



# Eligible interest holder consent

under the *Carbon Credits (Carbon Farming Initiative) Act 2011*

FORM

CER-ERF-EIH001

V2.0 23/06/2015

## Purpose of this form

This form is used to seek consent from person(s) with an eligible interest (eligible interest holder) in an area of land on which an Emissions Reduction Fund project is to be, is being or has been implemented by the scheme participant (the 'participant'). This consent is required for any project or proposed project that involves eligible interest on an area of land.

The Clean Energy Regulator recommends that the application form for the project to be registered under the Emissions Reduction Fund as an eligible offsets project (the 'project') be accompanied by an eligible interest holder consent form completed by each eligible interest holder having an eligible interest in the project land. If this is not done, when registering the project the Clean Energy Regulator will specify in the declaration of the registration of the project that the declaration is subject to the condition that the written consent of each relevant eligible interest holder to the existence of the declaration must be obtained before the end of the first reporting period for the project.

This consent form is not required where consent is set out in a registered indigenous land use agreement.

## Instructions for completing this form

Please read each part of the application carefully, fully answer all the questions, sign where indicated, and attach the required documentation.

You must complete and submit:

- **Part A: Applicant details**
- **Part B: Project details**
- **Part C: Eligible interest holder details**
- **Part D: Declaration**
- **Application checklist**

The completed form should be returned to the participant for submission to the Clean Energy Regulator.

**Before signing this consent form**, it is strongly recommended that all eligible interest holders read and understand the project proposal, and where necessary, obtain independent legal advice in relation to providing consent.

In particular, eligible interest holders should understand the implications of permanence obligations and carbon maintenance obligations. These obligations have long term implications for the land on which sequestration projects take place. See the further information provided below on these obligations.

Under the Emissions Reduction Fund, the participant is required to have the legal right to carry out the project. If the project is a sequestration project, the applicable carbon sequestration right is an eligible interest that may be held by the participant.

You can choose to complete this form by:

- printing the form and filling it in by hand, or
- saving the form and filling in an electronic copy.

Note that if you choose the second option, there may be times when you will need to print certain sections in order to sign them or in order to complete multiple entries for a single set of questions. These sections may be scanned back into the computer and submitted electronically with the rest of the form.

<b>Pen colours</b>	Please use a <b>black</b> or <b>blue</b> pen to write on the form.
<b>Check boxes</b>	Mark boxes like this <input type="checkbox"/> with a <b>✓</b> or <b>✗</b> . When an instruction asks you to 'tick' the box, you can still use either <b>✓</b> or <b>✗</b> .
<b>Go to</b>	Where you see an instruction like this - <input type="checkbox"/> Go to <b>question 5</b> - mark the relevant box with a <b>✓</b> or <b>✗</b> and then skip to the question number shown. You do not need to answer the question(s) in between.  Where an instruction has a black double arrow (▶▶), go to the next indicated part/section. Where an instruction has a black single arrow (▶), go to the next question. Where an instruction has a black single arrow pointing down (▼), fill in the field(s) directly below.
<b>Mandatory questions</b>	If all fields in a question are mandatory and must be completed, <b>(required)</b> is added to the end of the question label text. If a field in a question is mandatory only IF a condition is met, <b>(required if any)</b> is added to the end of the question label text.
▶	This symbol indicates an instruction on what to do next.
ⓘ	This symbol indicates additional useful guidance to filling in the adjacent field or section.
	This symbol advises that more than one entry may be required for the section and therefore you may need to photocopy or print the section or fill in a duplicate section.
	This symbol advises that additional documentation to support a claim may need to be attached to the application.
<b>Duplex printing</b>	This form is designed to be duplex printed to save on paper. All new sections start on the right-hand side of a page spread.

## Help filling in this form

Guidance for filling in this form is available on the [Clean Energy Regulator website](http://www.cleanenergyregulator.gov.au/)<sup>1</sup>.

