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Committee Secretary

Senate Standing Committee on Environment and Communications

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Response to Inquiry on Carbon Farming Initiative Bills

A3P is the national industry association representing the plantation products and paper industry. Our members employ more than 13,500 people in plantation management and processing facilities including sawmills, panel boards and pulp & paper manufacturing, offering attractive highly skilled career prospects in rural and regional Australia.

Over the past 4 years, A3P has been actively involved in the Government's consultations on climate change policy, maintaining a consistent and principled position over this time. Our input to the Carbon Farming Initiative discussion paper and exposure draft legislation was no exception; should the Committee wish to review this we have included it as an appendix to this submission.

The CFI legislation currently before Parliament is a somewhat modified version of the exposure draft on which we have already provided comment, and a significant amount of this feedback remains relevant. Our overall view continues to be that, if the CFI is implemented in its current form, it is unlikely to attract many commercial plantation growers, whether large industrial-scale or smaller family forestry operations. The reasons include:

- regulatory interference in the market signals the CFI was intended to send, due to Ministerial powers to ban certain project types (the "negative list" of projects)
- unless the CFI is linked to the carbon pricing mechanism – uncertain demand and low prices in a voluntary domestic market
- constraints created by ambiguity over the ability to generate Kyoto credits (as opposed to non-Kyoto credits) from a project prior to approval
- lack of recognition for carbon stored in harvested wood products
- sovereign risk associated with loosely defined requirements to comply with natural resource management plans and other regulatory instruments – all of which may evolve over time
- the additionality test (though to a lesser extent than in the exposure draft)

- compliance problems with the 100-year permanence requirement (a liability that will outlast any initial interest in a project)
- potentially high costs associated with seeking project approval, monitoring and reporting (though to a lesser extent than in the exposure draft)
- unresolved issues with intellectual property associated with methodologies developed by project proponents

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Consequently A3P advises that the Government should not expect the CFI to result in any notable increase in investment in for-harvest commercial plantations at any scale. In light of several of the design elements and the decision to largely ignore the comments by a number of parties on the exposure draft legislation, it seems hardly likely that the Government has any expectation of the kind.

A number of the concerns listed above were addressed in the attached submission of earlier this year; this feedback concentrates on the changes to the legislation since the exposure draft phase.

Demand and Price (voluntary vs. mandatory carbon markets)

While we have considered and provided comment on the detailed legislative framework of the CFI, these issues are subservient to the one of access to carbon markets. The CFI is primarily designed to interact with the voluntary market, where demand is shallow and weak, and the carbon price will be insufficient to realise much of the potential carbon savings and sequestration in Australia. A3P supports Professor Garnaut's finding in his paper on rural land use that the Government should seriously consider linking the CFI to any emerging mandatory carbon market. Comments in the explanatory memorandum indicate that the Government now shares this thinking. With the more predictable demand that a mandatory carbon market affords, it may be necessary to rethink certain design aspects of the CFI to encourage investment in land-based abatement projects. One option, especially for sequestration projects, would be the voluntary opt-in approach taken for reforestation under the CPRS, which may allow freer operation of market forces than the Government is currently intending.

Excluded offset projects

A3P has obvious concerns about the decision to create an exclusion list in the regulations for offset projects. The existence of the "negative list" alters the construct of the CFI, moving it further from a pseudo-market mechanism towards an interventionist Government regulatory tool. Rather than relying on an individual's or organisation's assessment of market conditions, the ability to issue outright bans on certain projects necessitates a preliminary weighing up against regulatory restrictions. The requirements that the Minister must take into account include (at Part 3/Div 12/Sec 56) water availability, conservation of biodiversity, employment and the local community. Most of these are a doubling-up of considerations that projects must take with respect to local natural resource management plans, water

policy and other state and local government land use restrictions. It is therefore debatable whether the concept of a negative list has a defensible motive with respect to improving the CFI by ensuring integrity in the market. It seems far more likely that the negative list will encourage sub-optimal land use in some areas because it will inhibit market forces from directing efficient land use decisions – and was designed with this intent.

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The explanatory memorandum's reference to preventing for-harvest plantations from converting to permanent plantations is a prime example of this. In a free market, the carrying out of activities would be dictated by price, cost, risk and liability. The decision to plant a forest, graze cattle, etc would be determined by relative profitability, not prescriptive regulation. If the CFI makes tree planting an attractive option on an area of land it should be allowed to proceed with whichever combination of commercial incentives the proponent believes most profitable (i.e. carbon, timber, other biodiversity benefits) without perverse and distorting regulatory signals. And if the plantation grower determines that market conditions have changed sufficiently to increase carbon stocks and sell more credits, this should not be hindered. It is argued in the explanatory memorandum that for-harvest plantations converted to permanent sinks would present a high fire risk. Commercial timber plantation growers have ample incentive to implement rigorous fire management plans since they are growing trees to sell; why a plantation, permanent or otherwise, managed by people highly conversant with fire management would present a greater fire risk than other plantations is left to the reader's imagination.

