

From: John Short
To: [Kristin Tilley](#)
Cc: s22
Subject: Re: Request for advice by John Short on an Environmental matter [SEC=UNCLASSIFIED]
Date: Thursday, 15 November 2018 7:12:39 PM

Kristin,

Many thanks for this advice.

Regards,

John Short

John Short
Mobile: s47F

Sent from my iPhone

On 15 Nov 2018, at 5:10 pm, Kristin Tilley <Kristin.Tilley@environment.gov.au> wrote:

Hi John

In our phone call tomorrow, I'll be joined by my colleague s22 (who heads up our Industrial Climate Change Policy team) and someone from the Clean Energy Regulator (name TBC) who is familiar with the ERF Facilities method.

We'll call you at 3:45pm.

Cheers
Kristin
Kristin Tilley
First Assistant Secretary
Climate Change Division

Department of the Environment and Energy

John Gorton Building, King Edward Terrace, Parkes ACT 2600
T: 02 6159 7601 | s22
E: kristin.tilley@environment.gov.au

From: John Short [<mailto:s47F>]

Sent: Monday, 12 November 2018 7:14 PM

To: Kristin Tilley <Kristin.Tilley@environment.gov.au>

Cc: Edwina Johnson <Edwina.Johnson@environment.gov.au>; s22

s22

Subject: Re: Request for advice by John Short on an Environmental matter [SEC=UNCLASSIFIED]

Kristin,

Many thanks. So confirming 3.45pm this Friday.

The best number for me is: s47F

Regards,

John Short

John Short
Mobile: s47F
Sent from my iPhone

On 12 Nov 2018, at 7:00 pm, Kristin Tilley
<Kristin.Tilley@environment.gov.au> wrote:

Let's do 3:45pm. Please let me know the best number to reach you.
I'll likely have a couple of staff who are more familiar with the detail
of the ERF facilities method join me.

Cheers
Kristin

From: John Short [<mailto:s47F>]]
Sent: Monday, 12 November 2018 6:53 PM
To: Kristin Tilley <Kristin.Tilley@environment.gov.au>
Cc: Edwina Johnson <Edwina.Johnson@environment.gov.au>; s22
s22
Subject: Re: Request for advice by John Short on an Environmental
matter [SEC=UNCLASSIFIED]
Kristin,
Would 1.30pm (Canberra time) suit you? Alternatively, would
3.45pm work for you?
Best regards,
John Short

John Short
Mobile: s47F
Sent from my iPhone

On 12 Nov 2018, at 6:46 pm, Kristin Tilley
<Kristin.Tilley@environment.gov.au> wrote:

Thanks John. Any time after 1:30pm on Friday suits for
a phone call. Let me know what time suits you best and
we'll lock it in.

Cheers
Kristin
Kristin Tilley
First Assistant Secretary
Climate Change Division

Department of the Environment and Energy
John Gorton Building, King Edward Terrace, Parkes ACT 2600
T: 02 6159 7601 | s22
E: kristin.tilley@environment.gov.au

From: John Short [<mailto:s47F>]]
Sent: Monday, 12 November 2018 6:32 PM
To: Kristin Tilley <Kristin.Tilley@environment.gov.au>
Cc: Dean Knudson
<Dean.Knudson@environment.gov.au>; Jo Evans
<Jo.Evans@environment.gov.au>; Edwina Johnson
<Edwina.Johnson@environment.gov.au>
Subject: Re: Request for advice by John Short on an
Environmental matter [SEC=UNCLASSIFIED]
Kristin,
Thank you for your email.
I have asked Delta to provide me with some

additional documents on this matter - which I have not received yet. I would prefer to discuss this matter once I have received these additional documents. So I don't think I will be sufficiently briefed for a meeting tomorrow.

Unfortunately I am travelling on Wednesday and Thursday, so can I suggest we speak by phone on Friday and then determine whether it would be appropriate to meet in Canberra next week, on either the Monday or Tuesday.

Best regards,
John Short

John Short
Mobile: s47F
Sent from my iPhone

On 12 Nov 2018, at 5:54 pm, Kristin Tilley
<Kristin.Tilley@environment.gov.au> wrote:

Hi John
Just following up on your email to Dean Knudson. If you are still free to meet in Canberra tomorrow (Tuesday) we can try and schedule that. Alternatively we can lock something in the following week, as you suggest.
Please let me know what suits you best.

Kind regards
Kristin
Kristin Tilley
First Assistant Secretary
Climate Change Division

Department of the Environment and Energy
John Gorton Building, King Edward Terrace,
Parkes ACT 2600
T: 02 6159 7601 | s22
E: kristin.tilley@environment.gov.au

From: Dean Knudson
Sent: Monday, 12 November 2018 2:55 PM
To: 'John Short'
<s47F >
Cc: Jo Evans
<Jo.Evans@environment.gov.au>; Edwina Johnson
<Edwina.Johnson@environment.gov.au>;
Kristin Tilley
<Kristin.Tilley@environment.gov.au>
Subject: RE: Request for advice by John Short on an Environmental matter
[SEC=UNCLASSIFIED]
Hi John,
My climate change colleagues are cc'ed

above and should be able to advise you. Jo is our climate change Deputy, Kristen is our FAS for climate change, and Edwina would be the relevant Branch Head on the ERF.
Cheers.

From: John Short

[mailto:s47f]

Sent: Saturday, 10 November 2018 7:59 PM

To: Dean Knudson

<Dean.Knudson@environment.gov.au>

Subject: Request for advice by John Short on an Environmental matter

Dean,

It has been a few months since I last saw you in Parliament House - and your Minister was Josh Frydenberg. It is startling as to how quickly things can change in Canberra.

I am seeking your advice as to how to progress a matter concerning the Emissions Reduction Fund on behalf of one of my clients, Sunset International trading as Delta Electricity. Delta is the owner of the Vales Point coal fired generator and had applied for funding under the ERF for the purchase of a turbine that would improve the efficiency of the plant and, thus, lead to abatement of carbon emissions.

I recognise that the ERF does not fall within your responsibilities, but it is now about 3 years since I last had an issue that involved engaging with the Department. Thus I am now seeking your advice as to who would be the best person within the Department, at a senior level, for me to approach on this matter.

I have set out below the information provided to me on this matter. I would highlight the urgency in resolving this matter as the current round for ERF funding closes on 30 November.

I am in Canberra on Monday and Tuesday (ie, 12/11 and 13/11) and would be able to meet with you or the relevant Departmental official then - but Tuesday morning is best for me.

If necessary, I would be able to be back in Canberra in the week commencing 19/11 for discussions on this matter - and the relevant people from Delta would accompany me if required.

I trust you will be able to assist.
ADVICE FROM MY CLIENT
in relation to the Emissions Reduction
Fund (ERF).

By way of background, Sunset Power
International Pty Ltd t/as Delta
Electricity (Delta) is the owner and
operator of the 1320 MW Vales Point
Power Station located on the southern
edge of Lake Macquarie, New South
Wales. Delta has been working with the
Clean Energy Regulator (CER) in
relation to the Emissions Reduction
Fund (ERF) and specifically;

1. The CER registered Delta's project for a proposed turbine upgrade.
2. Delta and the CER have worked through a methodology which applied to a highest baseline, and while not Delta's preferred outcome, Delta has accepted the methodology.

s47G(1)(a)

4. The CER has now advised that it deems Delta's project as "new generating unit" and therefore does not qualify (unless facility carbon intensity is less than the NEM average (ie ~0.82)).
5. Delta believes that the CER's interpretation is incorrect as Delta is not extending plant life. The remainder of turbine, boiler, auxiliaries and balance of plant remain at a 2029 life. The project is clearly not a "new generating unit".
6. Delta maintains that the project is an efficiency improvement and Delta is not increasing its registered capacity with AEMO (ie no new or increased MW capacity). The efficiency improvement directly relates to

abatement.

7. The ERF mechanism was established to incentivise efficiency improvements and therefore abatement.

8. The CER is incorrectly applying the fine print in a manner contrary to the program and, after Delta has made commitments to expenditure based upon discussions with the CER, and after finalisation of an agreed methodology with the CER.

Best regards,

John
John Short
Principal Consultant,
SAS Group,
Brisbane
Mobile: s47F
Sent from my iPhone

From: s22
To: "Thompson, Shayleen"; David Parker
Cc: s22; Kristin Tilley; Edwina Johnson; DLO Price; Narelle Cant; Raynor Jackie; s22
Subject: RE: Request for urgent joint meeting on behalf of Sunset Power International trading as Delta Electricity concerning its 1,320MW coal-fired power plant near Lake Macquarie, NSW. [DLM=For-Official-Use-Only]
Date: Thursday, 22 November 2018 9:36:11 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)

Thanks Shayleen.

s22

**Adviser | Office of the Hon Melissa Price MP
Minister for the Environment**

a: Parliament House, Canberra, ACT 2600

t: s22 | s22 | **e:** s22

From: Thompson, Shayleen [mailto:Shayleen.Thompson@cleanenergyregulator.gov.au]
Sent: Thursday, 22 November 2018 9:18 AM
To: s22 David Parker
<David.Parker@cleanenergyregulator.gov.au>
Cc: s22; Kristin Tilley <Kristin.Tilley@environment.gov.au>;
Edwina Johnson <Edwina.Johnson@environment.gov.au>; DLO Price
<DLOPrice@environment.gov.au>; Narelle Cant <Narelle.Cant@environment.gov.au>; Raynor,
Jackie <Jackie.Raynor@cleanenergyregulator.gov.au>; s22
Subject: RE: Request for urgent joint meeting on behalf of Sunset Power International trading as
Delta Electricity concerning its 1,320MW coal-fired power plant near Lake Macquarie, NSW.
[DLM=For-Official-Use-Only]

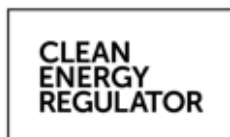
For Official Use Only

Hi s22

Thanks for your email. We are working with the Department on a brief, which we expect to forward to you shortly.

As always, we are happy to discuss any issues arising.

Kind regards, Shayleen



Shayleen Thompson
Executive General Manager
Scheme Operations Division

(02) 6159 3560 | s22 | Shayleen.Thompson@cleanenergyregulator.gov.au



For Official Use Only

From: s22
Sent: Wednesday, 21 November 2018 7:30 PM
To: Thompson, Shayleen <Shayleen.Thompson@cleanenergyregulator.gov.au>
Cc: s22; Kristin Tilley <Kristin.Tilley@environment.gov.au>; Edwina Johnson <Edwina.Johnson@environment.gov.au>; DLO Price <DLOPrice@environment.gov.au>; Narelle Cant <Narelle.Cant@environment.gov.au>
Subject: FW: Request for urgent joint meeting on behalf of Sunset Power International trading as Delta Electricity concerning its 1,320MW coal-fired power plant near Lake Macquarie, NSW.
[DLM=For-Official-Use-Only]

Hi Shayleen,

FYI – See concerns raised below regarding Delta Electricity’s Vales Point projected under the ERF.

