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Via email biocredits@mfe.govt.nz

SUBMISSION TO MINISTRY FOR THE ENVIRONMENT ON A BIODIVERSITY CREDIT SYSTEM

Thank you for the opportunity to present Climate Action Aotearoa's (CAA) submission to the Ministry for the Environment (MfE/the Ministry) on the design of a biodiversity credit system (BCS).

CAA supports the investigation of innovative approaches to address Aotearoa, New Zealand's unique challenges related to indigenous biodiversity management. However, as with any new management framework, a key success factor is effective implementation, with sufficient funding and investment to facilitate change.

CAA's submission builds on the following key messages:

- CAA supports the development of a BCS for New Zealand. New Zealand's biodiversity is in decline and every effort should be made to reverse this trend.
- The systems needed to support a BCS must be effective and efficient, i.e., processes are clear and easily understood, and actions/projects are able to be considered at pace.
- A BCS should focus on all environments (terrestrial, freshwater, estuaries, and coastal marine).
- A BCS should give priority to biodiversity that is most at risk or threatened according to a centralised, single, robust source of truth which takes account of Mātauranga Māori. A poorly regulated BCS market could inadvertently prioritise biodiversity values not subject to a high level of risk - referred to in this submission as 'uncontrolled prioritisation'.
- The applicability of a BCS should not be determined by land ownership. Biodiversity values are not determined by land ownership, borders do not apply to biodiversity and nature.
- Any BCS should be based primarily on outcomes. Positive biodiversity outcomes ultimately underly any activity or project-based approach.
- There should not be a timeframe required for credit generation. Positive biodiversity outcomes may take a considerable amount of time to eventuate.
- The system must be robustly applied through sound evaluation and monitoring.
- The inclusion of legal protections (such as covenants) within the BCS is supported where they can guarantee enduring protection of biodiversity values.
- Central government must provide adequate support and resourcing to territorial authorities and regional councils to ensure efficient and effective outcomes.
- Central government has the best tools, experience and regulatory mechanisms available to operate the market and it should play an important role in any BCS.

Thank you again for the opportunity to comment.

Yours sincerely,

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SUBMISSION TO MINISTRY FOR THE ENVIRONMENT ENTITY ON A BIODIVERSITY CREDIT SYSTEM

1.0 CAA responses to consultation document questions

1.1 Do you support the need for a biodiversity credit system (BCS) for New Zealand? Please give your reasons.

1.1.1 Yes, CAA supports the development of a BCS for New Zealand. CAA recognises that New Zealand's biodiversity is in decline and every effort should be made to reverse this concerning trend. CAA considers that a well-designed BCS which responds to the matters set out in this submission, would support a range of positive biodiversity outcomes.

1.1.2 There are many active conservation NFP's which the combined Community Trusts of Aotearoa supports. At a national level, it is understood that biodiversity values are under considerable threat from a range of factors, including urban development, plant and animal pests, rural activities, and climate change. The Department of Conservation, among many other agencies are taking proactive steps to address these threats. Predator Free 2050 sets the ambitious goal to make New Zealand predator free by 2050. CAA strongly supports this goal. The Predator Free 2050 5-year progress report¹ states that 'Reaching the goal cannot be achieved by any single entity. It will require new ways of working together on a larger scale than we ever have before'. CAA agree and considers that the development of an effective and efficient BCS will help us move towards achieving Predator Free 2050.

1.2 Below are two options for using biodiversity credits. Which do you agree with?

a) Credits should only be used to recognise positive actions to support biodiversity.

b) Credits should be used to recognise positive action to support biodiversity, and actions that avoid decreases in biodiversity.

Please answer (a) or (b) and give your reasons

1.2.1 CAA primarily supports (b). Ultimately, both options could support long term and sustained net gains in biodiversity across New Zealand provided they are backed by a robust assessment and monitoring methodology which outlines 'phasing out' approached to harm.

1.2.2 In instances where the effects management hierarchy² is triggered, there could be benefits in allowing, for example, a developer to purchase credits for a project that meets the criteria for offsetting, as opposed to the developer having to develop, manage or maintain the offset themselves (e.g., it could be more likely to support successful biodiversity outcomes). In addition, if a programme required through offsetting was eligible for credit funding, the project itself would need to meet the standards and criteria of the BCS which would ensure better biodiversity outcomes.

