

CARBON CREDITS, DECARBONISATION & YOU

PRESENTED BY

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CPD PRESENTATION

28 MARCH 2025



HW
LEBSWORTH
LAWYERS

Acknowledgement of Country

In the spirit of reconciliation I acknowledge the Traditional Custodians of Country throughout Australia and their connections to land, sea and community. I pay my respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

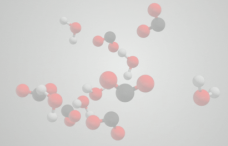
KEY TOPICS IN CARBON CREDITS

- 1 Reporting and Safeguard
- 2 Climate Change - Believe
- 3 Carbon Credits
- 4 ACCU Projects
- 5 Carbon Funds
- 6 Alternatives and Trends

Part 1:

Reporting & Safeguard

IMPACT ON CARBON MARKETS



New Mandatory Climate Reporting

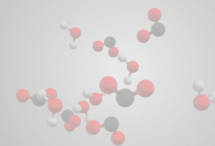
- Public reporting on climate related financial risks and opportunities

National Greenhouse and Energy Reporting (NGER) Scheme / Safeguard mechanism

- Public data on greenhouse gas emissions and energy production/consumption
- Potential penalties for safeguard emitters

Increased demand for Carbon Credits

KEY TOPICS



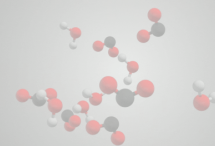
Mandatory Climate Reporting



National Greenhouse and Energy Reporting (NGER) Scheme / Safeguard

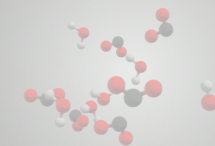


MANDATORY CLIMATE REPORTING



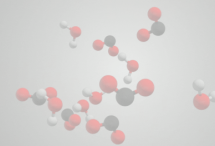
- Framework for Australia's first climate-related financial disclosure regime.
- Introduces a **Sustainability Report** as an additional reporting requirement to the obligation to prepare annual financial reports under Chapter 2M of the Corporations Act.
- Aligns with international standards (ISSB – IFRS S2).
- Applies to financial years commencing on or after **1 January 2025** in a phase in manner.

WHO NEEDS TO REPORT?



ASIC Reporting Guide*	Group 1 First annual reporting periods starting on or after 1 Jan 2025	Group 2 First annual reporting periods starting on or after 1 Jul 2026	Group 3 First annual reporting periods starting on or after 1 Jul 2027
Large entities and their controlled entities meeting at least two of three criteria	- Consolidated revenue: \$500 million or more - EOFY consolidated gross assets: \$1 billion or more - EOFY employees: 500 or more	- Consolidated revenue: \$200 million or more - EOFY consolidated gross assets: \$500 million or more - EOFY employees: 250 or more	- Consolidated revenue: \$50 million or more - EOFY consolidated gross assets: \$25 million or more - EOFY employees: 100 or more
NGER Reporters	Above NGER publication threshold in s 13(1)(a) of the NGER Act 2007 (<i>being an emitter of CO2 of 50 KT or more</i>)	All other NGER reporters	N/A
Asset Owners (registered schemes, RSEs and retail CCIVs)	N/A	\$5 billion assets under management or more	N/A

REPORTING REQUIREMENTS



■ The Sustainability Report must include:

- a **climate statement (AASB S2)** covering:
 - material climate-related financial risks and opportunities faced by the entity (if any);
 - Scope 1, 2 and 3 greenhouse gas (GHG) emissions and any associated reduction targets;
 - any information about governance of, strategy of or risk management by the entity in relation to these risks, opportunities, metrics and targets.

○ Directors' declaration

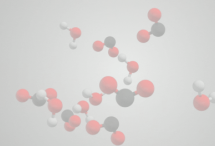
The screenshot shows the AASB Sustainability Reporting Standards page. At the top, there is a navigation bar with links: Home, Sustainability Reporting Standards, Accounting Standards, Interpretations, Concepts documents, Practice Statements, and Board Agenda Decisions. Below the navigation bar, the main heading is "Sustainability Reporting Standards". Underneath, there are three tabs: "Calendar Year 2024", "Future Periods" (which is selected), and "By Reporting Period". A note states: "This list covers pronouncements (or versions) applying **only** to periods later than the calendar year 1 January 2024 to 31 December 2024." Below this, there is a table with the following columns: AASB No., TITLE, OPERATIVE DATE, AMENDED BY, and ALL VERSIONS. The table lists two standards: AASB S1 (General Requirements for Disclosure of Sustainability-related Financial Information [voluntary]) and AASB S2 (Climate-related Disclosures). Both standards have an operative date of 1 January 2025. At the bottom, there is a footer with the AASB logo, contact information, and a disclaimer: "The AASB issues principles-based Australian accounting and external reporting standards and guidance that meet user needs and enhance external reporting consistency and quality."