I will meet with John likely early next week. Any background briefing you can provide me on the status of this project and the CER’s decisions would be appreciated.

Thanks,

s22

s22

Adviser | Office of the Hon Melissa Price MP
Minister for the Environment

a: Parliament House, Canberra, ACT 2600

t: s22 | **m:** s22 | **e:** s22

From: John Short [<mailto:s47F>]

Sent: Wednesday, 21 November 2018 4:25 PM

To: s22; s22

s22

Subject: Request for urgent joint meeting on behalf of Sunset Power International trading as Delta Electricity concerning its 1,320MW coal-fired power plant near Lake Macquarie, NSW.

s22 & s22,

On behalf of Sunset Power International trading as Delta Electricity, I am seeking an urgent **joint** meeting to discuss the handling of a proposal by the Clean Energy Regulator (CER) submitted by Delta that improves the efficiency of Delta’s 1,320MW coal-fired power plant (Vales Point) near

Lake Macquarie, NSW – and, in doing so, will reduce emissions from the plant.

Full details of the issue are set out below, and necessarily involve the interaction of Government policy in the areas of Environment and Energy – and thus the request for a joint meeting.

Following extensive discussions with the CER in Canberra yesterday on this matter, the CEO of Delta (Greg Everett) and I would wish to meet with you next week as the matter is now critical.

If at all possible, we would wish to meet with you next Tuesday (27 November) – literally at whatever time is best for you. If Tuesday is not convenient, we would propose next Wednesday (28 November) or Thursday (29 November).

Please note that if it is not possible to organise a joint meeting, we would seek separate meetings given the critical position Delta has now reached with this matter.

I recognise that next week will be extremely busy as Parliament resumes for the final 2 Sitting Weeks for this year, but trust you will be able to agree to meet with us.

Best regards,

John Short

BACKGROUND

-

Delta Electricity has submitted a proposal to the Clean Energy Regulator (CER) on the prospect of participating in an Emissions Reduction Fund (ERF) auction. The relevant project involves the replacement of 2 (of 3) sets of blades in a turbine at Vales Point; ie, at one of the 2 generating units at Vales Point. The project is designed to improve efficiencies of the unit. It will **not extend the current life of the plant**; the current end of life of Vales Point is 2029.

Without getting too deeply into the technicalities of the Carbon Credits (Carbon Farming Initiative – Facilities and Minor Corrections) Methodology Determination Variation 2016, if the Delta project is calculated (under a very convoluted definition) to have a “material effect”, then it is **deemed** to be a “new generating unit” and, if it is so deemed, then it can only be credited with ACCUs (Australian Carbon Credit Units) if the resultant emissions intensity of the electricity generated is below the NEM average. If the resultant emissions intensity of the electricity generated from a **deemed** “new generating unit” is above the NEM average, then the activity would **automatically be allocated zero ACCUs**.

The rationale presented in the Carbon Credits (Carbon Farming Initiative – Facilities and Minor Corrections) Methodology Determination Variation 2016 for this (deemed) position is as follows:

“The reason the Determination treats a generating unit as new when an essential component is replaced reflects **the intent** not to credit the replacement of components that may extend the operating life of emissions-intensive generating units, unless the upgraded generating unit has an emissions intensity that is lower than the grid average” (page 7).

We have strongly submitted to the CER that this approach/interpretation of the over-arching legislation and accompanying Methodology Statement is fundamentally flawed and in conflict with the current Administration's Energy Policy as the Delta project:

1. Is not BAU.
2. Meets the Offset Integrity Standards specified in the relevant legislation, and, most importantly,
3. Delta has clearly stated that the project would not extend the operating life of Vales Point. NOTE: Delta will provide engineering reports verifying this position. (page 7)

Thus the bottom line – or fundamental point – here is that the CER processes and interpretation of the legislation and the accompanying Methodology Statement are not based on the facts presented to them and, as a result, a project that will clearly **not** extend the life of the plant is automatically assumed that it will.

Without wanting to appear flippant, this is akin to assuming that “white” is “black”.

Regrettably the effect of all this is to effectively discriminate against a carbon abatement project involving a coal-fired power plant and, as a result, the approach/interpretation of the over-arching legislation and the accompanying Methodology Statement is inconsistent with the Government's Energy Policy which is technology neutral.

ENDS

John Short
Principal Consultant
SAS Group

m. s47F

t. s47F

e. s47F

w. sasgroup.net.au

s. Level 7, 241 Adelaide Street, Brisbane Q 4000



 **SAS** GROUP

STRATEGY
ACTION
SUCCESS

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From: s22
To: s22
Cc: [Edwina Johnson](#); [Kristin Tilley](#); s22; [Katrina Maguire](#)
Subject: Re: Facilities Method – points for MO [DLM=For-Official-Use-Only]
Date: Wednesday, 28 November 2018 6:39:26 AM

Thanks very much s22.

s22

Sent from my iPhone

On 27 Nov 2018, at 11:11 pm, s22 wrote:

Hi s22

As discussed, attached is a revised document ahead of your Thursday meeting with Delta Electricity.

We've included the additional point:

<!--[if !supportLists]-->– <!--[endif]-->The Clean Energy Regulator is an independent statutory body established under the *Clean Energy Regulator Act 2011*. The Minister has no power to direct the Regulator on individual matters.

Thanks

s22

<Facilities Method – points for MO.docx>

Facilities Method

Key Points

Framework

- The Emissions Reduction Fund is the centrepiece of the Government's emissions reduction policies.
 - It is designed to help Australia meet its international emissions reduction commitments.
- The Government is developing other programs aimed at securing reliable electricity supply putting downward pressure on the price of electricity. This includes the *Underwriting New Generation Investments Program* aimed at attracting new investment in the market.
 - The program's primary objective is to reduce wholesale electricity prices through increased competition and supply.
- The program will be technology neutral, as recommended by the ACCC. It will support whichever generation enhances competition and improves the amount of firm or firmied generation in the market at least cost to consumers and taxpayers. This could include new or expanded hydro, solar, gas and coal projects.
- All the rules and requirements for the Emissions Reduction Fund, including the calculation methodologies, are set out in legislation (Act, Rules and Methodology Determinations).
- The Clean Energy Regulator is responsible for implementing the legislation. The Regulator does not have discretion—it must apply the detailed rules in all circumstances.
 - Emissions Reduction Fund projects must be undertaken in accordance with requirements set out in legislative determinations ('methods') in order to receive Australian Carbon Credit Units.
 - The Clean Energy Regulator is an independent statutory body established under the *Clean Energy Regulator Act 2011*. The Minister has no power to direct the Regulator on individual matters.
- All methods, including the Facilities Method, must comply with the Offsets Integrity Standards, which are set out in the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act).
 - This is critical as Emissions Reduction Fund projects must deliver abatement that can be used to meet our international climate change targets.
- An independent statutory body (the Emissions Reduction Assurance Committee) assesses all methods before they are made (or substantially varied) to ensure the method meets the Offsets Integrity standards.
 - The Committee also has the power to order the Regulator to suspend the processing of applications for registering new projects under a method. It can do this where it is satisfied there is reasonable evidence the method does not comply with one or more of the Offsets Integrity Standards.

-SENSITIVE-

- The Minister must not make, or substantially vary, a method if the Emissions Reduction Assurance Committee advises that the varied method does not comply with one or more of the Offsets Integrity Standards.

s47C

s47C

s47C

-SENSITIVE-

Attachment A

Media Article: "The power station offloaded by the NSW Government for \$1 million suddenly has a future". Sydney Morning Herald. Joanne McCarthy, 7 September 2018. <https://www.theherald.com.au/story/5632203/powering-on-delta-electricitys-plan-for-a-70-year-old-vales-point-power-station/>

DELTA Electricity would put up its hand for any Federal Government funds on offer as it considers the feasibility of a \$750 million extension of Vales Point power station to operate until 2049, managing director Greg Everett said after the proposal was floated on Friday.

The Lake Macquarie coal-fired station offloaded by the NSW Government for \$1 million in 2015 made a \$113 million net profit in the past year on the back of high electricity prices.

But owner Trevor St Baker's comments that Vales Point could be refurbished to run until 2049, rather than close as currently expected in 2029, have highlighted instability in the energy industry after the Federal Government's failed National Energy Guarantee and in the absence of a national energy policy.

Mr Baker's comments came only days after new Energy Minister Angus Taylor warned the Federal Government may force AGL to sell rather than close Muswellbrook's Liddell coal-fired power station in 2022. The company repeatedly stared down the Turnbull Government over the closure deadline after announcing plans to replace Liddell's power with a gas/renewables/pumped hydro mix and a Bayswater power station upgrade.

Delta's Greg Everett said the feasibility of extending Vales Point so that it is still operating 70 years after it was commissioned had been under consideration for some time. A figure of \$750 million was a "whole of life expenditure" and "how that's funded doesn't have to be dealt with immediately".

But Mr Taylor's support for expanding and upgrading ageing power stations to boost power supply and a government underwriting program for new energy projects keeps the door open for government subsidies or loans. And if such a program emerged Vales Point would seek government support because "whether to extend the life of Vales Point is not a trivial matter", Mr Everett said.

He declined to comment about Mr Taylor's threat to AGL and other power station operators that if they were not prepared to "keep that reliable power in the system (by not closing ageing power stations) then we'll force you to divest". But it would be "quite a bold step" for the government to force a power station owner to sell rather than close, Mr Everett said.

Changing emissions targets throughout the life of an extended power station would be assessed as they occurred, he said. In response to a question about Labor's proposed 45 per cent emissions reduction target, Mr Everett said: "I wouldn't comment whether it's a killer (of the Vales Point extension plan) or not."

Institute for Energy Economics and Financial Analysis director Tim Buckley said the idea of extending Vales Point was "somewhat pie in the sky", but NSW was facing a "severe problem" with the expected closure of a number of ageing coal-fired power stations from 2030 and "the absence of a suitable strategy" to deal with it.

-SENSITIVE-

“Anything is possible. We do have a serious planning problem. In the absence of a plan can an extension of Vales Point get up? Yes, if taxpayers provide a capital subsidy,” Mr Buckley said.

“The way the government will package it is they will offer, say, a \$600 million loan over 20 years at 3 per cent, but it’s going to be you and I, taxpayers, funding it on behalf of a couple of billionaires.”

Grattan Institute energy program director Tony Wood said Vales Point was already 40 years old and any extension plans would rely on an engineering assessment of what was possible.

“In theory it’s got another 10 years to run but 2049 is a lot further out,” Mr Wood said.

The lack of clarity over a climate change policy and emissions targets means “it’s hard to invest in this situation”, he said.

