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**SUBMISSION TO EXPOSURE DRAFT OF THE
CARBON POLLUTION REDUCTION SCHEME LEGISLATION**

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A3P is the national representative body for the Australian plantation products and paper industry. Our 30 member companies have sales revenues of more than \$4 billion per annum and directly employ 13,500 people predominantly in rural and regional Australia in centres such as Mt Gambier, Morwell, Tumut, Albury, Oberon and Gympie.

A3P's structure mirrors the integrated nature of the plantation products and paper industry supply chain. Our industry is unique because the start of that supply chain is a tree, which stores carbon during growth. That carbon storage is maintained in finished forest products throughout their life and even after disposal. Forest fibre is recycled, forest and timber residues and by-products from manufacturing are used to produce renewable heat and power, and carbon storage in the forest stand is perpetuated through the continuous cycle of harvesting and replanting. This makes ours the only carbon positive industry in Australia. As a net store of carbon, the industry should remain vibrant with the introduction of an emissions trading scheme. Expansion of commercial timber plantations and wood & paper product manufacturing will be a net benefit from a climate change perspective, as well as delivering socio-economic and other environmental benefits.

A3P is a member of the Australian Industry Greenhouse Network (AIGN) and supports its submission to the CPRS draft Bills. A3P's major concern with the proposed Carbon Pollution Reduction Scheme (CPRS) is that the whole supply chain will suffer if pulp & paper and panel board manufacturing are disadvantaged through the introduction of a carbon cost when a similar cost is not borne by its international competitors. The importance of pulp & paper and panel board manufacturing extend beyond the employment, investment and value-adding they foster directly, to their role as a driver for the same in other parts of the forest and forest products industry:

- Pulp & paper provides a major market for small diameter logs from "thinnings" – selective harvest events which are essential to enable the growth of structural grade logs. The sale of thinnings represents almost half the gross income from a conventional plantation, and more than half the volume of timber grown. Pulp & paper is also a major market for defective and small logs which cannot be used for structural timber production, from later harvest events.
- Panel board manufacturers purchase a substantial proportion of their inputs from growers and are an important market for thinnings and small, defective logs.
- The demand for, and economic returns from, low quality logs, is an essential driver in investment decisions by the plantation growing sector, both for the establishment of new plantations and reestablishment following harvest.

- The demand for pulp logs is essential to the availability of sawlogs, which form the basis of wood supply to the sawmilling sector. Without commercial returns from pulp logs, the economic viability of plantations would come under question and the supply (and price) of sawlogs would be adversely affected.
- Residues and offcuts from the sawmill are commonly used in panel board production. Paper manufacturers also purchase sawmill waste; the ability to sell this fibre is crucial to the profitability of many sawmilling operations.
- The pulp & paper industry has invested in, and maintains, the infrastructure that underpins Australia's high rates of paper recycling (approximately 50%), and provides the market that drives the collection of waste paper. If paper manufacturing in Australia contracts, it will have serious consequences for the viability of recycling activity.
- Recovered timber (e.g. post-demolition) can also be recycled by being used in panel board manufacturing.
- Many rural and regional contractor, support and service businesses including harvesting, transport, mechanics, fuel supply and trades, depend on pulp & paper, panel board and other forestry-based sectors for their profitability.

For all these reasons, the future viability of pulp & paper and panel board manufacturing is of critical concern to all of A3P's member companies. Unless the competitiveness of pulp & paper and panel board manufacturing is maintained, the entire supply chain will be affected.

Measure for Emissions-Intensive Trade-Exposed (EITE) Industries

It is not possible to make meaningful comment on the parts of the draft Bill that deal with the EITE measure because the legislation merely provides for this measure to be created via regulations. The specific design of the EITE measure will be critical in determining its effectiveness for pulp & paper and panel board manufacturing in Australia. However, a number of outstanding issues remain in relation to key design elements of the EITE measure set out in the White Paper; consideration should be given to addressing these in the legislation rather than deferring them to regulation.

A3P supports the basic principles of emissions trading and the administrative allocation of permits to offset the loss of competitiveness in EITE sectors that is not connected to actual emissions intensity. But it is not possible to specifically support the proposed EITE measure for the CPRS without access to design detail. A3P will continue to work constructively within Government processes for implementation of the CPRS; we hope that there will be opportunities in this process for extensive consultation and feedback on the EITE measure. The design proposed in the White Paper requires a number of small but fundamental changes to achieve the objective of preventing carbon leakage:

- The apparent cap on the allocation of permits to EITE industries (or activities) is inconsistent with the objective of preventing carbon leakage. This restrictive allocation is artificially circumscribing the extent of assistance available under the EITE measure.
The limits of allocation to EITE activities should be defined by the objective of preventing carbon leakage from Australia for no environmental benefit.
- The thresholds for assistance (90% and 60%) build into the design of the EITE measure material disadvantages for activities falling just below one of the thresholds. Furthermore, these thresholds are based purely on emissions intensity; the inability to absorb cost increases is determined by trade exposure, and it is not quantitative emissions but the *proportion* of the cost increase that is relevant.
All EITE activities should receive a permit allocation of at least 90% to reflect that the comparative burden of cost increases associated with the carbon price will be broadly similar across all EITE industries.

