

3 OCTOBER 2023

# ACF Submission: Australian Carbon Credit Unit (ACCU) Review

## Introduction

The Australian Conservation Foundation (ACF) welcomes the opportunity to provide input into the Department of Climate Change, Energy, the Environment and Water's ACCU Review.

ACF is Australia's national environment organisation. We are 700,000 people who speak out for the air we breathe, the water we drink, and the places and wildlife we love. We are proudly independent, non-partisan and funded by donations from our community.

ACF believes that Australia and the world face an unprecedented climate and mass extinction crisis caused first and foremost by digging up and burning fossil fuels like coal, oil, and gas. The planet is moving dangerously close to tipping points and the window of opportunity to forestall the worst impacts of climate change is rapidly closing.

The way in which Australia achieves its emissions reduction targets and the ambition set for the reformed Safeguard Mechanism matters. We must strive for absolute emissions reduction as a priority, and to make ACCU use a last resort. Every Australian Carbon Credit Units (ACCUs) created and intended to be applied to abatement in Australia must fully meet all Offset Integrity Standards (OSI) as a minimum, and in our view, integrity cannot be compromised at any stage. That needs to be a bottom line. ACCUs must be additional, measurable and verifiable, eligible to meet Australia's international mitigation obligations, evidence-based, have all project-related emissions deducted, and be conservative. Ensuring integrity is critical moving forward and with regard to existing methods, some of which still have integrity issues yet are generating ACCUs.

QUESTIONS: 1. ARE THE PROPOSED PRINCIPLES FIT FOR PURPOSE AND HOW SHOULD THEY BE APPLIED TO IMPROVE ACCU SCHEME GOVERNANCE AND INTEGRITY?

- The proposed principles are reasonable however, they only serve to guide and inform decision-making at the scheme and method level. Not all principles need to be met when making decisions. They appear to serve optics more than material outcomes. That being said, should the Department be committed to the principles, we have further suggestions.
- The ACCU scheme should include a minimisation principle, which asserts that the use of ACCUs for offsets should be minimised wherever possible. Offsets should only be applied as a last resort after efforts to avoid and mitigate emissions, and their use should be narrowed to hard-to-abate industries. Strict limits



should be applied to the use of offsets as soon as possible, and the minimisation principle should be included now to make the expectation that their use be last on a hierarchy that first includes avoiding and mitigating emissions clear. While this applies first and foremost to the Safeguard Mechanism, the principle should also apply in the ACCU scheme. This principle would require close consideration of any new methods which involve abatement measures that are better characterized as standard avoidance or mitigation steps for contemporary industrial activities (which would complement the Safeguard reforms).

- The Environmental and regional sustainability principle (below) should explicitly include protection of biodiversity and environmental values. For example, the Sustainable Development Goal (SDG) – SDG 15 could be embedded in the principle, which is to “Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.”
  - Environmental and regional sustainability – methods and scheme administration ensures carbon abatement projects contribute to enhanced land management, optimise biodiversity outcomes and resilience to climate change and avoid adverse impacts.
  - It should also include explicit reference to a need to address leakage risks such as those we have identified in the past for vegetation-based projects. For example, the clearing events we have identified at avoided deforestation projects.
- The precautionary principle should be included and applied.
- The discussion paper states the principles will “guide how the ACCU Scheme is administered rather than met or complied with as is the case for the OIS.” And states that Principles would be “included in the matters the Minister<sup>1</sup> could consider when asked to decide whether to make or vary a method. Proposed methods or method variations would need to reflect the ACCU Scheme Principles relevant to them but would not be required to demonstrate compliance.” As mentioned, while this use of principles could be helpful, there should be stronger requirements attached to their consideration and application. As currently proposed they could be entirely disregarded. For example, they should be included in matters the Minister must consider when asked to decide whether to make or vary a method.

#### QUESTIONS:

2. IS THERE OTHER INFORMATION THAT COULD BE PUBLISHED OR COLLECTED TO IMPROVE THE TRANSPARENCY OF THE ACCU SCHEME?

---

<sup>1</sup>The Minister referred to here will be the Minister responsible for administering the CFI Act.



3. WHAT INFORMATION SHOULD BE PUBLISHED ABOUT ACCU HOLDINGS THAT DELIVERS GREATER TRANSPARENCY IN THE MARKET?

4. WHAT ARE THE RISKS TO THE MARKET FROM PUBLISHING INFORMATION ABOUT ACCU HOLDINGS?

5. ARE THERE OTHER GROUNDS OR CIRCUMSTANCES WHERE INFORMATION SHOULD BE WITHHELD, FOR EXAMPLE, AN EXEMPTION FOR EXISTING PROJECTS?