<sup>1</sup> <http://www.cleanenergyregulator.gov.au/>

If you require assistance or have any questions regarding this application process, please contact the Clean Energy Regulator general enquiries line on **1300 553 542** or email [enquiries@cleanenergyregulator.gov.au](mailto:enquiries@cleanenergyregulator.gov.au).

## Submitting this form

Eligible interest holders who complete this form should keep a signed copy of this form for their records.

Participants can submit this form to the Clean Energy Regulator in any of the following ways:

### By post

Post your completed application with any accompanying documentation to:

**Emissions Reduction Fund  
Clean Energy Regulator  
GPO Box 621  
Canberra ACT 2601**

### By email

Alternatively, email your scanned, completed application to the Clean Energy Regulator at [erf@cleanenergyregulator.gov.au](mailto:erf@cleanenergyregulator.gov.au).

If the email and its attachments (the application and supporting documents) are larger than 10MB, they must be sent using multiple emails that are clearly marked (i.e. by including an identifier in the subject line, e.g. '1 of 3', '2 of 3', '3 of 3'). The signed application form must be saved as a single scanned file and not split into parts. Files may be zipped to reduce their size.

If submission occurs by email, the participant is not required to send the original hardcopy of the application by post.

Office use: 

## Part A: Applicant details

You (each of the eligible interest holder(s) named in Part C of this form) must receive relevant project information from the participant or the completed project registration form before you complete this form.

*It is strongly recommended that you:*

- *read the 'Additional information' section of this form;*
- *read and understand the project proposal and where necessary obtain independent advice in relation to providing consent as an eligible interest holder; and*
- *confirm that the project details of this form or the completed project registration have been completed and are correct.*

Complete this part to identify the participant/appointed nominee making this application (if they are making this application on their own behalf) or the participant/appointed nominee on whose behalf this application is made.

### 1. Applicant Details (required)

Client name								
Date of birth (individual only)	Y	Y	Y	Y	M	M	D	D
Organisation identifier	ABN	<input type="checkbox"/>	ACN	<input type="checkbox"/>	ARBN	<input type="checkbox"/>	ICN	<input type="checkbox"/>

## Part B: Project details

### 2. Project details (required)

Project identification number	
Project name	

### 3. Land title reference and location of the project area for the project named in question 2 (required)

- i** *The land title reference number(s) including, where applicable the state/territory, block number, section number, volume, folio and edition.*

- ▶ Provide the land title reference number

Land title reference	
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- ▶ Provide the location, including street address where applicable

Location	
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### 4. What is the nature of your eligible interest in the area of land specified in question 3? (required)

- i** *For the definition of eligible interest, please refer to sections 43, 44, 45A of the CFI Act.*

- ▶ Describe the nature of the eligible interest held by you

Description	
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### 5. What is the duration of the permanence period of the project? (required if the project is a sequestration offsets project)

- i** *The permanence period must be same as requested by the participant during the project registration, i.e. for the project to be treated as a 100-year permanence period project or a 25-year permanence period project.*

- ▶ Provide the intended permanence period of the project.

Project's permanence period	years
N/A	<input type="checkbox"/>

## Part C: Eligible interest holder details

### 6. Name and contact details of the eligible interest holder (required)

 This form allows for one eligible interest holder details. If the eligible interest described in question 4 of Part B of this form is held by more than one person, please photocopy or print this part, complete a copy for each other eligible interest holder and attach the copies to this form.