“What sort of emissions reductions over what period of time would be compatible with Vales Point staying open? 2049 seems a long way off to make a bet on things staying as they are.”

While it was logical that Delta Electricity would apply for any government program to extend the power station’s life, “you’d want to make sure Vales Point did not have a special deal with the government” such as extracting an exemption from emissions targets.

“The government should not be funding investments through low interest loans nor giving special exemptions. A special exemption from the emissions target tax would be a terrible idea,” Mr Wood said.

Australian National University centre for climate economics and policy director Professor Frank Jotzo said it was impossible to predict the timing of exit of any particular power station but “the economics of coal-fired power stations will deteriorate and they will continue to deteriorate simply because renewables are now the cheaper option”.

“It’s inevitable and inescapable that the transition to renewables is underway,” Professor Jotzo said.

It would be “very difficult to conceive there’s a case for a refurbishment of Vales Point to take the plant all the way to the 2040s and there’s significant carbon risk into the future” of emissions targets making coal-fired power unviable, he said.

“If you looked at this from an investor’s perspective you would have to put a very significant risk of a carbon penalty into this project. Talking about plans for it to operate until it is 70 years of age, given that the average age of power station closures has been 40 years, seems far fetched.”

It was interesting to compare the approach taken by AGL towards Liddell and Delta towards Vales Point, Professor Jotzo said.

“What’s obvious with AGL is that you have a diversified company that sees its future in the provision of energy services so it’s not wedded to any technology. They would go with whatever is most economically viable. The owner of Vales Point is interested only in coal generation and one plant, so the incentive there is to maximise profits. A company in that situation would have an incentive to lobby governments for grants to subsidise refurbishment of their plant.”

It would be “very bad public policy” for the Federal Government to “prevent or postpone the market-based closure of power stations by offering subsidies to keep them open”, Professor Jotzo said.

-SENSITIVE-

-SENSITIVE-

“There really is nothing to be gained for the consumer in keeping these old coal-fired power stations open,” he said.

In a paper released this week, *Coal transitions in Australia: Preparing for the looming domestic coal phase-out and falling export demand*, Professor Jotzo and co-authors Salim Mazouz and John Wiseman found government policy should support economic diversification in regions like the Hunter where coal is economically important.

Its research found a relatively small but persistent increase in unemployment rates in regions after coal plant closures.

The paper predicted sharp falls in thermal coal demand from the late 2020s and early 2030s as a number of coal-fired power plants retire in quick succession.

It found government policy “must not stand in the way of the transition that is underway”.

“The coal industry represents large and concentrated economic interests, which when combined with the interests of local communities in coal regions can amount to a formidable force in favour of the status quo,” the ANU team found.

“There is a risk that policy designed to protect existing industrial structures could unnecessarily delay the transition and lock in high emitting installations for longer.”

-SENSITIVE-

From: s22
To: s22
Cc: [Kristin Tilley](#); [Edwina Johnson](#)
Subject: FW: ERF - Vales Point [SEC=UNCLASSIFIED]
Date: Wednesday, 5 December 2018 10:27:34 PM

Hi s22

FYI – it looks like Taylor’s office is keen to speak to CER/Dept about Vales Point.

Thanks

s22

s22

From: s22
Sent: Wednesday, 5 December 2018 6:27 PM
To: s22
'mark.williamson@cleanenergyregulator.gov.au'
<mark.williamson@cleanenergyregulator.gov.au>; s22
s22
Subject: RE: ERF - Vales Point [SEC=UNCLASSIFIED]

Hi s22, Mark – s22 and s22 have been working on this issue as well

From: s22
Sent: Wednesday, 5 December 2018 6:25 PM
To: 'mark.williamson@cleanenergyregulator.gov.au'
<mark.williamson@cleanenergyregulator.gov.au>
Cc: s22
Subject: ERF - Vales Point [SEC=UNCLASSIFIED]

Hi Mark – I just wanted to give you a heads up that s22 is looking to speak with someone regarding Vales Point’s ERF project and may get in touch with you on it.

cheers

s22

From: s22
To: [Kristin Tilley](#); [Jo Evans](#)
Cc: [Edwina Johnson](#)
Subject: FW: URGENT: Negative decision by Clean Energy Regulator on ERF ACCU eligibility application by Sunset Power International trading as Delta Electricity concerning its Vales Point coal fired generator [DLM=For-Official-Use-Only]
Date: Thursday, 6 December 2018 4:27:06 PM
Attachments: [image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[CERDecision.pdf](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)
[image018.png](#)

FYI

s22

**Adviser | Office of the Hon Melissa Price MP
Minister for the Environment**

a: Parliament House, Canberra, ACT 2600

s22

From: John Short [mailto:s47F]
Sent: Thursday, 6 December 2018 3:32 PM
To: s22
Cc: Narelle Cant <Narelle.Cant@environment.gov.au>; s22
Subject: URGENT: Negative decision by Clean Energy Regulator on ERF ACCU eligibility application by Sunset Power International trading as Delta Electricity concerning its Vales Point coal fired generator

s22,

Further to my email below, I refer to the attached advice from the Clean Energy Regulator (CER).

As set out in this advice from the CER, it has taken a preliminary decision that rejects Delta's interpretation of the Carbon Credits (Carbon Farming Initiative – Facilities) Methodology Determination 2015. I would highlight that Attachment A to this advice states:

1. The CER is not satisfied that Delta's interpretation of the above-mentioned Methodology Determination is "consistent with a plain reading of the method".
2. Delta had "not taken the opportunity to reduce its arguments about its interpretation of the Facilities Method to writing".

As set out in the email below, and in meetings Delta representatives have had with both the CER and you (and s22 from Minister Taylor's office), Delta has clearly spelt out its reasons as to why it believes the CER's interpretation of the method (or methodology) is incorrect. I would therefore submit that it is the CER's interpretation of the method that is not "consistent with a plain reading of the method". As set out in the email from yesterday (below), we therefore continue to request an urgent decision by your Minister on this issue of interpretation of the

above-mentioned Methodology Determination.

I must also challenge the statement by the CER that Delta had “not taken the opportunity to reduce its arguments about its interpretation of the Facilities Method to writing”. Delta had a detailed (2 hour plus) meeting with senior CER representatives last month which centred on this issue of the interpretation of the Methodology Statement (which I also attended). I have no record in my detailed notes of the CER representatives asking for the arguments that we had presented in detail to be placed in writing as part of the application process. In addition, in our recent meeting with you (and s22 the Delta CEO, Greg Everett, provided a detailed presentation pack on this same issue, along with detailed materials demonstrating that the relevant project would **not** extend the life of the Vales Point plant. These materials therefore clearly explained why the stepped approach under the CER processes which inevitably lead it to a conclusion that the project would be deemed to extend the life of Vales Point plant - and, thus, be deemed to generate zero ACCUs – was totally contrary to the facts and, thus, is an illogical outcome.

Additionally, I note that the CER has given Delta only 1 day within which to provide additional information or submissions ahead of a final decision by it.

Based on the position presented in this email and my email from yesterday (below), I therefore make the following requests **as a matter of urgency**:

1. An urgent decision by the Minister on the disputed interpretation by the CER as to the expected eligibility of the Delta project to ensure that it is qualified to participate in the current ERF auction process.
2. An urgent meeting with the Environment Minister to have the Delta Chairman, Mr Trevor St Baker, and Delta CEO directly put the company’s position on this matter to her for her further consideration, both in terms of the current auction and in terms of the policy position being adopted by the CER which has the effect of discriminating against coal-fired electricity generation - in conflict with the Government’s “technology neutral” Energy Policy position.

As I noted yesterday, the Delta Chairman and CEO are in Melbourne next Tuesday (11 December) for meetings with other Commonwealth Ministers. Additionally, we understand Federal Cabinet is meeting in Melbourne next week. Given the significance of this matter, and the potential availability of your Minister in Melbourne next week, we would **specifically seek a meeting with your Minister in Melbourne either next Tuesday or Wednesday.**

Please do not hesitate to ring me should you wish to discuss the contents of this email, or if you require any additional information.

Regards,

John Short

John Short
Principal Consultant

SAS Group

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t. s47F
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s. Level 7, 241 Adelaide Street, Brisbane Q 4000



STRATEGY
ACTION
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From: John Short <s47F >
Date: Wednesday, 5 December 2018 at 2:03 pm
To: s22
Cc: "narelle.cant@environment.gov.au" <narelle.cant@environment.gov.au>, s22

Subject: Urgent request for Ministerial decision on disputed interpretation of ERF ACCU eligibility by Clean Energy Regulator on application by Delta Electricity concerning its Vales Point coal fired generator

s22

Further to our telephone conversation this morning and the recent meeting with you and s22 from Minister Taylor's Office (with this meeting also attended by the CEO of Delta Electricity, Mr Greg Everett), I wish to confirm that, on behalf of Sunset Power International trading as Delta Electricity, I am **seeking an urgent decision by your Minister** on a disputed interpretation by the Clean Energy Regulator (CER) as to the expected eligibility of a project for participation in the current ERF auction submitted by Delta that improves the efficiency of Delta's 1,320MW coal-fired power plant (Vales Point) near Lake Macquarie, NSW – and, in doing so, will reduce emissions from the plant.

Full details of the issue are set out below, and necessarily involve the interaction of Government policy in the areas of Environment and Energy.

Essentially the dispute centres around one word: "may", and whether the CER can assume that the project "**may** extend the operating life of" Vales Point when it is applying – and, therefore, interpreting - the current Methodology Determination, despite the fact that strong evidence was presented by the Delta CEO at our recent meeting (and, previously, to the CER) that the project will not extend the life of the plant.

Thus our argument is:

1. It is illogical for the CER to assume the Delta project "**may** extend the operating life

of” Vales Point when it and the Government has received strong evidence that the project **will not** extend the life of the plant.

2. The current CER processes whereby it would automatically allocate zero ACCUs to the Delta project as part of the current ERF are incorrect and, therefore, should not be followed.

I would further submit that the effect of all this is that the CER would be effectively discriminating against a carbon abatement project involving a coal-fired power plant and, as a result, the approach/interpretation of the over-arching legislation and the accompanying Methodology Statement by the CER is inconsistent with the Government’s Energy Policy which is technology neutral.

It is correct, as you advised this morning, that the CER has not taken a decision on the Delta application. However the CER Delegate has confirmed to Delta that based on legal advice from the CER’s General Counsel, the CER processes would result in the project would not receive any ACCUs. I have attached relevant emails between Delta and the CER on this point; please see Delta email of 30 October and CER email of 7 November, with **specific references to advice from the CER’s General Counsel and the CER’s confirmation that the Delta project would not generate any ACCUs based on this CER legal advice.**

s47G(1)(a)

Delta has confirmed to the CER that it will proceed with participation in the current ERF auction.

