



Environmental  
Defenders Office

**Submission to Department of Climate Change, Energy,  
the Environment and Water Climate Active Program  
Direction Consultation Paper 2023**

**15 December 2023**

## **About EDO**

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

***Successful environmental outcomes using the law.*** With over 30 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

***Broad environmental expertise.*** EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

***Independent and accessible services.*** As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

**[www.edo.org.au](http://www.edo.org.au)**

**Submitted at the Department of Climate Change, Energy, the Environment and Water Portal:**

<https://consult.dcceew.gov.au/climate-active-program-direction-consultation-2023/new-survey-9e7c0394>

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## **Acknowledgement of Country**

The EDO recognises First Nations Peoples as the Custodians of the land, seas, and rivers of Australia. We pay our respects to Aboriginal and Torres Strait Islander Elders past, present, and emerging, and aspire to learn from traditional knowledge and customs so that, together, we can protect our environment and cultural heritage through both Western and First Laws. In providing submissions, we pay our respects to First Nations across Australia and recognise that their Countries were never ceded and express our remorse for the deep suffering that has been endured by the First Nations of this country since colonization.

## EXECUTIVE SUMMARY

The Environmental Defenders Office (**EDO**) welcomes the opportunity to comment on the direction of the Australian Government's Climate Active program (**Consultation Paper**). We advocate for law and policy reform that is science-based, prudent and ambitious enough to meet the scale of the climate crisis.

The direction of the Australian Government's Climate Active program (the **program**)<sup>1</sup>, is admirable in that it endeavours to raise the level of climate ambition and meaningful action on climate change required from members to be certified under the program. However, it does not address the following:

- systemic issues associated with the program such as the failure to implement internationally recognised net zero standards;
- the lack of scientific basis for both scenarios and short-, medium- and long-term goals;
- the use of Australia's Nationally Determined Contribution (NDC) as the basis for gross emission targets rather than what is required to be consistent with the Paris Agreement;
- the perception of bias or conflict of interest with the Australian Government as both the regulator and beneficiary of the program;
- misleading or deceptive use of certifications; and,
- the credibility of credits which are relied on for claims of 'carbon neutrality'.

There is a genuine issue as to whether a government scheme is the best mechanism to show consumers that a company is responding to climate change and has a credible transition plan, particularly when the government is a direct beneficiary of the scheme. Rather, a credible scheme needs to be independent, rely on internationally recognised scenarios and emissions pathways such as the Intergovernmental Panel on Climate Change (**IPCC**) or International Energy Agency (**IEA**) or Science Based Targets (**SBTi**), that limit warming to 1.5°C, which incorporate science-based targets and align with the Paris Agreement to ensure credibility.

The Australian Government has made pledges to reduce its national greenhouse gas emissions which are arguably not in line with the Paris Agreement goal of limiting warming to 1.5°C and has a vested interest in the program which has a stated objective of supporting the Australian Government action on climate change.<sup>2</sup> It is arguable therefore that to ensure any possible conflict of interest is avoided, the scheme should be regulated by an authority that is independent of the government. It is instructive that the UN itself has phased out its own program "Climate Neutral Now" that was an initiative to promote voluntary action to align with the Paris Agreement, on the basis that it is not aligned with the recommendations of the Secretary-General's High-Level Expert Group on the Net-Zero Emissions Commitments of Non-State Entities (**UN HLEG report**).<sup>3</sup>

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<sup>1</sup> Department of Climate Change, Energy, the Environment and Water *Climate Active Program Direction Consultation 2023*. Retrieved from <https://consult.dcceew.gov.au/climate-active-program-direction-consultation-2023>

<sup>2</sup> Object 4 at page 7 of the Consultation paper [https://storage.googleapis.com/files-au-climate/climate-au/prj2868dfc6e77209c4f3166/public\\_assets/Climate%20Active%20Program%20Direction%20Consultation%202023.pdf](https://storage.googleapis.com/files-au-climate/climate-au/prj2868dfc6e77209c4f3166/public_assets/Climate%20Active%20Program%20Direction%20Consultation%202023.pdf)

<sup>3</sup> <https://unfccc.int/climate-action/climate-neutral-now>

The UN HLEG report provides clear scientific guidance on a credible approach to net zero.<sup>4</sup> The EDO recommends that Climate Active, if it is to continue, must adopt a program that incorporates the principles set out in the UN HLEG report, relying on internationally recognised standards, and which represents best practice to ensure it can avoid future claims of “greenwashing”.

We set out below a summary and detailed responses to questions identified in the Consultation Paper.

## SUMMARY OF EDO’S RESPONSES TO THE PROPOSALS

### **Proposal 1:**

EDO supports the implementation of a requirement for short-, medium- and long-term emission reduction targets in accordance with the UN HLEG report applying the IPCC, IEA or SBTi pathways. We do not support it being aligned with Australia’s NDC, rather we recommend that it should be aligned with current climate science to achieve net zero obligations under the Paris Agreement.