1.2.3 Chapter 33 also requires any offsetting to be considered 'in a landscape context' and 'close to the location of the development'. CAA would prefer any BCS to reflect this approach. If a BCS is used to help avoid decreases in biodiversity, it is important that it is managed carefully to ensure that biodiversity is not lost at the district-level.

¹ <https://www.doc.govt.nz/globalassets/documents/conservation/threats-and-impacts/pf2050/pf2050-5-year-progress-report.pdf>

² A continuum of land use management – i.e. offsets must only be considered after avenues to avoid, remedy, or mitigate onsite have been exhausted.

1.3 Which scope do you prefer for a biodiversity credit system?

a) Focus on terrestrial (land) environments.

b) Extend from (a) to freshwater and estuaries (eg, wetland, estuarine restoration).

c) Extend from (a) and (b) to coastal marine environments (eg, seagrass restoration).

Please answer (a) or (b) or (c) and give your reasons.

1.3.1 CAA considers that a BCS should focus on all environments (c.). It is understood that threats exist across all environments and it is not clear from the information provided why a BCS should not apply to all environments.

1.3.2 However, priority should be given to biodiversity that is most at risk or threatened according to a centralised, robust source of truth which must consider Mātauranga Māori alongside western science. CAA considers there to be a risk that a poorly regulated BCS market could inadvertently prioritise biodiversity values that are not subject to a high level of risk or threat. This risk is referred to throughout this submission as 'uncontrolled prioritisation'. This risk is embedded in the 'appeal' of using well known species or environments as marketing tools. As such, the BCS must apply a method for prioritising projects based on biodiversity outcomes, as opposed to what might appear to be a more attractive investment or marketing tool.

1.3.3 Each of the listed environments are vastly different from one another. If all environments are to be subject to a BCS it is important that these differences are recognised and incorporated into any system. In particular, a range of different methodologies and technical expertise would be required to successfully implement any broad scope BCS. CAA notes however that there is a risk that such a broad scope could compromise the operational effectiveness of a BCS.

1.3.4 A range of authorities have different roles and responsibilities across each of the environments, i.e. territorial, regional and central government agencies. Sometimes these roles and responsibilities can be duplicated. It is important that any BCS provides clear guidance on which authority has responsibilities over what aspects of any system to ensure good outcomes and an effective use of limited resources and capacity with these agencies.

1.4 Which scope do you prefer for land-based biodiversity credits?

a) Cover all land types, including both public and private land including whenua Māori.

b) Be limited to certain categories of land, for example, private land (including whenua Māori).

Please answer (a) or (b) and give your reasons

1.4.1 CAA supports a BCS being used to cover all land types (a) regardless of ownership. Other biodiversity related legislation such as the Resource Management Act 1991 (RMA) and its recently notified National Policy Statement on Indigenous Biodiversity (NPS IB) apply to all land environments, with specific direction for Significant Natural Areas (SNAs) on Māori land. CAA considers that applying the BCS to all land environments would best support positive biodiversity outcomes.

1.4.2 Biodiversity values are not determined by land ownership (their location) – whether on whenua Māori, public or private land. They exist despite land ownership characteristics and property boundaries, and the BCS should not predetermine which biodiversity values attract investment based on land ownership. A BCS is a market driven system that will ideally (if designed well) work well across any land ownership type and property/district/regional boundaries.

1.4.3 This approach may also support a greater range of biodiversity values benefiting from a BCS. Restricting the BCS according to land ownership may inadvertently result in the loss of some rare or significant biodiversity.

1.4.4 It is acknowledged however that certain types of public land, which have high biodiversity values, may already benefit from considerable public investment (CAA notes that the matter of conservation funding allocation across Crown land has not been canvassed in the discussion document, and should form part of the BCS development process). A BCS requires a tool which recognises this level of investment to avoid some types of well supported environments 'double dipping'. It may be that private land and whenua Māori need the most support from a BCS, or Department of Conservation land that has high biodiversity values but there is insufficient funding for sustained pest control. Conversely, it may be appropriate for Crown land (or other private land) which already benefits from specific public funding to improve biodiversity outcomes to be excluded from a BCS. The development of any system must robustly weigh up such costs and benefits to ensure it is targeted effectively, with the best biodiversity outcomes front of mind.