- We recommend ensuring transparency by adding requirements to the CFI Act that mandate the disclosure of offset reports, audit reports, carbon estimation areas, data submitted as evidence of compliance with eligibility requirements (including evidence of suppressants for HIR projects) and all data relied on by the Carbon Abatement Integrity Committee in evaluating and endorsing methods.
- The list of exemptions appears reasonable.
- The information listed on pages 11 and 12 that could be published appears as though it should be collected and published. In addition, what is referenced for the future also appears useful and should be pursued: “In the future, other information could be collected and published such as, the type and characteristics of the land including vegetation and ecological communities within a CEA, or for other land sector methods, the management history of the area.”
- Accepting that there are reasons not to publish in certain circumstances, broadly speaking there is a need to err on the side of publishing and ensuring maximum transparency wherever possible. Any added burden that results from reporting and publishing requirements can be reviewed over time and adjusted if there is legitimate case to do so based on the added burden or other matters.
- In general, third-party verification should be enabled by published data and incorporated into the integrity assurance process.

#### QUESTIONS:

6. SHOULD THE GOVERNMENT CONTINUE TO FOCUS ITS PURCHASING ON LEAST COST ABATEMENT? IF NOT, WHAT OTHER CONSIDERATIONS SHOULD IT PRIORITISE AND WHY?

7. SHOULD THE PILOT EXIT ARRANGEMENTS FOR FIXED DELIVERY CONTRACTS BE MADE PERMANENT? WOULD REQUIRING A MINIMUM PERCENTAGE BE DELIVERED TO GOVERNMENT IN EACH WINDOW HELP STRENGTHEN MARKET CONFIDENCE AND REDUCE RISK?





- Regarding continued focus on least cost abatement, Government purchase of ACCUs should support other policy objectives, where possible. Targeted or banded auctions are supported particularly as a means of assuring co-benefits such as improved biodiversity outcomes or building climate change refugia.
- The Government should purchase genuine and high-quality abatement as a priority. The Government should not abdicate its role in purchasing abatement.
- The decision to introduce exit arrangements in the first place, instead of the Regulator asserting its legal rights under the contracts, demonstrates the extent to which the Regulator is captured by the carbon industry. The decision disrupted the market significantly, has been described as an 'own goal' and was a highly unusual intervention. If the market is to operate effectively, the cost of ACCUs (therefore carbon) must be free to increase with market forces.
- The Government should retain as many contracted fixed-delivery ACCUs as possible and should not extend the pilot arrangements. It would be a perverse outcome for climate to allow Government-held ACCUs, which are predominantly low-integrity, to enter the market and become offsets for real industrial emissions from Safeguard Mechanism facilities.

#### QUESTIONS:

8. WHAT ASSISTANCE OR GUIDANCE WOULD PROPONENTS NEED TO EFFECTIVELY PARTICIPATE IN THE EOI PROCESS?

9. DOES THE PROPOSED CONTENT OF AN EOI SUBMISSION BALANCE THE NEED TO DELIVER ENOUGH DETAIL TO ENABLE A ROBUST ASSESSMENT, WHILE LIMITING THE UPFRONT INVESTMENT TO A REASONABLE LEVEL?

10. WILL THE PROPOSED APPROACH TO TRIAGING EOIS PROMOTE PARTICIPATION AND EFFICIENCY?

11. ARE THERE ANY MATTERS NOT ADDRESSED APPROPRIATELY BY THE PROPOSED EOI PROCESS?

The Discussion Paper notes that “the Integrity Committee will use the information provided to assess the potential of EOIs to be developed into methods via a triage process. The triage process will also assist the Integrity Committee in managing and prioritising its work program. In assessing EOIs, the Integrity Committee could consider:



- whether the EOI provides sufficient evidence the proposed method will be able to meet the OIS when fully developed, including whether the abatement is eligible.<sup>2</sup> The Integrity Committee will provide guidance on how the OIS should be interpreted.
- the abatement potential of the proposed method.
- the likely uptake of the proposed method.
- whether the proposed method is likely to incentivise industry innovation and address opportunity gaps for a sector.
- the relationship to current methods and other EOIs, for example, overlap or duplication.
- the skills and resources available to the method developer to develop the proposal, or whether additional requirements or funding is needed to support the proposed method's development.
- opportunities for generating environmental, social, economic, and cultural co-benefits and/or increasing participation by First Nations people or regional communities.
- what is required to maintain proposed method tools.
- current workload and capacity of the department or the Integrity Committee to assist with method development and assess method proposals.

This is a useful list, however, as an Integrity Committee priority consideration should be given from the outset on assessing whether OIS will likely be met – i.e., bullet #1 should be a required and primary consideration. Further, the Integrity Committee should be required to consider:

- how a proposed method interacts with the Safeguard Mechanism and state or territory regulations
- available peer-reviewed science or advice from independent experts on the proposed method

QUESTION: 14. DOES THE PROPOSED MODULAR APPROACH ENSURE THE METHOD DEVELOPMENT PROCESS IS ADAPTIVE TO CHANGING CIRCUMSTANCES WHILE ENSURING THERE CONTINUES TO BE AN APPROPRIATE LEVEL OF MINISTERIAL OVERSIGHT TO PRESERVE INTEGRITY? IF SO, WHAT KIND OF VARIATIONS SHOULD BE PERMITTED AS PART OF A MODULE?

