

Contact: Tim Kelly

Ref: CR22/63135

**Town of Gawler Administration Centre**

43 High Street

Gawler East SA 5118

PO Box 130

Gawler SA 5118

Phone: (08) 8522 9211

[council@gawler.sa.gov.au](mailto:council@gawler.sa.gov.au)

[gawler.sa.gov.au](http://gawler.sa.gov.au)

28 September 2022

ACCU Review Secretariat  
Department of Climate Change, Energy, the Environment and  
Water  
GPO Box 3090  
Canberra ACT 2601

Email: [ACCUREview@dcceew.gov.au](mailto:ACCUREview@dcceew.gov.au)

To the Review Panel

**RE: Independent Review of Australian Carbon Credit Units**

Thank you for the opportunity to provide feedback on this important area of policy.

The Town of Gawler has declared a climate emergency and is committed to taking action towards a safe climate that does not exceed 1.5 degrees of global warming, to avoid unacceptable impacts from climate change. Council has established a Climate Emergency Action Plan (CEAP) to guide future our activities. Our CEAP is focussing on three key areas:

1. Town of Gawler operations;
2. Enabling and influencing communities to respond to the climate emergency; and
3. Leadership and advocacy.

Whilst the renewable electricity transition is identified as the most significant way for Council and our community to contribute to reducing emissions, Council is taking action to improve its efficiency in its buildings, infrastructure, operations and procurement decisions. We have established a target of net zero emissions for Council operations by 2030 and enabling our community of households and businesses to also reduce their emissions in the same way by having fair access to solutions including technology, renewable energy and carbon offsets.

Carbon offsets will play a vital role in offsetting the final emissions that Council cannot yet avoid, but there are serious concerns about a lack of a legislated market-based accounting framework for carbon offsets to operate, concerns about the double counting

Council is taking an active role in advocating for clear and consistent legislated market-based rules for both accredited renewable electricity and carbon offsets. The integrity of theses systems must be high and legally defensible for local government to have the confidence in their purchases of carbon offsets and in particular, confidence in Australian Carbon Credit Units (ACCUs) which are preferred over international offsets. In this way, Council can be confident to lead its community and promote this aspect of supporting action with the knowledge that ACCUs are assured in law, clearly defined and fairly priced.

We are deeply concerned about the lack of legal foundation and clear accounting guidance for offsetting emissions and using carbon offsets. There continues to be varying advice across government departments because ACCUs do not yet contain the legal attributes of negative emissions and there are no clear debit and credit rules for trading and claiming end use of

carbon offsets. Government agencies, programs and service providers provide inconsistent opinions on how carbon offsets actually work, causing risk and uncertainty and potentially unfair costs for end users to make claims.

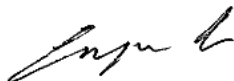
Reforms need to be made to the National Greenhouse and Energy Reporting (NGER) Framework, the legislated accounting framework for Australia's Climate Change laws and schemes. Reforms are needed to define negative scope 3 emissions as an integral part of ACCUs, with debit and credit guidance for trading throughout the market chain and final end use claims.

We strongly support the introduction of a market-based accounting framework for all customers market wide, including for NGER liable corporations, Councils, local businesses and households. There is a national accounting standard for financial markets that covers both mandatory reporting and ordinary consumer purchasing. It is now time for a similar approach to establish a nationally consistent greenhouse gas and renewables accounting framework to apply across the whole market.

Please find attached to this letter the Town of Gawler's submission on the Review of Australian Carbon Credit Units.

Once again, I thank you for the opportunity to provide feedback on this important area of policy. If you have any further questions with respect to this submission, please contact Councils Environment and Sustainability Officer, Mr Tim Kelly on (08 8522 0143) or via email at [Tim.Kelly@Gawler.sa.gov.au](mailto:Tim.Kelly@Gawler.sa.gov.au)

Yours faithfully



**Henry Inat**  
Chief Executive Officer

Telephone: 85229221  
Email: [Henry.Inat@gawler.sa.gov.au](mailto:Henry.Inat@gawler.sa.gov.au)

Attached

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ACCU Review Secretariat  
Department of Climate Change, Energy, the Environment and Water  
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Canberra ACT 2601

ACCUREview@dcceew.gov.au

## **RE: Independent Review of Australian Carbon Credit Units**

Thank you for providing the opportunity to provide feedback on Independent Review of Australian Carbon Credit Units.