1.5 Which approach do you prefer for a biodiversity credit system?

a) Based primarily on outcome.

b) Based primarily on activities.

c) Based primarily on projects.

Please answer approach (a) or (b) or (c) and give your reasons.

1.5.1 CAA considers that any BCS should be based primarily on a clear set of outcomes. Positive biodiversity outcomes will ultimately underly any activity or project based approach. An activity or project that does not achieve positive outcomes should not be subject to funding via a BCS. The only draw back is that innovation requires testing and outcomes can be unknown for highly innovative projects.

1.5.2 It is important that a clear set of outcomes are established for each type of activity or project. The determination of what outcomes will be achieved must be supported by a robust and consistent methodology (depending on the type of environment or value being considered).

1.5.3 CAA would support, in principle, a BCS based on activities or projects (such as wilding conifer control or possum control) provided our concerns raised elsewhere in this submission are addressed. In particular, a method is required for prioritising projects that receive credits to avoid market driven uncontrolled prioritisation.

1.6 Should there also be a requirement for the project or activity to apply for a specified period to generate credits?

Please answer Yes/No and give your reasons.

1.6.1 No, CAA does not consider that there should be a timeframe required for credit generation. Some projects will require long term monitoring (and ongoing activities such as invasive weed control and trapping). Positive biodiversity outcomes may take a considerable amount of time to eventuate. It is also likely that the time needed to generate these outcomes will vary considerably from project to project. A system which is subject to specified time periods may make it difficult to attract and sustain investors. Further, as set out above, CAA does not prefer a BCS based on projects or activities in isolation of outcomes.

1.6.2 CAA considers that the system may be robustly applied through monitoring, conditions and possible bond provisions rather than through specified time periods. If any specified time periods were to be applied these limitations will need to be considered.

1.7 Should biodiversity credits be awarded for increasing legal protection of areas of indigenous biodiversity (eg, QEII National Trust Act 1977 covenants, Conservation Act 1987 covenants or Ngā Whenua Rāhui kawenata)?

Please answer Yes/No and give your reasons.

1.7.1 Yes, in general CAA supports the inclusion of legal protections (such as covenants) within the BCS where they can guarantee enduring protection of biodiversity values. However, it is noted that some forms of legal protection may not guarantee positive biodiversity outcomes if they are principally passive tools (i.e. they do not require proactive improvements to the specified areas). As such, CAA considers that qualifying legal protections should need to meet additional criteria such as ongoing maintenance, monitoring, and restoration following any identified threats or impacts (such as those that may follow an extreme weather event or hazard process). It may be possible for a BCS to award fewer credits for passive legal protection compared to legal measures that require proactive restoration efforts.

1.7.2 It is possible that a BCS that encourages the legal protection of indigenous biodiversity could promote a larger area of land entering protective status.

1.8 Should biodiversity credits be able to be used to offset development impacts as part of resource management processes, provided they meet the requirements of both the BCS system and regulatory requirements?

1.8.1 A biodiversity credit should, in the first instance, contribute to reversing the current decline in biodiversity (i.e. result in positive biodiversity outcomes), whereas a biodiversity offset is intended to achieve no net loss.

1.8.2 CAA considers there could be some benefits in allowing a developer to purchase credits for a project as part of a resource consent process (see response to Question 2.2). However, as noted above, this must be carefully managed to ensure ‘uncontrolled prioritisation’ does not eventuate. In addition, any such pathway must be carefully developed to avoid the over privatisation of biodiversity benefits.

1.8.3 It is possible that linkages to resource consent processes could promote system efficiencies in terms of monitoring. For example, monitoring undertaken for the purposes of a BCS could work to complement monitoring that is a requirement of resource consent or subdivision consent conditions.

1.9 Do you think a biodiversity credit system will attract investment to support indigenous biodiversity in New Zealand?

Please give your reasons.

1.9.1 Yes. CAA considers that the ‘value’ of Aotearoa’s indigenous biodiversity is internationally recognised. High ‘quality’ and abundant ‘quantity’ biodiversity is an important part of ‘NZ Inc’ and the nation’s international reputation, attracting visitors from around the world.

