EXPLANATORY STATEMENT

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination Variation 2016

Background: Emissions Reduction Fund

The *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act) enables the crediting of greenhouse gas abatement from emissions reduction activities across the economy. Greenhouse gas abatement is achieved either by reducing or avoiding emissions or by removing carbon from the atmosphere and storing it in soil or trees.

In 2014, the Act was amended by the *Carbon Farming Initiative Amendment Act 2014* to establish the Emissions Reduction Fund (ERF). The ERF expands on the Carbon Farming Initiative (CFI) by extending the scope of eligible emissions reduction activities and by streamlining existing processes. The ERF has three elements: crediting emissions reductions, purchasing emissions reductions, and safeguarding emissions reductions.

Emissions reduction activities are undertaken as offsets projects. The process involved in establishing an offsets project is set out in Part 3 of the Act. An offsets project must be covered by, and undertaken in accordance with, a methodology determination.

Subsection 106(1) of the Act empowers the Minister to make, by legislative instrument, a methodology determination. The purpose of a methodology determination is to establish procedures for estimating abatement (emissions reductions and sequestration) and rules for monitoring, record-keeping and reporting. These methodologies will ensure that emissions reductions are genuine – that they are both real and additional to business as usual.

In deciding to make a methodology determination the Minister must have regard to the advice of the Emissions Reduction Assurance Committee (ERAC), an independent expert panel established to advise the Minister on proposals for methodology determinations. The Minister will also consider any adverse environmental, economic or social impacts likely to arise as a result of projects to which the determination applies.

The ERAC must include in its advice to the Minister the Committee's opinion on whether a proposed determination complies with the offsets integrity standards set out in section 133 of the Act. The offsets integrity standards require that an eligible project should result in carbon abatement that is unlikely to occur in the ordinary course of events and is eligible carbon abatement under the Act. In summary, the offsets integrity standards also include that:

- amounts are measurable and capable of being verified;
- the methods used are supported by clear and convincing evidence;
- material emissions which are a direct consequence of the project are deducted; and
- estimates, assumptions or projections used in the determination should be conservative.

Offsets projects that are undertaken in accordance with a methodology determination and approved by the Clean Energy Regulator (the Regulator) can generate Australian carbon credit units, representing abatement from the project.

Project proponents can receive funding from the ERF by submitting their projects into a competitive auction run by the Regulator. The Government will enter into contracts with successful proponents, which will guarantee the price and payment for the future delivery of emissions reductions.

Further information on the Emissions Reduction Fund is available at: www.environment.gov.au/emissions-reduction-fund.

Purpose

The *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination Variation 2016* (the Variation) amends *the Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*.

The Determination was made on 17 June 2013 and sets out the rules for implementing and monitoring human-induced forest regeneration projects on eligible land.

The Variation brings the format of the Determination in line with more recent Emissions Reduction Fund determinations. Bringing the format in line with other current determinations is intended to make it easier for scheme participants to understand the structure of the Determination and to locate provisions.

The Variation also clarifies and simplifies requirements throughout the Determination, and implements several policy changes. It requires carbon stocks and fire emissions to be modelled using the Full Carbon Accounting Model (FullCAM) rather than the Reforestation Modelling Tool (RMT). It removes the modelling requirements for establishing project eligibility, while still requiring that the land for which abatement is being calculated not have had forest cover before it was included in the project. New provisions have been introduced to clarify the treatment of negative abatement, to clarify the operation of the Determination when new project areas are added during the crediting period and to clarify the treatment of projects and project area transferring from other determinations or versions of the human-induced regeneration Determination. New provisions also limit the eligibility of conservation land to some activities.

Legislative provisions

The Determination was made under subsection 106(1) of the Act.

The Variation amends the original Determination and is made under subsection 114(1) of the Act, which empowers the Minister to vary, by legislative instrument, a methodology determination.

Operation

The Variation primarily amends the Determination to replace the requirements to model carbon stocks and project emissions using the RMT with requirements to model these using FullCAM in accordance with the relevant FullCAM Guidelines. The descriptions of the variables used in the Determination (such as variables representing carbon stock in trees and debris pools) have been amended for consistency with FullCAM outputs.

Replacing RMT with FullCAM reflects a general policy on the most appropriate tool for modelling forest sequestration activities under the ERF. FullCAM provides more flexibility

than RMT in modelling events and management activities, and includes calibrations for a broader range of species, so has broader application to the range of forest establishment activities that could be covered under the ERF.

The Variation amends the Determination to make explicit the arrangements for projects that are already declared as eligible offsets projects that move to the 'varied Determination' – that is, the Determination as varied by the Variation. Proponents of projects that are already declared eligible and whose crediting period has already commenced would need to apply to the Regulator under section 128 of the Act to have the varied Determination apply to their project. This is because under section 126 of the Act, a methodology determination continues to apply to projects that are already declared eligible under it and whose crediting periods have already commenced, even if the determination is subsequently varied.

It is intended that projects that are declared eligible under the original Determination or an earlier version of it would be able to transfer across to the varied Determination. Note that for projects which have commenced the crediting period under such a previous version of the Determination, a report must be submitted under that previous version in order to be eligible to transfer.

If a project proponent has applied to the Regulator for declaration of a human-induced regeneration project as an eligible offsets project, but a decision on the application has not been made when the Variation comes into force, the application will be assessed under the varied Determination. In this circumstance, it would not be considered under the Determination that was in force when the application was made. Similarly, if a project has been declared eligible, but its crediting period has not commenced by the time the Variation comes into force, the applicable methodology determination for the project will be the Determination as varied by the Variation.

Public consultation

The Variation has been developed by the Department of the Environment. Exposure drafts of the Variation were published on the Department's website for public consultation on two occasions: from 18 September 2015 to 2 October 2015; and from 9 to 23 February 2016. The second period of public consultation was undertaken because a number of changes and clarifications that went beyond the scope of the first exposure draft were made to the draft Variation after the first public consultation period.

