

Independent Review of the
Carbon Industry Code of Conduct
Administrator Response & Transition Plan

August 2020



Australian
Carbon Industry
Code of Conduct



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Executive Summary

In its capacity as the Code Administrator, the Carbon Market Institute (CMI) is pleased to present the Administrator's response to the Independent Review (the Review) of the Australian Carbon Industry Code of Conduct (the Code). This response includes the Administrator's response to each of the Review's 46 recommendations, as well as its high-level plan to transition the Code from the Foundation Stage to the Operational Stage.

Review Recommendations

The Administrator has reviewed the recommendations provided by Independent Expert Reviewer Virginia Malley, as well as eight submissions received during the public consultation process following the Review. Public submissions can be found on the Code website. Most critically, CMI supports the Reviewer's 37th recommendation and so will continue as the Code Administrator in the Operational Stage.

The remaining 45 recommendations stated in the Review have all either been approved for design and implementation or will require further exploration to ensure appropriate interpretation and fully consider practical implementation. No recommendations have been rejected.

Operational Transition

The Code was due to transition from the two-year Foundation Stage to the ongoing Operational Stage on 1 July, 2020. The Administrator has made the decision to move forward with the transition as required by the Code, although the timeline for full implementation has been impacted by both Australian bushfire and COVID-19 crises. The Administrator has therefore determined to officially transition the Code from the Foundation Stage to the Operational Stage on 1 July 2020 as planned, through a transitional year from 1 July 2020 – 30 June 2021 (FY21). This transitional year will allow the Administrator to:

1. Design, fund, and implement approved recommendations in a staged manner throughout FY21, to come into effect on 1 July 2021 for the FY22 compliance year. Approved recommendations will require engagement with Signatories and stakeholders, and generally relate to:
 - i. 'Congestion busting' and burden reduction for Signatories;
 - ii. Application of best practice engagement with Eligible Interest Holder (specifically, consents);
 - iii. Increasing the capacities and resources of the Administrator and for it to be self-sustaining;
 - iv. Set up and commence operation of the Code Review Panel (yet to be established).
2. Explore other recommendations that require deeper feasibility analysis and industry consultation, including (but not limited to) items such as:
 - v. Development of guidance for model contract provisions/options for selling carbon credits;
 - vi. Interaction with the Clean Energy Regulator information sharing; and
 - vii. Implications of the Government's response to the King Review recommendations, particularly regarding the proposal to introduce a formal 'duty of utmost good faith' on participants operating under the ERF.

In anticipating the complexity of the above transitional period, the Administrator has also determined that compliance requirements for Signatories to the Code will remain unchanged between 1 July 2020 and 30 June 2021. This allows for the Administrator to transition the Code to full operation as effectively as possible, considering all ramifications of recommendations, and with minimal disruption to Signatories.

The Administrator would also like to reassure Signatories that any proposed amendments to the Code text and/or the Code's Administration will necessarily require discussion and engagement with Signatories, who will be advised of changes well in advance of coming into effect for the FY22 compliance year.



Background

The Carbon Market Institute (CMI) launched the Carbon Industry Code of Conduct (Code) in 2018. The Code's vision is to achieve a well-functioning emissions reduction and carbon sequestration industry in Australia at the scale required to significantly contribute to Australia's greenhouse gas reduction commitments under the Paris Agreement.

The Code's role in the carbon market is significant in that it:

- defines industry best practice for market participants including project developers, agents, aggregators and advisers in Australia's carbon projects industry;
- promotes consumer protection and appropriate and open interaction with clients;
- provides guidance to scheme participants; and
- promotes market integrity, transparency, and accountability - and displays international leadership in Australia's carbon market.

The Code was designed to operate in two stages:

1. Foundational Stage: Commencing in a reduced capacity in the initial two-year Foundation Stage, would allow for early-stage creation of the Administrator, onboarding of Foundation and other Signatories, and testing of its functions for adoption in Australia's carbon market.
2. Operational Stage: The Code stipulates that a transition from the Foundation Stage to the Operational Stage must take place on 1 July 2020. This secondary stage would see the fully functioning implementation of the Code, following an Independent Review (the Review) for the appropriate consideration and implementation of the necessary requirements to effect an appropriate transition from foundation to operation.