As applications under this auction are due to close over coming days, this matter is becoming extremely urgent – and, thus, the request for an urgent decision by your Minister.

Lastly, I would note that against all of this background, if Delta’s project is automatically allocated zero ACCUs, Delta would necessarily need to consider challenging the CER position and, thus, its processes and interpretation of the Methodology Statement, via the Administrative Appeals Tribunal processes.

Given the urgency of this matter and the significance of the matter, we would be able to meet with you, the Minister’s Chief of Staff and, if appropriate, the Minister over coming days.

A number of Delta personnel, the Delta Chairman (Mr Trevor St Baker) and I will be in Melbourne next Tuesday and Wednesday on other business. I understand Cabinet is

meeting in Melbourne next week. Thus, if there is an opportunity for a further meeting in Melbourne either next Tuesday or Wednesday with you, the Minister's Chief of Staff or the Minister, we would be available to do so.

BACKGROUND

Delta Electricity has submitted a proposal to the Clean Energy Regulator (CER) on the prospect of participating in an Emissions Reduction Fund (ERF) auction. The relevant project involves the replacement of 2 (of 3) sets of blades in a turbine at Vales Point; ie, at one of the 2 generating units at Vales Point. The project is designed to improve efficiencies of the unit. It will **not extend the current life of the plant**; the current end of life of Vales Point is 2029.

Without getting too deeply into the technicalities of the Carbon Credits (Carbon Farming Initiative – Facilities and Minor Corrections) Methodology Determination Variation 2016, if the Delta project is calculated (under a very convoluted definition) to have a “material effect”, then it is **deemed** to be a “new generating unit” and, if it is so deemed, then it can only be credited with ACCUs (Australian Carbon Credit Units) if the resultant emissions intensity of the electricity generated is below the NEM average. If the resultant emissions intensity of the electricity generated from a **deemed** “new generating unit” is above the NEM average, then the activity would **automatically be allocated zero ACCUs**.

The rationale presented in the Carbon Credits (Carbon Farming Initiative – Facilities and Minor Corrections) Methodology Determination Variation 2016 for this (deemed) position is as follows:

“The reason the Determination treats a generating unit as new when an essential component is replaced reflects **the intent** not to credit the replacement of components that **may** extend the operating life of emissions-intensive generating units, unless the upgraded generating unit has an emissions intensity that is lower than the grid average” (page 7).

We have strongly submitted to the CER that this approach/interpretation of the over-arching legislation and accompanying Methodology Statement is fundamentally flawed and in conflict with the current Administration's Energy Policy as the Delta project:

1. Is not BAU.
2. Meets the Offset Integrity Standards specified in the relevant legislation, and, most importantly,
3. Delta has clearly demonstrated that the project **will not extend the operating life of Vales Point**.

Thus the bottom line – or fundamental point – here is that the CER processes and interpretation of the legislation and the accompanying Methodology Statement are not based on the facts presented to the CER and, as a result, the matter warrants action by the Government, through the Environment Minister, to ensure the CER applies a logical and rationale approach to how it interprets the Methodology Statement to ensure its approach/interpretation of the over-arching legislation and the accompanying Methodology Statement is inconsistent with the Government's Energy Policy which is technology neutral.

ENDS

John Short
Principal Consultant
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Australian Government
Clean Energy Regulator



CAC707201

6 December 2018

Mr Brian Beudeker
Manager Environment – Strategy & Compliance
Delta Electricity
s47F

Dear Mr Beudeker

Participation in the eighth Emissions Reduction Fund (ERF) auction on 10-11 December 2018 – notice of intended decision

1. I refer to your email of 4 December 2018 to Jackie Raynor and s22 of the Clean Energy Regulator (CER) in which you advised that Sunset Power International Pty Ltd (Sunset Power) decided to pursue its auction applications¹ on the previously advised basis, namely that it will not undertake activities other than replacing turbine blades as part of the Vales Point Turbine Upgrade Project (assigned ID # ERF121628) (the project).
2. As the Manager of the Auctions and Contract section of the CER, I am a delegate of the CER under section 20G of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Act) for the purposes of determining whether auction qualification and auction registration applications are accepted.
3. I have formed the preliminary view that Sunset Power has not provided sufficient information or certainty that the project will generate the claimed amount of Australian carbon credit units (ACCUs), and, therefore, the project should not be permitted to participate in the auction scheduled for 10-11 December 2018.

¹ The relevant applications made by Sunset Power are its auction qualification application (assigned ID # CAC707201) of 8 November 2018 (the **auction qualification application**) and auction registration application (assigned ID # REG130490) of 30 November 2018 (the **auction registration application**).

4. My reasons for this preliminary view are set out in **Attachment A**.
5. My purpose in sending you this letter is to provide you with a final opportunity to provide sufficient information to enable the CER to make a final determination on your participation in the auction process.

6. **s47G(1)(a)**

7. All the information or submissions you have or will provide will be considered by either myself or another delegate of the CER. **In order to ensure this occurs prior to the auction, please provide any further relevant information or submissions before 3.00pm (AEDT) on Friday 7 December 2018.**
8. Please note that any decision of the CER to refuse to accept the applications, if such a decision is made, would not prevent Sunset Power from providing applications to participate in any ERF auction that may be conducted by the CER after the eighth ERF auction. Refusal of applications to enter a particular auction are not an automatic barrier to entry into further auctions where deficiencies in the previous applications are rectified.

Yours sincerely

s22

Manager, Auctions and Contracts
Emissions Reduction Fund Branch
Clean Energy Regulator

s22

www.cleanenergyregulator.gov.au

Attachment A – reasons for preliminary view

1. All auction qualification and registration applications are assessed against publicly available Auction Guidelines. This ensures that only projects that have reasonable prospects of generating eligible abatement and being credited with the quantity of ACCUs claimed in auction applications are permitted to compete with others in the ERF procurement process. This in turn ensures that a level playing field is applied to all auction participants and that the purchasing principles set out in section 20G of the Act are properly applied and considered.
2. In relation to your applications, I am not satisfied that the project will be issued with the quantity of ACCUs proposed to be delivered in your applications. This is because you appear to be relying on an interpretation of the Carbon Credits (Carbon Farming Initiative—Facilities) Methodology Determination 2015 (the **Facilities Method**) that assumes that the claimed number of ACCUs will be issued for abatement directly resulting from the replacement of turbine blades.
3. As explained to you previously, the CER is not persuaded by Sunset Power’s arguments in relation to its interpretation of the Facilities Method. This is because the CER is not satisfied that those arguments are consistent with a plain reading of the method. I note that Sunset Power has not taken the opportunity to reduce its arguments about its interpretation of the Facilities Method to writing.
4. In addition, as stated in your email of two days ago, Sunset Power has decided not to augment the project with additional eligible abatement activities likely to lead to the crediting of ACCUs.
5. Having assessed the information provided by Sunset Power in the substantial interactions with the CER to date (set out in Attachment B), and having regard to the Auctions Guidelines and section 20G of the Act, I have formed the preliminary view that Sunset Power has not provided sufficient information or certainty that the project will generate the claimed ACCUs, and, therefore, the project should not be permitted to participate in the auction scheduled for 10-11 December 2018.

Attachment B – summary of information exchanged and considered

- a. Information contained in the following applications and supporting material provided by or on behalf of Sunset Power to the CER:
 - i. project registration application dated 18 April 2018 relating to the project;
 - ii. the auction qualification application; and
 - iii. the auction registration application;
- b. information provided by or on behalf of Sunset Power to the CER, and information provided to Sunset Power by CER officers, during meetings and teleconferences held between CER officers and representatives of Sunset Power on the following dates (I have seen contemporaneous or near contemporaneous notes of meetings at which I was not present):
 - i. meeting of 25 October 2018 at CER offices in Canberra attended by Brian Beudeker representing Sunset Power, and s22 representing the CER;
 - ii. meeting of 20 November 2018 at CER offices in Canberra attended by Brian Beudeker and John Short representing Sunset Power, and Jackie Raynor, s22 s22 and myself representing the CER;
 - iii. meeting of 26 November 2018 at Delta Electricity offices in Sydney attended by Brian Beudeker and John Short representing Sunset Power, and Jackie Raynor and s22 representing the CER; and
 - iv. teleconference of 4 December attended by John Short representing Sunset Power, and Jackie Raynor and myself representing the CER;
- c. information provided by or on behalf of Sunset Power to the CER in the following correspondence:
 - i. email of 4 December 2018 from Brian Beudeker to Jackie Raynor and s22 and
- d. information provided by CER officers to Sunset Power in the following correspondence:
 - i. email of 7 November 2018 from s22 to Brian Beudeker.

s22

From: Kristin Tilley
Sent: Thursday, 6 December 2018 5:26 PM
To: s22
Cc: s22; Edwina Johnson; Jo Evans
Subject: Facilities Method Table of Options.docx [DLM=Sensitive]
Attachments: Facilities Method Table of Options.docx

Hi s22

As discussed, the attached outlines options for responding to Delta Energy's concerns. Happy to discuss.

Cheers
Kristin

Kristin Tilley
First Assistant Secretary
Climate Change Division

Department of the Environment and Energy
John Gorton Building, King Edward Terrace, Parkes ACT 2600
T: 02 6159 7601 | s22
E: kristin.tilley@environment.gov.au

s47C

s22

From: Kristin Tilley
Sent: Thursday, 6 December 2018 8:33 AM
To: s22
Cc: s22 ; s22 ; Edwina Johnson; Jo Evans
Subject: Facilities Method Ministers roles and responsibilities under the Emissions Reduction Fund.docx [DLM=Sensitive]
Attachments: Facilities Method Ministers roles and responsibilities under the Emissions Reduction Fund.docx

Hi s22

In response to your request, please find attached a paper outlining the roles and responsibilities of the Minister under the ERF, and background on the Vales Point project. Separately, we are pulling together some information on possible next steps for the Minister to consider. We expect to have that to you shortly.

We also understand that s22 is seeking more information (from the CER) on the issue. Feel free to share the attached information with him, should you consider appropriate.

Cheers
Kristin

Kristin Tilley
First Assistant Secretary
Climate Change Division

Department of the Environment and Energy
John Gorton Building, King Edward Terrace, Parkes ACT 2600
T: 02 6159 7601 | s22
E: kristin.tilley@environment.gov.au

Facilities Method – Minister’s roles and responsibilities under the Emissions Reduction Fund

Key points

- All the rules and requirements for the Emissions Reduction Fund are set out in the CFI Act and subordinate instruments. The Clean Energy Regulator is an independent statutory body established under the *Clean Energy Regulator Act 2011*.
- The Minister’s powers are set out in the CFI Act and the CER Act, in short:
 - The Minister has power to make, vary or revoke a method. The Minister must not make, or substantially vary, a method if the Emissions Reduction Assurance Committee (ERAC) advises that the varied method does not comply with one or more of the Offsets Integrity Standards.
 - The Minister may direct the ERAC to consider specific matters when providing advice to the Minister about making, varying or revoking a method.
 - The Minister may give **general** directions to the Clean Energy Regulator (CER). The directions must not be inconsistent with the objects of the CFI Act.
 - : The Minister has no power to direct the CER on individual matters.

