

Deep-dive webinar 3: Native Title Consent amendments transcript

7 May 2026

Please note that this transcript has been edited for clarity.

Ingrid CRIPPS

SLIDE 1

Good afternoon, thanks for joining us. We just might wait a couple of minutes for some more people to join the call.

Welcome. My name is Ingrid Cripps. I'm Director of the Australian Carbon Credit Unit Scheme Policy and Legislation Team, leading on the legislative amendments to the Australian Carbon Credit Unit Scheme at the Department of Climate Change, Energy, the Environment and Water.

I'm here today with my colleagues Kate Lea-Perry and Matt Flux to present to you an overview of the Native Title holder Consent Amendments in the Carbon Credits and Other Legislation Amendment Integrity and Transparency Bill.

SLIDE 2

Before we begin, I would like to make an acknowledgement of country. I would like to acknowledge the traditional owners of country throughout Australia and their continuing connection to land, skies, water and community. I pay my respects to their cultures and to elders past and present. I particularly wish to acknowledge the Ngunnawal people as the traditional custodians of the land I am meeting on today and recognise any other peoples or families with connections to the lands of the ACT and surrounding region.

I also wish to acknowledge and respect the continuing culture of First Nations people and the contributions they make to the life of this city and this region.

As we are gathering online, I would also like to acknowledge the traditional custodians of the lands on which each of you are joining from today, and extend my respect to any Aboriginal and Torres Strait Islander people attending this meeting.

SLIDE 3

Let's start today with a few housekeeping outlines. This session will be recorded for interested stakeholders who couldn't attend or for you to be able to watch over and return to later. Please let us know if you have any concerns with this.

The question and answer part of the session will be recorded for the department's record keeping purposes, but not published.

There are staff from the Clean Energy Regulator present to note any questions, particularly in regard to any implementation questions and issues that are raised. Following the presentation, which should take about 20 minutes, we will hold about a 20 minute question and answer session so we can address some of the issues that are most important to you. And these questions will be used to inform our frequently asked questions published on the website.

The webinar may finish before the full hour that's booked in.

The chat function is disabled, so please submit your questions via the question and answer function. Please see the button at the top of your Microsoft Teams screen. Questions will be moderated and the authors of questions will be publicly visible. This will show your name as it appears in Microsoft Teams.

Please note that the following presentation is for information only and intended for the audience here today and those who watch the recording. I respectfully ask that it is not reported outside of today's session, including by the media.

Any inquiries from journalists should be directed to the media team at the Department of Climate Change, Energy, the Environment and Water by emailing the address you can see on the screen. We will try to make a version of the recording available as soon as possible.

SLIDE 4

Welcome. Thank you for attending today's deep dive session.

As you're hopefully aware, consultation is open on the Carbon Credits and Other Legislation Amendment Integrity and Transparency Bill, which amends the *Carbon Credits Carbon Farming Initiative Act 2011*, also known as the CFI Act, and the *National Greenhouse and Energy Reporting Act 2007*, known as the NGER Act.

On the 5th of May, we gave a presentation which provided a high-level overview of the amendment package and we hope to publish this on the HaveYourSay page soon. More details of the package can be found in the exposure draft of the bill and the consultation paper that are also on that same page. We are keen to hear what you think about the bill and welcome submissions through our HaveYourSay page by Friday the 22nd of May. Due to factors beyond our control, the consultation period cannot be extended past the 22nd of May. So I encourage you to engage with us early during this period.

SLIDE 5

Today, we will be covering the amendments to strengthen Scheme consent requirements by outlining the consent requirements for ACCU Projects. The proposed changes to these requirements, the pathways for seeking consent that are outlined in the bill, support for the proposed amendments, our consultation questions and then holding a question and answer session.

SLIDE 6

Please note this disclaimer before we begin. We will be explaining the intent behind the legislation from a policy perspective, and this does not constitute legal advice. We recommend you seek your own legal or other professional advice as needed. Just quickly to provide some background on the Scheme and recent reviews. The Australian Carbon Credit Unit Scheme is a voluntary scheme that provides incentives for organisations and individuals to adopt new practises and technologies to reduce emissions and store carbon.