The Town of Gawler Declared a Climate Emergency in January 2019 and has established its Climate Emergency Action Plan (CEAP) to enable our community to reduce emissions whilst leading and demonstrating action to achieve carbon neutral operations by 2030.

Council's operational emissions are approximately 2,000 tonnes CO<sub>2</sub>-e per annum, representing approximately 1% of the broader community emissions profile for Gawler - approximately 200,000 tonnes CO<sub>2</sub>-e per annum.

## **ABOUT THIS SUBMISSION**

Consumer markets in carbon offsets including Australian Carbon Credit Units (ACCUs) is dependent on:

1. legitimacy and integrity in the accounting frameworks to assure that when consumers buy ACCU offsets they are allocated and can claim negative emissions in a clearly defined method with the confidence that there is no double counting; and
2. sound methods being used to create ACCUs that assure that negative emissions have been created.

This submission is focussed on the first requirement and need for a legislated market-based accounting framework to underpin the creation, trading and end use of carbon offsets.

Whilst we acknowledge that the scope of this Review does not cover international carbon offsets, the need for legislated market-based accounting rules extends to carbon offsets sourced from overseas jurisdictions to prevent the double counting of abatement claimed.

## **A market, based on an idea, that is not yet founded in law**

Whilst the Review Consultation Paper does not define what ACCU carbon offsets are, the Review of the Safeguard Mechanism (running concurrently), describes ACCUs as:

***Australian carbon credit unit (ACCU)*** - A unit that represents one tonne of carbon dioxide equivalent (t CO<sub>2</sub>-e) stored or avoided by an Emissions Reduction Fund (ERF) project.

This definition is misleading because Australia has not legally defined ACCUs in this way and has not established market-based accounting rules for ACCUs to operate in voluntary carbon offset markets or for end users to make credible claims.

The following issues must be addressed for ACCUs to work in voluntary markets with integrity and prevent double counting of abatement.

- Part 2 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (CFI Act) describes how ACCUs are created and issued in relation to eligible offset projects. However, there is no adequate definition of what ACCUs are, or any mention of attributes that they could potentially contain or how they should be used in relation to claims.
- There is a *No double counting test* under the Certificate of Entitlement Provisions in the Division 3 of the CFI Act but this test only deals with potential double counting of certificates, not double counting of abatement. The problems of double counting are caused by those creating the ACCUs being able to claim reduced emissions from abatement activities, as well as the end users of ACCUs claiming the same abatement. The absence of basic debit and credit rules which follow the legal and accounting rules creates the uncertainty.
- The *National Greenhouse and Energy Reporting (NGER) Act 2007* and related legal instrument of the NGER Determination do not address greenhouse accounting rules that cover the whole of market, market-based accounting for scope 2 or scope 3 emissions or how carbon offsets should work. This is despite the Objects of the NGER Act which include the following outline:
  - (1) *The first object of this Act is to introduce a single national reporting framework for the reporting and dissemination of information related to greenhouse gas emissions, greenhouse gas projects, energy consumption and energy production of corporations to:*
  - (b) *inform government policy formulation and the Australian public;*
  - and...*

There are now a plethora of alternative government and non-government assurance and accounting schemes that are unsupported in legislation. These contradict the NGER framework and cause systemic double counting and confusion across both voluntary renewable electricity and voluntary carbon offset markets, in which ACCUs are a fundamental traded commodity.

Examples include the Corporate Emissions Reduction Transparency (CERT) Report, Climate Active, the Hydrogen Guarantee of Origin (GoO) scheme, National Australian Built Environment Rating System (NABERS), and GreenPower. It is acknowledged that not all these schemes use ACCUs, but all of them have created varying carbon accounting concepts that are not underpinned by legislation and contradict the legislated NGER accounting framework and the non-legislated National Greenhouse Accounts (NGA) Factors publication.

- The Consultation Paper describes that:
  - When using an ACCU to make a carbon neutral claim, that unit must be retired to avoid it being sold again and the carbon abatement being double counted.*

However, this too is a misrepresentation of what ACCUs deliver. The retirement of an ACCU carbon offset may prevent the double counting of an ACCU, but this does not prevent the double counting of abatement. The double counting of abatement is systemic because the creator of an ACCU can claim the abatement and the end user

of an ACCU can also claim the abatement. There are no debit and credit rules for the abatement where ACCUs are used in voluntary markets.