AASB No.	TITLE	OPERATIVE DATE	AMENDED BY	ALL VERSIONS
AASB S1	General Requirements for Disclosure of Sustainability-related Financial Information [voluntary]	1 January 2025		
AASB S2	Climate-related Disclosures	1 January 2025		

REPORTING COMPLIANCE

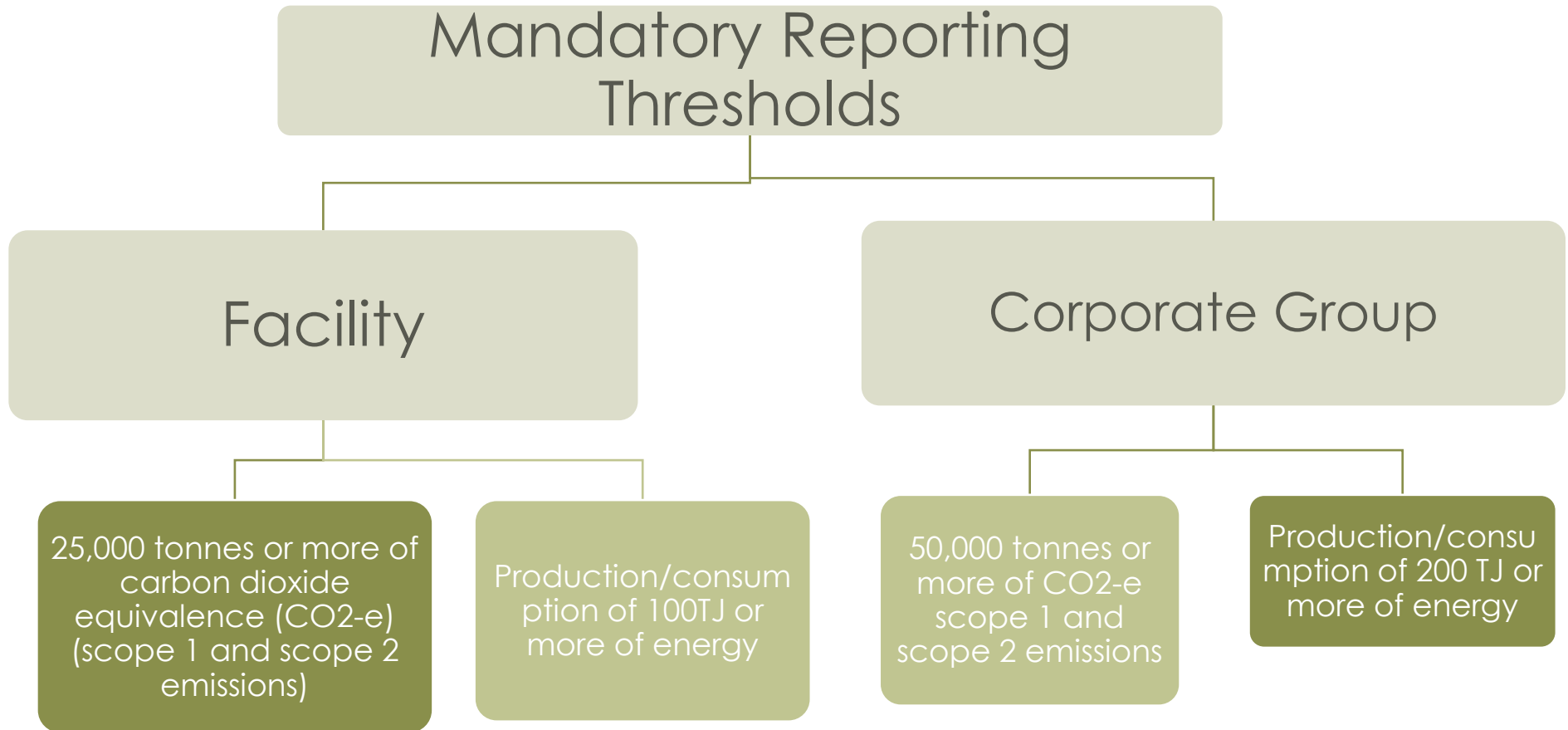
- The Sustainability Report must be audited and made public
- ASIC is responsible for compliance.
- Lodgment:
 - With financial reports – three months after EOFY (a disclosing entity or registered managed investment scheme) four months (all other companies).
 - **First reports due 31 March 2026** – from reporting entities with a financial year ending 31 December 2025, then 31 March 2026 for disclosing entities.
- Transitional approach – modified liability regime

NGER SCHEME



- The National Greenhouse Emissions Reporting (**NGER**) scheme
- Established in 2008 for the collection, reporting and dissemination of data relating to greenhouse gas **emissions**; energy **consumption**; and energy **production**.
- Mandatory scheme.
- Must report Scope 1 and 2 emissions. Reporting of Scope 3 is voluntary.
- Administered by the Clean Energy Regulator (CER).