Two public submissions were received in the first round of public consultation. A further two public and seven confidential consultations were received in the second round of public consultation. Details of the public submissions are provided on the Department's website: http://www.environment.gov.au

The Department has also consulted closely with the Regulator when developing the Variation.

Determination details

Details of the Variation are at Attachment A. Numbered sections and items in this explanatory statement align with the relevant sections and items of the Variation and the Schedule. The definition of terms highlighted in ***bold italics*** can be found in the Variation or the varied Determination.

For the purpose of subsections 114(2), (2A) and (7B) of the Act, in varying a methodology determination, the Minister must have regard to the advice of the Emissions Reduction Assurance Committee (ERAC) as to whether the Minister should vary the determination, and

is not able to make the variation if the ERAC has advised the Minister that the varied methodology determination does not comply with one or more of the offsets integrity standards. The Minister must be satisfied that the carbon abatement used in ascertaining the carbon dioxide equivalent net abatement amount for a project is eligible carbon abatement from the project. The Minister also must have regard to whether any adverse environmental, economic or social impacts are likely to arise from the carrying out of the kind of project to which the varied methodology determination applies, and other relevant considerations.

Note on this explanatory statement

Numbered sections in this explanatory statement align with the relevant sections of the variation instrument.

A statement of compatibility with human rights is set out at Attachment B.

1. Name

Section 1 sets out the full name of the Variation, which is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination Variation 2016.*

The Variation (that is, the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination Variation 2016*) varies the Determination (that is, the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*).

2. Commencement

Section 2 provides that the Variation commences on the day after it is registered on the Federal Register of Legislation.

3. Authority

Section 3 provides that the Variation is made under subsection 114(1) of the Act.

Subsection 114(1) of the Act provides that the Minister may, by legislative instrument, vary a methodology determination.

4. Amendment of methodology determination

Section 4 provides that the Determination is amended as set out in Schedule 1 to the Variation.

Schedule 1—Amendments of the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*

[1] Parts 1 to 5

Item 1 of Schedule 1 to the Variation repeals Parts 1 to 5 of the original Determination, replacing them with the sections described below. The draft Determination has been restructured to match the format of more recent methods made under the ERF.

Part 1—Preliminary

1. Name

Section 1 of the varied Determination sets out the full name of the varied Determination, which is the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013*.

Section 126(2) of the Act specifies that the version of a determination as it existed prior to a variation continues to apply to a project even if a variation is made during its crediting period. Proponents of projects registered under an earlier version of a determination may apply to the Regulator to have the varied Determination applied to their project. Sections 5 and 13 of the Determination outline requirements for transferring projects.

2. Duration

Under subparagraph 122(1)(b)(i) of the Act, a methodology determination remains in force for the period specified in the determination. The Determination will remain in force for the duration set out in this section unless revoked in accordance with section 123 of the Act or section 42 of the *Legislation Act 2003* (the Legislation Act).

Section 2 provides that the Determination will be in force from its commencement (which is taken to have occurred on 1 July 2010) until the day before it would otherwise be repealed under subsection 50(1) of the Legislation Act. Instruments are repealed under that provision on the first 1 April or 1 October following the tenth anniversary of registration on the Federal Register of Legislation. In accordance with subparagraph 122(1)(b)(i) of the Act, section 2 of the varied Determination sets out the time that the Determination would expire.

If the Determination expires in accordance with section 122 of the Act or is revoked under section 123 of the Act during a crediting period for a project to which the Determination applies, the Determination will continue to apply to the project during the remainder of the crediting period under sections 125 and 127 of the Act.

Under section 27A of the Act, the Emissions Reduction Assurance Committee may also suspend the processing of applications under a determination if there is reasonable evidence that the methodology determination does not comply with one or more of the offsets integrity

standards. This does not affect applications for declaration already received by the Regulator before such a suspension or declared eligible offset projects which apply the determination.

3. Definitions

This section defines a number of terms used in the varied Determination.

Under section 23 of the *Acts Interpretation Act 1901*, words in the varied Determination in the singular number will generally include the plural and words in the plural number include the singular.

Definitions are provided in section 3 of the determination.

CEA (short for carbon estimation area) refers to an area within the project area on which the project mechanism is undertaken and for which abatement is calculated. CEAs must satisfy a range of requirements designed to help ensure that the abatement calculated for a CEA is accurate and has genuinely arisen from the project – see section 16. A CEA may consist of multiple CEA parts if the conditions in section 16 (5) are met.

A ***clearing right*** is an approval issued by a government or regulatory authority that permits the clearing of forest that would otherwise be protected. Under the varied Determination, proponents are required to provide to the Regulator copies of clearing rights relating to the project area in certain circumstances (see sections 10 and 38).

Conservation land refers to land that is an area that is owned and managed by the Commonwealth or a State or Territory government for biodiversity conservation. The varied Determination restricts the eligibility of certain HIR activities to be undertaken on conservation land from forming part of the project mechanism (see section 12). This requirement is included because regeneration of native forest is unlikely to be suppressed on such land in the ordinary course of events, and so any abatement would be likely not to be additional.

This definition of 'conservation land', and associated limitations, do not extend to an area that is owned and managed privately for biodiversity conservation (referred to here as private conservation land). However, private conservation land, as per any land type, must still meet the additionality requirements of the Act, including the 'newness requirement' and the 'regulatory additionality requirement' to form CEAs under a HIR project (see section 27 of the Act).

An area of land has ***forest cover*** if it is at least 0.2 of a hectare and its vegetation includes trees that are at least 2 metres in height and provide crown cover of at least 20 per cent of the land area. This concept aligns with the National Greenhouse Gas Inventory treatment of forests, under which land enters the forest sequestration accounts when it meets the forest cover definition.

An area of land has ***forest potential*** if it is at least 0.2 hectares in area and has trees that, taking into account the location and characteristics of the land, are reasonably likely to reach 2 metres and 20 per cent crown cover.