The successful launch on 1 July 2018, and completion of the Code's first compliance year (FY19) was a critical milestone in the development of Australia's domestic carbon industry and maturation of the sector as a whole. In its first year the Code accepted 14 Signatories, representing the vast majority of carbon project developers in the Australian market.

The Code Administrator's inaugural [Annual Report of the Code of Conduct 2019](#) observed 100% compliance with the requirements of the Code of Conduct from Signatories, demonstrating the commitment that practitioners within this industry have to improving and operating at best practice. The Administrator is currently undertaking the annual Signatory reporting process for the Code's second Foundation year (FY20) and will release with its 2020 Annual Report in September 2020.

From October 2019 to March 2020, an independent review (the Review) of the Australian Carbon Industry Code of Conduct was conducted by Independent Expert Reviewer Virginia Malley, and included a range of consultations with the Code Administrator, Signatories, industry and government stakeholders, and a range of community stakeholders, including indigenous, landholder and farming representatives. Following receipt of the [Final Review Report](#) and its recommendations in April 2020, the Code Administrator undertook a public consultation process to receive feedback.

This consultation process yielded eight submissions from stakeholders, the results of which have been an important input into the Code Administrator's review of the Review's recommendations and plans for the required operational transition. **The following document outlines the Administrator's response to the recommendations and plans for the transition of the Australian Carbon Industry Code of Conduct from the Foundation Stage to Operational Stage.**



Guiding Principles & Assessment Framework

In determining its response to each of the Review's 46 recommendations the Code Administrator has been informed by the below guiding principles and tested each option against a clear assessment framework. Both are outlined below.

Guiding Principles

The purpose and objectives established in the Australian Carbon Industry Code of Conduct (2018) (the Code) guide all of the Code Administrator's activities and operation of the Code. The principles underlying the rules in the Code, as outlined in Section 1.3 of the Code, are:

- (1) transparency and accountability;
- (2) environmental and social integrity;
- (3) legislative and regulatory compliance; and
- (4) community trust.

The objects of the Code provide specific direction for the Administrator's operations, and its assessment of the Review recommendations. These objects, outlined in Section 1.1 of the Code, are to:

- (1) define industry best practice for project developers, agents, aggregators and advisers in Australia's carbon projects industry;
- (2) promote consumer protection and appropriate and open interaction with project owners and landowners;
- (3) provide guidance to scheme participants; and
- (4) promote market integrity, accountability and display international leadership in carbon project development.

Assessment Framework

The Code Administrator assessment of recommendations to implement in the operational transition has been based on the following framework. The Administrator has actively incorporated feedback from eight submissions received through the Review's public consultation, into this assessment process.

Assessment Framework for Evaluating Independent Review Recommendations

- a) **Efficiency** – does the Code achieve its desired outcomes with the resources available to it?
- b) **Effectiveness** – has the Code achieved its objectives with minimal adverse consequences?
- c) **Clarity and comprehensibility** – are the objects and consequences of the Code readily understood by its stakeholders?
- d) **Predictability and consistency** – is the Code stable enough to rely upon? Does it avoid confusion? Does it engender trust?
- e) **Proportionality** – is the Code's intervention in a Signatory's business the right amount to achieve the Code's objectives? Has it avoided regulatory overreach?
- f) **Flexibility** – is the frequency of review suitable given developments underway in carbon markets?



Response to Independent Review Recommendations

The final Independent Review Report identifies 46 individual recommendations that can be implemented to ensure a successful transition from the Foundational Stage to the Operational Stage of the Code. All 46 recommendations proposed by the Review have all either been approved for design and implementation or will require further exploration to ensure appropriate interpretation and fully consider practical implementation. No recommendations have been rejected. The Code Administrator’s responses to these recommendations are stated below.