SLIDE 7

Reviews by the Climate Change Authority, independent experts and the Australian National Audit Office have found that the Scheme is well designed and administered and is contributing to Australia's net zero transition.

Reviews recommended sensible changes to ensure ongoing integrity and alignment with evolving best practice. A program of reform and improvement is well underway, with the most recent updates outlined in a progress report published in February. Continuous improvement is embedded in the Scheme 's design, such as through

statutory reviews and periodic method reviews by the Independent Emissions Reduction Assurance Committee.

The proposed amendments build on significant progress in implementing the recommendations of these reviews and significant consultation to date, including submissions on proposed policy positions to implement the government's response to reviews that was held in late 2023, as well as feedback we've heard directly from stakeholders via workshops, bilateral discussions, and through the development of methods.

There have also been lessons learned through implementing and governing the Scheme over the past 10 years. These amendments seek to action these learnings, including by making administrative improvements, reducing complexity and ensuring the Scheme is fit for purpose.

SLIDE 8

I'll now hand over to Matt, who will take you through the details.

Matt FLUX

SLIDE 9

Thank you, Ingrid. To start with, I'll set the context. So I'll just briefly step through the current consent framework under the ACCU Scheme. Currently, ACCU Scheme area-based emissions avoidance projects and sequestration projects must have the consent of any person or organisation with an eligible interest in the project area. Their consent ensures stakeholders are aware of the project and any risk or benefits to them. Eligible interest holders may include land holders, banks, mortgagees, State and Territory Crown Land ministers, registered native title body corporates or any other eligible interest such as easements.

Sections 43 to 45A of the CFI Act list who the eligible interest holders are. I'll now walk through how this currently operates, where Native Title land is involved.

SLIDE 10

The slide in front of you shows the current eligible interest holder consent process for projects on Native Title land. An area of land is Native Title land if there is an

entry on the National Native Title Register specifying that Native Title exists in the area. The relevant registered native title body Corporate is considered an eligible interest holder and, therefore, can decide whether to give consent or not to a proposed project over the Native Title land.

Eligible interest holder consent can be given via the Clean Energy Regulator's eligible interest holder consent form or through an Indigenous Land Use Agreement. Currently, a project may be conditionally registered before consents are obtained if the proponent has demonstrated the legal right to run the project and meets all eligibility requirements. However, Australian Carbon Credit Units cannot be issued for the project unless the signed consent forms from all eligible interest holders have been received.

The purpose of the consent requirements are to ensure persons with an interest in the land are aware of the potential impact of the CFI Act's permanence obligations on that interest in the land. This is the current framework. What's changing is who must be involved and the timing of their involvement.

SLIDE 11

The Amendment Bill proposes to extend eligible interest holder status to registered Native Title claimants. This recognises Native Title claims that have met the registrations test by the National Native Title Tribunal. The purpose of the registration test is to ensure only claims that have met certain criteria or certain requirements are registered and only Native Title claim groups that have a satisfactory basis for the claim will gain those rights.

Once a claim is registered, the registered claimants gain certain rights in the area covered by the application, such as rights to negotiate and certain other procedural rights.

Recognising registered Native Title claimants under the CFI Act is important, given federal court determinations of Native Title claims can take many years. Without this recognition, claim groups with acknowledged rights may miss the opportunity to consent to ACCU Scheme Projects operating on the land during the claim period.

SLIDE 12

The bill introduces a new two-stage consent process. The independent reviews of the ACCU Scheme have recommended strengthening how consent is obtained for projects on Native Title land.

The Chubb review recommended removing the ability for projects to be conditionally registered without the consent of eligible interest holders to better align the Scheme with the principles of Free, Prior and Informed Consent, or FPIC.

The Climate Change Authority's review in 2023 recommended changes to require project proponents to apply best practise approaches when seeking consent from Native Title holders and registered Native Title claimants.