The term ***former determination*** is used in cases where a project is transferring from another determination to the varied Determination, or where an area of land is being moved from another project to one registered under the varied Determination. If the Regulator has approved, under section 130 of the Act, a change of methodology determination for a project, the former determination is the determination that applied before the change. If an area of land is being moved from one project to another under section 27 of the Act, the former determination is the determination that applied to the project from which the land was moved.

FullCAM is an online tool that is used to model forest carbon stocks associated with land use and management, and is used for Australia's National Greenhouse Gas Inventory. At the time the Variation was made, the latest version of FullCAM could be obtained from the Department's website, www.environment.gov.au.

The definition of FullCAM refers to a model 'as in force from time to time'. Section 14 of the Legislation Act provides that a legislative instrument (such as a methodology determination) is able to make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or writing as in force from time to time, but only if the enabling legislation permits material to be incorporated in this manner. Subsection 106(8) of the Act permits matters to be incorporated in this manner, providing that a methodology determination may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a matter contained in an instrument or writing as in force or existing from time to time.

It is necessary to refer to FullCAM as updated from time to time, to ensure consistency with Australia's National Greenhouse Gas Inventory. Section 6 requires proponents to use the version of FullCAM that was current at the end of the reporting period in calculating the net abatement amount.

FullCAM guidelines refers to a document on the Department's website that sets out how to use FullCAM to model carbon stocks and emissions in a CEA for an ***HIR project***. As with the definition of FullCAM, the varied Determination refers to the guidelines 'as in force from time to time'.

HIR project (short for human induced regeneration project) means an offsets project that involves assisting the regeneration of native forest and the attainment of forest cover by undertaking one or more HIR activities, and can be reasonably expected to result in eligible carbon abatement. See section 7.

Native forest is defined as an area of land that contains native vegetation, is not a plantation, and is dominated by trees that are located within their natural range; provide or, having regard to the location and characteristics of the land, are reasonably likely to provide, a crown cover of at least 20% of the area of land; and have reached or, having regard to the location and characteristics of the land, are reasonably likely to reach, a height of at least 2 metres.

Native vegetation, in relation to a particular area, means a mix of trees, shrubs, and understorey species that reflects the structure and composition of the vegetation that, having regard to the location and characteristics of the area, is expected to occur naturally in that area. The mix may or may not include all three structural components (trees, shrubs and understorey species) rather the mix of these should reflect the expected species composition and structure given the location and characteristics of the area (e.g. soil type, topography,

land-use history). The mix may consist of a monoculture where, having regard to the location and characteristics of the area, a monoculture would be expected to occur naturally.

Regeneration means the means the regrowth of trees from the germination of *in situ* seed, or the growth of *in situ* seedlings, rootstock or lignotuber.

The varied Determination applies only to projects that establish native forests through regeneration, and does not permit planting of seeds or seedlings. Other determinations are available under the ERF for projects that involve planting.

Section 3 also defines various other instruments that are incorporated, as in force from time to time, by the varied Determination, these being:

- the *National Greenhouse and Energy Reporting Act 2007*
- the *National Greenhouse and Energy Reporting Regulations 2008*
- the CFI mapping guidelines
- the CFI mapping tool

The former two are an Act of Parliament and a disallowable legislative instrument respectively, and so their incorporation as in force from time to time is authorised by paragraph (a) of subsection 14(1) of the Legislation Act. The appropriate versions of these documents can be obtained from the website www.comlaw.gov.au. The latter two are neither Acts nor disallowable legislative instruments, and their incorporation as in force from time to time is authorised by paragraph (b) of subsection 14(1) of the Legislation Act, subsection 14(2) of the Legislation Act, and subsection 106(8) of the Act. The appropriate versions of these instruments can be obtained from the Department's website, www.environment.gov.au.

It is necessary to refer to these documents as updated from time to time to ensure consistency with Australia's National Greenhouse Gas Inventory. To provide greater clarity, section 6 requires proponents to use the versions of these documents that were current at the end of the reporting period in calculating the net abatement amount.

4. Meaning of eligible land and baseline period—general rule

This section sets out the general rule for determining whether a particular area of land is 'eligible land'. An eligibility requirement for an HIR project is for its project area to include at least some eligible land. In addition, if any area of land is added later to the project area, it too must include at least some eligible land (see section 11). Further, when defining CEAs in the project area for the purposes of calculating the net abatement amount, only land that is eligible land is able to be stratified as a CEA (see section 16).

The general rule, set out in section 4, is that an area of land is eligible land if it did not have forest cover at any time during its 10-year ***baseline period***; and it was subjected to particular mechanisms that contributed to the suppression of forest cover, and would be expected to continue to prevent forest cover if they continued at the same level.

Conservation land is only eligible under specific conditions and only for a subset of the mechanisms under which other land is eligible (these being feral animals and plants not native to the area). This is because it is considered standard practice that conservation land managers would remove livestock and cease any mechanical or chemical destruction, or suppression of regrowth. Subsection 7 (2)(b) and 10(4) provides further clarification regarding specific requirements for projects on conservation land.

Example 1: An area of land was privately owned for part of the ten-year baseline period but subsequently bought by the State as a conservation area. The area did not have forest cover at any point during the ten years. Livestock grazing occurred on the land during its baseline period. In addition, the area was subjected to grazing by feral goats. Mechanical destruction of non-native species also occurred. The density of goats at the time of project application is quite high and if left unmanaged would likely result in continued suppression of forest cover. The area meets the requirements of section 4. In order to be eligible land, the area would also need to meet requirements set out in sections 7 and 10.

Example 2: A conservation area was privately owned for the first five years of its baseline period, and subsequently bought by the State as a conservation area. During year five of the baseline period the area was mechanically cleared of all vegetation, including native species. The area did not reach forest cover at any point during its baseline period. As the area is conservation land and mechanical clearing of native species contributed to suppression of forest cover during the baseline period, the area is not eligible land.