Independent Review Recommendation	Code Administrator Response
Recommendations 1-25: The Code	
<p>1. It is recommended that the Code clearly define ‘consumers’.</p>	<p>Approved The majority of current Signatories deal with supply-side consumers (i.e. traditional owners, landholders and farmers). However, an expanding group of legal, professional and trader Signatories deal with demand-side consumers, and so the Administrator will review and clarify the definition of consumers in the context of the need for both supply and demand-side consumer protection.</p>
<p>2. It is recommended that the Code clarify in section 2.3(3)(d) that best-practice requires EIH consent to be obtained prior to the registration of area-based ERF projects, consistent with the guidance of Indigenous Carbon Industry Network (ICIN) for “seeking free, prior and informed consent from indigenous communities for carbon projects” – a best practice guide for carbon project developers.</p>	<p>Approved The Administrator accepts that the ICIN guidance represents best practice and will continue to engage with a range of stakeholders regarding the application of this guidance in EIH processes. See Recommendation 3 (below).</p>
<p>3. The Review recommends the above best-practice standard on an ‘if not, why not’ basis. It is recommended that Signatories be obliged to report against the best-practice standard on the ‘if not, why not’ basis in their ‘Annual Report (Self-Audit Checklist)’. The ‘if not, why not’ approach requires a Signatory to report the reasons why they did not achieve the Code’s best-practice standard. The Signatory should report the strategy adopted to obtain consents from EIHs and the reasons why consent could not be obtained prior to project registration. The Code Administrator could then assess whether the Signatory’s approach was credible and consistent with the Code’s ‘open and appropriate interaction’ objective and the community trust principle. In addition, it would provide demand-side participants with a cue for a meaningful dialogue about EIH consent.</p>	<p>Approved In-Principle In the context of Recommendation 2, acknowledging what is best practice, the Code Administrator will use this transitional year to work with Signatory and Indigenous stakeholders on appropriate transparency and accountability of Signatory behaviour.</p>



<p>4. It is recommended that Signatories consider the financial and cultural advantages of taking into account the ‘active dissent’ of EIHS in relation to area-based ERF projects.</p>	<p>Approved In-Principle As above, the Administrator agrees in-principle with this recommendation and will consider the best options for implementation throughout the initial 12-month transition period of the Operational Stage.</p>
<p>5. It is recommended that the Code provide guidance aimed at ensuring fair and transparent benefit-sharing arrangements between clients (the originators of the co-benefit) and Signatories for projects generating co-benefits.</p>	<p>Requires Further Exploration The Administrator agrees with the sentiments of this recommendation, however, requires further exploration of the recommendation in order to make a decision on the Code Administrator's role in the provision of this information to Signatories and/or the market. Such exploration will require stakeholder consultation on the need for, form and function of guidance materials that would support this recommendation.</p> <p>The Administrator notes that elements of this recommendation require case-specific legal and/or contractual application that may be outside the jurisdiction of the Code Administrator.</p>
<p>6. It is recommended that the Code modify the requirement to provide the information outlined in section 2 in ‘plain English’, and instead require that a Signatory use the medium of communication that is linguistically and culturally appropriate for the audience and their level of maturity in the carbon market.</p>	<p>Approved The Administrator will modify internal compliance systems and the relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021.</p>
<p>7. It is recommended that the Code Administrator assist Signatories and stakeholders in accessing ASIC’s guidance on the need for an AFSL.</p>	<p>Approved The Administrator will work towards assisting Stakeholders in this regard, noting the form and function of this assistance will be developed in consultation with Signatories and with ASIC.</p>



<p>8. It is recommended that the Code Administrator provide guidance on the options for selling carbon credits.</p>	<p>Requires Further Exploration The Administrator agrees with the sentiments of this recommendation. However, it requires further exploration of the recommendation in order to make a decision on the Code Administrator's role in the provision of this information to Signatories and/or the market. Such exploration will require stakeholder consultation on the need for, form and function of guidance materials that would might support this recommendation.</p> <p>The Administrator notes that elements of this recommendation require case-specific legal and/or contractual application that may be outside the jurisdiction of the Code Administrator.</p>
<p>9. It is recommended that the Code define the different types of Signatories.</p>	<p>Approved The Administrator will modify internal compliance systems and the relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021.</p>
<p>10. It is recommended that supplementary materials linking Section 2 of the Code to the objectives in sections 1.1 and 1.3 of the Code be provided.</p>	<p>Approved The Administrator will modify internal compliance systems and the relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021.</p>
<p>11. It is recommended that the Code define its version of 'market integrity'.</p>	<p>Approved The Administrator will further define its version of 'market integrity' and modify the relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021.</p>
<p>12. It is recommended that the Code Administrator provide guidance for written agreements via model contracts for each of the various types of arrangements entered into by Signatories and clients.</p>	<p>Requires Further Exploration The Administrator agrees with the sentiments of this recommendation. However, it requires further exploration of the recommendation in order to make a decision on the Code Administrator's role in the provision of this information to Signatories and/or the market. The Administrator notes that elements of this recommendation may require state by state and/or case-specific legal and/or contractual application that may be outside the jurisdiction and capacity of the Code Administrator.</p>