A further reason given in the explanatory memorandum for excluding projects is 'adverse impacts on surface and ground water availability'. Nearly every land use activity has an adverse impact on the availability of water, but it is not to be supposed the Government intends to exclude all forestry and agricultural activities on this basis. For reforestation projects it is an impractical rule since water availability will certainly be impacted by planting trees, which require water to grow and sequester carbon. The explanatory memorandum does not distinguish between negligible and material impacts on water availability – most plantations would fall into the former category relative to other demands on water in relevant catchments. Furthermore the truly perverse consequence of this decision is that it may well discourage reforestation projects that could provide positive environmental co-benefits, such as salinity mitigation, because of their impact on the *availability* of surface or ground water, so that the *quality* of the water, which would have been improved through the reforestation project, will remain poor.

Kyoto and non-Kyoto Projects

In A3P's view it is necessary to distinguish projects eligible to create Kyoto offsets from projects eligible to create non-Kyoto offsets as early as possible, with general information to guide potential project participants when considering putting a project forward. Being able to generate internationally recognised credits (whether Kyoto credits or credits under the post-2012 framework), especially from carbon sequestration projects, is likely to be of such material advantage that it may well

determine the viability of some potential projects. It is therefore desirable that general guidance on the likely success of a project application before it is made, even if it is unfeasible to provide absolute assurances, is available. This could be serviceable to the Administrator as well as potential participants in its ability to set a broad framework for responding to enquiries and providing transparent information to the public.

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Carbon in Harvested Wood Products

A3P supports the Government's position on recognising the carbon stored long-term in harvested wood products, and its efforts to achieve recognition of this carbon store in the international framework. A3P is currently undertaking a project to examine the potential methods for inclusion of harvested wood products in an emissions trading scheme and looks forward to continuing to work with the Government on securing a favourable outcome that reflects the science in the international negotiations and, afterwards, translating these incentives into domestic policies. A3P further notes that it is not necessary to wait for an international outcome before recognising carbon in wood products in domestic policies. In fact the CFI already provides the framework for this to happen by allowing non-Kyoto offset credits to be created and sold. Australia has the opportunity in this area to be a world leader and demonstrate how carbon in long-term wood products can be successfully integrated into carbon policy.

Sovereign Risk and Environmental Regulations

A3P acknowledges that CFI credits will be valued in part according to general confidence in their integrity, which consideration has no doubt led to the rather laborious project approval process, including the requirement to "comply with all state, Commonwealth and local government water, planning and environment requirements [and]… regional natural resource management plans" (Explanatory Memorandum, p 7). The power of the Administrator to issue conditional project approval will reduce uncertainty to an extent, and is probably about as much as can be done at a Federal Government level to attempt to streamline this process.

Nonetheless there is a sovereign risk issue with respect to potentially changing requirements at state and especially local government levels in NRM plans, water and biodiversity regulations. Where such changes are driven by misguided thinking, the risk increases exponentially; this includes, for example, emphasis on water quantity without regard for the benefits of improved water quality from reforestation activities, false assumptions about the detrimental impact of tree-planting on biodiversity, and the unjustified belief that plantations are threatening to overrun Australia's prime agricultural land. When these considerations are taken alongside the clear negative bias against plantations displayed in the intended use of the exempted list of projects, it is not surprising that many commercial plantation growers assume the CFI has only nominal opportunities for growing trees, and that the opportunities that do exist are directed predominately at farmers.

Additionality

A3P is pleased to see that the additionality test has been scaled back and the explanatory memorandum clarifies that activities which would not have been commercial but for the CFI are intended to pass the additionality test (even, it is hoped, in the presence of other sources of revenue or associated productive benefits). Despite these rational changes to the additionality test the underlying belief among Government officials that for-harvest reforestation plantations would probably derive trifling incentives through the CFI, continues to be consistent with A3P's interpretation of the legislation as it now stands.

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A3P notes that, in refraining from providing a definition of common practice, the Government intends to draw on "…expert judgement as to what constitutes common practice in different environments and industry circumstances…" (Explanatory Memorandum, p54), and to further consult with stakeholders on this point. A3P cautions that this definition needs to be handled carefully because it is a subjective concept; there are varying degrees of 'difference' from common practice, and many ways to assess what makes an activity suitably unlike common practice to qualify as additional. It is possible that a single definition will not be universally appropriate. A3P looks forward to further engagement on this issue.