The definition for 'conservation land' under section 3 does not extend to an area that is owned and managed privately for biodiversity conservation (referred to here as private conservation land). Private conservation land is not subject to restrictions on eligibility by section 4(1)(b) and section 5(1)(a) of the varied Determination. However, on private conservation land, as per any land type, the particular mechanisms contributing to suppression of forest cover must still meet the additionality requirements in the Act, including the 'newness requirement' and the 'regulatory additionality requirement' (section 27 (4A)). Eligible land must also meet the requirements of section 20A of the *Carbon Credits (Carbon Farming Initiative) Rule 2015* (the Rule) that a project area is not used to meet an obligation under a Commonwealth, State or Territory law to offset or compensate for the adverse impact of an action on vegetation.

Land is only eligible where it is reasonable to expect that it would be necessary to undertake one or more HIR activities on the land in order for it to attain forest cover.

Eligible land is thus one in which human intervention would be necessary to reduce the suppression mechanisms in order to enable regeneration of native forest such that it meets forest cover.

Example 1: The removal of a single goat from an area is an HIR activity; however it is not reasonable to expect that the existence of a single goat would prevent the land from reaching forest cover.

Example 2: If forest cover was suppressed over the last ten years (the baseline period) but this was principally due to drought, and it could be reasonably expected that the drought would break and forest cover would regenerate without human intervention, than the project would not be eligible.

Subsection (3) defines the 'baseline period', which is used when assessing whether a particular area of land is or is not 'eligible land'. Baseline period has a different meaning depending on when and how the land was included in the project area:

- if the land was identified as part of the project area at the time the project was registered, the baseline period is the 10-year period ending on the date that the proponent submitted their application for registration to the Regulator; and

- if the land was added to the project area later, through a variation in the project area, the baseline period is the 10-year period ending on the date that the proponent submitted the relevant application to vary the project area to the Regulator.

5. Meaning of *eligible land* and *baseline period*—transferring projects and land

This section sets out rules for determining whether a particular area of land is 'eligible land' in two special cases:

- a project that is transferring onto the varied Determination by means of the process set out in sections 128 to 130 of the Act; and
- land that is being moved from a project that is covered by another relevant methodology determination to an HIR project that is covered by the varied Determination.

The intention of this provision is that, if the land was stratified as a CEA under the determination that previously applied to the relevant project, it will be possible to stratify the land as a CEA under the HIR project for which the varied Determination is the applicable methodology determination.

To achieve this, separate provisions are included for the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* (***NFMR Determination***) and the ***HIR Determination***. 'HIR Determination' is defined to include all versions of the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination 2013* as well as an earlier human-induced regeneration method, the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest) Methodology Determination 2013*.

Subsection (1) applies both to projects transferring from the NFMR Determination and to land transferring from a project operating under the NFMR Determination. It provides that land that was stratified as a CEA under an NFMR project is eligible land under the varied Determination, as long as the land is not conservation land and the CEA was reported on when it was covered by the NFMR Determination.

Subsection (2) applies to projects transferring from earlier versions of the HIR Determination. It provides that for these projects, the baseline period for an area of land is the baseline period that applied under the former determination. Similarly, subsection (3) provides that the definition of baseline period is the same as applied under the former determination for land transferring from another project covered by an HIR Determination.

Further requirements for transferring projects are outlined in section 13 including the need to have submitted an offsets report for any transferring CEA.

6. References to factors and parameters from external sources

This section refers to factors or parameters used in calculations that are derived from external sources. An example of factors from an external source used in the varied Determination is the fuel emissions factors taken from the *NGER (Measurement) Determination* made under subsection 10(3) of the *National Greenhouse & Energy Reporting Act 2007* (NGER Act). FullCAM modelling results are also intended to be covered by this provision.

The effect of subsection (1) is that if the external sources are amended during a project's reporting period, then the project proponent will be required to use the factor or parameter defined in or calculated by reference to the version that is in force at the end of the reporting period. For example, the version of FullCAM used in calculating the net abatement amount for a reporting period must be the version that was current on the last day of that reporting period.

Paragraph (2)(a) provides that subsection (1) does not apply if the Determination sets out other requirements.

Paragraph (2)(b) provides that subsection (1) does not apply where it is not possible to retrospectively apply a factor or parameter in an instrument that is in force at the end of the reporting period.

Part 2—HIR projects

7. HIR projects

The effect of paragraphs 27(4)(b) and 106(1)(a) of the Act is that a project must be covered by a methodology determination, and that the methodology determination must specify the kind of offsets project to which it applies. Section 7 provides that the varied Determination applies to a project that satisfies the following conditions:

- the project could reasonably be expected to result in eligible carbon abatement, that is, the removal of greenhouse gases from the atmosphere that can be counted towards Australia's national targets;
- the land on which the project is undertaken does not have forest cover (as defined in section 3 of the varied Determination); and
- the project involves undertaking an ***HIR activity*** to assist the area of land to become native forest and achieve forest cover through regeneration, and not, for example, planting;

Section 7(2) defines ***HIR activity*** to mean any activity in the following list:

a) the exclusion of livestock;

b) the management of the timing, and the extent, of grazing;

c) the management, in a humane manner, of feral animals;

d) the management of plants that are not native to the project area;

e) the implementation of a decision to permanently cease the mechanical or chemical destruction, or suppression, of regrowth.

If the project is undertaken on conservation land, the project proponent must undertake either or both: the management of feral animals and the management of plants that are not native to the project area.

Further, the particular activity that is undertaken must be one that is not standard practice in the relevant jurisdiction for conservation land of that kind. See paragraph 12(2)(b). Examples of conservation land types in NSW in 2016 include national parks, nature reserves, state conservation areas, regional parks, and community conservation areas.

Exclusion of livestock means the exclusion of all livestock, at least until forest cover has been attained, and thereafter, only in accordance with section 21(b).

Management of the timing, and extent, of grazing, means limiting grazing by livestock (but not necessarily completely de-stocking), to such a level that assists the area of land to become native forest and achieve forest cover through regeneration.