The Clean Energy Regulator has recently confirmed that:

- If a Corporation **buys and surrenders** ACCUs to comply with a facility emissions constraint (baseline), that “*Surrendering ACCUs does not alter a facility’s total scope 1 emissions*”. What happens is that the facility has met a government requirement, but its emissions do not change. The ACCUs are not defined as negative scope 1 emissions (which they could not be), nor are they defined as negative scope 3 emissions (which they by definition, must be) and they are not defined as wildcard negative emissions (which would create an accounting impossibility).
- If a Corporation **sells ACCUs** to a third party from a facility, “*corporate NGER totals are not adjusted with changes in ACCUs sold as they reflect the actual emissions reported under NGER*”.
  - For Corporations acting under the Safeguard Mechanism requirements, the accounting exists as an isolated bubble that does not relate to broader emissions accounting or disclosure. If a liable NGER Corporation owning a safeguard facility, or a safeguard facility, **sells ACCUs to the Government** through an ERF Purchase Auction “*No changes are made to the corporation’s total reported scope 1 emissions under NGER*” (or under any other public reporting).

“*Deemed surrender of ACCUs to the Australian Government results in the amount of ACCUs surrendered being subtracted from the facility’s net emissions*” but the facility emissions are entirely disconnected from corporate emissions reporting to the public.
  - For businesses creating and selling ACCUs that are not covered by the Safeguard Mechanism (such as those creating land based ACCUs or efficiency based ACCUs), there are no constraints to create and sell ACCUs whilst still claiming the emissions reductions on site. “*Non-NGER reporters are not obligated to add abated emissions from delivered units onto net emissions*”.

For local government, this was an issue with the recently closed Commercial and Public Lighting Method, whereby Councils could upgrade their public lighting and report significantly reduced scope 2 emissions from the energy saved. Concurrently, Councils could create and sell ACCUs for the reduced emissions achieved - so there was clear double counting. Many Councils were seeking to fund their projects and take real on ground action. However, some Councils were clearly concerned about the double counting and chose not to pursue the creation and sale of ACCUs. Councils are also now looking to offset their emissions through buying ACCUs and so are seeking increased assurances of the process and its legitimacy. The Commercial and Public Lighting Method was discontinued in 2022 by the Emissions Reduction Assurance Committee based on such actions no longer being regarded as additional to normal business activity, but the double counting of abatement (not certificates) was probably a greater concern.

There is a solution to each of these issues with legislated reforms to establish a legal foundation through the NGER Determination. Reforming the NGER Framework will also underpin fairness by ensuring that the customer buying carbon offsets is legally entitled to claim negative emissions.

## SOLUTION: REFORMING THE NGER DETERMINATION

### Accounting for emissions accurately according to emission scopes

Reforms of the NGER Determination can incorporate market-based accounting for scope 2 and scope 3 emissions including carbon offsets. This would not alter the mandatory reporting of scope 1 emissions by NGER liable Corporations in any way. It would also establish formal market-based accounting rules for scope 2 and scope 3 emissions to apply to all participants in Australia's low carbon and clean energy markets in a consistent way.

In the recent Outcomes Statement of the National Greenhouse and Energy Reporting Determination 2022-23 Amendment Consultation, the Department (now Department of Climate Change Energy, Environment and Water (DCCEEW)) stated that:

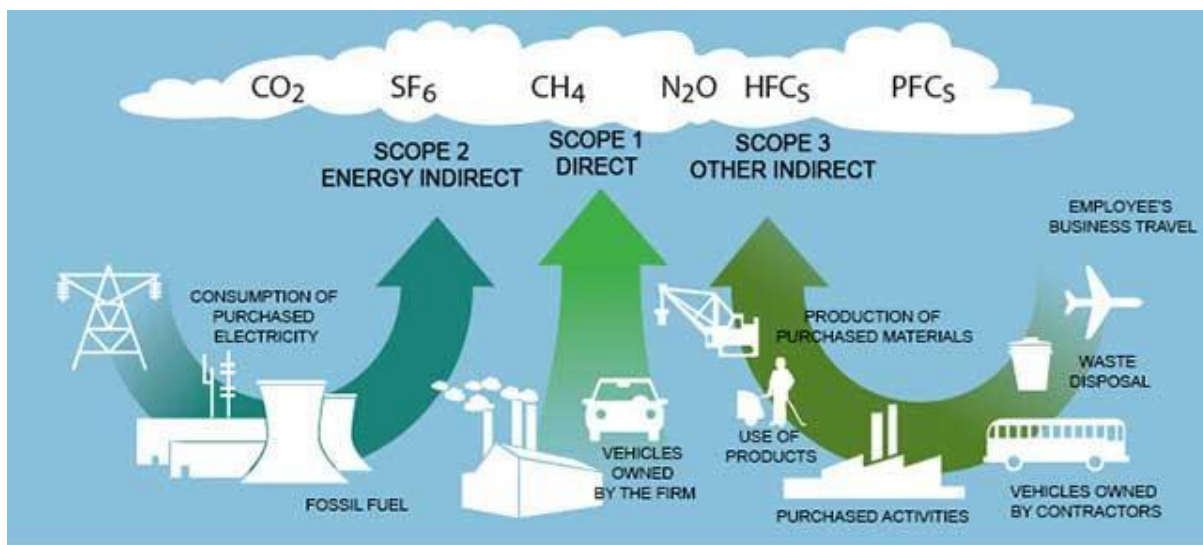
*The Department does not intend to explore options for market-based estimation of scope 1 emissions in the NGER Scheme at this time. The Scheme's approach to scope 1 emissions estimation is designed to support Australia's international emissions reporting and target tracking obligations. As such, it is consistent with the rules and guidance adopted under the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, including Intergovernmental Panel on Climate Change (IPCC) guidelines.*

*This Market-based reporting within NGER Scheme scope 1 reporting rules would not support Australia's international emission reporting and target tracking obligations. Market-based estimates of scope 1 emissions may be more appropriately reported via other avenues.*

The argument is not relevant, as scope 1 emissions are by definition not market-based. Any proposal to create market-based scope 1 emissions represents a fundamental misunderstanding of how emissions accounting occurs in scopes.

The approach used in the CERT reporting scheme also uses methods to enable a 'Net Scope 1 & 2 emissions' outcome for NGER reporting corporations to promote their emissions reduction achievements and reputation. Yet this scheme is deeply flawed because it has no legal foundation, is not integrated with NGER Reporting and uses market-based methods that the Department says it cannot accept. The CERT is created as a parallel accounting framework to achieve the market-based outcomes sought, but with systemic double counting.

The following diagram outlines a typical representation of emissions accounting under the three scopes.



**Scope 1** emissions are the direct release of greenhouse gases from a given facility or area, including activities such as from fuel burning, leakage of methane or refrigerant gases.

Emissions can be positive or negative. Negative emissions to take carbon dioxide out of the atmosphere can occur on a site where a forest is re-established to sequester carbon from the atmosphere, or through carbon capture and geological storage. Where this occurs, it can be claimed as a negative scope 1 emission at that facility or site (and only at that site).

**Scope 2** emissions are indirect emissions related to energy consumption that has been transported to a site where an emission was caused at another site. The most common form of scope 2 emissions in Australia are from electricity consumption, where electricity is created from fuel burning at another site.

**Scope 3** emissions are an acknowledgement of contractual or purchasing connections to all other indirect emissions typically associated with upstream purchasing or downstream use of a product that causes emissions after sale.

ACCUs are contractual instruments for an organisation or consumer to make a contractual claim that they have indirectly reduced emissions somewhere else. In the case of ACCUs, these are purchased abatement activities that have occurred elsewhere in Australia. By definition, this suggests that the best possible outcome for Australian markets is to properly define ACCUs as negative scope 3 emissions.

By definition, ACCUs cannot be negative scope 1 emissions as the abatement is not occurring in the location of the claim.

By definition, ACCUs cannot be negative scope 2 emissions as they are not a form of energy.

By definition, ACCUs are negative scope 3 emissions as they are associated with a claim relating to a purchased activity that has occurred offsite.

By properly accounting for ACCUs and carbon offsets in this way, the disintegration of schemes, inconsistencies and systemic double counting of abatement can be addressed.