In response to the reviews, the bill proposes the two-stage consent process. The first stage requires consent to the making of the application. At this point, the Clean Energy Regulator must be satisfied consent has been obtained from each relevant registered native title body corporate, or registered native title claimant. The second stage applies before ACCU can be issued. At this stage, consent must be confirmed for how the project will actually be carried out on the land.

Feedback has highlighted that decisions about carbon projects on Native Title land require time, preparation and early engagement. These projects can have long-term implications for land use, Native Title rights and governance arrangements. So consent processes need to support informed and considered decision making. A key issue identified through stakeholder feedback is timing. In some cases, engagement with Native Title holders has occurred after key decisions were already made.

This can limit opportunities to influence project design and may place pressure on Native Title holders to consider complex ACCU Scheme project proposals within short time frames.

Feedback has also highlighted information and resourcing challenges. ACCU Scheme Projects involve technical methods, detailed contractual arrangements, and long project durations. Native Title holders often need access to legal and technical

advice, as well as time to consult through establish community decision-making processes.

Where engagement occurs late, there may be insufficient time to obtain advice or convene meetings, particularly in regional or remote settings.

The proposed two-stage consent process responds to these issues by strengthening consent requirements at earlier points in the project lifecycle.

Requiring consent before applications to the CER for ACCU Scheme projects are made confirms agreement to a project being proposed, while later consents before ACCU are issued confirms agreement to how the project will be implemented. Together, these changes are intended to improve alignment with free, prior, and informed consent principles by supporting informed, timely and meaningful participation by Native Title holders and registered native title claimants.

SLIDE 13

This slide shows how the two-stage consent process on Native Title land or claimed Native Title land works in practise through three different pathways.

It is important to note that if a project proponent is the relevant registered native title body corporate or registered native title claimant, they do not need to seek eligible interest holder consent from themselves.

The first pathway is if the Clean Energy Regulator is satisfied that both stage 1 consent and stage 2 consent has been obtained, then the project may be registered without a condition.

The second pathway is if the regulator is satisfied stage one consent has been obtained and the second stage of consent is intended to be obtained. The project may then be registered with a condition. The condition would specify that consent must be obtained prior to the end of the first reporting period. Until that condition is lifted, the project will be unable to be issued ACCU.

The third pathway is for a project to be registered without a condition where the regulator is satisfied before making the application, consent has already been

obtained for both the carrying out of the project and the manner in which the project will be carried out on the land. This third pathway applies where there's already strong evidence that consent has properly been obtained before project application is made.

In practice, this pathway is broadly similar to current arrangements. It recognises situations where robust consent processes have already occurred.

For example, where a project is authorised under an existing Indigenous land use agreement.

Where there is clear documented evidence that Native Title holders have already given free, prior, and informed consent, the reforms are not designed to duplicate these processes. At the same time, safeguards are maintained through the requirement that the CER are satisfied that consents cover both the project and its implementation.

SLIDE 14

This slide here is a short and practical. It's just to quickly show you how to identify if a project area may overlap with a Native Title or claimed Native Title land. You can visit the Native Title Vision webpage and toggle on the relevant mapping layers as showed in the slide. This publicly available tool can assist you with early identification and engagement with eligible interests.

SLIDE 15

The government is providing support to enable effective participation in consent processes and support capacity and capability of rural and remote communities, including First Nations people, to participate and benefit from the ACCU Scheme.

In the 24-25 budget, the government committed \$11.4 million to help Native Title eligible interest holders participate in consent processes for carbon projects under the ACCU Scheme. This funding has been delivered through the National Indigenous Australians Agency, working with the native title representative bodies and native title service providers. Their role is to support registered native title body corporates, often referred to as PBCs. The funding enables these bodies to support PBCs to

access legal and technical expertise as they take part in consent and agreement making processes for ACCU Scheme Projects on Native Title lands.

While these organisations have only had access to the funding for a short time, early feedback suggests it's already helping. In particular, supporting PPCs to access expert advice, navigate legal and procedural requirements, and better understand the technical aspects of carbon projects. This support is intended to help ensure Native Title holders are well informed and able to participate meaningfully in decision-making regarding projects on Native Title lands.