<p>13. It is recommended that the Code Administrator review the Code’s vision of ‘significantly contributing to Australia’s greenhouse gas commitments under the Paris Agreement’.</p>	<p>Approved In-Principle</p> <p>The Administrator will further define its vision, noting the question of whether Australia's carbon industry in its current form, and subsequently the impact of the Code of Conduct, is materially and significantly contributing to Australia's greenhouse gas commitments. Referencing the Carbon Market Institute's Australian Carbon Farming Industry Roadmap, and the various compliance and voluntary demand signals developing for carbon units under the Paris Agreement, the Administrator feels the vision is still broadly accurate, but that wording could be reviewed to provide more clarity on the role of the Code in this context. Amendments might include references to international contributions and the role the Code can play in appropriate export/import of carbon credits or reductions.</p> <p>Any modifications of internal compliance systems and relevant articles in the Code text will be updated and implemented for compliance from 1 July 2021.</p>
<p>14. It is recommended that the Code Administrator be given the discretion to recognise and rely on the business practices and compliance measures a Signatory has implemented to meet its AFSL obligations, subject to the Signatory demonstrating:</p> <ul style="list-style-type: none"> • the applicability of its AFSL to its carbon project customers; • the duplication of its AFSL and Section 2 obligations and monitoring; • the quality of its business practices; and • the effectiveness of its compliance measures. <p>Whilst this recommendation pertains to Section 2 of the Code, it can be effected via an amendment to Section 3.4.</p>	<p>Approved In-Principle</p> <p>The Administrator supports implementation of this activity, however will consult with Signatories and with ASIC in the initial 12-month transitional period of the Operational Stage to understand the form and function of such discretion and its application for Signatory compliance and reporting.</p> <p>The Administrator will modify internal Code compliance systems, processes and any relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021.</p>
<p>15. When applicable, it is recommended that the Code Administrator and Signatory review the above arrangement annually, or in the event that the Signatory ceases to be licensed, whichever is the earliest. This can be implemented by an amendment to Section 3.4.</p>	<p>Approved</p> <p>In the context of the Administrator's response to Recommendation 14, the structure of this review process will be provided to Signatories well in advance of implementation for the 1 July 2021 compliance year.</p>



<p>16. It is recommended that the Code Administrator develop the capabilities necessary to support its discretionary role in determining the relevance and effectiveness of Signatories' AFSL compliance measures.</p>	<p>Approved The Administrator will develop capabilities as required to ensure effective implementation of decisions regarding Recommendations 14 and 15.</p>
<p>17. It is recommended that The Australian Financial Complaints Authority (AFCA) should be added to the list of Consumer Protection Organisations in section 5.1 of Appendix 1 of the Code. In addition, the CMI and the Code Administrator should consider promoting AFCA's complaints and dispute resolution role for retail consumers on the Code of Conduct website.</p>	<p>Approved The Administrator will modify the relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021. For reference purposes, the Administrator will promote the AFCA's complaints and dispute resolution role on the Code of Conduct during the 2020-2021 financial year.</p>
<p>18. It is recommended that section 2.4(2)(d) of the Code specifically refer to 'Section 3' of the AFMA Code to clarify that it provides guidance on dealings with and advice to wholesale customers.</p>	<p>Approved The Administrator will modify internal compliance systems and the relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021.</p>
<p>19. It is recommended that Section 2.3 clarify that where the Signatory is an ERF proponent for a project, the overlapping Code obligations of Section 2.3(3) and (4) are not applicable in relation to the particular project/s. Signatories who are project proponents in the ERF are already required to comply with the offset reporting, audit and record-keeping requirements under the Carbon Farming Initiative (CFI) Act. Duplication of these obligations for Signatories acting as ERF proponents for some or all projects is not necessary.</p>	<p>Approved The Administrator will modify internal compliance systems and the relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021.</p>
<p>20. It is recommended that the Code Administrator should focus its compliance monitoring activities on any residual Code requirements that are not already covered by the CFI Act and subordinate legislation in order to reduce administrative burden for both the Code Administrator and the relevant Signatory.</p>	<p>Approved The Administrator will review and modify relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021. The Administrator will also consider how it might enter into more formal information sharing arrangements with the Clean Energy Regulator (CER) where possible to reduce the administrative burden on signatories in its compliance with both the Code and CER processes.</p>