### **Proposal 2:**

EDO supports a program that limits certification to businesses and organisations that have demonstrated that they have developed and are on track with a credible, science-based net zero transition plan which complies with the UN HLEG recommendations. EDO questions the eligibility of specific types of industry (such as the fossil fuel industry) for the scheme. Inclusion of such industries reduces the credibility of the program as it would appear to facilitate heavy emitters' use of offsets rather than action to reduce emissions.

### **Proposal 3:**

EDO supports the implementation of clear accounting and reporting standards which establish robust emissions boundaries. Rather than developing separate or additional guidance, EDO would support the application of existing internationally recognised, best practice standards and guidance which incorporates industry specific standards such as the SBTi which extends to Small to Medium Enterprises.

### **Proposal 4:**

EDO does not support the use of offsets under the program given the significant concerns associated with them in terms of delivering outcomes, governance, integrity and accountability.

### **Proposal 5:**

EDO supports the imposition of a requirement that companies or organisations purchase 100% renewable electricity as part of the program. EDO supports the implementation of the GHG Protocol Scope 2 Guidance Document in relation to the method of calculation and reporting of Scope 2 emissions.

### **Proposal 6:**

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<sup>4</sup> <https://www.un.org/sites/un2.un.org/files/high-level-expert-group-update7.pdf>

EDO does not support the use of ACCUs to count towards Australia's NDC.

**Proposal 7:**

EDO supports the discontinuation of the term 'carbon neutral' to describe a member's certified claim. EDO does not support the use of a certified trademark given greenwashing concerns.

**Proposal 8:**

EDO supports a robust, science-based certification pathway implementing internationally recognised standards that reflect the UN HLEG report and implements the IPCC, IEA or SBTi pathways. EDO does not support the use of a 'pending' status as this may cause confusion for consumers and lead to claims of greenwashing.

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## DETAILED RESPONSES TO FEEDBACK QUESTIONS

**Proposal 1: All participants must produce an emissions reduction strategy that includes a near-term and long term- gross emissions target aligned with Australia’s NDC (at a minimum) applicable to the item being certified.**

### **1.1 Do you support a requirement for participants to set near-term and long-term gross emissions reduction targets? Why or why not?**

EDO agrees that it is essential that participants in the program set meaningful, measurable and credible short-, medium-, and long-term gross emission reduction targets that prioritise immediate reductions in line with the UN HLEG recommendations. However, the distillation or cherry picking of convenient sections of internationally recognised and implemented guidelines by the Australian government for setting emission reduction targets is not supported. Nor is the alignment with the NDC.<sup>5</sup>

Rather, to ensure consistent, credible and internationally recognised short-, medium- and long-term targets (2025, 2030 and 2050 respectfully), aligned with the Paris Agreement to limit warming to 1.5°C, EDO submits that the UN HLEG report recommendations be implemented and supported by existing credible, internationally recognised, programs for example the IPCC or IEA pathways. The short-, medium- and long-term targets should be required to be reviewed regularly to ensure alignment with the evolving climate science.

The UN HLEG report provides five principles and ten recommendations to create a universal definition for net zero and standardise net zero claims. According to the UN HLEG report, “net zero” targets must:<sup>6</sup>

- (a) include interim targets and plans to reach the targets for 2025, 2030 and 2035 which are consistent with the Intergovernmental Panel on Climate Change (IPCC) or International Energy Agency (IEA) greenhouse gas emissions modelled pathways that limit warming to 1.5°C;
- (b) include scope 1, 2 and 3 emissions across the entities’ entire value chain;
- (c) include specific targets to end the use of and/or support for fossil fuels in line with the IPCC and IEA net zero modelled pathways that limit warming to 1.5°C, including no new fossil fuel projects or expansion of existing projects;
- (d) prioritise urgent and deep emissions reductions;
- (e) only use carbon offsets for residual emissions, and offsets cannot be counted towards an entity’s interim emissions reductions required by its net zero pathway;
- (f) ensure operations and supply chains do not contribute to deforestation and the destruction of ecosystems; and

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<sup>5</sup> The Production Gap (2023) Phasing down or phasing up? Retrieved from [https://productiongap.org/wp-content/uploads/2023/11/PGR2023\\_web\\_rev.pdf](https://productiongap.org/wp-content/uploads/2023/11/PGR2023_web_rev.pdf)

<sup>6</sup> United Nations’ High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities, Integrity Matters: Net Zero Commitments by Businesses, Financial Institutions, Cities and Regions (Report, November 2022)

(g) align external policy and engagement efforts with the goals of reducing global emissions by 50% by 2030 and reaching net zero by 2050, in other words lobbying for positive climate action and not lobbying against it.

The IPCC and IEA pathways are internationally recognised and respected and should form the basis of the target setting element of the program. This will ensure consistency and certainty for companies, ensure the program is internationally recognised as it implements highly regarded standards based on current climate science.