#### Eligible interest holder – Individual (required if any)

##### ▶ Provide the eligible interest holder's details

Title	Mr	<input type="checkbox"/>	Mrs	<input type="checkbox"/>	Miss	<input type="checkbox"/>	Ms	<input type="checkbox"/>	Other						
Given name															
Other given name(s)															
Family name															
Date of birth	Y		Y		Y		Y		M		M		D		D

##### ▶ Provide the eligible interest holder's contact details

Phone number	( )
Email address	

##### ▶ Provide the eligible interest holder's address

Address line 1	
Address line 2	
Address line 3	
Suburb/city	
State/territory	
Postcode	
Country	

**Eligible interest holder details – Company** (required if any)

## ▶ Provide the company's details

Company Name								
Organisation identifier	ABN	<input type="checkbox"/>	ACN	<input type="checkbox"/>	ARBN	<input type="checkbox"/>	ICN	<input type="checkbox"/>
Alternative organisation identifier	Number type							
	Number							
	Registration body							

## ▶ Provide the company's contact details

Contact officer		
Email address		
Phone number	( )	

## ▶ Provide the company's address

Address line 1		
Address line 2		
Address line 3		
Suburb/city		
State/territory		
Postcode		
Country		

## Part D: Declaration

The eligible interest holder must complete and sign this declaration. For a non-individual eligible interest holder (e.g. a company or body corporate), this declaration must be completed and signed by a person who is authorised to bind the eligible interest holder.

-  This form allows for one eligible interest holder details. If the eligible interest described in question 4 of Part B of this form is held by more than one person, please photocopy or print this part, have a copy completed and signed by or on behalf of each other eligible interest holder, and attach the copies to this form.

Under the *Criminal Code* it is an offence for a person to give information or documentation to a Commonwealth entity if the person providing the information or documentation knows that the information or documentation is false or misleading.

### ▶ Complete and sign the declaration

By signing this request, the signatory declares that they have the legal capacity and authority to make this application on behalf of the eligible interest holder named below, and declares and acknowledges for and on behalf of the eligible interest holder, that:

- the eligible interest holder named below provides the following consent (as applicable):
  - » the eligible interest holder consents to the participant(s) named in question 1 of Part A making an application to the Clean Energy Regulator for the registration of the project named in question 2 of Part B as an Emissions Reduction Fund project being carried out or to be carried out on the area of land specified in question 3 of that Part, and the eligible interest holder acknowledges that they have sighted a completed copy of that application; or
  - » the eligible interest holder consents to the existence of the declaration of the project named in question 2 of Part B and the area of land specified in question 3 of Part B that was issued to the participant(s) named in question 1 of Part A, and the eligible interest holder acknowledges that they have sighted a copy of that declaration.
- all information provided in and in relation to this application (including attachments and any other supporting information) is, having made all reasonable enquiries, complete, true and correct and not misleading by inclusion or omission;
- the provision of false or misleading information is a serious offence and carries penalties under the *Criminal Code* and may have consequences under the *Carbon Credits (Carbon Farming Initiative) Act 2011* and other laws;
- any of the information provided in this application may be copied, recorded, used or disclosed by the Clean Energy Regulator for the purpose of assessing and making a decision on the application, auditing compliance, enforcement of laws, regulations and legislative rule, the performance of the Clean Energy Regulator's statutory functions and for related purposes subject to the requirements of relevant laws, in particular the *Privacy Act 1988* and Part 3 of the *Clean Energy Regulator Act 2011*;
- the personal information provided in this application may also be copied, recorded, used or disclosed by the Clean Energy Regulator for its administrative purposes, for example, to pre-populate other Clean Energy Regulator forms which the applicant wishes to fill out online in the future, and for improving the Clean Energy Regulator's service delivery to the applicant;
- I consent to the Clean Energy Regulator sharing any information in relation to them or their projects with any Commonwealth, State or Territory government agencies for the purpose of assisting those agencies in the performance of their functions or powers relating to environmental protection and/or health and safety;
- I understand that where the project involves sequestration, the permanence period of the project has the duration stated in question 6 of Part A of this form and that the permanence obligations under the Emissions Reduction Fund in relation to the project will last for that period, if not terminated earlier under the provisions of the *Carbon Credits (Carbon Farming Initiative) Act 2011*;

- I understand that where the project involves sequestration, a Carbon Maintenance Obligation (CMO) may be placed over the project area in which I hold an interest during the term of the permanence period of the project.