There has been some discussion that carbon offsets are in fact a wildcard negative emission. This suggestion interferes with the foundation of how scope 1 emissions are accounted for which cannot change. In addition, if ACCUs were to be legally defined as wildcard emissions there would still need to be appropriate debit and credit rules to transfer emissions from one sector to another and ensure that double counting does not occur.

## **Suggested Reform of the NGER Determination – Market-based accounting solutions for Australia’s carbon markets**

Market-based accounting should be integrated into Australia’s climate change accounting law, which is the National Greenhouse and Energy Reporting (NGER) Framework via the NGER Determination.

- No change is required for the NGER scope 1 emissions methods which by definition, are location based.
- Market-based accounting should be standardised to apply to both NGER Corporations and non-NGER consumers.
- Market-based accounting of scope 2 emissions is required and whilst this is not the scope of the ACCU Review, the issues are similar and are covered in more detail in the Town of



Gawler recent submission to the Review of the National GreenPower Accreditation Program.

- A change to the NGER Determination is needed to introduce market-based accounting for carbon offsets as negative scope 3 emissions. This is essential to stop double counting across producers, consumers, and sectors. Where carbon offsets such as ACCUs are sold or allocated across different entities or locations, then basic debit and credit rules need to apply such that scope 3 emissions are added to a sellers account in order for scope three deductions to be claimed by a buyer/end user. This basic concept is the foundation of financial markets and must apply to carbon markets for integrity, certainty, and sustainability to be established.
- NGER reporting, Climate Active, GreenPower, the Hydrogen Guarantee of Origin Scheme and the CERT should all be based around a common single National Greenhouse and Energy Accounting framework that is established under the NGER Determination.
- Voluntary market contributions for ACCU carbon offsets should ideally be counted as additional to the Government's Nationally Determined Contribution, not as part of it.
- Given the scale and expansion of low carbon markets together with the rapid growth of emissions and renewable electricity related claims, urgent action is required to provide certainty to investors and confidence for ACCU customers

#### **Suggested Debit and credit accounting rules for creating and selling an Australian Carbon Credit Units**

- (1) A corporation or person creating and selling ACCUs must add the corresponding scope 3 greenhouse gas emissions to any carbon account, public report or claim associated with their business.
- (2) Scope 1 and Scope 2 emissions are not changed when creating and selling carbon offsets.
- (3) Negative scope 3 emissions are then incorporated within the attributes of ACCUs.

#### **Suggested debit and credit accounting rules for carbon offset end user and product claims.**

- (1) A corporation or person claiming reduced emissions as a result of buying and using an Australian Government approved carbon offset, is entitled to claim negative scope 3 emissions for their facility, activity, product, service or end use claim.
- (2) The use of carbon offsets does not change scope 1 or scope 2 emissions for a facility or activity.
- (3) A corporation or person may make a net emissions claim using carbon offsets based across the combined scope 1, scope 2 and scope 3 emissions of a corporation, facility, activity, product, or end use claim, providing that this claim also includes the additions of scope 3 emissions for any carbon offsets created and sold to a third party.
- (4) Whilst accounting for each scope is done separately, end users including NGER Corporations, other businesses, households, and individuals would be free to claim **net emissions** based on the detailed description that this means 'Net emissions across scope 1,2 and 3 emissions identified, including the use of carbon offsets'
- (5) In reference to NGER Corporations that are only legally required to acknowledge scope 1 and 2 emissions, there would be a new requirement that where a carbon offset claim



is made, corporations would be required to add a scope 3 emission associated with any creation and sale of ACCUs and disclose this as part of its voluntary reporting.

It may be possible to define the attributes of ACCUs in the *Carbon Farming Initiative Act 2011* and define the attributes of renewable electricity Large Scale Certificates in the *Renewable Energy (Electricity) Act 2000*. However, it would be preferable to define the attributes of these certificates in the NGER Determination with adequate context and guidance for use.

## CONCLUSION

The solution proposed in this submission recognises that location-based accounting will always apply to scope 1 emissions (by definition). Market-based greenhouse gas accounting is already being widely used in scope 2 and scope 3 emissions markets. But there is a need for a formalised economy wide approach for legitimacy, integrity, consistency fairness and consumer confidence in any system established.