1.9.2 New Zealand’s foreign investment policy³ currently “welcomes sustainable, productive and inclusive overseas investment”. The BCS provides an opportunity to raise the profile of its indigenous biodiversity and attract new forms of investment to provide positive biodiversity outcomes.

³ <https://www.treasury.govt.nz/sites/default/files/2021-06/for-invest-pol-nat-interest-guidance-jun21.pdf>

1.9.3 Charitable funding of conservation projects already exists. CAA considers that the introduction of a BCS will make this funding more transparent and secure for investors.

1.10 What do you consider the most important outcomes a New Zealand biodiversity credit system should aim for?

1.10.1 CAA considers that the following are the most important outcomes of a New Zealand biodiversity credit system:

- Achieve biodiversity net gains that can be shown to reverse current declines;
- Encourage the economy to value biodiversity i.e. set out specific monetary benefits of enhanced biodiversity;
- Incentivise the private market and New Zealand businesses to be exemplars and leaders in achieving positive biodiversity outcomes;
- Improvement of water quality and aquatic habitats
- Increased indigenous vegetation cover;
- Increase in the size of indigenous species habitat;
- Increase in the population recruitment numbers for indigenous species;
- Increase in the diversity of flora and fauna within regions; and
- Restoration that has a high chance of providing a net gain and enhancement/protection activities.

1.10.2 The above outcomes will support the implementation of the CAA Funders Commitment on Climate Action and the wider philanthropic system.

1.11 What are the main activities or outcomes that a biodiversity credit system for New Zealand should support?

1.11.1 For the reasons set out above in Question 2.5, CAA supports an outcome-based BCS as opposed to an activities system. As such, 2.10 lists the outcomes we believe a BCS should aim for/support.

1.11.2 The following outcomes should be supported by a BCS:

- Incentivise action which specifically protects, restores or enhances biodiversity values
- The extent to which there are additional positive social and/or economic benefits for communities beyond the subject site could be considered as part of a BCS. For example, activities which support a thriving conservation workforce.
- Links to the voluntary carbon market to recognise the value of indigenous biodiversity over exotic forestry in sequestration projects.

1.12 Of the following principles, which do you consider should be the top four to underpin a New Zealand biodiversity credit system?

Principle 1 – Permanent or long-term (eg, 25-year) impact

Principle 2 – Transparent and verifiable claims

Principle 3 – Robust, with measures to prevent abuse of the system

Principle 4 – Reward nature-positive additional activities

Principle 5 – Complement domestic and international action

Principle 6 – No double-counting, and clear rules about the claims that investors can make

Principle 7 – Maximise positive impact on biodiversity

1.12.1 CAA considers all the identified principles are important. However, principles 1, 2, 3, 6 are considered the highest priority.

1.12.2 It is noted that there is some crossover within the specified principles, in that a suitably robust system (principle 7) would also ensure that there are no double counting, clear rules (principle 6) and the system is transparent and verifiable (principle 2).

**1.13 Have we missed any other important principles?
Please list and provide your reasons.**

1.13.1 Prioritisation of projects based on biodiversity outcomes - CAA has concerns around the BCS and the risk of 'uncontrolled prioritisation' of the market and the privatisation of biodiversity benefits. CAA recommends a principle be established to ensure that projects are prioritised on the basis of their biodiversity merits, and that positive biodiversity outcomes are available as widely as possible. This factor should be built strongly into principles 2 and 3.

1.14 What assurance would you need to participate in a market, either as a landholder looking after biodiversity or as a potential purchaser of a biodiversity credit?

1.14.1 To achieve assurances in a biodiversity market, CAA recommends that:

- the BCS is demonstrably robust to achieve measurable biodiversity gains for all parties engaged in a project
- the systems needed to support the BCS is effective and efficient, i.e. processes are clear and easily understood, it is capable of moving at pace (is not unnecessarily burdened by process) and is regulated consistently and fairly
- Philanthropic entities are well supported for any roles and responsibilities they have in the implementation of any part of the system.

1.15 What do you see as the benefits and risks for a biodiversity credit market not being regulated at all?

1.15.1 Benefits of a biodiversity credit market not being regulated:

- Fewer central and local government resources would be spent on regulation, potentially resulting in more resources being available for work 'on the ground'.
- There may be greater flexibility for biodiversity projects which are not subject to consistent methodologies and assessments, which could lead to more innovation.
- There would be less onerous administrative requirements for participants.
- Private schemes may be able to operate more efficiently if there are fewer government checks and balances in place.