**Signed by or for and on behalf of:**

Name of eligible interest holder	
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**By:**

Signatory Name								
Signature								
Position								
Phone number	( )							
Email address								
Signature date	Y	Y	Y	Y	M	M	D	D

## Application checklist

▶ Have you completed the following? Tick the box when you've completed the task beside it.

Tick	Task	Number attached
<input type="checkbox"/>	Completed all required fields.	N/A
<input type="checkbox"/>	Attached all necessary documents and supporting evidence, where applicable.	
<input type="checkbox"/>	Completed and signed the declaration(s).	N/A
<input type="checkbox"/>	Where a signatory is signing on behalf of an eligible interest holder, attached evidence of the authority of the signatory to sign the declaration on behalf of the eligible interest holder.	

## Additional information

### About the Emissions Reduction Fund

The Emissions Reduction Fund is a voluntary carbon offsets scheme that provides new economic opportunities for a wide range of participants who take steps to reduce carbon pollution or increase carbon storage on the land. Emissions Reduction Fund eligible offsets projects generate Australian carbon credit units that can be sold to other individuals and businesses wanting to offset their own greenhouse gas emissions.

### Eligible interest holders

Numbers and kinds of eligible interest holders will vary between projects, depending on the nature of the land title and project type. Examples include (but are not limited to):

#### Non-Crown Land

- Registered legal estate or interest in the land
- Registered mortgage or charge over any registered legal estate or interest in the land
- Registered Native Title Body Corporate

#### Crown Land

- Crown Lands Minister (except in relation to exclusive possession native title land or general law freehold land rights land)
- Holder of a legal estate or interest, where the estate or interest:
  - » came into existence as a result of a Crown grant (or, was derived from such an estate or interest), or
  - » was created by, or under, legislation (or, was derived from such an estate or interest)
- Mortgage or charge over any such legal estate or interest
- Registered Native Title Body Corporate for any native title interest in the land

#### Land Rights Land

- If land rights land, the Aboriginal land council.
- If lease in force (and lease granted under special legislation for the benefit of Aboriginal people or Torres Strait Islanders), the Minister who administers the legislation
- If land is held by the Commonwealth (or a Commonwealth statutory authority), the Minister who administers the *Aboriginal Land Rights (Northern Territory) Act 1976* or the Act that establishes the statutory authority, as the case may be, otherwise
- Crown lands Minister (except in relation to freehold land rights land)
- Registered Native Title Body Corporate for any native title interest in the land

### Permanence Obligation:

#### For the purposes of sequestration offsets projects only:

The Emissions Reduction Fund has been designed to provide consumers with confidence that each carbon credit issued can genuinely offset a tonne of CO<sub>2</sub>-e emissions.

Carbon in vegetation or soils can only offset emissions if it is stored long term. If the carbon was subsequently released back into the atmosphere, for example because vegetation was cleared, it could not offset emissions. For this reason sequestration projects that store carbon in vegetation or soil are subject to permanence obligations over the permanence periods of the projects, which will have the duration of 100 years or 25 years, as chosen by the participants of the projects. If a project's declaration of registration has never been varied so as to add one or more project areas, the chosen permanence period of the project commences on the date on which the first carbon credit is issued for the project. If a project's declaration of registration has been varied so as to add one or more project areas, the chosen permanence period of the project commences on the date of the last occasion on which the declaration was so varied.

Participants and/or landholders choosing to participate in the Emissions Reduction Fund do not have to sign a contract with the government committing to maintain carbon for the permanence period of their projects. **Participants can choose to cancel their project at any time**, for example because they wish to sell the land or use it for something else. **This would require the relinquishment (handing back) of Australian carbon credit units by the participant.**

Participants wishing to close or revoke a project could choose to purchase credits at the market price from the secondary market and hand those credits back. Alternatively, they could earn credits from another project and hand back those credits instead.