The SBTi sets industry specific, science-based targets, which extend to small and medium enterprises, that are in line with the latest climate science to meet the goals of the Paris Agreement. While it has been argued by some that these targets should be even stronger to align with the science,<sup>7</sup> at the very least, this approach should be implemented over an alignment with an inadequate target.

In addition to short-, medium-, and long-term gross emission targets, the EDO recommends that specific targets for ending the use of and/or support for fossil fuels in line with the IPCC and IEA net zero modelled pathways that limit warming to 1.5°C should be incorporated into the certification requirements. This will ensure that deep and immediate emission reductions will be implemented rather than the current practice of deferring meaningful reductions via offsetting.

## **1.2 Do you agree with aligning the near-term gross emissions reduction target with Australia's NDC at a minimum?**

EDO does not agree with aligning the near-term gross emissions reduction target with Australia's NDC at a minimum as Australia's NDC is not aligned with the science of net zero and what is required to comply with 1.5°C. To raise the level of climate ambition and achieve meaningful action on climate change which is the purpose of the program, Australia needs to set an NDC that cuts emissions as far and as fast as possible. In accordance with Article 4.3 of the Paris Agreement,<sup>8</sup> Australia's NDC must reflect its *highest possible ambition*.

Recent studies show that far steeper emissions reductions are necessary this decade than the Government's current target of 43% below 2005 levels by 2030.<sup>9</sup> Based on the latest science and Australia's obligations under the Paris Agreement, Australia should aim to reduce its emissions to 75% below 2005 levels by 2030 and Net Zero by 2035.<sup>10</sup> Therefore, aligning the near-term goals with

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<sup>7</sup> See <https://sciencebasedtargets.org/how-it-works>

<sup>8</sup> See [https://unfccc.int/files/meetings/paris\\_nov\\_2015/application/pdf/paris\\_agreement\\_english\\_.pdf](https://unfccc.int/files/meetings/paris_nov_2015/application/pdf/paris_agreement_english_.pdf)

<sup>9</sup> Climate Council (2023) Submissions to Climate Council of Australia Setting, tracking and achieving Australia's emission reduction target. Retrieved from <https://www.climatecouncil.org.au/wp-content/uploads/2023/07/Climate-Council-submission-to-the-Climate-Change-Authority-on-targets-July-2023.pdf>

<sup>10</sup> Climate Council (2023) Submissions to Climate Council of Australia Setting, tracking and achieving Australia's emission reduction target. Retrieved from <https://www.climatecouncil.org.au/wp-content/uploads/2023/07/Climate-Council-submission-to-the-Climate-Change-Authority-on-targets-July-2023.pdf>

an inadequate NDC is not supported, rather, the near-term goals should be aligned with science-based goals that meet Australia's obligations under the Paris Agreement.

Therefore, EDO submits that gross emissions reduction targets should be aligned with credible, internationally recognised pathways and scenarios, such as the IPCC, IEA and SBTi rather than an inadequate target.

### **1.3 Do you agree with how the Department proposes to calculate alignment to Australia's NDC (2.7% annual reduction from Australia's emissions in 2021 to correspond with the start of the NDC period)?**

As discussed above, EDO does not support the alignment with Australia's NDC as it does not align with the science of net zero and what is required to comply with 1.5°C. Much deeper and faster emission reductions are needed. Further, we do not support a 'one size fits most' approach. Rather, there should be an industry specific approach to ensure equity, and that the highest emitting industries make the deepest emission reductions. The SBTi is one example of an internationally recognised approach which could be applied to ensure equity and credibility.

As the program remains a voluntary program, it is more likely that businesses and organisations will subscribe if they consider it to be equitable and reputable. Rather than applying a 2.7% reduction to businesses and organisations, each industry should have different cuts depending on their use of fossil fuels. This can be determined using internationally recognised scenario analysis (such as the IPCC, IEA or SBTi scenarios). For example, the Production Gap Report<sup>11</sup> suggests that emissions from the coal sector must reduce more rapidly, by 8% per year, than gas and oil. It further notes that gas and oil emission reductions should be 3 or 4% per year. These rates are considerably more than the proposed 2.7%. A fixed reduction percentage will discourage organisations or companies from signing up to the program who may have already made significant reductions, or who do not rely heavily on fossil fuels.

Therefore, the EDO would recommend an industry specific approach to setting science-based, Paris aligned, credible reduction targets that are based on internationally recognised best practice to ensure an uptake of the voluntary program.