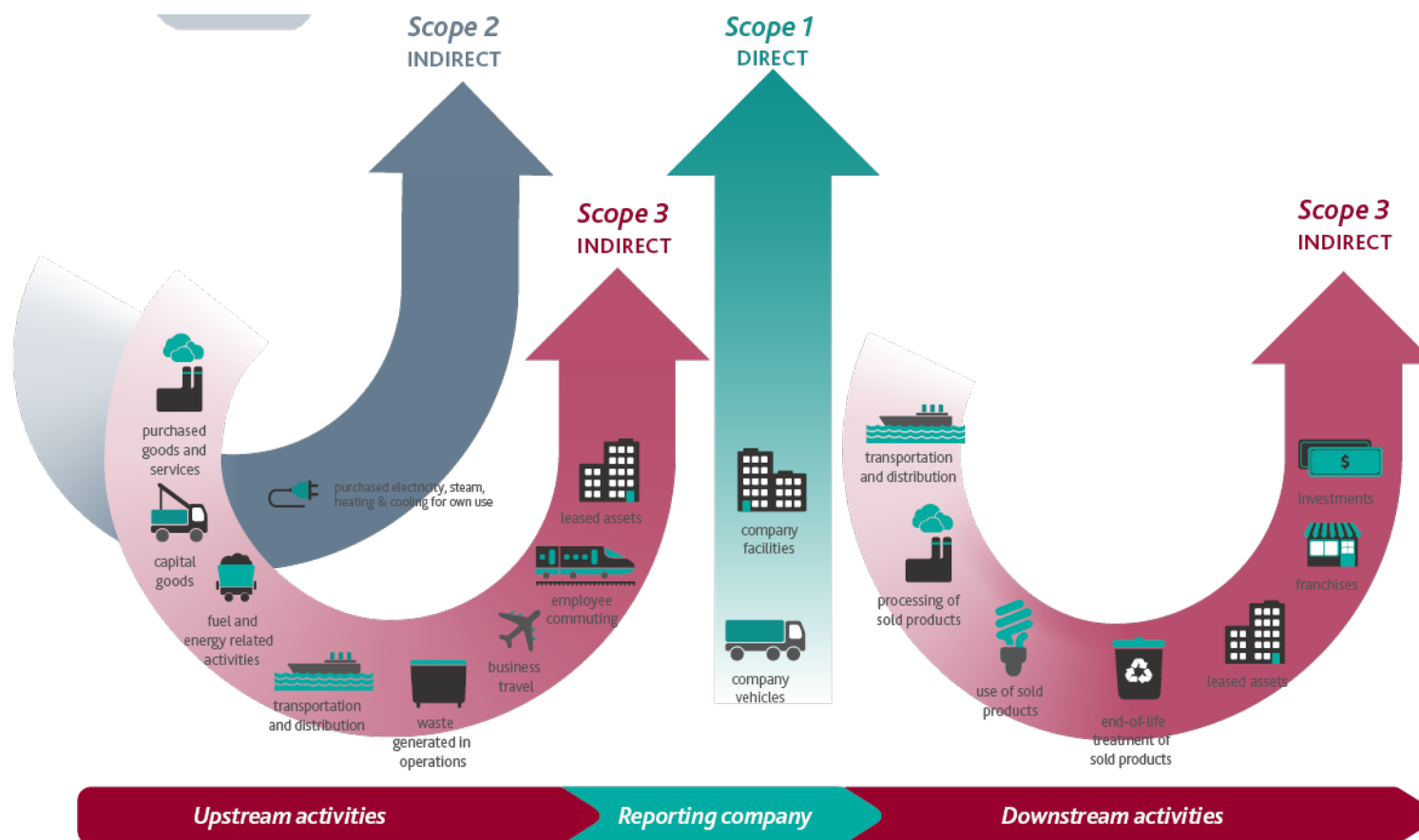
REPORTING THRESHOLDS



FACILITIES EXPLAINED

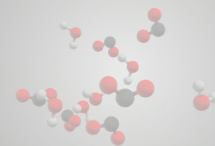
- An activity or series of activities that:
 - produces greenhouse gas emissions, or involves the production or consumption of energy; and
 - forms a 'single undertaking or enterprise' and meets the regulations requirements, and
 - is attributable to a single industry sector.
 - (excludes oil and gas activities in specified exclusion zone)
 - Transport a distinct sector.