<p>21. It is recommended that the Code Administrator refer to the ERF project and contracts registers published on the Clean Energy Regulator’s website where possible to minimise administrative burden on clients. The Code Administrator should request the Clean Energy Regulator to consider making available project data to facilitate the automation of Signatory Annual Reports to the Code Administrator.</p>	<p>Approved Given the Code is applicable to ACCU-generating and non-ACCU generating activities, the Administrator will also consider the extent to which it is appropriate to refer to other voluntary market contract, project, or unit registries, such as those managed by the Gold Standard, VERRA, or the UNFCCC Clean Development Mechanism (CDM). This will be considered in the context of consumer protection relating to more demand-side focused Signatories.</p> <p>The Administrator will also consider how it might enter into more formal information sharing arrangements with the Clean Energy Regulator (CER) where possible to reduce the administrative burden on Signatories in its compliance with both the Code and CER processes.</p>
<p>22. It is recommended that the development of model contract provisions and/or model agreements for Australian Carbon Credit Units (ACCU) be informed by the legal standards and procurement policies of its government and major corporate stakeholders.</p>	<p>Requires Further Exploration Please see the Administrator's response to Recommendation 12; this recommendation will be explored further as a part of that process.</p>
<p>23. It is recommended that the Administrator continue positioning Signatories as trusted, ethical suppliers in the ACCU supply chain.</p>	<p>Approved The Administrator supports the continuation of this positioning and will expand its activities in this regard throughout the Operational Stage.</p>
<p>24. It is recommended that the Code of Conduct webpage/s link to the relevant QLRF and QRIDA webpages to facilitate the uptake of independent advice and to promote consumer protection.</p>	<p>Approved The Administrator will update the Code of Conduct website in this manner to facilitate the desired outcomes of this recommendation. The Administrator also notes ongoing engagement with the Queensland Land Restoration Fund (QLRF) and the QRIDA's support function, to establish more formal interaction in the Operational Stage as required by the Signatory eligibility requirement for participation in the QLRF.</p>
<p>25. It is recommended that Section 2.5(1)(a) of the Code be amended to add: “If the Signatory takes on the role of ERF project proponent, the written agreement between the Signatory and customer must provide for orderly succession of the project proponent, consistent with the environmental and social integrity of the Scheme and with the relevant laws.”</p>	<p>Approved The Administrator will modify internal compliance systems and the relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021.</p>



Recommendations 26–33: Administration of The Code	
26. It is recommended that the Code Administrator provide guidance to Signatories on best-practice standards for timely self-reporting of material breaches.	Approved The Administrator will provide guidance to Signatories to clarify and supplement existing requirements for self-reporting of material breaches, during the 2020/2021 financial year.
27. It is recommended that Signatories be provided with the opportunity to provide feedback on whether the Code should be amended so that it clarifies the timing for self-reporting of major and severe breaches.	Approved The Administrator will consult with Signatories to receive feedback on the need for clarifying timing for self-reporting of breaches in the text of the Code itself, rather than just through guidance, as discussed above in Recommendation 26.
28. It is recommended that the Code Administrator set expectations on the timing of Signatory breach reporting . In principle, a Signatory should be the first to report on its own breaches to the Code Administrator (as opposed to hearing about it from other Signatories or the media).	Approved The Administrator will set expectations as recommended, and this will be noted in the guidance prepared as part of Recommendation 26 and considered in Signatory consultation for Recommendation 27.
29. It is recommended that Section 2.6 of the Code be amended to include positive guidance on Signatories’ professional relationships with each other, emphasising that their conduct as a group must support the Code’s integrity and reputation, and that Code Signatories be seen as a principled group that acts ethically and with integrity.	Approved The Administrator will develop guidance and modify internal compliance systems and the relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021.
30. It is recommended that the Code Administrator provide further guidance for Signatories on developing feasibility advice, risk assessment plans and conducting stakeholder consultations.	Approved In-Principle The Administrator agrees in-principle with this recommendation and will consider the best options for implementation throughout the initial 12-month transition period of the Operational Stage.
31. It is recommended that the Code Administrator provide checklists and handouts to assist small- to medium-sized carbon service providers in complying with Section 2 of the Code.	Approved The Administrator will develop guidance and modify internal compliance systems and the relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021.
32. It is recommended that the Code Administrator should publish information on a Client Hub on its website that could be accessed by clients.	Approved The Administrator will update the Code of Conduct website in this manner to facilitate the desired outcomes of this recommendation during the 2020/2021 financial year.