<sup>2</sup> This means the abatement from the project can be used to meet Australia's international obligations and emission reduction targets (see definition of "eligible carbon abatement" in s.5 of the CFI Act). In practice, the method must generate carbon abatement from sources and sinks covered by Australia's annual National Inventory Report under the Paris Agreement.



The modular approach may offer the benefits outlined, but if also comes with additional risk and the need for greater attention to and understanding of detailed circumstances. It is easy to see how this could result in unintended consequences and therefore would absolutely require maximum transparency and third-party verification. In general, if a modular approach is going to proceed, protections need to be built into it.

*QUESTION 13:*

IS THE PROPOSED APPROACH TO DEAL WITH NEWNESS APPROPRIATE TO SUPPORT PARTICIPATION IN RESEARCH, TRIALS AND DEMONSTRATION PROJECTS NEEDED TO SUPPORT METHOD DEVELOPMENT?

The newness requirement is an important element of ensuring the additionality of projects. The existing approach to newness has been sufficiently malleable to allow for 'anyway projects' to be registered—such as Rio Tinto's diesel plant in the Gove Peninsula, which commenced prior to the establishment of the Emissions Reduction Fund and was strictly commissioned for commercial reasons.<sup>3</sup> We are concerned loosening the newness requirement any further would result in the inclusion of more projects such as Rio's. Proponents should be required to provide a statement of intent and must register their research or trials with the Regulator.

*QUESTIONS:*

22. WHAT ARE THE RISKS AND BENEFITS OF PROVIDING FOR LEGISLATIVE RULES TO COMPEL EXISTING PROJECTS TO BE CARRIED OUT IN ACCORDANCE WITH VARIED OR NEW METHOD REQUIREMENTS?

23. SHOULD THE INTEGRITY COMMITTEE EXPLICITLY CONSIDER TRANSITIONAL ARRANGEMENTS AS PART OF MAKING NEW METHODS OR METHOD VARIATIONS?

ACF agrees with the abatement integrity concerns outlined in the discussion paper and recommends a cautionary approach. That would require transitioning projects to updated methods with minimal delay.

We recommend allowing projects to be removed from low integrity methods prior to the completion of their crediting period through amendment to the CFI Act.

---

<sup>3</sup> <https://www.theguardian.com/environment/2019/feb/26/rio-tinto-gets-2m-from-emissions-reduction-fund-to-switch-to-diesel>



We further recommend that open standing provisions be implemented that allow third parties to seek judicial review of administrative decisions made under the CFI Act.

It is noted in the discussion paper that a 2-year lead time was previously recommended by CCA but this may not always be suitable, as quickly moving proponents onto a varied method may be required to prevent reputational risks to the ACCU Scheme. In our view, it may also be required to maintain ACCU integrity – not just reputational risk. To the extent integrity is compromised, and there is risk of nongenuine abatement even with a rapid process to move projects to varied methods may need to be combined with other regulatory mechanisms to restrict issuance of credits in certain circumstances.

#### QUESTION 24:

*DOES THE PROPOSED SCOPE OF THE INTEGRITY COMMITTEE'S ROLE COMPROMISE ITS PRIMARY ROLE AS AN INDEPENDENT ACCU SCHEME ASSURER?*

When the ACCU reform process began, ACF was strongly of the view that there needed to be a separation of functions so that the various Clean Energy Regulator roles were not overlapping or in conflict and full integrity could be assured throughout the ACCU scheme, including through method development.

Setting up an integrity assurance body in a way that requires it to 'grade its own homework' brings with it risk so this should be avoided. However, the functions set out in the discussion paper if kept limited and well-defined appear manageable in this regard. Every function should connect to its role as an independent ACCU scheme assurer.

#### SECTION 3 – NATIVE TITLE CONSENT

We support engagement with first nations peoples before projects are commenced. Benefits should be shared with first nations peoples (including but not limited to Native Title holders) and the Government and proponents must demonstrate a strong commitment to free, prior and informed consent.

#### CONCERNS REGARDING EXISTING METHODS THAT STILL NEED TO BE ADDRESSED

ACF remains concerned that integrity issues particularly related to Human Induced Regeneration and Avoided Deforestation methods have not been fully addressed and that existing projects under these methods risk





---

generating further ACCUs that lack integrity and/or have not addressed the risk that low integrity ACCUs remain in the market. We encourage the NGER Act to be updated with clear requirements for reporting ACCU provenance and further scrutiny of HIR projects, which should not generate ACCUs unless they have transitioned onto a new method that limits eligibility to forest areas that have previously been comprehensively cleared and where pre-existing mature trees and shrubs are required to be excluded from the areas that are credited.