Permanence

A3P's comments on permanence from our previous submission remain relevant (please see attachment). The small adjustment to the permanence provision which removes the requirement to reset the 100-year permanence obligation each time a project is varied is a positive step. It does not, however, change the central feature of the permanence requirement, which is that responsibility rests entirely with project participants, with the Government allowing no models which share risk between private investors and the Government (as it was intending to do with carbon capture and storage under the CPRS). Many landholders and forest growers may simply lose interest once the reality of an inflexible 100-year carbon maintenance period sinks in – a liability which it would likely be prohibitively expensive to insure against privately.

Other Issues

A3P also has brief comments on the following issues:

- **Crediting period**: A3P notes that the initial crediting period for non-native forest projects has been extended to 7 years with the option of specifying additional crediting periods in the regulations. This is an improvement from the exposure draft and is generally welcomed by potential participants. We note that the explanatory memorandum indicates an intention to allow 15 year crediting periods for reforestation, though this is not reflected in the legislation. Perhaps a natural progression would be to offer the option of

using customised initial crediting periods for projects not using default methodologies, should a reasonable case be presented for doing so; this could be included in the relevant methodology determination.

- **Reporting during maintenance phase**: A3P supports the concept of reporting by exception during the maintenance phase, where project participants are responsible for notifying the Administrator of any significant decrease in sequestered carbon.

- **Carbon maintenance obligation**: it appears that the carbon restoration order has been replaced by civil penalty provisions which, if appropriately employed, is an improvement in that the penalty should be applied to the person who contravened the CMO. A3P maintains that contravention of a CMO which was not perpetrated or abetted by the project participant should not result in penalties on the participant. This seems to be the intention behind the provisions requiring project participants to demonstrate that reasonable steps were taken to prevent the loss of carbon from the project.

- **Register of projects**: A3P welcomes the changes to the legislation that allow project participants to apply to have certain information withheld from the register of projects should public disclosure result in probable material harm to the project or the participating company/individual, and we urge the Government to implement this provision sensibly.

- **Average stocks methodology**: the legislation and explanatory memorandum include no reference to an average stocks approach to crediting forestry projects, which was mentioned in the prior consultation material. Average stocks accounting would provide flexibility for commercial plantations to manage both carbon and harvest liabilities and was included in the detailed rules for the CPRS reforestation provision. A3P encourages the Government to support an average stocks option for forestry projects under the CFI.

- **Differentiation between forestry projects**: The CFI legislative framework noticeably distinguishes between native forest and other forestry projects. In A3P's view this distinction is not a reflection of actual differences in forests, management practices, and the value of carbon. The constraints that recognise the cessation of management for timber as the only permitted activity in native forest projects under the CFI create an unnatural division between carbon stored in native forests and carbon stored in plantations, valuing the former more highly than the latter. This is a fallacy as far as the atmosphere is concerned. In view of the lack of scientific authentication of this position, A3P believes it is not appropriate for the CFI to draw this distinction and that all forestry projects should be assessed equally as far as carbon sequestration is concerned. Native forest conservation is highly

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regulated across Australia and does not require distorting duplicate constraints in the CFI, whose objective is to impartially encourage additional carbon storage and savings.

Thank you for considering the concerns of the plantation products and paper industry in your inquiry. A3P would be pleased to provide further information to the Committee if required.

Yours sincerely

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Submission on the Consultation Paper

Design of the Carbon Farming Initiative

The Australian Plantation Products and Paper Industry Council (A3P) appreciates the opportunity to take part in the Government's consultation on the design of its carbon farming initiative.

About A3P

A3P is the national industry association representing the interests of all segments of the plantation-based wood products and paper manufacturing industry. A3P members employ more than 13,500 people in plantation management, sawmills, panel board, and paper manufacturing and specialty plantation products plants, mainly in rural and regional areas. Each year, A3P members create and sell products worth more than $4 billion, and produce more than 12 million cubic metres of logs, 3 million cubic metres of sawn timber, and more than 2 million tonnes of paper.

A3P and its members have taken an active part in the all the Government's consultations on greenhouse gas abatement measures, especially with respect to the reforestation and EITE elements of the proposed Carbon Pollution Reduction Scheme (CPRS).

General comments

In announcing the Carbon Farming Initiative (CFI) — an election commitment — the Government stated its intention to "allow farmers, forest growers and landfill operators to earn credits for helping to reduce and store carbon pollution". The Government added that "credits generated under the Carbon Farming Initiative could be sold on the Australian voluntary market to businesses and households wishing to offset their emissions or into international carbon markets". And, further, that "reforestation projects are likely to be a **key component of the scheme**" (emphasis added).