## **Proposal 2: Businesses and organisations must demonstrate that they are on track to meet their near-term gross emissions reduction targets to be certified.**

### **2.1 Do you support limiting certification to businesses and organisations that have demonstrated that they are on track to meet their near-term emissions reduction targets? Why?**

EDO supports a program that limits certification to businesses and organisations who have demonstrated credible, science-based net zero transition plans which comply with the UN HLEG recommendations. It is critical that the program does not certify businesses and organisations that

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<sup>11</sup> The Production Gap (2023) Phasing down or phasing up? Retrieved from [https://productiongap.org/wp-content/uploads/2023/11/PGR2023\\_web\\_rev.pdf](https://productiongap.org/wp-content/uploads/2023/11/PGR2023_web_rev.pdf)



do not have credible, science based short-, medium- and long-term emission reductions targets. This will assist in avoiding future claims of greenwashing. As outlined above, it is also important that the program applies across the business and not just to “organisational” aspects that include products or services sold by the organisation.

Many companies do not have comprehensive transition plans across their business with deep and immediate emission reductions, only net zero aspirations and a heavy reliance on offsets. Nor do they have credible science-based scenarios that are aligned with 1.5°C with limited overshoot. It is crucial, for the program to be recognised internationally as a credible program, that companies can demonstrate they are actively reducing their absolute emissions in line with science-based pathways to be certified, not relying on offsets to make unsubstantiated environmental claims. Companies' demonstrated attainment of targets set in accordance with the IPCC, IEA or SBTi, all internationally recognised schemes, should be a prerequisite to certification. This will provide certainty for both the companies and organisations and ensure transparent accountability for shareholders.

**Proposal 3: Develop additional guidance to support businesses and organisations to establish robust emissions boundaries, including mandating specific indirect (scope 3) emissions sources.**

**3.1 Do you support the department developing additional guidance on emissions boundaries? Why?**

EDO supports the implementation of clear accounting and reporting standards which establish robust emissions boundaries. This requires a two-pronged approach. First, all emissions must be absolute emissions reductions, not emissions intensity, and second, a net zero target which does not cover product life cycle emissions, including scope 3 emissions, is not credible.

Emission intensity is the volume of emissions produced against another relevant unit, such as emissions per unit of output or dollar generated. Absolute emission reductions are the reduction of the physical amount of greenhouse gases emitted into the atmosphere over time. Emission reduction targets generally refer to the absolute reduction of physical emissions. When relying on emission intensity, if production or dollars generated grows, then so do emissions. Scope 3 emissions from major fossil fuel producers account for 80-95% total emissions<sup>12</sup> and are not captured in the net zero commitments. Whether a company's scope 3 emissions are from Australia or overseas, the impacts of the emissions will still be felt here.

Rather than developing separate or additional guidance, EDO would support the application of existing internationally recognised, best practice standards and guidance such as the Green House

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<sup>12</sup> Wood Mackenzie, Few oil and gas companies commit to Scope 3 Net Zero emissions as significant challenges remain. Retrieved from <https://www.woodmac.com/news/opinion/how-will-oil-and-gas-companies-get-to-scope-3-net-zero/>; see also World Benchmarking Alliance, '2023 Climate and Energy Benchmark in the Oil and Gas Sector: Insights Report' (June 2023). Retrieved from [https://assets.worldbenchmarkingalliance.org/app/uploads/2023/06/2023-Insights-report\\_Climate-and-Energy-Benchmark-in-the-oil-and-gas-sector.pdf](https://assets.worldbenchmarkingalliance.org/app/uploads/2023/06/2023-Insights-report_Climate-and-Energy-Benchmark-in-the-oil-and-gas-sector.pdf).

Gas Protocol Product Life Cycle Accounting and Reporting Standard and/or the Technical Guidance for Calculating Scope 3 Emissions. This will allow multinational companies or organisations operating in Australia, and Australian companies or organisations who operate overseas, a globally recognised, consistent approach to emissions accounting and reporting.

### **3.2 Do you support mandating specific indirect (scope 3) emissions sources for all certification types? Why?**

EDO supports the mandating of specific indirect (scope 3) emissions sources for all certification types. As noted by the UN HLEG, all credible plans should include scope 3. Further, mandatory reporting is being introduced as part of the climate related financial disclosure requirements, including scope 3, therefore consistency across government is essential as it provides consistency for companies and organisations in reporting requirements.

It is the EDO's view that it is essential for any industry involving fossil fuels to include scope 3 in the certification application. Fossil fuel companies are largely relying on new or unproven technology, or technology which is not sufficiently commercially viable, and investment allocations to justify delays in accounting for up to 95% of their emissions. Furthermore, they are relying on unqualified and unquantified offsets rather than actual emission reductions to justify a business-as-usual approach.

### **3.3 If so, which scope 3 emission sources should be considered mandatory?**

Rather than developing a separate or additional guidance, EDO would support the application of existing internationally recognised, best practice standards and guidance such as the Green House Gas Protocol Product Life Cycle Accounting and Reporting Standard and/or the Technical Guidance for Calculating Scope 3 Emissions. This will ensure that each company or organisation can report the relevant scope 3 emissions rather than a "one size fits most" approach. This will provide certainty and consistency for companies or organisations who are currently using the standard and guidance for reporting in other jurisdictions. It will also ensure an industry specific approach to ensure uptake of the program.

