with all Key Stakeholders and may consult with other Relevant Stakeholders. The Carbon Market Institute will work with the Reviewer to design and implement stakeholder consultation, with the objective of informing the Reviewer in developing its advice and recommendations.

The Reviewer will have access to all information provided, collected and utilised by the Code Administrator in administering the Code.



Independent Reviewer and Secretariat

The Reviewer will have secretariat support and both will need to be covered by relevant agreements to ensure independence and confidentiality of process and information for the duration, and following the review.

Code provisions

An Independent Review is required by the Code:

- Section 1.4 of the Code states the Code will be updated from time to time to reflect legislative or policy changes, evolving industry concerns and independent reviews of the Code. The aim is to proactively ensure that the Code remains relevant and is consistent with the current best practice.
- Section 2.6(9) of the Code states changes to the Code may be identified through regular reviews of the Code which will assess the Code's effectiveness and possible areas for improvement. Any major changes will be undertaken in consultation with the key stakeholders including Signatories, industry, the Department of Climate Change, Energy, the Environment and Water (**DCCEEW**) and the Clean Energy Regulator (**CER**).
- Section 3.10(4) of the Code requires that an **Independent Review (the Review)** of the Code, Code Reporting, Code Administrator, Panel and Panel Terms of Reference be undertaken every three (3) years following commencement of the Operational Stage, in order to appropriately consider the operation of the Code and Code framework and whether it is meeting its stated purpose, objectives, vision and mission and whether the scope remains adequate.
- Section 3.10(4) of the Code requires the review to be undertaken by a suitably qualified independent person/body (**the Reviewer**) and must include making a recommendation to re-appoint the Code Administrator (or not). The decision to reappoint the Code Administrator (or not) should be informed by the review, the views of the Code Review Panel in its Annual Report, and through broader stakeholder consultation.
- Section 3.10(5) of the Code requires the Review to be conducted in consultation with relevant stakeholders including, but not limited to Signatories, government partners, and industry supporters. In completing the Review, the Reviewer will have access to all necessary documentation required to undertake the Review, including procedures and reporting from the Code Administrator.
- Section 3.10(7) of the Code requires that the results of the Review must be published online.

for more information please contact

Code Administrator

code.administrator@carbonmarketinstitute.org



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