Sequestration projects may be noted on land titles or relevant land registers to help ensure that anyone buying a property is aware if there is a sequestration project on it. Buyers should consult the Register of Emissions Reduction Fund projects to check the type of project, how many credits have been issued, how long the project has been in operation and other details.

**Example 1** Landholder A has a sequestration project being carried out on their property, for which they are the participant. The permanence period of the project is 25 years. If Landholder A has Australian carbon credit units issued from the project, they are obligated to maintain the carbon on their property for 25 years. Should Landholder A then decide to use the land for a different purpose, Landholder A would have to relinquish those, or equivalent credits, in order to close the project.

**Example 2** Landholder B permitted Participant X to carry out an Emissions Reduction Fund project on Landholder B's land. When Participant X submitted the application for the project to be declared eligible under the Emissions Reduction Fund, Landholder B provided a written consent for the project to be carried out on their land. The permanence period of the project is 100 years. If Participant X has Australian carbon credit units issued from the project, they are obligated to maintain the carbon on Landholder B's property for 100 years. If Landholder B decides to use the land for a different purpose, and Participant X has been issued with any Australian carbon credit units from the project, Participant X will have to relinquish an equivalent number of credits, in order to close the project.

## Natural disturbances

### For the purposes of sequestration offsets projects only:

If carbon is lost through natural disturbance (e.g. bushfire, drought or disease), action to manage fire (e.g. establishing a fire break) or vandalism, landholders/participants are not required to return Australian carbon credits units. Instead, they must take reasonable action to ensure that carbon stores are re-established. Carbon stores may recover naturally after drought or bushfire with only modest intervention by the participant, but in some cases active re-establishment or management may be necessary.

Participants will not receive credits while the carbon stores are recovering. Once carbon stores reach and exceed pre-disturbance levels, credits will start to be issued again. This provides an incentive to manage losses and to re-establish carbon stores as quickly as possible.

Participants are required to maintain the carbon stored in the project over the permanence periods of their projects. Participants will be required to hand back carbon credits if they cause significant reversals in carbon stored by their project during the permanence period, for example, by deliberately clearing vegetation or through mismanagement of the project.

## Carbon Maintenance Obligations (CMOs)

### For the purposes of sequestration offsets projects only:

The Clean Energy Regulator may declare that a carbon maintenance obligation applies with respect to an area or areas of land if there is an unmet obligation to relinquish Australian carbon credit units or if the Clean Energy Regulator is satisfied that the person will not comply with the requirement within 90 days.

Obligations to relinquish Australian carbon credit units would be triggered if a project declaration is revoked. This might happen if, for example:

- a project is not properly transferred;
- carbon stores are deliberately reversed;
- carbon stores are not re-established following a natural disturbance; or
- a person provides false or misleading information to the Clean Energy Regulator in relation to the project.

A carbon maintenance obligation prevents a person from engaging in conduct that results or is likely to result in a reduction in carbon stores below the benchmark sequestration level, unless the conduct relates to an activity that has been expressly permitted in the declaration. The benchmark sequestration level is the amount of carbon sequestered in the relevant area or areas at the time that the carbon maintenance declaration was made.

If a project's declaration of registration has never been varied so as to add one or more project areas, the carbon maintenance obligation will continue to apply for 100 or 25 years (depending upon the permanence period of the project) from the date on which the first Australian carbon credit units were issued for the project. If a project's declaration of registration has been varied so as to add one or more project areas, the carbon maintenance obligation will continue to apply for 100 or 25 years (depending upon the permanence period of the project) from the date of the last occasion on which the declaration was so varied.

A carbon maintenance obligation can be revoked once any outstanding relinquishment obligation or penalties payable in relation to the project have been paid in full. Civil penalties will apply if carbon maintenance obligations are breached.