## **Proposal 4: All eligible international carbon offsets used under the program are subject to a 5 year rolling vintage requirement.**

### **4.1 Do you support the introduction of a 5 year rolling vintage role for eligible international carbon offsets used under the program**

There are significant issues with carbon offset programs and the EDO does not support their use under the program.

There is excessive reliance on carbon offsetting through removal and avoidance offsets. Removal offsetting is the removal and sequestration of an equivalent quantity of greenhouse gas emissions already in the atmosphere for at least as long as the underlying emissions are expected to remain

in the atmosphere.<sup>13</sup> Avoidance offsetting includes actions taken to avoid emitting prospective greenhouse gas emissions, based on a theoretical counterfactual, the emissions that would have occurred had the avoidance action not been taken, the verification of which is highly subjective.<sup>14</sup>

Offsetting is achieved in a several ways; through the acquisition and retirement of carbon credits, predominantly Australian Carbon Credit Units (**ACCUs**) to offset actual emissions; through the direct investment in Nature Based Solutions (**NBS**) which avoid or reduce emissions by protecting or enhancing biodiversity; through technology solutions such as Carbon Capture and Storage or Use (**CCS/U**) which avoids greenhouse gas emissions.

There is concern about the veracity of the ACCUs, with claims that up to 80% of the carbon credits issued are flawed or devoid of integrity, achieving little in the way of abatement and additionality.<sup>15</sup> Integrity issues with the ACCUs methodologies have been raised by Professor Andrew Macintosh, who voiced concerns that companies were earning ACCUs for not clearing forests that were never going to be cleared and for planting trees that were already there.<sup>16</sup> The Australian Academy of Science recently reviewed the four ACCU generating methods criticised by Professor Macintosh and found similar issues with the ACCU methodologies.<sup>17</sup>

A further issue related to offsets is the integrity and credibility of offsets. Offsets vary in quality and effectiveness.<sup>18</sup> For example, growing trees reduces less carbon than ensuring old forests remain unlogged.<sup>19</sup> There are also issues associated with ensuring forests remain as carbon sinks, with the impacts of climate change leading to greater bushfires which jeopardises the permanency of the projects.<sup>20</sup> There are similar concerns in relation to the international carbon market which has no unified governance structures or common accounting and verification standards and is highly fragmented as a result.<sup>21</sup>

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<sup>13</sup> Kaplan, R., Rammana, K., and Roston, M. (2023) Accounting for Carbon offsets. Retrieved from <https://hbr.org/2023/07/accounting-for-carbon-offsets>

<sup>14</sup> Kaplan, R., Rammana, K., and Roston, M. (2023) Accounting for Carbon offsets. Retrieved from <https://hbr.org/2023/07/accounting-for-carbon-offsets>

<sup>15</sup> Greber, J. (2022) Former watchdog goes public with carbon credit 'fraud' claims. Retrieved from <https://www.afr.com/policy/energy-and-climate/former-watchdog-goes-public-with-carbon-credit-fraud-claims-20220323-p5a77o>. See also Macintosh, A., (2022) Australia's carbon market a 'fraud on the environment' Retrieved from <https://law.anu.edu.au/news-and-events/news/australia%E2%80%99s-carbon-market-fraud-environment>

<sup>16</sup> Australian National University, 'Australia's carbon market a fraud on the environment' (Media Release, 24 March 2022)

<sup>17</sup> Australian Academy of Science, Review of Four Methods for Generating Australian Carbon Credits Units (Report, October 2022)

<sup>18</sup> Carbon Offset Guide, Concerns About Carbon Offset Quality Examples of Criticisms (Webpage, 2023); Climate Social Science Network, 'CSSN Position Paper: Net Zero, Carbon Removal and the Limitations of Carbon Offsetting', CSSN Position Paper: Net Zero, Carbon Removal and the Limitations of Carbon Offsetting (Briefing, 13 June 2022)

<sup>19</sup> Waring et al, 'Forests and Decarbonization – Roles of Natural and Planted Forests' (2020) 3(58) *Frontiers in Forests and Global Change* 1, page 3.

<sup>20</sup> Michael Tausz and Rob MacKenzie, 'Using forests to manage carbon: a heated debate', *The Conversation* (online, 25 July 2017) <https://theconversation.com/using-forests-to-manage-carbon-a-heated-debate81363>

<sup>21</sup> For example, research into Verra offsets revealed that 90% of rainforest offsets are worthless and do not provide any beneficial carbon impacts: Patrick Greenfield, 'Revealed: more than 90% of rainforest carbon

Often low-integrity credits are being used to offset emissions which allows real emission increases, rather than representing genuine and additional abatement.<sup>22</sup> A recent investigation into a large supplier of carbon offsets found that more than 90% of the rainforest offset credits do not represent genuine offsets and were likely to be 'phantom credits'.<sup>23</sup>

The SBTi Corporate Net Zero Standard says that the use of carbon credits must not be counted as emission reductions toward the progress of companies' near-term or long-term science-based targets, and carbon credits may only be considered as an option for neutralising residual emissions or to finance additional climate mitigation beyond their science-based emission reduction targets.<sup>24</sup>

Therefore, in accordance with the UN HLEG report recommendations and SBTi, EDO supports short-, medium- and long-term science-based targets for actual emissions reduction rather than the use of offsets which are notoriously unreliable.