<p>33. It is recommended that the Administrator work with both the Commonwealth Government and the Queensland Government to increase awareness in the legal and banking sectors of the benefits of carbon projects.</p>	<p>Requires Further Exploration The Administrator agrees with the sentiments of this recommendation, however requires further exploration of the recommendation in order to make a decision on the Code Administrator's role (vs the role of, for example, the Carbon Market Institute through its non-Code market development activities) in the provision of this information to the market.</p>
<p>Recommendations 34-35: The Code Review Panel</p>	
<p>34. It is recommended that the Panel member selection process have regard to the skills and experience needed by the Panel as a whole.</p>	<p>Approved The Administrator will have regard to the skills and experience needed by the Panel as a whole - not only in the member selection process, but in formalising the Terms of Reference, operating systems and processes for the Code Review Panel itself.</p>
<p>35. Optional: it is recommended that Section 3.2(2) of the Code be amended so that it lists the skills and experience that the Panel as whole requires and deletes references to 'representative'.</p>	<p>Approved The Administrator will modify internal systems and the relevant articles in the Code text to be updated and implemented for compliance from 1 July 2021.</p>
<p>Recommendations 36-42: The Code Administrator</p>	
<p>36. It is recommended that Signatory fees be reviewed annually and take into account inflation, the financial benefits of Signatory status, the variable resources required to effect the Code, and the level of financial support provided by Code stakeholders. In line with the CMI being a not-for-profit, the need to recover costs, net of other funding, should guide Signatory fee levels.</p>	<p>Approved The Administrator is sensitive to the financial burden of becoming a Code Signatory for market participants, and takes the stance that the Code Administrator should reduce Signatory fees where possible, ensuring the Code and the Administrator's financial viability and sustainability throughout, and beyond the initial expansion of the Code in the initial phases of the Operational Stage. The various items noted in this recommendation will continue to guide the Administrator's annual review of Signatory fees.</p>
<p>37. It is recommended that the CMI administer the Code of Conduct during the Operational Stage.</p>	<p>Approved The Carbon Market Institute and its board have determined that CMI will continue to act as Administrator of the Code of Conduct in the Operational Stage, from 1 July 2020.</p>



<p>38. It is recommended that a conflicts of interest framework be implemented if the CMI is appointed to administer the Code.</p>	<p>Approved The Administrator is sensitive to the need for strong management of conflicts and will implement a framework, building on existing CMI conflict frameworks, as recommended during the 2020/2021 financial year. The Administrator will receive independent legal advice on the best way to manage these conflicts, including any legal, financial and other conflicts that arise.</p>
<p>39. It is recommended that in the first three years of the Operational Stage of the Code, the Code Administrator implement a procedure to refer proposals to apply severe sanctions or suspensions to the Code Review Panel. During that time, publication of severe sanctions and suspensions should not occur until the Code Review Panel affirms the Code Administrator’s proposal. The Code Review Panel’s decision will hold.</p>	<p>Approved The Administrator will develop and implement such a procedure, as part of the expansion of its Administration systems and processes, as well as frameworks related to the formation of the Code Review Panel.</p> <p>The Administrator reserves the right to publish relevant breach and Administrator actions relating to Foundation Stage Year 2 compliance matters as appropriate for the FY20 compliance reporting and Annual Review process. This conduct will meet the standards and regulations of the Code and expected by the Administrator in the Foundation Stage.</p>
<p>40. It is recommended that the Code Administrator implement appropriate controls to manage the security and confidentiality of its information assets.</p>	<p>Approved The Administrator is sensitive to the need for strong security and confidentiality of its information assets, particularly as it relates to separation and management of information within CMI. The Administrator will develop and implement appropriate controls during the 2020/2021 financial year.</p>
<p>41. It is recommended that the Compliance Manager’s reporting line provide them with ongoing high-level sponsorship and access.</p>	<p>Approved The Administrator will develop appropriate internal systems and processes to ensure the Compliance Manager's reporting line provides them with ongoing high-level sponsorship and access.</p>
<p>42. It is recommended that the Code Administrator’s performance be reviewed every three years as part of the tri-annual independent review. The decision to re-appoint the Code Administrator (or not) should be informed by this review, the views of the Code Review Panel in its Annual report, and through broader stakeholder consultation. To give this effect, it is recommended sections 3.1(1), 3.10(4) and 3.10(5) of the Code be amended.</p>	<p>Approved The Administrator will modify internal systems and the relevant articles in the Code text to give this effect. Text modifications will be part of the broader package of text updates that will be implemented for the compliance year beginning 1 July 2021.</p>