Part 3—Project requirements

Division 1—Operation of Part

8. Operation of this Part

Consistent with paragraph 106(1)(b) of the Act, this Part sets out requirements that must be met for an HIR project to be an eligible offsets project.

Division 2—Requirements for declaration as eligible project

9. Location

Section 9 specifies that the project must be located in an area for which FullCAM data exists.

10. Information to be included in application for declaration or variation

Section 22 of the Act provides that a person may apply to the Regulator for a project to be declared an eligible offsets project. Declaration as an eligible offsets project is a necessary condition for a project to receive credits for abatement under the ERF.

Section 29 of the Act provides for varying a project's declaration in relation to the project area. If the proponent makes an application to the Regulator under section 29 of the Act to add to the project area, section 10 of the varied Determination requires particular information to be provided with the application.

An application for declaration of an HIR project or an application to add project area to an HIR project must identify at least one area of land on which the project could be undertaken: an area of land large enough (at least 0.2 hectares) that it is possible for regenerating forest to meet the forest cover definition, and which satisfies the definition of 'eligible land' (see section 4). Unless that area of land is eligible because it meets the requirements of subsection 5(1), the application must also describe the mechanisms that occurred during the baseline period that prevented forest cover from being achieved, and the activity that the proponent plans to undertake that will help native forest to regenerate.

Where land is conservation land an application must describe how the specific eligibility requirements for that land type as outlined in section 4(2) apply and ensure that in describing HIR activities only those activities outlined in section 7(2)(b) are included for conservation land. In addition the application must describe the extent to which the management of feral animals or the management of plants that are not native to the area would ordinarily be undertaken on conservation land of that type in the relevant jurisdiction. Such a description must include documentary evidence of those practices over the baseline period or identify any readily accessible public sources where those practices have been documented. Such public sources could include standard operating procedures or park management plans for parks of a similar conservation land type. Examples of conservation land types in NSW in 2016 include national parks, nature reserves, state conservation areas, regional parks, and community conservation.

Section 10 also requires proponents to provide a copy of any clearing right that covers part of the project area (the original area or the area being added) if the right has been exercised – that is, if land has been cleared – and if there are ongoing requirements relating to the management of the cleared area. For example, some clearing consents require the native groundcover established after clearing to be maintained in perpetuity. This requirement is

included to assist the Regulator in establishing that the proponent has the legal right to promote regeneration of native forest in the project area.

Information from an application will also be used by the Regulator in applying the additionality requirements of section 27 of the Act. Under section 27 of the Act, the Regulator must not declare an offsets project eligible unless additionality requirements are satisfied, including the 'newness requirement' and 'regulatory additionality requirement'. The application must also meet the requirements of section 20A of the Rule that a project area is not used to meet an obligation under a Commonwealth, State or Territory law to offset or compensate for the adverse impact of an action on vegetation.

To satisfy the 'newness requirement' under the Act, an activity that will form part of the project mechanism must not have commenced during the baseline period. Details of how projects meet the newness requirement are required to be included in an application by section 13 of the Rule.

To satisfy the 'regulatory additionality requirement' under the Act, an activity forming part of the project mechanism must not have been required to be carried out by or under a law of the Commonwealth, a State or a Territory to an equivalent degree or greater. Where an activity is required under law, but to a lesser degree than required as for a HIR project, the regulatory additionality requirement will be satisfied.

For example a farmer has a nature covenant on his land registered with the State authority. The covenant requires that livestock be excluded from the area. The area within the covenant would not meet regulatory additionality for exclusion of livestock because the HIR activity is already required under a legal arrangement.

11. Land characteristics

Section 11 requires the project area, as nominated at the time of declaration, and any other area of land added to the project area later, to include eligible land (as defined in sections 4 and 5). This section does not require the project area to consist entirely of eligible land, just for it to contain some eligible land. Section 16 prevents parts of the project area that are not eligible land from being included in a CEA.

12. Project mechanism

Section 12 requires the proponent to undertake one or more HIR activities (as defined in section 7) on at least one area of eligible land.

The activities undertaken must together be reasonably expected to result in the establishment of native forest through regeneration. The proponent may not plant seeds or seedlings on the area of land on which they are undertaking the project mechanism.

A note to the section includes two examples of the kinds of HIR activities that proponents could undertake. The first example, fencing to exclude livestock and feral animals, involves the first and third items from the list of HIR activities in section 7. The second example, in which the project mechanism involves implementing the decision no longer to mechanically destroy regrowth, corresponds to the final item in the list.

Under subsection 27(4A) of the Act, eligible offsets projects must not have begun to be implemented at the time of declaration. This means that the proponent must not begin to carry out the project mechanism until the project is registered by the Clean Energy Regulator. Note that in cases where the HIR activity involves implementing a decision to cease a suppression activity that has previously been undertaken on a cyclical basis (e.g. mechanical destruction

of regrowth on a seven-year cycle), the last suppression event may have occurred before project registration; in such cases, the project mechanism involves the implementation of the decision not to continue this activity, and it is the implementation of the decision that must be new.

13. Eligibility requirements for transferring project

Section 13 sets some restrictions on the eligibility of projects transferring onto the varied Determination from another determination, and of land moved from a project covered by another determination.

Projects that are covered by other methodology determinations are able to transfer onto the varied Determination, by making a request in accordance with section 128 of the Act, so long as the Regulator approves the request under section 130 of the Act. The eligibility requirements that are set out in this section ensure that the varied Determination applies properly to any existing projects that transfer to the varied Determination in accordance with this mechanism.

First, if a determination states that it cannot be a 'former determination' for the purposes of the varied Determination; projects registered under that determination would not meet the requirements of this section. Currently, no determinations include such a provision, but this could be included in a future determination if any aspect of the project requirements or abatement calculations were not compatible with the provisions for transferring projects in the varied Determination.

Second, the method requires a transferring project to have reported under the former determination, and for the most recent report to have covered the whole project. This is included so that the provisions in the varied Determination relating to the carryover of negative abatement function as intended.