## **Proposal 5: Mandate a minimum percentage of renewable electricity and use of the market-based method to set emissions liability**

### **5.1 Do you support introducing a requirement for businesses and organisations to source a minimum percentage of renewable electricity under the market-based method? Why?**

EDO supports the introduction of a requirement for the purchase of renewable electricity. In accordance with UN HLEG recommendation 5, the rapid phase out of fossil fuels should be done in parallel with a transition to renewable energy.<sup>25</sup> Companies seeking certification should be required to purchase 100% renewable energy. This ensures equity and certainty across all sectors and encourages investments in renewable electricity. Further, it will ensure rapid decarbonisation, moving away from fossil fuels, and a shift to renewable energy that is necessary to meet a Paris Aligned net zero.

### **5.2 What minimum percentage of renewable electricity should be required?**

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offsets by biggest certifier are worthless, analysis shows', The Guardian (online, 19 January 2023). An investigation into offsets sold by an American company NIHT Inc to businesses in Australia found that logging was taking place on part of NIHT's dedicated carbon project, the land its offsets were linked to protecting: ABC, 'Carbon Colonialism' (14 February 2023).

<sup>22</sup> Ibid. See also Climate Analytics, (2023) Why offsets are not a viable alternative to cutting emissions. This report finds that for every ACCU generated to offset one tonne of CO<sub>2</sub> equivalent emissions from liquefied natural gas production in Australia, approximately 8.4tCO<sub>2</sub>e lifecycle emissions are emitted globally, demonstrating the real-world impact of enabling fossil fuel companies to offset their emissions and continue, or even expand, production, rather than reduce their emissions over time. Retrieved from [https://climateanalytics.org/media/why\\_offsets\\_are\\_not\\_a\\_viable\\_alternative\\_to\\_cutting\\_emissions.pdf](https://climateanalytics.org/media/why_offsets_are_not_a_viable_alternative_to_cutting_emissions.pdf)

<sup>23</sup> Kaplan, R., Rammana, K., and Roston, M. (2023) Accounting for Carbon offsets. Retrieved from <https://hbr.org/2023/07/accounting-for-carbon-offsets>.

<sup>24</sup> SBTi Criteria and Recommendations for Near-Term Targets. Retrieved from <https://sciencebasedtargets.org/resources/files/SBTi-criteria.pdf>

<sup>25</sup> UN HLEG Report at p 23.

As confirmed in the UNHLEG Report, “There is no room for new investment in fossil fuel supply and a need to decommission existing assets... New fossil fuel supply is incompatible with the required emissions trajectory to achieve net zero... Now is the time to accelerate the energy transition to a renewable energy future.”<sup>26</sup>

Therefore, to satisfy the UNHLEG recommendations and achieve a Paris aligned net zero with actual emissions reduction rather than offsets, EDO supports a requirement for 100% renewable electricity.

### **5.3 Should all businesses and organisations be required to use market-based method to calculate their electricity emissions liability?**

The EDO supports the use of the market-based method to calculate scope 2 emissions in conjunction with the location-based method as stipulated in the GHG Protocol Scope 2 Guidance.<sup>27</sup> This is an internationally recognised guidance document which the EDO contends should be implemented in Australia rather than adapted. This will not only ensure consistency and certainty for businesses and organizations operating in Australia, but also provide credibility to the program.

The GHG Protocol Scope 2 guidance states<sup>28</sup>:

*For companies with any operations in markets providing product or supplier-specific data in the form of contractual instruments, companies shall report scope 2 according to a location-based method and a market-based method. Each method’s results reflect different risks and opportunities associated with emissions from electricity use and can inform different decisions and levers to reduce emissions. Companies shall choose which method’s results to use for goal setting and other benchmarks.*

By using the two reporting methods simultaneously, all companies and organisations will have some type of data option. Not having contractual data for every site will not cause non-compliance with the GHG Protocol Corporate Standard and Scope 2 Guidance.<sup>29</sup>

**Proposal 6: In future, abatement from all ACCUs used under Climate Active would count toward meeting Australia’s emissions reduction targets under the Paris Agreement.**

#### **6.1 Do you support this proposal?**

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<sup>26</sup> UN HLEG Report at p 23.

