



Australian Government

Department of the Prime Minister and Cabinet

Office of Best Practice Regulation

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Ms Jo Evans
Deputy Secretary
Department of Industry, Science, Energy and Resources

Dear Ms Evans

Regulation Impact Statement – Second Pass Final Assessment – Options to manage the consequences of high prices in the private carbon market to participants in the Emissions Reduction Fund

Thank you for your letter submitting a Regulation Impact Statement (RIS) for formal Second Pass Final Assessment. I note the RIS has been formally certified at the Deputy Secretary level consistent with the *Australian Government Guide to Regulatory Impact Analysis*.

I appreciate the Department's constructive engagement on the RIS. The Office of Best Practice Regulation's (OBPR's) assessment is that the quality of the regulatory impact analysis in the RIS is adequate. In order to have achieved an assessment of good quality, the RIS would have needed to better:

- explore or acknowledge the extent to which any failures in the regulatory design of the Emissions Reduction Fund brought about the imminent risk of mass exit from fixed delivery contract obligations;
- explore the potential for unintended adverse consequences or risks to the integrity of the Emissions Reductions Fund, particularly for Option 2, as identified in the consultation section;
- expand the narrow framing of the role of government from the mitigation of risk within the existing scheme to the broader purpose of ensuring the regulatory framework is positioned to achieve the announced climate policy objectives;
- present evidence to justify key assumptions made in the Regulatory Burden Measurement (RBM); and
- subject the assumptions, analysis and case for change to a broader consultation process.

We note also that the RBM would normally be based on flow rather than a stock measure of regulatory cost such that the status quo would always include a zero regulatory cost impact. This presents challenges in clearly identifying the regulatory costs of each option. We note that Option 2 would have an estimated regulatory saving of \$913,666 when compared to the anticipated regulatory costs associated with the status quo option.

Next steps

After a final decision has been announced, I ask that your agency work with OBPR to finalise this material for public release. This includes providing a copy of the RIS in Word and PDF format for web accessibility purposes. The RIS must be included in any Explanatory Memorandum or Statement giving effect to the proposals in the RIS.

If you have any further queries, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jason Lange', written in a cursive style.

Jason Lange
Executive Director
2 March 2022