Section 13 also prevents land being moved from another project to the HIR project area if the method determination that applied to the other project includes a statement that it cannot be a former determination for the purposes of the varied Determination.

Division 3—Operation of HIR projects

Subdivision 1—Operation of Part

14. Operation of eligible projects

Section 14 states that a project under the varied Determination must be operated in accordance with Division 3 of Part 3.

Subdivision 2— Stratification of the project area

15. Stratification of project area into CEAs

Section 15 requires a proponent to define one or more CEAs within the project area before reporting for the first time under the varied Determination. CEAs are the areas in which the project mechanism is undertaken and for which abatement is calculated. Section 18 outlines the requirements for re-stratification of a CEA and section 19 outlines the requirements for re-stratification of a CEA from a transferring project.

16. Requirements for CEAs and CEA parts

Section 16 sets out requirements that must be satisfied by an area of land if it is to be defined as a CEA. These include that regeneration must first occur at or around the same time.

In deciding if regeneration has occurred around the same time consideration should be given to the dominant species of the native vegetation community and their ecological characteristics. For example, if a species requires very high moisture levels to regenerate than regeneration might be expected to occur within a month following a significant rainfall event.

A CEA may be a single polygon, or a set of polygons. The whole of the CEA must be contained in a circle with a radius of 1.5 kilometres.

The entire area of land that constitutes a CEA must be eligible land, as defined in sections 4 and 5, and the project mechanism must have been undertaken on that land. The land must have forest potential, as defined in section 3, before it can be stratified as a CEA.

To allow for accurate modelling of carbon stocks in FullCAM, the regeneration on the land in a single CEA must have commenced at or around the same time and it must be possible to use the same FullCAM events queue (or the same FullCAM events queues, if this is provided for in the FullCAM Guidelines) to model the series of disturbance and land management events that occurred on the area of land in accordance with the FullCAM Guidelines. The reference to multiple events queues is to allow the FullCAM Guidelines to specify hybrid modelling approaches to deal with complex disturbance events (noting that the FullCAM Guidelines did not provide for this when the Variation was made).

For example if two areas of land greater than 0.2 hectares each began to regenerate after spring rains following implementation of the project activities but these areas were separated by 0.2 hectares of land that did not regenerate, only the regenerating areas could be stratified as CEA parts of the same CEA. Subsequently if the area that did not previously regenerate began to regenerate two years later, it could then be stratified as a CEA but would be stratified as a separate CEA from the other two CEA parts. This is because it would not be considered to have commenced regeneration at the same time as those other CEA parts.

Finally, CEAs must not overlap; that is, no area of land can be included in more than one CEA in a reporting period.

17. CEA and CEA part boundaries

The boundaries of each CEA must be identified on a geospatial map of the project area, in accordance with the CFI Mapping Guidelines and section 24, which states that the proponent must use the CFI mapping tool or another system that meets the requirements of the CFI mapping guidelines to identify the boundaries of CEAs.

Subsection (2) states that the boundaries of the CEA must be a polygon whose edge lies no more than 2 metres from the stems of the outer-most regenerating trees. This is intended to ensure that the CEA area, which is used to calculate carbon stocks for the net abatement amount, accurately reflects the regenerating area. The outer-most trees of the regenerating area are the trees at the edge of the area, which meets the requirement of a CEA as set out in section 16. It is probable that there will be trees outside of the polygon depicting the CEA area, but that these tress are on land that does not meet the definition of a CEA or has characteristics that require it to be mapped as a separate CEA.

If a CEA boundary would fall within another CEA, subsection 17(3) requires those CEAs to be re-stratified. Subsection 17(3) states that if two CEA boundaries would overlap, the

boundaries must be repositioned to run halfway through the area where the overlap would otherwise occur.

Subsection 17(4) also states that if a CEA is no longer wholly contained within the project area, for example due to a variation to the project's declaration under section 27 of the Act, the CEA must be re-stratified. Subsection 17(4) provides for any part of a CEA boundary that would be outside the project area to instead follow the project area boundary.

18. Re-stratification of a CEA

If a single CEA can no longer be modelled with a single FullCAM events queue (or more than one events queue if permitted by the FullCAM Guidelines), section 18 requires that it be re-stratified. The proponent may define new CEAs that individually can be modelled in FullCAM in accordance with paragraph 16(4), may designate the land as not being a CEA, or may do a combination of these.

The proponent is required to re-stratify a CEA if the CEA can no longer reasonably be expected to attain forest cover through regeneration of native forest. This provision has been included so that credits do not continue to be issued on the basis of FullCAM modelling of a growing forest if there is no reasonable prospect of forest cover actually being achieved on the land.

19. CEAs transferring from other project

For transferring projects the land is taken to be stratified as a CEA as per the previous offset report. The CEAs must meet the requirements in subsection 16(4) regarding the need for an area to commence regeneration at the same time and for it to be possible to model any events in the CEA in FullCAM as per the FullCAM guidelines. If the CEAs do not meet these requirements, then the CEAs must be re-stratified such that they meet these requirements. CEAs transferring from other projects are not required to meet the conditions in 16(4)(c) regarding the need for a CEA to contain a similar mix of native vegetation.

The determination allows for CEAs that are part of a project that is transferred to the method to be treated as CEA parts of single CEA, provided the CEA meets the conditions set out in section 16. That is if there are multiple CEAs as stratified under a previous determination and collectively these CEAs all meet the requirements set out in section 16 for a single CEA, then they may be re-stratified as parts of a single CEA.

This section applies only to CEAs that were previously stratified as part of a project that is transferring. Any new CEAs areas that are added to a transferring project must meet all of the conditions set out in section 16.

Subdivision 3—Project operation

20. Removal of biomass from CEAs

Section 20 prevents biomass from being removed from a CEA required by or under law or permitted by this determination. It states that the destruction of native vegetation is permitted within a CEA if a plant is not native and its removal (rather than killing the plant and leaving the biomass in the CEA) would improve the growth rate or health of the remaining native vegetation or it is for personal firewood use.