A detailed summary of the Minister’s powers, including specific legislative references, is provided in **Attachment A**.

- To be clear, the Minister cannot:
 - Make or vary a method if the ERAC advises it would not meet the offsets integrity standards.
 - Direct the ERAC to provide advice that is inconsistent with the objects of the CFI Act.
 - Direct the CER on individual matters. The CER’s independence is paramount to the integrity of the ERF.

s47C

s47C

s47C

Attachment A: Minister's Powers

The Minister's powers relating to developing methods and directing the CER under the CFI Act and CER Act are summarised below.

Legislative Reference	Summary of power
CFI Act s. 106 – Methodology determinations; and	The Minister may make methodology determinations (via a disallowable legislative instrument), if certain conditions are met. The Minister must not make a methodology determination if the ERAC has advised the Minister that it does not comply with one or more of the offsets integrity standards (s.106(4B)).
CFI Act s. 114 – Variation of methodology determinations	The Minister may vary methodology determinations (via a disallowable legislative instrument), if certain conditions are met. The Minister must not vary a methodology determination if the ERAC has advised the Minister that the varied method does not comply with one or more of the offsets integrity standards (s.114(7B))
CFI Act s. 123 – Revocation of methodology determinations	The Minister may revoke a methodology determination (via a disallowable legislative instrument). The Minister must have regard to, among other things, relevant advice provided by the ERAC.
CFI Act s. 123B – Additional matters for the ERAC to take into account	The Minister may direct the ERAC (via a <i>non</i> -disallowable legislative instrument) to have regard to specified matters when giving its advice about making, varying or revoking a methodology determination. The direction cannot override any legislative requirements, such as the integrity standards.
CFI Act s. 255(b) – Functions of the ERAC	The Minister may request advice from ERAC about a matter relating to offsets projects.
CER Act s. 41 – Minister may give directions to the Regulator	The Minister may give <i>general</i> directions to the CER in relation to the performance of its functions and exercise of its powers (via a <i>non</i> -disallowable legislative instrument). The directions must not be inconsistent with the objects of the CFI Act. No directions have ever been issued to the CER.

s22

From: Kristin Tilley
Sent: Monday, 10 December 2018 5:04 PM
To: 'John Short'
Cc: s22 Narelle Cant
Subject: RE: Emissions Reduction Assurance Committee (ERAC) [DLM=For-Official-Use-Only]

Hi John

Thanks for your email.

The Emissions Reduction Assurance Committee met today and agreed to commence a review of the Facilities Method. They have asked the Department to provide information about the potential scope of the review, incorporating the below request from the Minister, for consideration at their next meeting (in early 2019).

Once the ERAC has agreed the scope, I expect they will invite submissions from interested stakeholders on the review. The ERAC members are aware of the recent discussions regarding the Vales Point project proposal and are interested in discussing this further with you through the method review. We'll ensure you are included in the stakeholder engagement as the review commences.

Please don't hesitate to get in touch if you'd like to discuss further.

Kind regards
Kristin

Kristin Tilley
First Assistant Secretary
Climate Change Division

Department of the Environment and Energy
John Gorton Building, King Edward Terrace, Parkes ACT 2600
T: 02 6159 7601 | s22
E: kristin.tilley@environment.gov.au

From: John Short s47F
Sent: Saturday, 8 December 2018 4:44 PM
To: Kristin Tilley <Kristin.Tilley@environment.gov.au>
Cc: s22 Narelle Cant <Narelle.Cant@environment.gov.au>
Subject: Emissions Reduction Assurance Committee (ERAC)

Kristin,

Further to the emails below in which the Office of the Environment Minister has advised that the Minister will write to the Emissions Reduction Assurance Committee (ERAC) to request that they undertake a review of the Facilities method, with this request to ask the review to cover the ways coal-fired power stations can earn credits under the method and seek advice on any changes that could be made to the method to improve its clarity and intent.

Sunset Power International trading as Delta Electricity would wish to communicate with the ERAC on this review and make submissions to it.

Would it therefore be possible for you, or another member of the Department, to advise details of the appropriate contact point for communicating with the ERAC and making a submission to the forthcoming review of the Facilities method?

Best regards,

John Short

John Short
Principal Consultant
SAS Group

s47F

w. sasgroup.net.au

s. Level 7, 241 Adelaide Street, Brisbane Q 4000



From: s47F

Date: Friday, 7 December 2018 at 3:29 pm

To: s22

Cc: Narelle Cant <Narelle.Cant@environment.gov.au>, s22

Subject: Re: URGENT: Negative decision by Clean Energy Regulator on ERF ACCU eligibility application by Sunset Power International trading as Delta Electricity concerning its Vales Point coal fired generator [SEC=UNCLASSIFIED]

s22

Thank you for your email and the advice contained therein.

I note your advice that under the ERF legislation your Minister is not able to direct the Clean Energy Regulator on individual matters regarding the ERF and that the Regulator's independence is an important part of the scheme.

I further note your advice that your Minister considers that it is important that the ERF provides opportunities for participation from projects across the economy, including industry and, as such, Minister Price will write to the Emissions Reduction Assurance Committee (ERAC) to request that they undertake a review of the Facilities method, with this request to ask the review to cover the ways coal-fired power stations can earn credits under the method and seek advice on any changes that could be made to the method to improve its clarity and intent.

Sunset Power International trading as Delta Electricity would, of course, support this review. However we would further request that the ERAC be requested to complete this review as a matter of urgency, as it would wish to see such a change in the eligibility criteria in place before the next ERF auction.

Sunset Power International trading as Delta Electricity would, of course, wish to communicate with the ERAC on this review and make submissions to it. I will therefore contact your Department (Kristin Tilley) on this issue of communicating with the ERAC.

Many thanks for all your assistance on this matter.

Best regards,

John Short

John Short
Principal Consultant
SAS Group

s47F

w. sasgroup.net.au

s. Level 7, 241 Adelaide Street, Brisbane Q 4000



From: s22

Date: Friday, 7 December 2018 at 2:28 pm

To: s47F >

Cc: Narelle Cant <Narelle.Cant@environment.gov.au>, s22

Subject: RE: URGENT: Negative decision by Clean Energy Regulator on ERF ACCU eligibility application by Sunset Power International trading as Delta Electricity concerning its Vales Point coal fired generator [SEC=UNCLASSIFIED]

Hi John,

Thank you for your email and for sharing the advice you have received from the Clean Energy Regulator. I have spoken with the Minister about your concerns and your request for a meeting.

As discussed, the Minister is unable meet with you on the dates you have suggested as she will be leading Australia's delegation in Poland at the annual international climate change conference (COP24).

The Minister has reviewed your concerns and received advice from the Department on the issues you have raised. The Minister notes under the ERF legislation she is unable to direct the Clean Energy Regulator on individual matters regarding the ERF and that the Regulator's independence is an important part of the scheme.

The Minister also notes it is important the ERF provides opportunities for participation from projects across the economy, including industry. As such the Minister will write to the Emissions Reduction Assurance Committee (ERAC) to request that they undertake a review of the Facilities method.

The request will ask the review to cover the ways coal-fired power stations can earn credits under the method and seek advice on any changes that could be made to the method to improve its clarity and intent. Note the ERAC is an independent committee that provides advice to the Minister on whether ERF methods comply with the offsets integrity standards set out in the ERF legislation. Should the ERAC's review recommend a variation to the method, it is possible the variation could be made in 2019.

I am happy to discuss this feedback further with you if that would assist.

Kin regards,

s22

s22

Adviser | Office of the Hon Melissa Price MP

Minister for the Environment

a: Parliament House, Canberra, ACT 2600

s22

From: John Short s47F

Sent: Thursday, 6 December 2018 3:32 PM

To: s22

Cc: Narelle Cant <Narelle.Cant@environment.gov.au>; s22

Subject: URGENT: Negative decision by Clean Energy Regulator on ERF ACCU eligibility application by Sunset Power International trading as Delta Electricity concerning its Vales Point coal fired generator

s22

Further to my email below, I refer to the attached advice from the Clean Energy Regulator (CER).

As set out in this advice from the CER, it has taken a preliminary decision that rejects Delta's interpretation of the Carbon Credits (Carbon Farming Initiative – Facilities) Methodology Determination 2015. I would highlight that Attachment A to this advice states:

1. The CER is not satisfied that Delta's interpretation of the above-mentioned Methodology Determination is "consistent with a plain reading of the method".
2. Delta had "not taken the opportunity to reduce its arguments about its interpretation of the Facilities Method to writing".

As set out in the email below, and in meetings Delta representatives have had with both the CER and you (and s22 from Minister Taylor's office), Delta has clearly spelt out its reasons as to why it believes the CER's interpretation of the method (or methodology) is incorrect. I would therefore submit that it is the CER's interpretation of the method that is not "consistent with a plain reading of the method". As set out in the email from yesterday (below), we therefore continue to request an urgent decision by your Minister on this issue of interpretation of the above-mentioned Methodology Determination.

I must also challenge the statement by the CER that Delta had "not taken the opportunity to reduce its arguments about its interpretation of the Facilities Method to writing". Delta had a detailed (2 hour plus) meeting with senior CER representatives last month which centred on this issue of the interpretation of the Methodology Statement (which I also attended). I have no record in my detailed notes of the CER representatives asking for the arguments that we had presented in detail to be placed in writing as part of the application process. In addition, in our recent meeting with you (and s22 the Delta CEO, Greg

Everett, provided a detailed presentation pack on this same issue, along with detailed materials demonstrating that the relevant project would **not** extend the life of the Vales Point plant. These materials therefore clearly explained why the stepped approach under the CER processes which inevitably lead it to a conclusion that the project would be deemed to extend the life of Vales Point plant - and, thus, be deemed to generate zero ACCUs – was totally contrary to the facts and, thus, is an illogical outcome.

Additionally, I note that the CER has given Delta only 1 day within which to provide additional information or submissions ahead of a final decision by it.

Based on the position presented in this email and my email from yesterday (below), I therefore make the following requests **as a matter of urgency**:

1. An urgent decision by the Minister on the disputed interpretation by the CER as to the expected eligibility of the Delta project to ensure that it is qualified to participate in the current ERF auction process.
2. An urgent meeting with the Environment Minister to have the Delta Chairman, Mr Trevor St Baker, and Delta CEO directly put the company’s position on this matter to her for her further consideration, both in terms of the current auction and in terms of the policy position being adopted by the CER which has the effect of discriminating against coal-fired electricity generation - in conflict with the Government’s “technology neutral” Energy Policy position.