There is broader support available to build the understanding of the ACCU Scheme and emissions reduction opportunities. The Carbon Farming Outreach Program supports Australian farmers and land managers, including First Nations people, to make informed decisions to manage emissions and store carbon. The program includes engaging the Indigenous Carbon Industry Network to develop and deliver tailored training and resources to support First Nations participation in carbon farming. This includes national scale resources, including training materials, a First Nations consent toolkit, explainer videos, and case study videos on carbon farming. Up to 30 online and in-person training sessions on carbon farming to trusted advisors of First Nation land managers.

In addition to both these items, the Department is also working with the Indigenous Carbon Industry Network to undertake targeted consultation with First Nation groups and communities on reforms to the Scheme and new methods. This engagement aims to ensure that new methods and Scheme reforms maximise the opportunities for First Nations people to participate and appropriately consider the traditional knowledge, rights, interests, and cultural values of First Nations people.

For example, ICIN is hosting a closed consultation for Indigenous people and organisations on the proposed amendments and supporting their submissions through this process.

Any further support or extensions of the existing funding is a matter for government.

SLIDE 16

When the ACCU Scheme started, the legislation expressed a clear intention that

those with determined exclusive possession Native Title should not need the consent of a State, Territory or Commonwealth Minister to participate in the Scheme. However, an error was made when the CFI Act was amended in 2014, which inadvertently applied the consent request.

The proposed amendment would reaffirm that the State and Territory Government, Crowns, Lands Ministers and Commonwealth Ministers responsible for land rights legislation do not have consent rights for projects conducted on exclusive possession native title land that is Torrens system land or land rights land.

This means projects on exclusive possession native title land will not require the consent of a State, Territory or Commonwealth Minister to participate in the Scheme.

This removes administrative barriers and reduces business risks for entering the Scheme, such as delayed approvals.

SLIDE 17

We encourage you to respond to the questions throughout the consultation paper by clicking Take the Survey on the HaveYourSay page and sharing your views on the proposed amendments.

Following passage of the amendments, the CFI Rule would be updated to specify the matters, the Clean Energy Regulator must be satisfied or taken into account when deciding whether consent has been obtained.

Your feedback on the types of information and documents that could be used as evidence of consent under the consent processes will be an important consideration in developing the Rule Amendment.

I'll now pass back to my colleague Ingrid for an overview of the next steps.

Ingrid CRIPPS

SLIDE 18

Thanks Matt.

Before I start on the next steps, I just encourage you to put your questions in the

question and answer function so we can start answering them after this section.
Next slide, please.

SLIDE 19

Thank you. So please go to our website to register for the other webinar. There is just one left tomorrow morning.

There you will also have access to the exposure draft bill, the consultation paper, background information and frequently asked questions and a compilation of what the Act would look like if the bill was passed by Parliament.

On that page, you can also start your submission by entering the HaveYourSay portal, answering the questions, and attaching a submission by the 22nd of May. Please email us early if you have any concerns or problems with this.

The feedback from stakeholders will inform the next version of the bill, which will be considered by Parliament. And submissions may also inform the subsequent implementation of the amendments if passed.

SLIDE 20

This slide provides an overview of the next steps. We are obviously at the consultation stage until the 22nd of May.

Following consultation, the bill will be refined based on your feedback. We are working to a very tight timeline to be ready for introduction to Parliament and timing for parliamentary consideration of the bill is a matter for government in alignment with their legislative priorities.

If passed, there will be a package of implementation work such as consequential amendments to the Scheme rule, adjustments to the Clean Energy Regulator's online services portal, and updates to communications materials such as Scheme guidance and websites.

Please note that in parallel, a Scheme rule remake process is underway. This is because the Scheme's rule, having been in place for over 10 years, as a legislative

instrument, is due to sunset in 2027. All legislative instruments sunset after 10 years. This is being processed in parallel with the bill work and any changes that are needed from the CFI Act amendments will be flowed through to the rule after passage of the bill.