These sentiments are a welcome reaffirmation by the Government of the positive contribution that forestry, especially reforestation, can and does make to Australia's efforts to reduce carbon emissions by diverse means — ie, through carbon

sequestration in growing forests, storage in forests and harvested wood products, replacement of high-emissions materials, and fossil-fuel substitution.

However, to fulfil this laudable policy intent, it is vital that any programs to promote these advantages of forestry and other land uses be well-designed and structured so as to maximise the intended participation and investment by the private sector.

The consultation paper notes that a number of the concepts outlined in the paper are based on the reforestation and offset provisions in the CPRS Bill 2010. However, A3P observes that some of the progress towards satisfactory provisions in that Bill has been reversed, and that we are now revisiting some of the negotiations that had been settled during the lengthy CPRS consultation.

It is A3P's view that, on balance, **if the CFI is implemented as set out in the consultation paper, it is unlikely to attract many commercial plantation growers, whether they be large industrial-scale growers or smaller family forestry operations**. The reasons are covered under the headings used in the consultation paper.

In summary, the reasons include:

- constraints created by not knowing in advance whether the abatement project is **Kyoto-compliant or not**;
- lack of recognition given to carbon stored in **harvested wood products**;
- uncertain and possibly weak demand and low prices for credits in a **voluntary domestic market**;
- **sovereign risk** associated with loosely defined (and possibly as-yet-unknown) requirements to comply with natural resource management and other regulatory processes, and with possible future changes in 'common practice' or mandatory adoption of certain practices;
- re-emergence of the '**additionality'** test and the adverse way it is defined and intended to be applied (especially insofar as it excludes measures that may simultaneously improve productivity and business profitability);
- real problems with the application of the 100-year '**permanence'** test;
- the **complex and high cost processes** for seeking project approval, monitoring and reporting;
- dangers of too much private or commercial information on a **free public database**; and
- unresolved issues with the development and approval of **methodologies** and associated intellectual property.

As a consequence, A3P considers it would be **unwise to expect that the CFI, as currently proposed, will result in any notable increase in investment in for-harvest commercial plantations at any scale.**

Coverage, and demand for Carbon Farming Initiative credits

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Whereas reforestation was explicitly recognised under the proposed CPRS and nominated as an opt-in activity, with specific relevant features and conditions, it is now but one of at least ten examples of potential eligible land-related abatement activities under the CFI. As a consequence, the unique attributes of reforestation and its special contribution to carbon reduction are no longer separate, and reforestation must meet the same conditions as are to be applied to a broad range of potentially eligible activities. This 'generalising' of definitions, criteria and conditions will disadvantage reforestation (as distinct from 'revegetation') and lessen its likely uptake.

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Such 'generalising' also blurs a distinction that deserves to be made between an emissions reduction project and a carbon sequestration project, which have inherent differences. Most elements of the additionality test, which A3P rejects for forest-related (ie, sequestration) projects, have good reason to be applied to emissions reduction projects.

In a similar vein, the National Carbon Offset Standard (NCOS) listed activities that could be included in the voluntary market, which have not been included in the CFI. For example, (enhanced) forest management was explicitly recognised under the NCOS, but has not been included (or has been confused with avoided deforestation) under the CFI. The draft legislation makes no mention of forest management as an eligible activity, and so the CFI appears to omit a suite of activities that are internationally acknowledged to reduce emissions or increase removals (and storage) of CO2 in managed forests. While forest management activities remain a non-Kyoto activity, negotiations for a post-2012 agreement and progress towards the inclusion of activities that address forest degradation (ie, REDD) require that any scheme designed to include both Kyoto and non-Kyoto activities should be inclusive rather than exclusive.

The consultation paper expects that CFI abatement credits can be counted towards Australia's Kyoto Protocol target and also generated from activities that do not count towards that target (ie, 'non-Kyoto CFI credits'). While the paper proposes not to create separate administrative arrangements for each category, it recognises that they must be distinguished for identification in the compliance market (Kyoto credits) and voluntary market (non-Kyoto credits), with the latter market assumed to be small and weak, and having a lower credit value.

However, what the paper asserts to be a "significant advantage" (ie, administering all domestic abatement under the same scheme) will not be so if it is left to the scheme administrator to determine in which category the abatement belongs only after the project has been brought forward. Business reality is that potential proponents are unlikely to make a major financial commitment to a CFI project unless they can properly assess the business case for it, which first requires knowledge of the type of credits the project will create. And while Kyoto credits may bring a higher price, there is no certainty that there will be any market for them after 2012.

Should there be such a market, it is important that Kyoto CFI activities should be able to transition seamlessly from the CFI to a future CPRS /carbon pricing system without having to pay back credits and start again. The consultation paper seems not to have

addressed this.