Recommendations 43-46: Miscellaneous	
<p>43. It is recommended that more than one entity can become a Signatory to the Code under the one Signatory fee, subject to those entities being companies within the same corporate group.</p>	<p>Approved In-Principle The Administrator agrees in-principle with this recommendation, particularly as it already takes this approach in approving Signatory applications. The Administrator will review its current stance, to ensure continuing effectiveness, accountability and consumer protection throughout the initial 12-month transition period of the Operational Stage. Any changes to this stance will be updated well in advance of, and for implementation for the compliance year beginning 1 July 2021.</p>
<p>44. It is recommended that a supporter category be created. It is also recommended that the CMI do further consultation with corporate stakeholders participating in both the demand-side and supply-side to gauge their level of interest in becoming supporters of the Code, rather than Signatories to the Code.</p>	<p>Approved The Administrator recognises the value to the operational and financial sustainability, impact, and influence of the Code, of creating a supporter category. In order to formalise and align the interests of federal and state governments, and predominantly demand-side industry participants (buyers), the Administrator will develop two non-Signatory support types.</p> <p>The 'Government Partner' and 'Industry Supporter' categories will be developed through stakeholder consultation to ensure integrity, transparency and accountability of those interactions with the Code Administrator, and that this practices has no unintended consequences for Signatories or non-Signatory market participants.</p>