As I noted yesterday, the Delta Chairman and CEO are in Melbourne next Tuesday (11 December) for meetings with other Commonwealth Ministers. Additionally, we understand Federal Cabinet is meeting in Melbourne next week. Given the significance of this matter, and the potential availability of your Minister in Melbourne next week, we would **specifically seek a meeting with your Minister in Melbourne either next Tuesday or Wednesday.**

Please do not hesitate to ring me should you wish to discuss the contents of this email, or if you require any additional information.

Regards,

John Short

John Short
Principal Consultant
SAS Group

s47F

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s. Level 7, 241 Adelaide Street, Brisbane Q 4000



From: John Short s47F

Date: Wednesday, 5 December 2018 at 2:03 pm

To: s22

Cc: "narelle.cant@environment.gov.au" <narelle.cant@environment.gov.au>, s22

Subject: Urgent request for Ministerial decision on disputed interpretation of ERF ACCU eligibility by Clean Energy Regulator on application by Delta Electricity concerning its Vales Point coal fired generator

s22

Further to our telephone conversation this morning and the recent meeting with you and s22 from Minister Taylor's Office (with this meeting also attended by the CEO of Delta Electricity, Mr Greg Everett), I wish to confirm that, on behalf of Sunset Power International trading as Delta Electricity, I am **seeking an urgent decision by your Minister** on a disputed interpretation by the Clean Energy Regulator (CER) as to the expected eligibility of a project for participation in the current ERF auction submitted by Delta that improves the efficiency of Delta's 1,320MW coal-fired power plant (Vales Point) near Lake Macquarie, NSW – and, in doing so, will reduce emissions from the plant.

Full details of the issue are set out below, and necessarily involve the interaction of Government policy in the areas of Environment and Energy.

Essentially the dispute centres around one word: "may", and whether the CER can assume that the project "**may** extend the operating life of" Vales Point when it is applying – and, therefore, interpreting - the current Methodology Determination, despite the fact that strong evidence was presented by the Delta CEO at our recent meeting (and, previously, to the CER) that the project will not extend the life of the plant.

Thus our argument is:

1. It is illogical for the CER to assume the Delta project "**may** extend the operating life of" Vales Point when it and the Government has received strong evidence that the project **will not** extend the life of the plant.
2. The current CER processes whereby it would automatically allocate zero ACCUs to the Delta project as part of the current ERF are incorrect and, therefore, should not be followed.

I would further submit that the effect of all this is that the CER would be effectively discriminating against a carbon abatement project involving a coal-fired power plant and, as a result, the approach/interpretation of the over-arching legislation and the accompanying Methodology Statement by the CER is inconsistent with the Government's Energy Policy which is technology neutral.

It is correct, as you advised this morning, that the CER has not taken a decision on the Delta application. However the CER Delegate has confirmed to Delta that based on legal advice from the CER's General Counsel, the CER processes would result in the project would not receive any ACCUs. I have attached relevant emails between Delta and the CER on this point; please see Delta email of 30 October and CER email of 7 November, with **specific references to advice from the CER's General Counsel and the CER's confirmation that the Delta project would not generate any ACCUs based on this CER legal advice.**

s47G(1)(a)

Delta has confirmed to the CER that it will proceed with participation in the current ERF auction.

As applications under this auction are due to close over coming days, this matter is becoming extremely urgent – and, thus, the request for an urgent decision by your Minister.

Lastly, I would note that against all of this background, if Delta’s project is automatically allocated zero ACCUs, Delta would necessarily need to consider challenging the CER position and, thus, its processes and interpretation of the Methodology Statement, via the Administrative Appeals Tribunal processes.

Given the urgency of this matter and the significance of the matter, we would be able to meet with you, the Minister’s Chief of Staff and, if appropriate, the Minister over coming days.

A number of Delta personnel, the Delta Chairman (Mr Trevor St Baker) and I will be in Melbourne next Tuesday and Wednesday on other business. I understand Cabinet is meeting in Melbourne next week. Thus, if there is an opportunity for a further meeting in Melbourne either next Tuesday or Wednesday with you, the Minister’s Chief of Staff or the Minister, we would be available to do so.

BACKGROUND

Delta Electricity has submitted a proposal to the Clean Energy Regulator (CER) on the prospect of participating in an Emissions Reduction Fund (ERF) auction. The relevant project involves the replacement of 2 (of 3) sets of blades in a turbine at Vales Point; ie, at one of the 2 generating units at Vales Point. The project is designed to improve efficiencies of the unit. It will **not extend the current life of the plant**; the current end of life of Vales Point is 2029.

Without getting too deeply into the technicalities of the Carbon Credits (Carbon Farming Initiative – Facilities and Minor Corrections) Methodology Determination Variation 2016, if the Delta project is calculated (under a very convoluted definition) to have a “material effect”, then it is **deemed** to be a “new generating unit” and, if it is so deemed, then it can only be credited with ACCUs (Australian Carbon Credit Units) if the resultant emissions intensity of the electricity generated is below the NEM average. If the resultant emissions intensity of the electricity generated from a **deemed** “new generating unit” is above the NEM average, then the activity would **automatically be allocated zero ACCUs**.

The rationale presented in the Carbon Credits (Carbon Farming Initiative – Facilities and Minor Corrections) Methodology Determination Variation 2016 for this (deemed) position is as follows:

“The reason the Determination treats a generating unit as new when an essential component is replaced reflects **the intent** not to credit the replacement of components that **may** extend the operating life of emissions-intensive generating units, unless the upgraded generating unit has an emissions intensity that is lower than the grid average” (page 7).

We have strongly submitted to the CER that this approach/interpretation of the over-arching legislation and accompanying Methodology Statement is fundamentally flawed and in conflict with the current Administration’s Energy Policy as the Delta project:

1. Is not BAU.
2. Meets the Offset Integrity Standards specified in the relevant legislation, and, most importantly,
3. Delta has clearly demonstrated that the project **will not extend the operating life of Vales Point.**

Thus the bottom line – or fundamental point – here is that the CER processes and interpretation of the legislation and the accompanying Methodology Statement are not based on the facts presented to the CER and, as a result, the matter warrants action by the Government, through the Environment Minister, to ensure the CER applies a logical and rationale approach to how it interprets the Methodology Statement to ensure its approach/interpretation of the over-arching legislation and the accompanying Methodology Statement is inconsistent with the Government’s Energy Policy which is technology neutral.

ENDS

John Short
Principal Consultant
SAS Group

s47F
[Redacted]
[Redacted]

w. sasgroup.net.au
s. Level 7, 241 Adelaide Street, Brisbane Q 4000



s22

From: s22
Sent: Monday, 26 November 2018 10:01 AM
To: s22
Cc: Kristin Tilley; Edwina Johnson; s22 ; s22
Subject: Facilities Method – points for MO [DLM=Sensitive]
Attachments: Facilities Method – points for MO.docx

Hi s22

As flagged last week, attached are some points to assist with your meeting tomorrow with representatives from Delta Electricity regarding the Vales Point ERF project. For completeness, we've included background on the ERF but note that you are already across this.

This adds to the briefing the CER sent up on Friday, updating Minister Price on the Vales Point ERF project (MS18-001470 refers).

The attached points incorporate comments from the CER and the Energy Division.

Please let me know if you have any questions.

Kind regards

s22

s22
Safeguard & Industrial Policy
Climate Change Division
Department of the Environment and Energy
GPO Box 787 CANBERRA, ACT 2601

s22

Facilities Method

Key Points

Framework

- The Emissions Reduction Fund is the centrepiece of the Government's emissions reduction policies.
 - It is designed to help Australia meet its international emissions reduction commitments.
- The Government is developing other programs aimed at securing reliable electricity supply putting downward pressure on the price of electricity. This includes the *Underwriting New Generation Investments Program* aimed at attracting new investment in the market.
 - The program's primary objective is to reduce wholesale electricity prices through increased competition and supply.
- The program will be technology neutral, as recommended by the ACCC. It will support whichever generation enhances competition and improves the amount of firm or firmed generation in the market at least cost to consumers and taxpayers. This could include new or expanded hydro, solar, gas and coal projects.
- All the rules and requirements for the Emissions Reduction Fund, including the calculation methodologies, are set out in legislation (Act, Rules and Methodology Determinations).
- The Clean Energy Regulator is responsible for implementing the legislation. The Regulator does not have discretion—it must apply the detailed rules in all circumstances.
 - Emissions Reduction Fund projects must be undertaken in accordance with requirements set out in legislative determinations ('methods') in order to receive Australian Carbon Credit Units.
- All methods, including the Facilities Method, must comply with the Offsets Integrity Standards, which are set out in the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act).
 - This is critical as Emissions Reduction Fund projects must deliver abatement that can be used to meet our international climate change targets.
- An independent statutory body (the Emissions Reduction Assurance Committee) assesses all methods before they are made (or substantially varied) to ensure the method meets the Offsets Integrity standards.
 - The Committee also has the power to order the Regulator to suspend the processing of applications for registering new projects under a method. It can do this where it is satisfied there is reasonable evidence the method does not comply with one or more of the Offsets Integrity Standards.
- The Minister must not make, or substantially vary, a method if the Emissions Reduction Assurance Committee advises that the varied method does not comply with one or more of the Offsets Integrity Standards.

s47C

s47C

s47C

Attachment A

Media Article: "The power station offloaded by the NSW Government for \$1 million suddenly has a future". Sydney Morning Herald. Joanne McCarthy, 7 September 2018. <https://www.theherald.com.au/story/5632203/powering-on-delta-electricity-plan-for-a-70-year-old-vales-point-power-station/>

DELTA Electricity would put up its hand for any Federal Government funds on offer as it considers the feasibility of a \$750 million extension of Vales Point power station to operate until 2049, managing director Greg Everett said after the proposal was floated on Friday.

The Lake Macquarie coal-fired station offloaded by the NSW Government for \$1 million in 2015 made a \$113 million net profit in the past year on the back of high electricity prices.

But owner Trevor St Baker's comments that Vales Point could be refurbished to run until 2049, rather than close as currently expected in 2029, have highlighted instability in the energy industry after the Federal Government's failed National Energy Guarantee and in the absence of a national energy policy.

Mr Baker's comments came only days after new Energy Minister Angus Taylor warned the Federal Government may force AGL to sell rather than close Muswellbrook's Liddell coal-fired power station in 2022. The company repeatedly stared down the Turnbull Government over the closure deadline after announcing plans to replace Liddell's power with a gas/renewables/pumped hydro mix and a Bayswater power station upgrade.

Delta's Greg Everett said the feasibility of extending Vales Point so that it is still operating 70 years after it was commissioned had been under consideration for some time. A figure of \$750 million was a "whole of life expenditure" and "how that's funded doesn't have to be dealt with immediately".