Where firewood is removed for personal use only dead biomass may be removed. This may only be removed when the dead biomass was not the result of mechanical or chemical destruction of native vegetation (see subsection **Error! Reference source not found.**(2));

and the carbon stock in the CEA after the removal would not be materially less than it would have been were the biomass not removed.

In this section, removal of biomass refers to plant biomass. The removal of animal biomass, such as dead carcasses, from the CEA is permitted.

Where plant biomass must be removed to assist or comply with a law of the Commonwealth, a State or Territory, such as creating a firebreak or installing required fencing, this section permits that activity within a CEA. However, regard should be given to the growth rate and/or health effects of the remaining native vegetation on other requirements of the determination including whether the CEA will still have potential to reach forest cover (section 16). The latter may result in the need to re-stratify a CEA. Regard should also be given to any requirements in the FullCAM guidelines.

21. Livestock restrictions and grazing

Section 21 states that if the HIR activity involves excluding livestock from a CEA, the project proponent must prevent grazing of all livestock in that CEA until the regenerated vegetation meets the definition of 'forest cover'. After this time, the activity changes to management of the timing, and the extent, of grazing.

For management of the timing, and the extent, of grazing, grazing is only permitted to the extent that it does not have a material impact on the accumulation of carbon in the forest on the CEA.

Although the determination does not directly place any restrictions on livestock presence within the CEA for HIR projects that do not undertake the activities livestock exclusion or management of the timing, and the extent, of grazing, any grazing activity should be undertaken such that the CEA can reasonably be expected to achieve and maintain forest cover, and must be modelled according to any applicable FullCAM Guidelines.

Livestock takes its ordinary meaning of domesticated animals regarded as a commodity, and as differentiated from feral animals that may be present in a project area, but are not subject to rearing for commercial gain.

In transitioning from the activity livestock exclusion to the activity management of the timing, and the extent, of grazing, regard should be given to the reporting requirements set out in section 39 and section of the 70(3) of the Rule.

22. Restriction on mechanical or chemical destruction of native vegetation

This section prevents the mechanical or chemical destruction or damage of native vegetation within a CEA unless required by or under law or permitted by this determination. It states that the destruction of native vegetation is permitted within a CEA if it is undertaken primarily to improve the growth rate or health of the remaining native vegetation and if the resulting biomass remains in the CEA.

23. Use of lime or fertiliser

Section 23 prevents the use of lime or fertiliser in a CEA.

Subdivision 4— Mapping requirements

24. Mapping requirements

This section refers to the requirements to map the project area and the CEAs, which are contained in sections 10 and 17 respectively. It states that the mapping must be done using the CFI mapping tool, or another geographic information system that meets the relevant requirements in the CFI mapping guidelines.

Part 4—The net abatement amount

Division 1—Operation of this Part

25. Operation of this Part

Paragraph 106(1)(c) of the Act provides that a methodology determination must specify how to calculate the carbon dioxide equivalent net abatement amount for the project in relation to a reporting period. Part 4 sets out these rules.

26. Overview of gases accounted for in abatement calculations

Section 26 provides a summary of the greenhouse gas sources that are taken into account in the Part 4 net abatement amount calculations. Greenhouse gases and sources that are within the scope of the net abatement amount calculations are summarised in the following table.

Overview of gases accounted for in abatement calculations

Item	Relevant carbon pool or emission source		Greenhouse gas
1	Carbon pool	Live above-ground biomass	Carbon dioxide (CO_2)
2	Carbon pool	Live below-ground biomass	Carbon dioxide (CO_2)
3	Carbon pool	Dead plant material and debris	Carbon dioxide (CO_2)
4	Emission source	Fuel use	Methane (CH_4) Nitrous oxide (N_2O) Carbon dioxide (CO_2)
5	Emission source	Fire	Methane (CH_4) Nitrous oxide (N_2O)

Division 2— Overview of method for calculating net abatement amount

Subdivision 1— Summary of method

27. Summary of method

Section 27 sets out a summary of the method for calculating the net abatement amount for a reporting period.

Under the varied Determination, abatement is calculated as the change in the amount of carbon stored in all the CEAs in the project area (through the combined effect of tree growth, natural decay and disturbance events such as fire), minus emissions resulting from fire and from fuel combusted in the process of establishing and maintaining the project. An adjustment is applied to the net abatement amount in a reporting period to account for negative abatement (if any) in previous reporting periods.

Subdivision 2—Use of FullCAM

28. Modelling commencement date

The modelling commencement date is the date that modelling of carbon stock on a CEA commences in FullCAM. Under the FullCAM Guidelines (as they stood at the time the

Variation was made), this will correspond to a regeneration event in the FullCAM events queue.

Section 28 requires the proponent to choose a modelling commencement date for each CEA. The date chosen may be different for different CEAs. It must be as close as practicable to, but after, the time at which native forest has started to regenerate on the land and after the land has started to demonstrate forest potential (see definition in section 3). These requirements are intended to ensure that carbon sequestration is not credited before it can be demonstrated that a native forest with the potential to achieve forest cover is regrowing in the CEA.

A note to the provision observes that the modelling commencement date may be before or after the project commences, depending on the type of HIR activity that is undertaken for the project. Where carbon has accumulated in the CEA before the start of the first reporting period for which it is included in the project, the equations require the 'initial carbon' to be deducted in calculating the net abatement amount. Note that land which has forest cover at the time the proponent applies to register the project is not eligible land and so cannot be included in a CEA.

29. Model point location

FullCAM models carbon stocks in tonnes of carbon per hectare for a single point; Part 4 of the varied Determination requires these values to be multiplied by the area of the CEA to find carbon stocks for the CEA. Section 29 sets out requirements the selected ***model point location*** must satisfy, so that the carbon stocks modelled in FullCAM accurately represent the whole CEA.