- The proposed decay of permit allocation is equally problematic because, no matter what the rate of decay is, it would not be linked to real changes in global market conditions or comparable effort by other economies. The proposed decay rate would breach the EITE measure's objective by placing an increasing cost burden on entities conducting EITE activities based on an arbitrary figure.

There should be no predetermined decay of permit allocation. The level of allocation should be assessed in the regular reviews of the EITE measure, and changes in allocation should take into account comparable effort by competitor economies and any sectoral agreements that may exist.

- Because the CPRS and the RET are being developed in isolation from each other, no consideration has been given to the cumulative impact of both measures on Australian industries. Assistance under one scheme alone, or restrictive assistance under both schemes, will not be enough to avoid extremely damaging outcomes in EITE industries. EITE and RATE measures would be compromised and come at a huge cost to Australian taxpayers, both in the form of the (inadequate) assistance that was given, and in the loss of manufacturing capacity, and employment, across many industries in the economy.

EITE and RATE measures must be developed alongside one another; a harmonisation between the CPRS and the RET would enable the Government to take account of the impacts of both schemes on compliant parties, especially EITE industries.

Reforestation

A3P's members are also interested in the opportunities that may be created for reforestation under the CPRS. Provided the Scheme is well designed, the forest growing sector can provide an important, positive contribution to emissions mitigation and abatement by sequestering carbon in new forests and displacing the use of emissions-intensive products with timber (which is less emissions-intensive to produce and also contains carbon). The proposal in the draft Bill is only to recognise carbon storage as the forest grows; if a plantation is harvested, the proposed rules assume that 100% of carbon stored during tree growth is released back to the atmosphere. This is clearly not the case. The CPRS should reflect the genuine fate of carbon in harvested plantations by recognising carbon stored in harvested wood products. A3P supports the inclusion of harvested wood products in the CPRS and believes that the Government should lead the international debate by demonstrating how this can be done. A3P would welcome further opportunities to work constructively with the Government to achieve this outcome.

Importantly, the ability of plantation growers to contribute to the national greenhouse gas abatement effort by generating permits within the CPRS will require the continuation of healthy pulp & paper and panel board industries to maintain demand and underscore the commercial viability of the existing (and expanding) plantation estate. The flow-on impacts of a poorly designed EITE measure would far outweigh any potential benefit from opting in under the reforestation provisions of the Scheme.

The sections of the Bill dealing with reforestation are quite detailed, particularly in comparison to its EITE aspects. Overall, the legislation appears to be extremely stringent and exact in its requirements, in some cases limiting the ability of commercial forces to operate in a way that allows the market to find the best, most innovative business models. There are several design elements which, if they remain, may well discourage entities from opting in to the Scheme. These include:

- **Maintenance obligation**

The draft legislation indicates that, in the event of non-compliance with the relinquishment obligation where it is imposed, an obligation to maintain or replant a forest may come into force. Because this would be imposed on the owner of the forestry right and not the owner of the carbon right (i.e. the eligible entity) it will diminish the attractiveness of participation where the carbon right and forestry right are not owned by the same person/entity; this may unnecessarily limit the range of business models that will be available to potential participants.

The maintenance obligation has no comparable precedent elsewhere in the Scheme. If a liable entity fails to surrender sufficient permits there is no requirement on a separate entity to make good; parties in breach of Scheme obligations are pursued but there is no recourse on a third party.

It has been argued that forestry permits, because they are above the Scheme cap, need to guarantee the permanence of the sequestration that underpins them to be fungible; put simply, the carbon that was stored to create the permit must actually exist. While this is reasonable, the duty to make good should rest with the entity that made income by selling permits, that is the owner of the carbon right. In the case of a liable entity under the Scheme that is in non-compliance, the situation is no different. The permits that the liable entity should have purchased to cover their emissions are still on the market and available for another entity to buy; there is therefore a potential for emissions to occur “above the cap”.

This provision is one of the major areas of concern for A3P members who may consider opting in to the Scheme. It is unclear whether the maintenance obligation may not eventually devolve to the land owner, in the event of the forestry right owner’s bankruptcy or refusal to comply with the maintenance obligation. This is of direct relevance to any potential reforestation project, because land owners will be highly unlikely to allow their land to be encumbered (and devalued) in this way, and accept ultimate liability for eligible reforestation projects.

There is no question that the Regulator should have recourse to enforce Scheme obligations; however it is incongruous to place the onus of enforcement on any entity other than the eligible entity that holds the carbon right and opted in to the Scheme, and has had the benefit of the profit of selling eligible carbon sequestration. The process of becoming an eligible entity requires the passing of a ‘fit and proper person’ test which should take into account whether the person/entity is able to fulfil their potential obligations under the Scheme. As stated previously, liable entities under the Scheme are also responsible for meeting their own obligations.