<sup>27</sup> GHG Protocol, Scope 3 Guidance p3. Retrieved from [https://ghgprotocol.org/sites/default/files/Scope2\\_ExecSum\\_Final.pdf](https://ghgprotocol.org/sites/default/files/Scope2_ExecSum_Final.pdf)

<sup>28</sup> GHG Protocol Scope 2 Guidance p3. Retrieved from [https://ghgprotocol.org/sites/default/files/Scope2\\_ExecSum\\_Final.pdf](https://ghgprotocol.org/sites/default/files/Scope2_ExecSum_Final.pdf)

<sup>29</sup> Ibid. p4

EDO does not support this proposal. At the moment, Climate Active is a voluntary program designed to reduce emissions and should not be included in the National targets, particularly as they are not ambitious.

As previously discussed, Australia's emissions reduction target under the Paris Agreement is not aligned with current climate science and is therefore inadequate. Without strong rules to ensure any emissions reductions are credible, any emissions reductions should not be included in the National targets.

## **Proposal 7: Discontinue the term “carbon neutral” to describe the certified claim**

### **7.1 Do you support discontinuing “carbon neutral” to describe the certified claim? Why?**

The EDO supports the discontinuation of the term ‘carbon neutral’.

Greenwashing erodes consumer confidence, public trust and distorts competition. Moreover, greenwashing unfairly diverts investment away from products and services that may support a more sustainable future.

ACCC's ‘Green Marketing and the Australian Consumer Law’ guide (**Green Marketing Guide**)<sup>30</sup> states that claims about carbon neutrality should be factually based and not overstated. Further, the entire life cycle of a product should be considered when making claims about carbon neutrality, and that care should be taken to distinguish between offset activities that have already been undertaken and those that are planned. We are concerned that claims about carbon neutrality are frequently made that are inconsistent with this guidance.

Claims about a product being carbon neutral may mislead consumers when such claims only consider the emissions associated with the use of the product and not the emissions associated with the production, transport or disposal of the product. The whole life cycle should be considered in making environmental and sustainability claims, including carbon neutral claims. The Green Marketing Guide states that when making claims about a particular characteristic or part of a product, the whole product life cycle should be considered including the manufacturing, recycling, destruction and disposal process.<sup>31</sup>

‘Carbon neutral’ relies on the use of offsets. There is a fundamental difference between a company reducing its emissions and offsetting its emissions. Reducing emissions means reducing the quantity of greenhouse gases released into the atmosphere whereas offsetting emissions involves offsetting greenhouse gas emissions that have already been or will be released. Offsetting schemes allow individuals and companies to invest in projects to balance their own greenhouse gas emissions without actually reducing emissions. The projects may develop clean energy technologies for the future or absorb carbon dioxide directly from the air through tree planting, through which the owner of the project earns carbon credits. Claims that a company has or is planning on reducing its emissions should not be based on offsets, but rather on actual reductions.

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<sup>30</sup> See <https://www.accc.gov.au/system/files/Green%20marketing%20and%20the%20ACL.pdf>

<sup>31</sup> Ibid. at 11.

Neither the UN HLEG report, nor the SBTi allow the use of carbon credits to be counted as emission reductions toward the progress of companies' near- or long-term science-based targets.

Accordingly, the EDO recommends that the use of carbon offsets and the resulting claims of carbon neutrality should be removed from the program.

## **7.2. If so, what claim should members be able to make once they have achieved certification?**

ACCC's report on its greenwashing internet sweep noted concerns that businesses were using their certifications in a misleading or confusing way.<sup>32</sup> Several businesses reviewed throughout ACCC's sweep who claimed affiliation with certification schemes did not describe the nature of the certification scheme, or how it applied to their product or business.<sup>33</sup> There are concerns that consumers may be misled into thinking that companies using the certification trademarks (**CTM**) have met a higher threshold than is required by the certification scheme.

EDO recommends that the only claim that a member should be able to make once they have achieved certification is that they are 'Climate Active Certified.' There should not be a CTM that can be used as this can lead to confusion for consumers and potential for greenwashing.

## **7.3 If not, why do you think that the term "carbon neutral" should be retained.**

EDO does not believe the term 'carbon neutral' should be retained for the reasons set out above.

## **Proposal 8: Introduce a certification pathway**

### **8.1 Do you support the proposed certification pathway?**

EDO supports a robust, science-based certification pathway implementing internationally recognised standards that reflect the UN HLEG report and implementing the IPCC, IEA or SBTi pathways. However, the EDO does not support the ability of members to claim a 'pending' status as the use of this term may lead to confusion for consumers and claims of greenwashing.

### **8.2 What name should be given to the "pending" state"?**

EDO does not believe members should be able to claim or refer to the 'pending state' for any claims given the weight consumers place on representations made by companies and organisations.

Impacts of misleading environmental and sustainability claims on consumers are far reaching. From an inability to make informed purchasing and investment decisions due to vague or ambiguous language, a lack of evidence in support of claims, or the misuse of CTMs, to a loss of consumer confidence due to breaches of trust or watering down of standards. Competition may

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<sup>32</sup> 'Greenwashing by businesses in Australia- findings of ACCC's internet sweep' (Final Report, March 2023)

<sup>33</sup> Ibid.

also be skewed, as businesses who are compliant may be detrimentally impacted with the resulting disincentive to invest in sustainability.

