

DCCEEW response to Orica's Supplementary Submission to the Committee's inquiry into the *Safeguard Mechanism (Crediting) Amendment Bill 2022*

Dear Chair

Thank you for the opportunity to respond to Orica's supplementary submission to the Environment and Communications Legislation Committee's inquiry into the *Safeguard Mechanism (Crediting) Amendment Bill 2022*.

The proposed Safeguard Mechanism reforms propose to remove the 'deemed surrender' provisions after two years (after the end of the 2024-25 financial year). The deemed surrender provisions are contained in subsection 22XN(6) of the *National Greenhouse and Energy Reporting Act 2007* (NGER Act) and mean that, if a Safeguard Mechanism facility creates ACCUs from an offsets project and sells them back to the Government under contract, the volume of ACCUs sold will be deemed to be surrendered and will reduce the facility's net emissions number.

The deemed surrender provisions allow a facility to reduce their emissions—helping to meet their Safeguard compliance obligations—and generate and sell the resulting ACCUs to the Government. They allow a facility to receive a double benefit for each ACCU – they receive a financial benefit from selling the ACCU, and they receive a benefit from reducing their Safeguard compliance obligation.

In the August 2022 consultation paper on the Safeguard Mechanism reforms, the issue of deemed surrender was raised, and two options were suggested: deemed surrender could be removed entirely; or these arrangements could be grandfathered for existing contracts.

Removing deemed surrender does not affect existing Carbon Abatement Contracts. The Commonwealth would still accept delivery of ACCUs under these contracts and pay for those ACCUs.

A consideration when proposing to limit grandfathering to two years was the volume of ACCUs affected by deemed surrender. Allowing grandfathering of these arrangements for only two years would mean more than 3 million tonnes of emissions reductions would not need to be sourced from elsewhere. The proposal to limit these arrangements was based on the volume of ACCUs affected rather than on which proponents would be affected.

Grandfathering deemed surrender arrangements for two years would provide time for businesses to adjust to the new arrangements. This proposed approach aims to strike a balance between limiting double use of the same ACCU and managing sovereign risk.

The department notes that Orica's statement relating to 'double counting risk' is in relation to voluntary emissions reductions commitments. The department is comfortable that the proposed provisions do not create a risk of double counting in relation to Australia's Paris Agreement targets.

In response to Orica's statement that *'It appears the Government's motivation from removing deemed surrender, is so that it can utilise those ACCUs in the cost containment measure'*, the department notes that the options relating to removal or grandfathering of deemed surrender were included in the August 2022 options paper. A cost containment measurement was not proposed in that options paper and was only subsequently included in the January 2023 position paper, following feedback from industry on the August 2022 options paper.

The Government has not made a final decision regarding whether ACCUs that are subject to deemed surrender arrangements and delivered to Government would be available to be sold under the cost containment measure or be cancelled instead.

As with all parameters proposed in the January 2023 position paper, the Government will carefully consider feedback received on the proposed grandfathering of deemed surrender.