EMISSIONS REPORTING



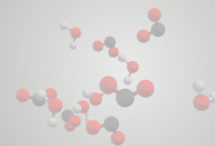
Source: Greenhouse Gas Protocol: Corporate Value Chain (Scope 3) Accounting and Reporting Standard

SAFEGUARD – WHAT IS IT



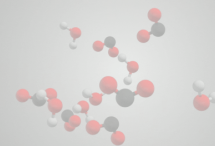
- Government's policy for reducing greenhouse gas emissions from Australia's largest industrial facilities.
- Applies to all facilities that emit more than 100,000t carbon dioxide equivalent (CO₂-e) of covered emissions in a financial year.
- Sets a cap or 'baseline' on net scope 1 (direct) emissions.
 - Approximately 220 facilities
 - Includes electricity, oil & gas, manufacturing, transport and waste sectors.
 - Responsible 138.7 million tonnes CO₂-e or 29% of Australia's emissions.
- Significant civil penalties for non-compliance.

SAFEGUARD - 2023 REFORMS



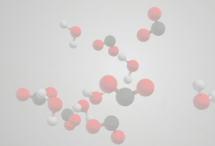
- Significant reforms in **July 2023** - now an active tool to drive behaviours.
- Baseline decline rate of 4.9% each year to 2030.
- Most facilities move to the same 'production adjusted' baseline model – production x emissions intensity.
- Safeguard mechanism credit units (SMCs) – earn tradeable credits where below baseline.

BASELINE EXCEEDANCE?

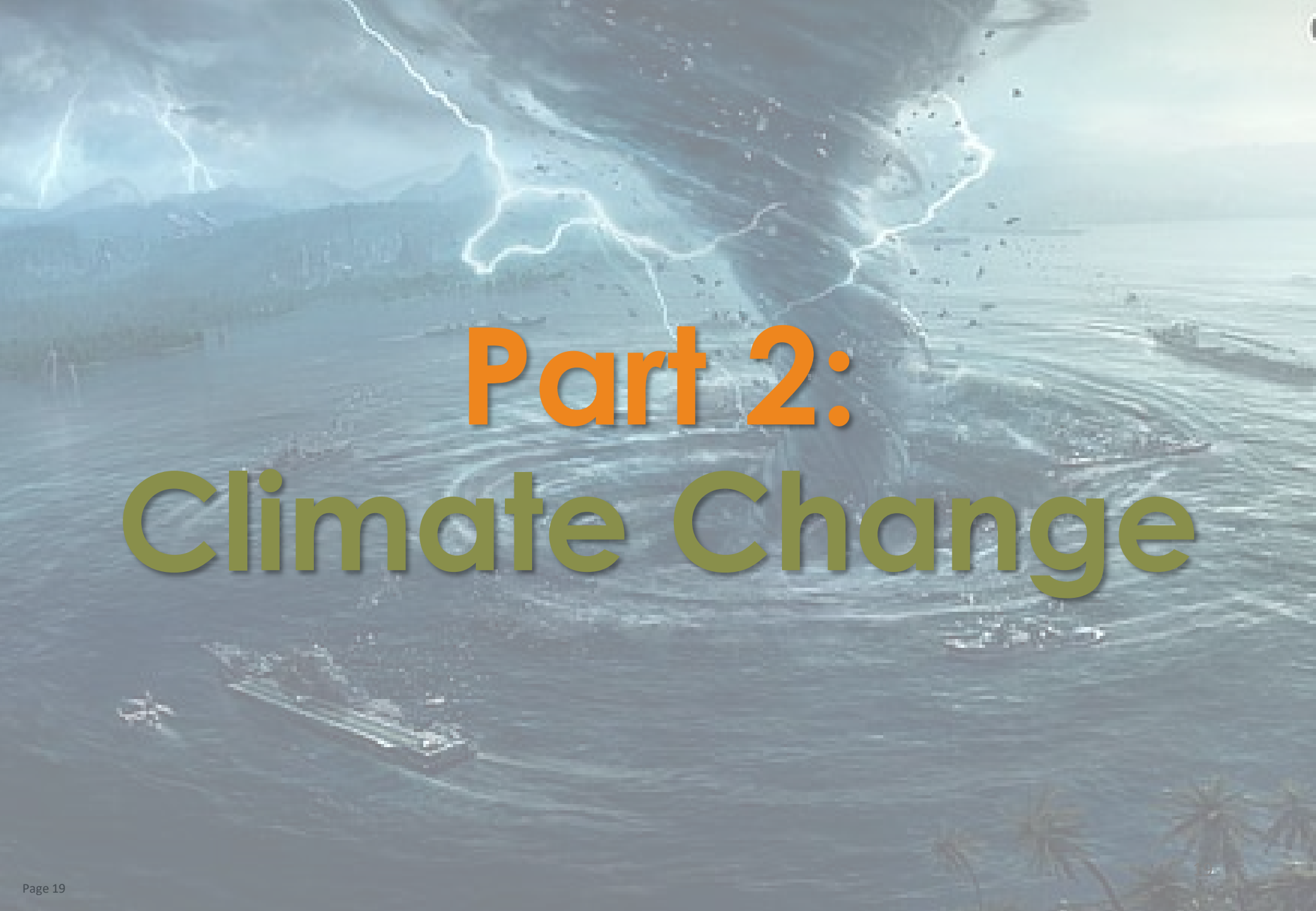


- Can purchase and 'surrender' ACCUs or SMCs to offset emissions.
- Apply for multi-year monitoring period.
- Exemption from safeguard (limited).
- Borrow up to 10% of next year's baseline.
- Trade exposed baseline adjustment (TEBA).