**Example 3** Landholder A has a sequestration project being carried out on their property, for which they are the participant. The permanence period of the project is 25 years. If Australian carbon credit units have been issued for the project, Landholder A is obligated to maintain the carbon on their property for 25 years. Should Landholder A decide to use the land for a different purpose, they would have to relinquish those, or equivalent credits, in order to close the project. Should Landholder A fail to make the necessary relinquishment, a carbon maintenance order may be imposed their property, preventing them from using the land for a different purpose.

**Example 4** Landholder B owns a property on which a sequestration project is being carried out by Participant X. The permanence period of the project is 100 years. If Australian carbon credit units have been issued for the project, the participant is obligated to maintain the carbon on Landholder B's property for 100. If Landholder B decides to use the land for a different purpose, and Participant X has been issued with any Australian carbon credit units from the project, Participant X will have to relinquish an equivalent number of credits, in order to close the project. Should Participant X fail to make the necessary relinquishment, a carbon maintenance order may be imposed on Landholder B's property, preventing them from using the land for a different purpose.

## Seeking legal advice

The Clean Energy Regulator provides guidance for general information purposes only. The information in this form and supplied by the Clean Energy Regulator should not be interpreted as independent professional advice. You should not rely solely on this information and should get professional legal advice relevant to your individual circumstances.

## Protection of information

The Clean Energy Regulator is bound by the secrecy provisions of Part 3 of the *Clean Energy Regulator Act 2011* (*Clean Energy Act*) for the information it collects in relation to this application and also by the *Privacy Act 1988* in regard to personal information it collects.

## Privacy statement

'Personal information' is defined in the *Privacy Act 1988* to mean information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in a material form or not.

The collection of personal information relating to this application is authorised by the *Australian National Registry of Emissions Units Act 2011*, the *Australian National Registry of Emissions Units Regulations 2011*, the *Carbon Credits (Carbon Farming Initiative) Act 2011*, the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* and any legislative rules made under the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

Personal information collected in relation to this application will be used for the purposes of assessing the application, auditing compliance, enforcement of relevant laws, regulations and legislative rule, the performance of our statutory functions and for related purposes. We will also use the personal information which you provide for our administrative purposes, for example, to pre-populate other Clean Energy Regulator forms which you wish to fill out online in the future, and for improving our service delivery to you.

The Clean Energy Regulator's Privacy Policy contains information about the agency's procedures for handling personal information including how a person can access their personal information held by the agency, and how to seek correction of such information. The Privacy Policy also contains information about how to complain about a breach of the Australian Privacy Principles. The Clean Energy Regulator's Privacy Policy can be found on the [Clean Energy Regulator website](#)<sup>2</sup>.

## Disclosure of information

The Clean Energy Regulator is only able to disclose information relating to this application (including personal information) in accordance with the CER Act, the *Privacy Act 1988* or as otherwise required by law.

The circumstances in which such information may be disclosed include:

- Disclosure to other agencies, persons or organisations to enable the verification of information contained in the application;
- Disclosure to the Secretary or authorised officer of a Department for the purpose of administering a program or collecting statistics relating to greenhouse gas emissions, energy consumption or energy production;
- Disclosure to certain agencies, bodies or persons where the Regulator is satisfied that disclosure will enable or assist those agencies, bodies or persons to perform or exercise their functions or powers, including the Australian Securities and Investments Commission, the Australian Competition and Consumer Commission and the Commissioner of Taxation;

<sup>2</sup> <http://www.cleanenergyregulator.gov.au/>

- Disclosure for the purposes of law enforcement; and
- Disclosure for the purposes of a climate change law or for the purposes of the performance of our functions under a climate change law.

### Accessibility disclaimer

Whilst the Clean Energy Regulator has worked to ensure this document is accessible, please contact us to obtain an alternative version if you are having difficulty, or you have specific accessibility needs.

Please call **1300 553 542** or email the name of the form and your needs to [enquiries@cleanenergyregulator.gov.au](mailto:enquiries@cleanenergyregulator.gov.au).