A report produced by the Consumer Policy Research Centre (**CPRC**)<sup>34</sup> found:

- 45% of Australians always, or often consider sustainability in their decision making;
- 69% of people said they were likely to trust a green claim that had a CTM with it;
- 45% of Australians think a trusted third party checks green claims before they are used, either government, industry associations or Ad Standards;
- at least 50% of people worry about the truthfulness of these green claims; and
- 47% of consumers said they would stop buying from a business if they found the business had engaged in greenwashing.

These statistics indicate the reliance consumers place on representations made by corporations in relation to environmental performance and sustainability claims when deciding whether to purchase goods and services or make financial investments.

Therefore, the EDO recommends that a member should only be able to claim certification when it has satisfied all certification criteria. They should not be able to make a representation that certification is 'pending'. As noted in the consultation paper, members with pending certification have not yet satisfied the necessary requirements. The use of the CTM and any accompanying claim may result in greenwashing and undermine the credibility of the program.

### **8.3 Are the requirements to meet the “pending” stage appropriate?**

EDO does not support the inclusion of a 'pending stage' as outlined above.

### **8.4 What claims if any, should participants in the pending stage be able to make?**

For the reasons set out above, the EDO does not support any claims if an applicant has not satisfied all requirements of the certification process.

### **8.5 Is 3 years an appropriate maximum timeframe for participation in the pending stage?**

The EDO does not support the use of a 'pending' stage. If this 'pending' stage proceeds, the EDO considers that a 3-year waiting period may be a disincentive for companies or organisations for a voluntary scheme. Further, climate science can change significantly within this length of time and therefore applications may be relying on out-of-date scientific data and methods if they were not processed within a shorter timeframe. Companies and organisations could continue to operate on outdated approaches leading to increased emissions which negates the purpose of the program. Therefore, EDO would support a shorter maximum timeframe, such as 12 months, for a 'pending' stage if the concept proceeds.

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<sup>34</sup> Consumer Policy Research Centre, 'The consumer experience of green claims in Australia' (Report, December 2022)



### **8.6 Should a longer timeframe be considered for hard to abate sectors to demonstrate that they are on track to meet their target (ie no longer than 3 years)**

As outlined above, EDO does not support a timeframe which exceeds 12 months as any longer will not address the evolving climate science and may prove to disincentivise companies or organisations from signing up to the voluntary program. Additionally, EDO believes that high emitting sectors, such as fossil fuel producers, should not be eligible for certification under the program.

### **8.7 To transition from pending to “certified” stage what should the maximum amount of time to demonstrate progress towards meeting their reduction targets? (eg 1-3 years of reductions against their base year).**

EDO submits that certification should only occur when reduction targets are met. EDO supports the introduction of a program that requires business and organisations to design and implement science-based, short-, medium-, and long-term emission reduction targets in line with the UN HLEG report and in accordance with internationally recognised modelled pathways. Therefore, the time to demonstrate progress towards meeting reduction targets should be at the short-, medium-, and long-term stages against the established baseline year.

## **CONCLUSION**

The EDO supports an increased level of climate ambition and action to avoid and reduce greenhouse gas emissions. Further, the EDO supports the introduction of an independent program that addresses inherent systemic issues with the existing program. One which requires business and organisations to design and implement science-based, short-, medium-, and long-term emission reduction targets based on greenhouse gas emissions modelled pathways that limit warming to 1.5°C, aligned with the Paris Agreement. A program that establishes clear emission boundaries including the types of emissions (i.e. equity or actual emissions), and scopes 1,2, and 3 emissions and reporting requirements.

The EDO recommends that the program should rely on internationally recognised standards which represent best practice to ensure consistency, credibility and avoid the risk of future claims of “greenwashing”. EDO does not support the use of ACCUs to meet a NDC (which does not reflect the need to limit warming to 1.5°C) on the basis that there are significant concerns as to the credibility of ACCUs and the possible perception of bias or a lack of independence between a regulator and beneficiary. Nor does the EDO support the use of certification trademarks which can lead to consumer confusion and the increased potential for greenwashing. The replacement of the concept of ‘carbon neutral’ is essential to ensure real action is taken to reduce emissions rather than using carbon credits to cancel out carbon emitted elsewhere which risks resulting in an overall increase in greenhouse gas emissions.

As the consultation paper notes, public, investor and consumer expectations have shifted to prioritise direct emissions reductions by businesses and organisations that engage in voluntary

climate action.<sup>35</sup> Therefore, to satisfy these expectations, and avoid further greenwashing claims, any proposed program must address the issues outlined above.

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<sup>35</sup> Climate Active Program Direction Consultation paper 2023 at 4. Retrieved from <https://consult.dccew.gov.au/climate-active-program-direction-consultation-2023>