SAFEGUARD – WHAT'S NEXT

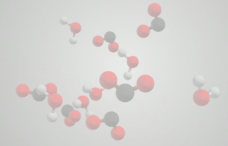


- Are businesses ready for an annual 4.9% reduction?
- How will they get there - electrification, alternative fuels, new industrial processes?
- How will businesses sustain the cost of safeguard/carbon tax?
- Review of Safeguard Mechanism in 26/27.
 - Further fixes?
 - How much more aggressive will safeguard become?

The background image is a dramatic, apocalyptic scene. It depicts a coastal city, possibly San Francisco, being hit by a massive tsunami wave. The water is dark and turbulent, with large waves crashing over the city. In the foreground, a large ship is visible in the water. The sky is dark and stormy, with bright lightning bolts striking down. The overall tone is one of disaster and environmental catastrophe.

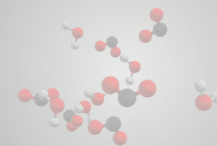
Part 2: Climate Change

ATMOSPHERIC CARBON



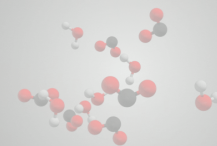
- Environmental change and a “climate emergency” is the context for all carbon credit systems
- Increased **atmospheric carbon** (CO, CO₂) and other greenhouse gases have caused and will cause climate change through an increasing greenhouse effect (trapping more heat)
- This pushes environmental systems into stress, creating volatility in weather patterns and cycles. Examples abound:
 - *Weird weather*: Indian monsoons & droughts
 - *Biodiversity impacts*: species & habitats under threat
 - *Arctic ice*: huge shelves breaking off, Earth’s shape change

HOW DO WE REDUCE CARBON?



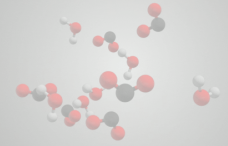
- **“Immediate” effect approaches**
 - Reduce methane outputs (coal seams, cow burps, rice paddies)
 - Switch aggressively towards 100% renewables, switch off coal & gas, use green Hydrogen (... eventually, if... maybe ...)
- **More difficult:** increase **efficiency** of electricity use (ie not waste it, use less power and resources to do the same thing)
- **Harder:**
 - Reduce practices that produce atmospheric carbon (“**abate**”)
 - Increase practices that store atmospheric carbon (“**sequester**”)
- **Very hard:** Take account of the full supply chain carbon impact in the cost of goods and services (“Scope 3” emissions accounting).

CARBON PRICING



- **Already:** LGCs Certificates per MWh of renewable energy.
 - Proxy only for greenhouse gas emissions reduction.
 - Carbon reduction amount is not immediately obvious or easy to calc.
 - Who owns (or should own) the carbon emission reduction? Not easy to answer
 - *Does not take account of concrete, trucking, steel manufacture, disposal, etc.*
 - *Still better than burning coal or gas (which also has all those things, multiplied)*
- **Use economics**
 - Apply economic rationality / market forces to business decisions that may impact climate (positively, negatively)
 - *Use existing market mechanisms within global supply chains to drive decentralized marginal behavioural changes*
 - *If carbon had a clear price itself, “cheaper” goods would also have less carbon impact (all other things being equal).*

MANDATORY OR VOLUNTARY

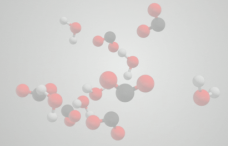


- Voluntary
 - Privately run or national system setting out how to create and trade carbon units
 - Units = 1 tonne of atmospheric carbon reduced permanently
 - Could be *sequestration* or *abatement*.
 - “Methodologies” spell out what qualifies for units, how to calculate carbon reduction
 - Can be contractual system or legislative
 - Can also have “co-benefits” such as social, cultural, development requirements
- Mandatory (or “regulatory” or “compliance”)
 - Basic idea is government sets a total limit of allowed carbon emission, issues permits
 - A permit = 1 tonne of atmospheric carbon reduced permanently
 - Permits must be relinquished to cover assessed emissions – mandatory system
 - Allows trading of **unused** permits, incentivising carbon reduction to make money
 - Also known as “cap and trade”
 - All systems allow using voluntary offsets to reduce the cost of the emissions reduction
 - Countries: EU (ETS), California-Quebec, Japan, NZ, Sth Korea, Switz and sort of Aust.