1.15.2 Risks of a biodiversity credit market not being regulated:

- It would be more difficult to measure and report on the state of biodiversity across the country.
- Projects may focus on preserving existing biodiversity values, rather than restoring and reversing biodiversity declines.
- There would be no long-term security for biodiversity gains.
- Outcomes, projects and actions would not be subject to a single assessment framework, and this may compromise the transparency and verifiability of biodiversity outcomes.
- The biodiversity market would not be robust or comparable, it and would be open to double-counting and abuse of the system.

- It is possible that an unregulated market would compromise the potential for international investment as it may not have investor confidence.
- As noted elsewhere, CAA considers there is a risk that an unregulated market will result in ‘uncontrolled prioritisation’ of biodiversity outcomes. Ultimately, this will not result in an equitable distribution of investment.

1.16 A biodiversity credit system has six necessary components (see figure 5 of the consultation document). These are: project provision, quantification of activities or outcomes, monitoring measurement and reporting, verification of claims, operation of the market and registry, investing in credits. To have the most impact in attracting people to the market, which component(s) should the Government be involved in? Please give your reasons.

- 1.16.1 In relation to figure 5 of the consultation document, CAA considers that government should play an important role in project provision and the quantification of activities or outcomes in order to avoid the adverse effects of ‘uncontrolled prioritisation’ of biodiversity outcomes. This should extend to project provision in the case of nationally significant species or ecosystems. The government’s role in this space will help to maintain the integrity and success of the BCS.
- 1.16.2 The government has the best tools, experience and regulatory mechanisms available to operate the market and registry.
- 1.16.3 CAA considers that government should invest in the BCS for the purpose of implementing its own conservation roles and responsibilities (i.e. on public conservation land), and to demonstrate leadership and best practice for other investors.
- 1.16.4 The BCS will need to be marketed widely and effectively if it is to be seen as an attractive investment. The government should play a role in this marketing to kick start, and ensure the ongoing success of a BCS.
- 1.16.5 There are two possible broad roles of government outlined in the BCS discussion document⁴, being ‘market enablement’ and ‘market administration’. CAA considers that a blend of these two roles is necessary to ensure an efficient and effective BCS that delivers biodiversity gains. A degree of influence and administrative regulation is required across each of those components listed in Table 3 of the discussion document.
- 1.16.6 It is also noted that Table 3 refers to ‘possible roles of central and local government’. It is preferable that more specific proposals be set out in regard to the role of central and local government, noting that they have vastly different tools, capacities and capabilities. It is not considered that sufficient detail has been set out to enable providing an informed submission on this matter. It is unlikely that local government will be able to play a material role in many of the components set out in Table 3 given they mostly relate to the centralised functions of a BCS. Territorial authorities have on the ground experience in managing a range of land use activities (via the RMA) and engaging with/partnering with Philanthropic Funders to provide community groups to undertake conservation activities. However, territorial authorities do not necessarily have technical biodiversity expertise. In CAA’s opinion, MfE should engage further with local government to inform how the sector can best contribute to the success of any BCS in partnership with the NFP sector and Philanthropy as a whole.
- 1.16.7 The role of government processes should be reviewed regularly and amended if considered necessary to ensure a system can be developed that best supported biodiversity gains. It is anticipated that a ‘setting in

⁴ Page 38

time' would be needed to consider if the best balance of 'market enablement' and 'market administration' has been achieved.

1.17 In which areas of a biodiversity credit system would government involvement be most likely to stifle a market?

1.17.1 As noted above, CAA considers that government has an important role to play in the operation of the BCS.

1.17.2 If a government department or local authority is acting as an investor in the BCS, it is important that suitable separation of powers is established to avoid conflicts of interest.

1.18 Should the Government play a role in focusing market investment towards particular activities and outcomes and if so why? For example, highlighting geographic areas, ecosystems, species most at threat and in need of protection, significant natural areas, certain categories of land.

1.18.1 Yes, for projects/outcomes of national significance or where a regionally or nationally coordinated approach is required.