But Mr Taylor's support for expanding and upgrading ageing power stations to boost power supply and a government underwriting program for new energy projects keeps the door open for government subsidies or loans. And if such a program emerged Vales Point would seek government support because "whether to extend the life of Vales Point is not a trivial matter", Mr Everett said.

He declined to comment about Mr Taylor's threat to AGL and other power station operators that if they were not prepared to "keep that reliable power in the system (by not closing ageing power stations) then we'll force you to divest". But it would be "quite a bold step" for the government to force a power station owner to sell rather than close, Mr Everett said.

Changing emissions targets throughout the life of an extended power station would be assessed as they occurred, he said. In response to a question about Labor's proposed 45 per cent emissions reduction target, Mr Everett said: "I wouldn't comment whether it's a killer (of the Vales Point extension plan) or not."

Institute for Energy Economics and Financial Analysis director Tim Buckley said the idea of extending Vales Point was "somewhat pie in the sky", but NSW was facing a "severe problem" with the expected closure of a number of ageing coal-fired power stations from 2030 and "the absence of a suitable strategy" to deal with it.

-SENSITIVE-

“Anything is possible. We do have a serious planning problem. In the absence of a plan can an extension of Vales Point get up? Yes, if taxpayers provide a capital subsidy,” Mr Buckley said.

“The way the government will package it is they will offer, say, a \$600 million loan over 20 years at 3 per cent, but it’s going to be you and I, taxpayers, funding it on behalf of a couple of billionaires.”

Grattan Institute energy program director Tony Wood said Vales Point was already 40 years old and any extension plans would rely on an engineering assessment of what was possible.

“In theory it’s got another 10 years to run but 2049 is a lot further out,” Mr Wood said.

The lack of clarity over a climate change policy and emissions targets means “it’s hard to invest in this situation”, he said.

“What sort of emissions reductions over what period of time would be compatible with Vales Point staying open? 2049 seems a long way off to make a bet on things staying as they are.”

While it was logical that Delta Electricity would apply for any government program to extend the power station’s life, “you’d want to make sure Vales Point did not have a special deal with the government” such as extracting an exemption from emissions targets.

“The government should not be funding investments through low interest loans nor giving special exemptions. A special exemption from the emissions target tax would be a terrible idea,” Mr Wood said.

Australian National University centre for climate economics and policy director Professor Frank Jotzo said it was impossible to predict the timing of exit of any particular power station but “the economics of coal-fired power stations will deteriorate and they will continue to deteriorate simply because renewables are now the cheaper option”.

“It’s inevitable and inescapable that the transition to renewables is underway,” Professor Jotzo said.

It would be “very difficult to conceive there’s a case for a refurbishment of Vales Point to take the plant all the way to the 2040s and there’s significant carbon risk into the future” of emissions targets making coal-fired power unviable, he said.

“If you looked at this from an investor’s perspective you would have to put a very significant risk of a carbon penalty into this project. Talking about plans for it to operate until it is 70 years of age, given that the average age of power station closures has been 40 years, seems far fetched.”

It was interesting to compare the approach taken by AGL towards Liddell and Delta towards Vales Point, Professor Jotzo said.

“What’s obvious with AGL is that you have a diversified company that sees its future in the provision of energy services so it’s not wedded to any technology. They would go with whatever is most economically viable. The owner of Vales Point is interested only in coal generation and one plant, so the incentive there is to maximise profits. A company in that situation would have an incentive to lobby governments for grants to subsidise refurbishment of their plant.”

It would be “very bad public policy” for the Federal Government to “prevent or postpone the market-based closure of power stations by offering subsidies to keep them open”, Professor Jotzo said.

-SENSITIVE-

-SENSITIVE-

“There really is nothing to be gained for the consumer in keeping these old coal-fired power stations open,” he said.

In a paper released this week, *Coal transitions in Australia: Preparing for the looming domestic coal phase-out and falling export demand*, Professor Jotzo and co-authors Salim Mazouz and John Wiseman found government policy should support economic diversification in regions like the Hunter where coal is economically important.

Its research found a relatively small but persistent increase in unemployment rates in regions after coal plant closures.

The paper predicted sharp falls in thermal coal demand from the late 2020s and early 2030s as a number of coal-fired power plants retire in quick succession.

It found government policy “must not stand in the way of the transition that is underway”.

“The coal industry represents large and concentrated economic interests, which when combined with the interests of local communities in coal regions can amount to a formidable force in favour of the status quo,” the ANU team found.

“There is a risk that policy designed to protect existing industrial structures could unnecessarily delay the transition and lock in high emitting installations for longer.”

-SENSITIVE-

s22

From: s22
Sent: Friday, 2 November 2018 5:02 PM
To: nick.leys@energycouncil.gov.au
Cc: James O'Toole; Kristin Tilley; s22; Edwina Johnson; s22
Subject: RE: request for advice [SEC=UNCLASSIFIED]

Dear Nick

James has passed your email to me as it sits within our team's responsibilities. Minister Price is the appropriate Minister on ERF matters.

We would also be happy to meet with Delta Energy ahead of any meeting with the Minister, if that would be helpful.

I'm out of the office next week but more than happy to meet the week following (wb 12 November). Alternatively Edwina Johnson and s22 (both cc'd to this email) would be available next week.

Thanks

s22

s22
Director
Safeguard & Industrial Policy
Climate Change Division
Department of the Environment and Energy
GPO Box 787 CANBERRA, ACT 2601

s22

From: Nick Leys [mailto:s47F]
Sent: Friday, 2 November 2018 11:34 AM
To: James O'Toole
Subject: request for advice

Hi James,

How's things?

I was hoping you could help me with a query from one of our members, Delta Electricity.

They are currently experiencing some difficulty with a turbine upgrade at their Vales' Point power station in relation to the Facilities Method of the Emissions Reduction Fund (ERF). The upgrade has the potential to significantly improve the efficiency of their existing plant.

They would like to contact the relevant minister but are unsure whether it is best to approach Angus Taylor's office or Melissa Price.

Are you able to please advise me where I should direct them and who would be the appropriate contact?

Many thanks,

Nick

Nick Leys

General Manager Corporate Affairs

M: s47F



Level 14, 50 Market Street

Melbourne VIC 3000

Phone: s47F

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MESSAGE PROTECTED BY PREMIER TECHNOLOGY SOLUTIONS - POWERED BY MAILGUARD.

s22

From: Edwina Johnson
Sent: Friday, 30 November 2018 5:06 PM
To: s22
Cc: Kristin Tilley; s22
Subject: Follow up on Vales Point [DLM=For-Official-Use-Only]

Hi s22

Following our discussion this morning, please do let us know if there's any information we can provide re Vales Point early next week

Cheers
Edwina

Edwina Johnson

A/g Assistant Secretary
Industrial and Air Quality Branch
Department of the Environment and Energy
GPO Box 787, Canberra ACT 2601
02 6159 7470

s22

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

To: Minister for Energy

MEETING WITH s22 AND TREVOR ST BAKER

Timing: For meeting at 12:30pm on 11 December 2018 in Melbourne

Meeting with: Trevor St Baker AO (Sunset Power/ Delta); John Short (SAS Consulting);

s22

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Issues and Sensitivities:

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3. Mr St Baker has several business interests in the energy sector. He is Chair of Sunset Power International trading as Delta Electricity (owner of Vales Point Power Station), founder and major shareholder of ERM Power and the Director of the St Baker Energy Innovation Fund.
4. A project to upgrade the Vales Point power station has been registered by the Clean Energy Regulator as an Emissions Reduction Fund project under the 'Facilities Method'. The project is to upgrade the turbine blades in one of the plant's two generating units.
 - a. In order to receive carbon credits, the calculations set out in the Facilities Method require the upgrade project to produce electricity better than the average emissions intensity of the National Electricity Market. s47C
 - b. Delta Electricity disputes the Clean Energy Regulator's interpretation of the calculations and may raise this issue with you. Delta Electricity claims the Emissions Reduction Fund discriminates against coal-fired power stations.

Clearing Officer: Sent: 07/12/18	James O'Toole	Assistant Secretary, Electricity Branch	Ph: 02 6275 9023 s22
Contact Officer:	s22	Assistant Director, Wholesale Markets and Networks	s22

- c. The Emissions Reduction Fund does not discriminate against fossil-fuel based projects. For example there are a number of Coal Mine Waste Gas projects which convert methane from coal mines to electricity, thus reducing the fugitive emissions from the mine and displacing more carbon-intensive sources of electricity.
- d. The Department is working with Minister Price, as the Minister responsible for the Emissions Reduction Fund, to investigate the issues raised by Delta Electricity.

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Sunset Power International

In 2013, Mr St Baker established Sunset Power International Pty Ltd. In 2015, the company acquired Delta Electricity:

- Delta owns and operates the coal-fired 1320 MW Vales Point power station, which produces 4 per cent of electricity in the NEM and is co-fired with biomass.

s22

- Delta are developing the \$75 million 45 MW solar farm at Vales Point.

s22

Emissions Reduction Fund

- The Emissions Reduction Fund is the centrepiece of the Government's emissions reduction policies.
 - It is designed to help Australia meet its international emissions reduction commitments.
- The Emissions Reduction Fund can only credit projects that are eligible under a legislated method. The overarching legislative legislation requires that methods must meet the offsets integrity standards (including that emissions reductions are genuine, additional to business-as-usual, and can be counted towards Australia's emissions reduction targets).
- All the rules and requirements for the Emissions Reduction Fund, including the calculation methodologies, are set out in legislation (Act, Rules and Methodology Determinations).

- The Clean Energy Regulator is responsible for implementing the legislation. The Clean Energy Regulator does not have discretion—it must apply the detailed rules in all circumstances.
 - Emissions Reduction Fund projects must be undertaken in accordance with requirements set out in legislative determinations ('methods') in order to receive Australian Carbon Credit Units.
 - The Clean Energy Regulator is an independent statutory body established under the *Clean Energy Regulator Act 2011*. The Minister has no power to direct the Regulator on individual matters.
- All methods, including the Facilities Method, must comply with the Offsets Integrity Standards, which are set out in the *Carbon Credits (Carbon Farming Initiative) Act 2011*.
 - This is critical as Emissions Reduction Fund projects must deliver abatement that can be used to meet our international climate change targets.
- An independent statutory body (the Emissions Reduction Assurance Committee) assesses all methods before they are made (or substantially varied) to ensure the method meets the Offsets Integrity standards.
- The Minister must not make, or substantially vary, a method if the Emissions Reduction Assurance Committee advises that the varied method does not comply with one or more of the Offsets Integrity Standards.

s22

s47C

EMISSIONS REDUCTION FUND – FACILITIES METHOD

s22

Contact Officer: s22

Phone: s22

Mobile: s22

Last updated: 14 September 2018

s22

BACKGROUND

- The Clean Energy Regulator registered an Emissions Reduction Fund project at Vales Point power station on 16 August 2018.
 - This is the second project registered under the Facilities Method. s22
s22
s22 . No Australian Carbon Credit Units have been issued.
 - The Vales Point Emissions Reduction Fund Project involves upgrading turbines for one of the two 660 MW generating units.
- Vales Point is a coal-fired power station commissioned in 1978 with a generating capacity of 1,320 MW. The media has reported its technical closure date is 2029.
 - The owner of Vales Point has indicated that, with refurbishments, the power station can continue to operate until 2049 (see **Attachment A**).
- As with all Emissions Reduction Fund projects at the registration stage, the amount of emission reductions to be delivered by the Vales Point project is uncertain.
 - Registering a project does not guarantee the project will be implemented. For example, a number of projects registered under the Fund have not proceeded.
 - A turbine upgrade project will only receive Australian Carbon Credit Units if the emissions intensity of the upgraded generator is lower than the grid average, which is 0.82 tonnes CO₂-e per megawatt hour for the National Electricity Market.
 - : According to data published by the Clean Energy Regulator, the emissions intensity for Vales Point was 0.85 tonnes CO₂-e per megawatt hour in 2016-17.