The maintenance obligation also poses a potential risk to Scheme participants who derive revenue from the timber value of their plantations. Design details outlined in the Bill and the White Paper do not preclude the Regulator from intervening in the silvicultural management of a harvested plantation estate which has been opted in to the Scheme. While everyday, ‘business-as-usual’ harvest events and occasional small deviations from this would be manageable under the proposed rules, harvest plantations may be at risk of the Regulator prohibiting any harvesting of the opted-in estate in the event of a large, unforeseen loss of carbon such as a wildfire. If the Regulator is able to impose a maintenance obligation under these circumstances then a forest grower’s timber supply contracts could be compromised; this risk may act as a disincentive for harvest plantation growers to opt in to the Scheme. The Regulator should be required to make an ‘informed decision’, which would allow entities to be consulted on the method in which carbon losses resulting from “acts of God” are recovered.

- **Consent of all interest holders and registration of carbon right on land title**

These requirements imply that there is a liability on all parties who have an interest in the land – but only the carbon right owner is able to profit by opting in to the Scheme. By prescribing *how* these parties interact with one another, the Scheme will be

interfering in the free working of commercial forces and entities may be prevented from making commercial arrangements that best suit their individual businesses.

- **Use of NCAT for growth estimates and reporting**

It seems extraordinary for the legislation to compel entities to use a single software program (NCAT) for the estimation of carbon stocks; this goes against the Scheme's broad objective of encouraging innovation and advancement to achieve a low carbon economy. Requiring independent assurance would be appropriate to guarantee the credibility of alternative programs (or improved data), but it should be possible for eligible reforestation entities to use tools other than NCAT to generate carbon storage estimates. Entities considering participation in the Scheme are subject to NCAT (especially where it appreciably underestimates growth rates and carbon stocks) may choose to desist from entering the Scheme because the financial returns will be artificially (and incorrectly) constrained due to NCAT's overly conservative estimates. The legislation should not "lock in" the use of NCAS/NCAT, especially considering that tools which are better equipped to deal with project-level accounting may be developed; there should be a pathway for the approval of such tools. Furthermore, it is worrying that the legislation essentially precludes the use of independently verified measurement data for use in lieu of estimates from a computer model.

- **130 year permanence obligation**

The permanence obligation, while necessary, appears to be unnecessarily arduous, at 130 years from the issue of the first permit for a forest stand. This is an unexplained deviation from the White Paper. 130 years appears excessive, especially in comparison to other mechanisms for the generation of forestry credits or offsets (70 years and 100 years are common figures). Applying the permanence obligation from the issue of the first permit also perversely favours some plantation models over others. For an environmental planting, for example, which will store carbon (and generate permits) for many tens of years, the proposed permanence obligation would actually result in many of the credits being underwritten by sequestration in the planted forest for significantly less than 100 years.

- **Registration of eligible projects on single land title**

A3P understands that steps are being taken to modify the provision requiring the registration of eligible reforestation projects against only one land title. The ability to register a project across a number of land titles is fundamental to the workability of the Scheme. The legislation is also ambiguous on whether the converse can occur; that is, if more than one eligible project may be registered on a single land title. A3P suggests that the legislation should have the flexibility to allow both the registration of a single project over multiple titles (and multiple sites), and multiple projects on a single title. Due to its significance, A3P suggests that industry should have the opportunity to review the provision which will replace this one to test for further unintended consequences.

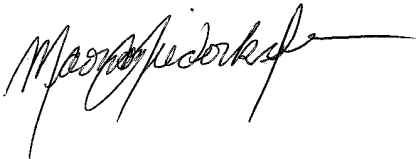
- **5 year limit to back-claiming carbon storage**

This limit could prove problematic, especially for small growers. Provided the sequestration took place after Scheme commencement and complies with all other requirements, there is no reason to limit the ability to claim credits for tree growth retrospectively since the removal would be available to Australia's national accounts. Furthermore all reforestation credits will be issued in arrears, so there can be no great difference between credits claimed more than 5 years after sequestration and those claimed earlier.

While individually some of these points may appear minor, they create an onerous and ambiguous package for potential participants. Many production plantation growers may decide that there is not enough incentive to opt in to the Scheme; some requirements may hamper the potential for more flexible business models to participate. The mere size of the section of the draft legislation dealing with reforestation will raise concerns about the practicality of pursuing this opportunity.

Thank you for considering our comments on the CPRS. A3P would welcome the opportunity to take part in further discussions. If you have any questions please contact Marion Niederkofler on 02 6273 8111 or at marion.niederkofler@a3p.asn.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Marion Niederkofler', with a long horizontal flourish extending to the right.

Marion Niederkofler
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