1.18.2 Yes. As noted elsewhere, CAA considers there is a risk that a BCS may result in the 'uncontrolled prioritisation' of biodiversity outcomes. Government should play a role to prevent this risk. It would help ensure that biodiversity with less 'public appeal' or marketing value, but high biodiversity value, would benefit from the system.

1.19 On a scale of 1, not relevant, to 5, being critical, should a New Zealand biodiversity credit system seek to align with international systems and frameworks? Please give your reasons.

1.19.1 CAA rates this statement as a 3. It is important that global methods to address biodiversity issues are generally aligned. A degree of alignment may help to attract international investment into New Zealand's BCS. However, CAA considers that the first priority for any BCS should be to ensure it is fit for purpose for the unique Aotearoa, New Zealand context. This includes Te Tiriti obligations and recognition of Te Ao Māori, as well as addressing the specific challenges faced by our terrestrial, freshwater and marine environments.

1.19.2 Any system should be compatible with Australia and/or other countries where they apply. As the discussion document mentions, many New Zealand businesses also operate in Australia⁵. If one aim is to maximise the credits, then it is important not to restrict the BCS to New Zealand businesses. Our economy is dominated by small businesses, and many may not have the cashflow to enter a BCS.

1.20 Should the Government work with private sector providers to pilot biodiversity credit system(s) in different regions, to test the concept? If you support this work, which regions and providers do you suggest?

1.20.1 Yes. CAA supports a pilot project approach for the BCS. It would assist in the development of efficient, effective and robust infrastructure to support the wider roll out of a BCS.

⁵ Page 29

1.20.2 It would be useful to undertake a pilot. It is understood that the Department of Conservation is currently partnering with MfE to consider pilot projects. One example is 'CarbonZ' which is based in the Lakes District (more specifically Hawea). CarbonZ has recently launched their first South Island Biodiversity credits with the Southern Lakes Sanctuary⁶, issuing 'CarbonZ Biodiversity Action Credits' to fund pest control in the habitat of the Mohua/Yellowhead, Kea, Whio and Rock Wren.

1.21 **What is your preference for how a biodiversity credit system should work alongside the New Zealand Emissions Trading Scheme or voluntary carbon markets?**

- a) **Little/no interaction: biodiversity credit system focuses purely on biodiversity, and carbon storage benefits are a bonus.**
- b) **Some interaction: biodiversity credits should be recognised alongside carbon benefits on the same land, via both systems, where appropriate.**
- c) **High interaction: rigid biodiversity 'standards' are set for nature-generated carbon credits and built into carbon markets, so that investors can have confidence in 'biodiversity positive' carbon credits.**

Please answer (a) or (b) or (c) and give your reasons.

1.21.1 CAA's preference is that there is high interaction (c) between a biodiversity credit system and the New Zealand Emissions Trading Scheme (ETS) or voluntary carbon markets. Whilst exotic forestry may be appropriate in some places, for rapid sequestration, the current ETS and voluntary carbon markets discourage indigenous plantings. A high interaction of the two systems could allow prioritisation of long-term sequestration and biodiversity benefits of indigenous plantings.

1.22 **Should a biodiversity credit system complement the resource management system? (Yes/No) For example, it could prioritise:**

- **Significant Natural Areas and their connectivity identified through resource management processes**
- **Endangered and at-risk taonga species identified through resource management processes.**

1.22.1 Yes, CAA strongly supports the BCS complementing the resource management system for the reasons set out throughout this submission. CAA considers that a BCS could support landowners with SNA obligations and help to achieve successful biodiversity outcomes.

1.22.2 Alignment would assist in preventing the impact of competing priorities. In particular, the conflict between protecting biodiversity values and enabling urban growth and intensification. Central government proposals should always be mindful of how local authorities need to implement the wider range of land use management national directions.

1.23 **Should a biodiversity credit system support land-use reform? (Yes/No)**

(For example, supporting the return of erosion-prone land to permanent native forest, or nature-based solutions for resilient land use.)

1.23.1 Yes. A BCS should support land-use reform where this would lead to a tangible gain in biodiversity (e.g., successful restoration, buffering, erosion control etc.) or where the land use change would help to support the protection of other important biodiversity (e.g., habitats of fauna or effects on aquatic biodiversity).

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⁶ <https://carbon-pulse.com/222136/>