Regional communities, water, biodiversity

The consultation paper states that "many land sector abatement activities are expected to produce benefits for **farm productivity** (emphasis added), biodiversity and natural resource management". If this is meant to be a 'positive' feature, it is inconsistent with the 'additionality' integrity test (see more below), which seeks to exclude abatement projects that would materially enhance agricultural productivity or business profitability.

This misguided thinking is further exemplified in the assumption that 'economic reasons' will lead reforestation to be more likely on marginal land than on productive agricultural land, "for example to manage salinity, provide shelter for animals or wind breaks against erosion". On-farm shelterbelts and windbreaks are frequently established within and around the edge of higher land class boundaries, the opportunity cost of 'lost land' being more than offset by the enhanced crop, pasture and livestock productivity that results.

Misguided thinking is also reflected in anticipated concerns about the impact of carbon abatement projects on water 'production' — ie, on water quantity and flows, concerns that have emerged only during the ten-year drought of 2000-2010. It is important that the benefits of reforestation and revegetation for improved water **quality** that prevailed in the preceding decades not be relegated.

The same applies to the apparent allowance for the prospect that reforestation may lead to a decrease in biodiversity. If cleared agricultural land, often subject to frequent disturbance, is the baseline, the scientific literature is emphatic that reforestation — whether mixed native species or exotic monocultures — if far superior in restoring or enhancing biodiversity, amongst other benefits.

The conditions discussed under this heading also raise serious concerns about the likely degree of sovereign risk and the adverse reaction of potential proponents to that risk. The prominent examples are:

> "…the Government is considering requiring projects to have obtained all regulatory approvals and met regulatory requirements from all levels of government before they receive final approval under the scheme."
>
> "A further option is to require project proponents to consider relevant regional natural resource management plans."
>
> "The Government … will introduce further restrictions on abatement projects as necessary, including additional water requirements, if there is evidence that projects are likely to have a material and adverse impact on the allocation of prime agricultural land, water availability or biodiversity."

Taken together, these statements are ringing alarm bells in the minds of intending reforestation participants. Regardless of the assumed merit and good intentions of these conditions, their combined impact is likely to be predominantly negative on an industry that, over the past two decades, has become over-run on sovereign risk, policy uncertainty and confusion, shifting goalposts, complex and inconsistent state

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and local regulations, mischievous third-party interference, party political point-scoring, and the to-date hostile attitude of most regional NRM boards to commercial trees (on any scale) as a partial solution to NRM problems.

When combined with the impediments created by the 'additionality' and 'permanence' requirements (see below), these sovereign risk impediments and complexities are likely to present a substantial disincentive to prospective proponents of for-harvest reforestation abatement projects.

The reference to preventing "the destruction of native forests" is unnecessary. Conversion of native forests to other land uses is now minimised through Commonwealth and State regulations. By contrast, silvicultural management of native forests is aimed at maintaining the health and vigour of forests, which can simultaneously increase carbon sequestration in the forest and utilise the thinnings for bioenergy (fossil fuel substitution) and biochar (carbon sequestration in soil). The Government must avoid imposing arbitrary or discriminatory constraints on CFI activities in native forests, based on some imagined prospect of their 'destruction'.

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Integrity standards

A3P supports the creation of a set of standards as proposed, but cautions that the standards must be designed and applied so as to maintain the integrity of the scheme without discouraging eligible projects. Regrettably, of the seven 'integrity standards' proposed in the paper, two — 'additionality' and 'permanence' — will certainly conspire to discourage possible proponents of for-harvest reforestation. It is indeed disappointing to see the re-emergence of additionality as a proposed test, after the Government had eliminated its application to forestry under the proposed CPRS, after much detailed consideration.

Additionality

Despite the apparent intention in the consultation paper to not exclude for-harvest plantations from the CFI, departmental officers have indicated their belief that most for-harvest reforestation projects would probably struggle to meet the additionality requirements. This is consistent with A3P's interpretation of the consultation paper as it now stands.

The consultation paper proposes a method for avoiding the "time-consuming, costly and subjective" task of assessing whether abatement is additional to business-as-usual — whether the project would have occurred in the absence of the scheme. However, the default criterion for the proposed 'positive list' of activities deemed additional without further assessment is "activities that achieve abatement and clearly do **not** result (emphasis added) in material increases in agricultural productivity or business profitability".

While not being on the positive list would not, of itself, preclude eligibility for a CFI activity (ie, a proponent would still be free to make a case for acceptance), the default exclusion of for-harvest reforestation projects from the list would oblige a proponent, as a matter of course, to engage in the "time-consuming, costly and subjective" process of proving the activity was **indeed** additional.