Part 3:

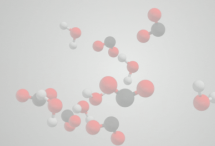
Carbon Credits

MAJOR TYPES OF VOLUNTARY UNITS



- Verra Carbon Units (VCU) – most widely used, but most heavily criticised
- Plan Vivo – developing countries only, with co-benefits for local communities being required as part of project qualification
- Gold Standard (VER) – controversially, for renewable energy projects mainly
- Australian Carbon Credit Units (ACCU)
- Other than ACCUs, the systems have **high registration costs** and become economic only if you have large scale carbon projects
- Although 1 tonne of Carbon, units are not fungible because they are system-specific and carry different qualifications

KEY REQUIREMENTS FOR ALL SYSTEMS



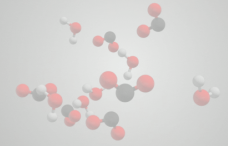
■ **Additionality / Newness of carbon project**

- Key requirement of all carbon unit systems, otherwise no point!
- Carbon project (reduction / storage) must be additional to economic incentives or legal requirements
 - *Would the project be done anyway without earning carbon units? If so, then it is not “additional” and will not be registered as a carbon project*
 - *This is why renewables projects don’t and shouldn’t earn carbon credits*

■ **Permanence period:**

- Carbon must not be released back to the atmosphere
- For at least 25 years, up to 100 years (depending on system). Obvious?
 - Eg No burning (even accidentally) or harvesting trees.
 - Return the carbon units if this happens (“carbon debt liability”)
- Carbon *leakage* is an issue and systems use “buffer” requirement

KEY REQUIREMENTS FOR ALL SYSTEMS /2



■ Registries

- All systems need a central register of the carbon credits, for unique awarding, trading, relinquishing (cancelling), prevent double counting
 - *Blockchain would be an ideal system (but big power demand)*
 - *No global central register so global double counting is a risk*

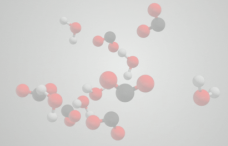
■ Verification & accounting

- All systems require some agreed method for checking carbon projects
 - *How do you assess carbon storage or reduction?*
 - *There are generally accepted carbon accounting methods used by independent experts, but this is an area of criticism for different systems*

Part 4:

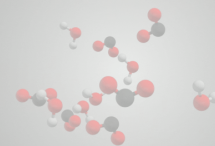
ACCU Projects

AUSTRALIA'S ACCU SYSTEM



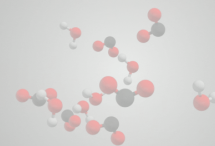
- National system introduced in 2011
 - *Carbon Credits (Carbon Farming Initiative) Act 2011 (Cth)*
 - There are also Rules, Regulations and (very technical) “Methods”
 - Clean Energy Regulator (**CER**) & ACCU Scheme
- ACCUs are claimed by and awarded to proponents of “eligible offsets projects”, which must be applied for then declared by the CER
- CER maintains a central online register of projects and awarded ACCUs, plus “abatement contracts”
 - *ACCUs are held in “ANREU” accounts owned by project proponent.*
 - = *Australian National Registry of Emission Units (has its own legislation)*
 - **Why not** just “ACCU Account”??

ACCU PROJECT REQUIREMENTS



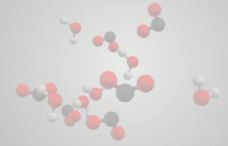
- New: project has not started yet or required
 - (s 27(4), (4A)) – “additionality” requirement
- No Final Investment Decision yet – cannot decide to do the project until after it is declared by CER (“additionality”)
 - (s 27(4A)(a)(i), (4B), (4C)(a))
- Method – project satisfies requirements of an approved **Abatement** or **Sequestration** project method (~ methodology)
- Permanence period: project life is 25 years or 100 years, from first ACCU award (s 23(1)(g))

ACCU PROJECT REQUIREMENTS



- Exclusivity: exclusive right to obtain the carbon benefit from the land for the permanence period (usually under a lease term) (s 27)
- Applicant is “fit and proper” person (s 27(4)(f), s 60)
- Reporting period: project periodically (~ 5 yrs) reports to CER and claims ACCUs under the project methodology (s 15, s 76, s 147)
- Applicant has an ANREU account, one per project

TERMINOLOGY REMINDER!