Contact Officer: s22

Phone: s22

Mobile: s22

Last updated: 14 September 2018

Attachment A

Media Article: “The power station offloaded by the NSW Government for \$1 million suddenly has a future”. Sydney Morning Herald. Joanne McCarthy, 7 September 2018. <https://www.theherald.com.au/story/5632203/powering-on-delta-electricitys-plan-for-a-70-year-old-vales-point-power-station/>

DELTA Electricity would put up its hand for any Federal Government funds on offer as it considers the feasibility of a \$750 million extension of Vales Point power station to operate until 2049, managing director Greg Everett said after the proposal was floated on Friday.

The Lake Macquarie coal-fired station offloaded by the NSW Government for \$1 million in 2015 made a \$113 million net profit in the past year on the back of high electricity prices.

But owner Trevor St Baker’s comments that Vales Point could be refurbished to run until 2049, rather than close as currently expected in 2029, have highlighted instability in the energy industry after the Federal Government’s failed National Energy Guarantee and in the absence of a national energy policy.

Mr Baker’s comments came only days after new Energy Minister Angus Taylor warned the Federal Government may force AGL to sell rather than close Muswellbrook’s Liddell coal-fired power station in 2022. The company repeatedly stared down the Turnbull Government over the closure deadline after announcing plans to replace Liddell’s power with a gas/renewables/pumped hydro mix and a Bayswater power station upgrade.

Delta’s Greg Everett said the feasibility of extending Vales Point so that it is still operating 70 years after it was commissioned had been under consideration for some time. A figure of \$750 million was a “whole of life expenditure” and “how that’s funded doesn’t have to be dealt with immediately”.

But Mr Taylor’s support for expanding and upgrading ageing power stations to boost power supply and a government underwriting program for new energy projects keeps the door open for government subsidies or loans. And if such a program emerged Vales Point would seek government support because “whether to extend the life of Vales Point is not a trivial matter”, Mr Everett said.

He declined to comment about Mr Taylor’s threat to AGL and other power station operators that if they were not prepared to “keep that reliable power in the system (by not closing ageing power stations) then we’ll force you to divest”. But it would be “quite a bold step” for the government to force a power station owner to sell rather than close, Mr Everett said.

Contact Officer: s22

Phone: s22

Mobile: s22

Last updated: 14 September 2018

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Changing emissions targets throughout the life of an extended power station would be assessed as they occurred, he said. In response to a question about Labor's proposed 45 per cent emissions reduction target, Mr Everett said: "I wouldn't comment whether it's a killer (of the Vales Point extension plan) or not."

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"Anything is possible. We do have a serious planning problem. In the absence of a plan can an extension of Vales Point get up? Yes, if taxpayers provide a capital subsidy," Mr Buckley said.

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"In theory it's got another 10 years to run but 2049 is a lot further out," Mr Wood said.

The lack of clarity over a climate change policy and emissions targets means "it's hard to invest in this situation", he said.

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While it was logical that Delta Electricity would apply for any government program to extend the power station's life, "you'd want to make sure Vales Point did not have a special deal with the government" such as extracting an exemption from emissions targets.

"The government should not be funding investments through low interest loans nor giving special exemptions. A special exemption from the emissions target tax would be a terrible idea," Mr Wood said.

Contact Officer: s22

Phone: s22

Mobile: s22

Last updated: 14 September 2018

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For Official Use Only

Australian National University centre for climate economics and policy director Professor Frank Jotzo said it was impossible to predict the timing of exit of any particular power station but “the economics of coal-fired power stations will deteriorate and they will continue to deteriorate simply because renewables are now the cheaper option”.

“It’s inevitable and inescapable that the transition to renewables is underway,” Professor Jotzo said.

It would be “very difficult to conceive there’s a case for a refurbishment of Vales Point to take the plant all the way to the 2040s and there’s significant carbon risk into the future” of emissions targets making coal-fired power unviable, he said.

“If you looked at this from an investor’s perspective you would have to put a very significant risk of a carbon penalty into this project. Talking about plans for it to operate until it is 70 years of age, given that the average age of power station closures has been 40 years, seems far fetched.”

It was interesting to compare the approach taken by AGL towards Liddell and Delta towards Vales Point, Professor Jotzo said.

“What’s obvious with AGL is that you have a diversified company that sees its future in the provision of energy services so it’s not wedded to any technology. They would go with whatever is most economically viable. The owner of Vales Point is interested only in coal generation and one plant, so the incentive there is to maximise profits. A company in that situation would have an incentive to lobby governments for grants to subsidise refurbishment of their plant.”

It would be “very bad public policy” for the Federal Government to “prevent or postpone the market-based closure of power stations by offering subsidies to keep them open”, Professor Jotzo said.

“There really is nothing to be gained for the consumer in keeping these old coal-fired power stations open,” he said.

In a paper released this week, *Coal transitions in Australia: Preparing for the looming domestic coal phase-out and falling export demand*, Professor Jotzo and co-authors Salim Mazouz and John Wiseman found government policy should support economic diversification in regions like the Hunter where coal is economically important.

Its research found a relatively small but persistent increase in unemployment rates in regions after coal plant closures.

Contact Officer: s22

Phone: s22

Mobile: s22

Last updated: 14 September 2018

For Official Use Only

For Official Use Only

The paper predicted sharp falls in thermal coal demand from the late 2020s and early 2030s as a number of coal-fired power plants retire in quick succession.

It found government policy “must not stand in the way of the transition that is underway”.

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“There is a risk that policy designed to protect existing industrial structures could unnecessarily delay the transition and lock in high emitting installations for longer.”

Contact Officer: s22

Phone: s22

Mobile: s22

Last updated: 14 September 2018

For Official Use Only

s22

s22

To: Minister for the Environment and Energy (For Information)

MEETING WITH DELTA ELECTRICITY

Timing: For meeting on 10 May 2017 at 3:30pm – 4:00 pm, M1:17

s22			
s22			
Minister:			Date:
Clearing Officer: Sent: 8/5/17	James O'Toole	Assistant Secretary, Electricity Branch	Ph: 02 6275 9023 s22
Contact Officer:	s22	A/g Assistant Director, Wholesale Markets and Network Policy	s22

Meeting with: Trevor St Baker, (Chairman, Sunset Power International trading as Delta Electricity), John Short, acting as an advisor to Trevor St Baker.

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What we want: To understand their intentions for the Vales Point power station in NSW given their statements at the time of purchase about operating the plant for seven years.

s22

Issues and Sensitivities:

1. In December 2015, Sunset Power International Pty Ltd (SPI) purchased the last NSW government-owned power generator, Vales Point Power Station (1320 MW) from Delta Electricity for \$1 million (reported). The purchase by SPI included the rights to use the business name, Delta Electricity.

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In 2013, Trevor established Sunset Power International Pty Ltd, to bid for new power generation development opportunities, bidding for new developments in Myanmar in 2013, in Victoria in 2014, and in 2015 to successfully bid to acquire the last NSW Government-owned base-load power generation business, Delta Electricity, owner and operator of Vales Point power station on Lake Macquarie. Trevor is now the Chairman of SPI/Delta Electricity.

s22

s22

DEPARTMENT OF THE ENVIRONMENT AND ENERGY

s22

To: Minister for the Environment (For Decision)

s22

Clearing Officer:
Sent 14/12/18

Edwina Johnson

Assistant Secretary,
Industrial and Air
Quality Branch

Ph: 02 6159 7470
Mob: s22

s22

Key Points:

s22

s22

- a. The draft letter is consistent with the advice provided by your office to Vales Point Power Station representatives on 7 December 2018.

Consultation: YES

s22

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MEETING WITH ALINTA ENERGY CEO MR JEFF DIMERY

Timing: For meeting on 22 May 2018 at 9am in Minister Frydenberg's office

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			Noted / Please discuss
Minister:		Date:	
Clearing Officer: Sent:21/05/18	James O'Toole	Assistant Secretary, Electricity Branch, Electricity Division	Ph: (02) 6275 9023 Mob: s22
Contact Officer:	s22	Senior Policy Officer, Wholesale and networks	Ph: s22

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Issues and Sensitivities:

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- 2. It has been reported that Alinta Energy is interested in purchasing a 50 % stake in the Vales Point Power Station in NSW. The coal power station as a 1,320 MW nameplate capacity. The 50 % stake is expected to be worth s47G(1)(a)

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Talking Points

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- I understand Alinta may be interested in the half stake of Vales Point Power Station in NSW.

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- On 16 May 2018, Alinta Energy has been mentioned as a potentially interested buyer for a half stake in the Vales Point Power Station, a coal-fired power station in the Hunter Valley region of NSW with a 1,320 MW nameplate capacity. The stake is expected to be worth s47G(1)(a)

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To: Minister for the Environment and Energy (For Information)

MEETING WITH DELTA ELECTRICITY

Timing: For meeting on 10 May 2017 at 3:30pm – 4:00 pm, M1:17



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Clearing Officer: Sent: 8/5/17	James O'Toole	Assistant Secretary, Electricity Branch	Ph: 02 6275 9023 Mob: s22
Contact Officer:	s22	A/g Assistant Director, Wholesale Markets and Network Policy	Ph: s22

Meeting with: Trevor St Baker, (Chairman, Sunset Power International trading as Delta Electricity), John Short, acting as an advisor to Trevor St Baker.

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What we want: To understand their intentions for the Vales Point power station in NSW given their statements at the time of purchase about operating the plant for seven years.

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Issues and Sensitivities:

1. In December 2015, Sunset Power International Pty Ltd (SPI) purchased the last NSW government-owned power generator, Vales Point Power Station (1320 MW) from Delta Electricity for \$1 million (reported). The purchase by SPI included the rights to use the business name, Delta Electricity.

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