Since the primary purpose of commercial for-harvest plantations is to generate some level of financial return from harvested timber, the onus would be on the proponent to demonstrate — to the satisfaction of the scheme administrator — that, despite this objective, the activity would not have been commenced without the added financial incentive of a CFI abatement credit.

In this context, the measure of 'financial or commercial viability' of a for-harvest forest operation is subject to many variables and the focus of much debate within the industry. Leaving a somewhat nebulous concept to the judgement of the scheme administrator would introduce yet another degree of uncertainty into the application of the additionality test.

Departmental officers have suggested two possible cases where additionality as currently defined might apply. One is growing for-harvest plantations in more marginal areas (ie, not 'prime agricultural land') where growth rates, yields and haulage distances would make the plantation 'uneconomic'. The other is being able to extend the rotation length of the plantation where it would otherwise be uneconomic to attempt to grow long-rotation sawlogs.

Both of these scenarios would be valuable in helping to expand the plantation estate to fill long-standing and increasing wood supply gaps in a 'socially acceptable' way, and have been the focus of considerable attention by the plantation industry and government policy makers for nearly two decades — since the Commonwealth and State Governments phased out or wound back their involvement in plantation establishment and management.

Given that these scenarios fill demonstrable strategic economic, industry, regional development and community needs, it would be logical to make investment in such for-harvest reforestation projects 'additional' as the default position — in other words, drop the 'additionality' test for the plantation forestry most needed, as it was in the proposed CPRS.

The additionality test is also complicated by two matters covered below under 'Scheme processes' — ie, a project activity could later become common practice, or be made mandatory. Both would cause the activity to no longer be additional.

Permanence

The consultation paper nominates 100 years as a typical carbon maintenance period for a reforestation activity. It is hard to imagine a farmer or investor being prepared to make a large financial commitment and then accept such a long-term encumbrance while the market for CFI credits is so uncertain.

While farmers — and family foresters — are reputed to take a long-term view, 100 years is still a very long time for which to set up an intergenerational carbon maintenance, monitoring and reporting system, particularly given that it is much longer than one rotation of most private commercial plantations. Clearly, 'credit averaging' (over three, perhaps up to five, rotations) would be necessary to enable for-harvest reforestation projects to meet the permanence requirement.

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A3P notes that, although 'averaging' is an acknowledged solution in the consultation paper, it is not referred to in the draft legislation. This omission should be corrected so that there can be no confusion about the law giving effect to the policy intent.

Averaging should not, however, be the only solution on offer. Larger-scale projects using carbon pooling to accommodate harvest fluctuations may find that the full annual crediting approach better suits their risk and forest management profiles.

Notwithstanding the capacity to use either full crediting or averaging, A3P's consultations to date suggest that many landholders and forest growers may simply lose interest once the reality of a 100-year carbon maintenance cycle sinks in.

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Other challenges for the 'permanence' requirement would include projects run by management companies for third party investors, and, perhaps, the overall government administration of the scheme. Based on recent experience, there is a very real risk that any management company set up to manage CFI reforestation activity for third-party investors will not be able to remain solvent for a 100-year carbon maintenance period. And some would similarly doubt the government administration system would remain in place, with any effective corporate memory, for even a fraction of that period, no matter how well-intentioned the initiating government.

An alternative approach for the Government?

A central feature of the CFI's permanence requirement as currently proposed is that responsibility for permanence rests entirely with the CFI project participants — a burden that A3P contends few private participants will ultimately be willing to bear. Perhaps this deficiency might be substantially reduced if the Government was prepared to consider alternative models where responsibility for permanence was shared between the Government and the participants, with an accompanying sharing of risks and rewards.

Simply put, it would be worthwhile for the Government to explore the merits of a model whereby the Government assumed the role of national carbon pool manager. The Government would become responsible for ensuring that the total amount of carbon stored in CFI projects across Australia is sustainably managed to meet the 100-year permanence integrity standard, thereby being able to meet the nation's international offset obligations. But within the national pool, there would be a continuous stream of short-term and long-term abatement projects entering and exiting the scheme, with the duration of carbon maintenance obligations matching the 'life-expectancies' of the project participants.

It is beyond this submission to develop the detail of this idea here. But it is offered as a possible solution to what A3P and many others perceive as a serious disincentive to active private sector participation in the CFI.

Risk-of-reversal buffer

The consultation paper suggests that the Government is considering applying a risk-reversal buffer of five per cent of the carbon sequestered in the project. This is a step forward from the CPRS, where the Government would not nominate a figure. However, there appears to be no commitment not to change the level of the buffer in the future. This could be seen as rather

one-sided, given that the project proponent is being asked to give a commitment for 100 years.