SEQUESTRATION

**STORES
CARBON**

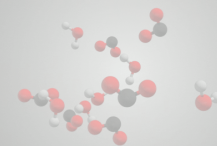
Think trees and soil

ABATEMENT

**MAKES LESS
CARBON**

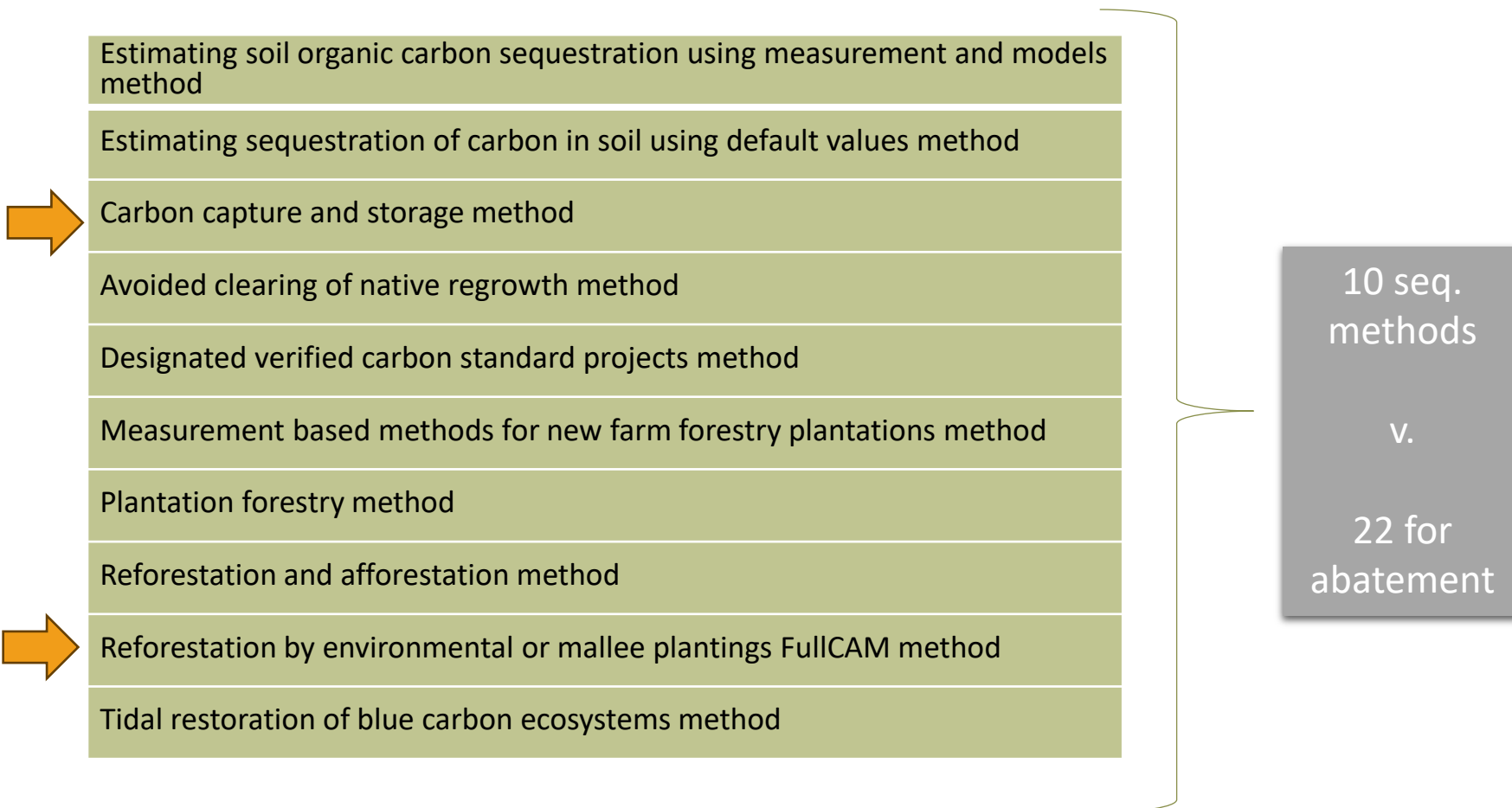
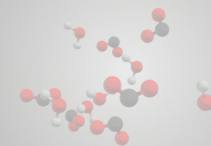
Think efficiency

METHODS - ABATEMENT

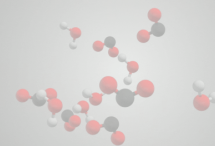


Animal effluent management method	Landfill and waste methods
Beef cattle herd management method	Alternative waste treatment method
Fertiliser in irrigated cotton method	Landfill gas method
Feeding nitrates to beef cattle method	Landfill gas (generation) method
Aggregated small energy users method	Source separated organic waste method
Commercial buildings method	Domestic, commercial and industrial wastewater method
Facilities method	Coal mine waste gas method
High efficiency commercial appliances method	Oil and gas fugitives method
Industrial and commercial emissions reduction method	Aviation method
Industrial equipment upgrade method	Land and sea transport method
Refrigeration and ventilation fans method	Savanna fire management methods