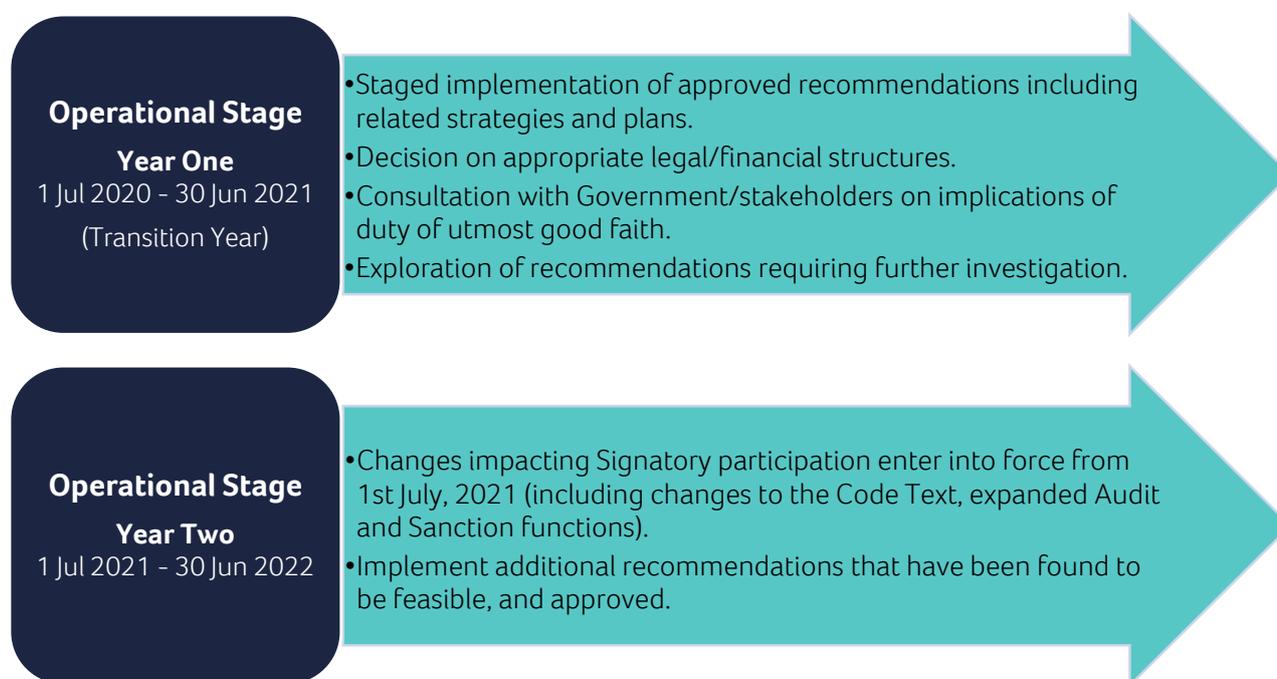


<p>45. It is recommended that the Code Administrator inform the Australian Financial Markets Association and the Clean Energy Regulator of the contractual needs of demand-side participants, to facilitate the modification of contracts for the trading of co-benefit branded ACCUs.</p>	<p>Requires Further Exploration</p> <p>The Administrator will continue to strengthen relationships with relevant bodies including the Australian Financial Markets Association and the Clean Energy Regulator to support and promote best practice integrity, transparency and accountability of Australia's carbon market - particularly as it relates to the trading and sale of ACCUs as regulated financial products.</p> <p>The Administrator agrees in-principle with this recommendation, but notes that elements of this proposed activity may require knowledge of case-specific legal and/or contractual application that may be outside the jurisdiction of the Code Administrator. Such exploration may require stakeholder consultation on the need for, form and function of guidance materials that might support this recommendation.</p>
<p>46. It is recommended that the CMI on behalf of the Code Signatories pursue funding from government and other key stakeholders to support the continued, efficient, shared regulation of participants in the Australian carbon industry.</p>	<p>Approved</p> <p>Via the 'Government Partner' and Industry Supporter categories outlined in Recommendation 44, the Administrator will seek additional revenue streams to support the financial sustainability of the Code's operations, and critically, the continued, efficient, shared regulation of participants in the Australian carbon industry.</p>



Operational Transition Timeline

Regarding the transition to the Code's full operation, the Administrator recommends the following timeline.



The above timeline allows CMI to minimise impacts to the Code from COVID-19 related delays, whilst ensuring the appropriate time is taken to:

- develop the appropriate financial, legal and resourcing structures to accommodate the Code's required expansion in the Operational Stage;
- recruit enough new Signatories, government partners, and industry supporters to underpin the Code's financial sustainability and expanded budget requirements;
- consult with governments and stakeholders on implications of duty of utmost good faith, and other relevant items as outlined in the Government's response to the Expert (King) Panel Review of the Emissions Reduction Fund, and;
- fully plan out and implement recommendations and related strategies to the standard expected by the market.



Addressing Operational Conflicts

Operating in dual capacities as an Industry Association and as the Code Administrator exposes both operations to conflicts of interest, as many CMI members are also bound to comply with the Code's mandate as Signatories. This issue has been noted particularly in the Review and has been highlighted in submissions provided to the Administrator. CMI already has a conflict of interest framework and registry but in expanding its operations, the Administrator will manage these conflicts in the following ways:

- Separate CMI member-related intelligence and activities from the Code Administrator; and separate sensitive Code Signatory information (relating to compliance, complaints and/or sanctions) from CMI's non-Code employees and functions.

The Code Administrator will manage these conflicts by:

- Separating compliance from other operational functions within the Code Administrator, and ensuring that any in-kind CMI resources (if any) do not interact with Member Signatories, or access compliance-related information;
 - Implementing information and technology management structures as separate from general CMI structures and board review processes (including separate software, hardware and information management/firewalls).
- Activities of the Code Administrator, and deliberations/decisions of the Code Review Panel to be kept independent.

The Code Administrator will manage the independence of the Administrator and Review Panel by:

- Maximising transparency on the Code's Administration systems and processes;
- Ensuring the Terms of Reference for the Code's Review Panel (and member appointments) provide clarity on this independence, and well as limits on the type and amount of information that is available to the CMI Board; and
- Ensuring financial sustainability of the Code is built into its operating plans, to ensure dependence on CMI's non-Code operations (and in-kind support) is limited, and decreases over time.

In its role as Code Administrator, CMI is committed to the highest-quality integrity, transparency and accountability, and intends to embed these principles in its Code operations, as intrinsically linked to, but acting separately from, the general operations of CMI.

The Administrator and Review Panel will regularly review these systems and processes to ensure they are above reproach. The Administrator welcomes contact from stakeholders at any time regarding the above commitments.

for more information please contact

Code Administrator

code.administrator@carbonmarketinstitute.org



Australian
Carbon Industry
Code of Conduct