Some overseas schemes are introducing insurance as an option to reduce the complexity associated with managing risk — for example, the American Carbon Registry. The CFI should be developed so that a diverse insurance market can evolve, rather than allowing the scheme administrator to become the only insurer.

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Carbon maintenance obligation

Although it is not discussed in the consultation paper, the draft legislation at Section 89(12)(b)(iii) requires that, if a project proposal is varied, the 100-year carbon maintenance obligation is reset from the last date of variation. This is a totally unacceptable constraint and has no justification. It would mean, for example, that part of a reforestation project area could not be carved off after, say, twenty years because the trees had not survived or had done poorly, without the project being forced to extend its obligation for the same period.

Avoided deforestation

A3P questions the assertion in the consultation paper that the risk of reversal of avoided deforestation is any greater than for any other activity or that landowners are more likely to 'deforest' if they receive full immediate payment.

The application of a pro-rata issuance of credits for avoided deforestation should occur at a rate at which the deforestation was avoided. If deforestation over a project area was planned for twenty years, then an annual percentage should be applied.

Finally, it is important to restate the points made earlier in this submission under 'Regional communities, water and biodiversity' (page 5). It is essential that all documentation recognises that avoided deforestation means not converting forested land to non-forested land; it does not encompass harvesting trees while maintaining a forest as a forest, whether planted or natural, (ie, 'forest management').

Consequently, this means deleting from the draft legislation (Section 25(4)(i)(i) and (ii)) the requirement that the project must not involve harvesting of native forest or using material obtained from such harvesting.

There is no scientific basis for such an inclusion. As is well known to the department and to the Government, 'clearing' and 'harvesting' are NOT the same thing. A3P notes that the consultation paper at page 9 contradicts the draft bill with the sentence: "Projects that involve uses of native forests that are **consistent with keeping the forests healthy and intact**, for example harvesting bush foods and selective thinning, would be permitted."

Leakage

The consultation paper and the draft legislation provide insufficient detail to comment on how leakage rules may affect sequestration projects.

The example of market demand driving 'deforestation' caused by timber harvesting into other areas once again confuses forest management with 'conversion' to non-forest. It appears to be based on international examples where deforestation may result from timber harvesting in situations where sustainable forest management is not practised, or regulations are not in place to prevent the conversion of forest to cleared land.

As a general observation, identifying and estimating leakage can be a very complex and subjective matter, and every effort should be made to ensure that scheme guidelines are simple, clear and capable of being applied consistently across projects.

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Scheme processes

A3P has comments on five of the nine administrative and process items in the consultation paper.

Project approval

The project approval process is insufficiently detailed.

A simple and straightforward process that minimises the costs associated with this step is to be encouraged, and a set of minimum criteria needs to be established to ensure consistency among projects of similar activities.

The costs associated with the development of the documentation required to support projects (often called Project Design Documents) can be extensive, and in the cases of other existing Standards (such as Voluntary Carbon Standard or the Climate, Community and Biodiversity Alliance Standard) may require a costly and time-consuming (but necessary) level of verification by a third party auditor.

Similarly, periods of public consultation are typically required to meet obligations to consult with stakeholders. These requirements have the potential to add considerable time and cost to the project development phase, which may be beyond the means of many (smaller) landholders.

The process and requirements for project approval need to be clarified. The process described in the consultation paper does not consider how PDDs will be handled (or perhaps the document is confusing the two processes?). Will the DOIC also approve the PDD, or will this be left to the 'market' to judge via the database?

Database of offsets projects

The Government should be mindful of the tension between its desire for transparency and a proponent's desire and need for privacy. There are many examples in the forest and plantations industry of unwelcome and mischievous interference by third parties into business activities they have no right to intrude upon.

Should potential buyers of an area of land be interested in detailed particulars of a CFI reforestation project, they will readily find that information by conducting a search of the land titles, where the CFI legislation will require the information to be kept.

Publishing (in effect) a detailed description of the project, its geographic location, names of carbon rights holders and project managers, names of persons to whom credits have been issued, and project methodology is unnecessary for public scrutiny, and would infringe the common rights of entities to classify certain information as commercial-in-confidence.

A3P maintains that a free, publicly available register of offset projects need contain no more information than a project's status as a CFI reforestation project and the number of credits it has generated. All other information on the public register should be optional.

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Crediting periods

As noted earlier, the continuation of additionality for a long period will be subject to whether the scheme administrator determines that the abatement project activity has become common practice or notes that it has been made mandatory by one or more governments. The consultation paper also notes that the risk-of-reversal buffer may be adjusted in a new crediting period.