METHODS - SEQUESTRATION



ESTABLISHING & CLAIMING

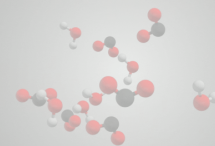


- Abatement project
 - Processes will be done under contract
 - eg a supply change, feedstock additive or a process consultancy
- Sequestration projects:
 - Leasing farmland
 - Carbon Project Agreement (often bespoke)
- **MRV**: measure, report, verify (audit), then claim ACCUs periodically
- **Multiple carbon projects**: different methodologies, “layering”
- Environment Fund supported by ACCU cash flow from sales

Part 5:

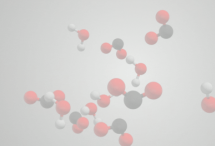
Carbon Funds

CARBON FUNDS

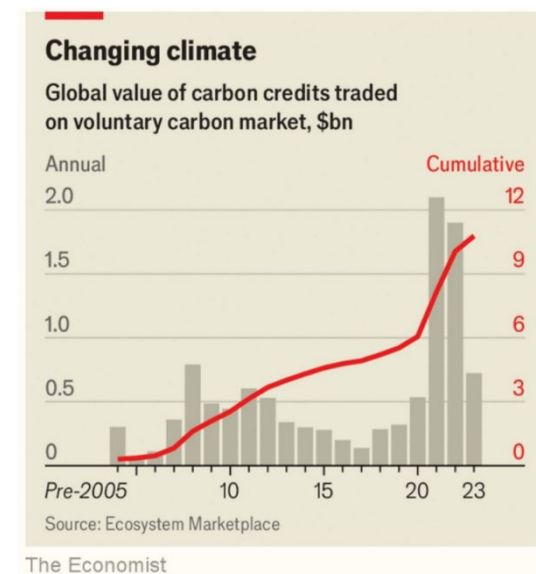


- HWLE has acted for investors and governments wanting to establish a perpetual fund for long term environmental remediation
 - Advised on planning, property, and carbon unit projects
 - Designed an independent fund structure that would be self-sustaining in the long term
 - ACCU creation and sale funding ongoing project identification, establishment, & further ACCU creation, etc
- Carbon sink studies
 - Technical reports into carbon sinks in a land region
 - Possible, lucrative ACCU project sites (along with types of trees, rainfall, competing uses)
 - Adjust carbon fund design according to results

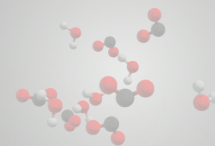
CARBON TRADING



- ACCUs are tradeable personal property
 - *ACCUs and VCUs are “financial products”*
 - *AFSL requirements need to be considered*
- Forward swaps / futures derivatives
- ACCU financing as a possibility?
 - ACCUs as collateral for secured financing
 - Pricing basis for LGD calculations?
 - Exclusive lender control of ANREU account is difficult
 - Prudent to also secure critical project rights

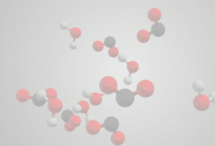


FORESTRY CARBON RIGHTS



- Note that NSW, VIC and Tas all have “forest carbon rights” systems that create property rights in carbon sequestered by privately owned forests.
- Entitle a third party to the carbon in the trees but not the land or the trees themselves (but that can be added).
- These are registered against title
 - “Run with the land” – essentially easement-like
 - Different requirements in each State for *forestry management*
 - Do not themselves create carbon credits, just the exclusive right to the carbon.
- Landowners need to do due diligence on existing forestry rights grants

ISSUES / TRENDS - 4



- Goal of creating an integrated global carbon market to enable country to country trade (since Paris 2015)
 - double counting issue, no central register
- Decarbonisation related rights are converging
 - LGCs system will end as we have met the RET
 - Carbon units could replace LGCs? Would upset the “additionality” core requirement of all carbon credit systems
 - Hydrogen guarantee of origin scheme, eventually?
- Moving towards “**Nature Positive**”
 - Official Cwth policy, believe it or not

QUESTIONS?



CONTACT DETAILS



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The background features a dark green field with several light-colored, textured geometric shapes. A large, semi-transparent white circle is centered behind the text. In the top-left, a square textured shape is partially visible. In the bottom-left, a triangular textured shape is visible. In the bottom-right, a circular textured shape, resembling a planet or moon with craters, is visible. The text 'HWLEBSWORTH' is centered in a large, sans-serif font, with 'LAWYERS' in a smaller font below it.

HWLEBSWORTH

LAWYERS

ADELAIDE | BRISBANE | CANBERRA | DARWIN | HOBART | MELBOURNE | NORWEST | PERTH | SYDNEY