Contrary to the assertion in the consultation paper, it is entirely possible that land sector activities (especially those involving trees and forests) can be made mandatory. Similarly, it is certainly foreseeable that land sector activities based on reforestation could become common practice within the life of an abatement project.

There is an increasing trend towards regulating conservation and land protection, and this is already restricting and limiting opportunities. For example, the regulation of planning and development impinges on opportunities for the emergence of environmental markets (eg, Wild Rivers most recently in northern Australia). As has been argued by some developing nations in the context of REDD, those who have not yet developed their resources are 'penalised' (via lost opportunity) for not having done so.

Proponents make an 'investment' based on a known or anticipated lifetime. Many schemes have a crediting period that can be repeated — eg, the Voluntary Carbon Standard allows agriculture projects to have a crediting period of ten years repeated twice, and other Agriculture, Forestry and Land Use projects can be between twenty and 100 years.

Regardless of any sophisticated explanation of why it might be perfectly reasonable to deny project re-creditation in a new crediting period, the mere existence of these two foreseeable future restrictions (ie, becoming common practice and/or mandatory) will combine with other uncertainties and sovereign risk factors discussed earlier to discourage participation by all but the most determined and committed proponents.

The consultation paper also proposes that the administrator sets a maximum crediting period of three years in which a project can rely on a particular version of a methodology. Although this was apparently intended to provide some certainty, there is a risk that, as the draft legislation currently stands, a relinquishment notice could be issued on a project simply because the methodology was revoked (eg, because the

activity became common practice or mandatory). This would be totally unacceptable for long-term sequestration investments such as forestry.

Crediting

It is welcome that, by allowing the application of a 'rolling average' methodology, the consultation paper recognises the only way that commercial for-harvest commercial plantations (with, say, three 35-year rotations) could meet a 100-year 'permanence' standard.

Whether this is enough of a concession to overcome the disincentives discussed earlier remains to be seen.

A3P repeats the observation that the averaging approach is not referred to in the draft legislation, and should be.

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Methodology approval

A3P acknowledges that project participants will be allowed to develop their own methodologies and submit them for approval. We also note that draft guidelines and a template for methodology development were released in early January 2011, and are subject to a separate consultation process.

Comments here are therefore general and focused on the process of methodology submission and approval.

In briefings, the department has said it will itself be developing methodologies for reforestation based on the National Carbon Accounting Toolbox (NCAT).

Industry submissions on the CPRS (2009) were critical of the conservative nature of the NCAT's assumptions and outcomes, which would result in significant under-estimation of carbon sequestration in trees in some circumstances. A3P urges the department to take account of these concerns, to undertake the necessary technical work as quickly as possible and in consultation with forest industry scientists and specialists, and to refine the NCAT model to be more reliable when applied to regional and project scales.

The intention that the DOIC should publish and undertake public consultations on draft methodologies could act as a disincentive to 'first-movers', unless there is a means of protecting the intellectual property of the methodology developer. A3P is confident that the department appreciates the tension between IP and public disclosure, but has the following comments.

Methodologies should be assessed and approved by specialists with relevant adequate expertise in the field relevant to the activity for which the methodology is being developed.

Public submissions must focus on the methodology and not the project. The department or the DOIC must ensure that the public consultation does not result in agenda-motivated action against methodologies of certain types. (For example, forest management methodologies may attract excessive public comment from lobby groups opposed to timber harvesting.) The DOIC or department could screen comments to

ensure that the project proponent need respond only to reasonable, robust, valid comments.

As methodologies do not generally include site-specific information, there should be no risk of this being disclosed at this point in the process. The project design documents, not the methodology, normally contain the project-specific detail.

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Concluding remarks

A3P endorses the formulation of policy measures and programs that recognise the contribution forestry and other land uses can make to the reduction of carbon emissions, especially through carbon sequestration and storage and substitution of renewable carbon for fossil carbon in fuel and materials.

The Carbon Farming Initiative has the potential to fulfil such a policy intention, and deliver diverse national, regional and community benefits. Such benefits could include helping to attract expanded private investment into much-needed new and replanted commercial timber plantations to supply a chronically under-resourced national wood products industry.

However, A3P contends that, without substantial modification from what is proposed in the consultation paper and the draft legislation, the CFI will fail to attract participation in carbon sequestration projects at anywhere near the level that would justify the launch of program.

Further, and more specific to the commercial forestry industry, A3P believes that, in its current form, the CFI will fail to attract any notable or effective increase in investment in new and replanted commercial plantations at any scale, and should not be regarded as a policy vehicle for doing so.

A3P will continue to work with the Government and other stakeholders in refining the CFI to achieve its stated objectives.

Yours sincerely

RICHARD STANTON
CHIEF EXECUTIVE OFFICER