The model point location must be representative of the CEA and as close as practical to the geographic centre of the CEA parts. The model point location need not lie within the CEA itself.

In deciding whether a location is representative of the CEA consideration should be given to the soil type, aspect and slope. For example, if a CEA is predominantly dry with limited vegetation, the model point location should not be a fertile river bank. The model point location may only change if the CEA is re-stratified; in this case, new model point location(s) for the new CEA(s) consistent with the requirements in this section would need to be chosen.

30. FullCAM events queue

The FullCAM events queue for a CEA is defined in section 3 as the series of management and disturbance events that are modelled in FullCAM for that CEA.

Section 30 requires the proponent to comply with any relevant instructions in the FullCAM Guidelines when constructing the FullCAM events queue for a CEA. It also requires the events queue to be representative of the events that occurred on the CEA during period of time covered by the FullCAM modelling. For example, if a fire affects a CEA, the fire should be included in the FullCAM events queue in a way that is consistent with any instructions in the FullCAM Guidelines.

31. Use of FullCAM to calculate net abatement amount

Section 31 sets out a number of components of the net abatement amount calculation that must be modelled in FullCAM, in accordance with the FullCAM Guidelines. These are carbon stocks per hectare for various carbon pools in the CEA, and emissions per hectare from fire in the CEA.

The section also lists the information that must be used as inputs to FullCAM for the modelling of each CEA: the model point location, the modelling commencement date, and the series of management and disturbance events occurring on the CEA that constitute the FullCAM events queue.

Division 3—The net abatement amount

32. Calculating the net abatement amount

The net abatement amount for a reporting period is calculated by first determining the carbon stock change that has occurred over the reporting period, less emissions from fuel use and fire, adjusted for negative abatement in previous reporting periods. This is calculated using Equation 1. These components of the net abatement amount equation are described in more detail in Divisions 4 to 6 below.

If the amount calculated using Equation 1 is a positive number, or equal to zero, the net abatement amount for the reporting period is equal to that amount. However, if that amount is a negative number, the net abatement amount is equal to zero instead. The negative number is then carried over to the next reporting period, and subtracted from the net abatement amount then calculated.

A project could deliver negative abatement in a reporting period if there is a reduction in sequestered carbon during the reporting period, or if the increase in sequestered carbon is not sufficient to offset project emissions or a negative amount carried over from the previous reporting period.

Division 4—Calculation of carbon stock change

33 Calculating carbon stock change for reporting period in tonnes CO_2-equivalent (CO_2-e)

The carbon stock change in reporting period r, ΔC_r, is the total amount of carbon sequestered in the CEAs, less the amount of carbon sequestered in CEAs as they stood at the end of the previous reporting period and less the opening carbon stocks of new CEAs that have not previously been reported on. Carbon stocks are determined for the different carbon pools in individual CEAs using FullCAM. Equation 2 sets out how to calculate the amount $\Delta C_{r\ CO2}$.

The three components of the equation for $\Delta C_{r\ CO2}$ are as follows.

- Closing carbon stock for the reporting period, $\boldsymbol{C_r}$. For each CEA for which abatement is being calculated, FullCAM outputs for carbon stocks at the end of the reporting period (in tonnes CO_2-e per hectare) are added together and multiplied by the area of the CEA. The results for all the CEAs are then added together to find total closing carbon stock for the project in the reporting period.
- Closing carbon stock from previous reporting period $\boldsymbol{C_{r-1}}$. This is the value that was calculated for $\boldsymbol{C_r}$ in the previous reporting period. Note that this may not cover the same CEAs as $\boldsymbol{C_r}$ for the reporting period, if, for example, the proponent is reporting on parts of the project separately or if there has been re-stratification of CEAs.
- Initial carbon, IC_r which is included to adjust for new CEAs with non-zero carbon stocks at the beginning of the reporting period. This includes CEAs stratified for a project's first reporting period.

Division 5—Calculation of project emissions

34. Outline of Division

'Project emissions' refers to emissions that arise as a result of the project. The offsets integrity standards require any material emissions that arise as a result of carrying out the project to be deducted from the net abatement amount (see paragraph 133(1)(e) of the Act).

Division 5 describes how to derive the second and third terms in Equation 1: emissions from fire and emissions from fuel combustion.

35. Calculation of methane and nitrous oxide emissions from fire

FullCAM models emissions of methane and nitrous oxide per hectare as a result of fire in the CEA. The equations in section 35 convert the FullCAM output values to tonnes of carbon dioxide equivalent.

36. Calculation of emissions from fuel use

Emissions from fuel use are calculated by multiplying the amount of fuel consumed in implementing the project within CEAs. Emissions are calculated by default energy content and emissions factors set out in Schedule 1 of the NGER (Measurement) Determination.

Division 6—Calculation of carryover net abatement amount, A_{r-1}

37. Calculating the carryover amount

There is an adjustment to Equation 1 to account for negative abatement in previous reporting periods, so that proponents are not re-credited for replacing carbon stores that were previously credited and then lost. This makes explicit the treatment of negative abatement to improve clarity for scheme participants.

Section 37 sets out how to calculate the carryover net abatement amount. In the first reporting period for a project, the carryover amount will be zero. The way the carryover amount is worked out for subsequent reporting periods depends on the methodology determination under which the project reported in the previous reporting period.

- If the project was reported on under the varied Determination in the previous reporting period and the net abatement amount in that reporting period was negative, the carryover amount is that negative number.
- If the project was reported on under the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* in the previous reporting period and the net abatement amount in that reporting period was negative, the carryover amount is that negative number.
- If the project was reported on under a previous version of the varied Determination in the previous reporting period and the net abatement amount was negative in any reporting period under any previous version of the methodology, the carryover amount is equal to the sum of all the negative net abatement amount values.

If none of the circumstances listed above hold, the carryover amount is zero.

Some examples of how negative abatement might be carried over in an HIR project are below.

Example 1 – project previously reported under the varied Determination

A project reported under the varied Determination for the previous reporting period. The output of Equation 1 was -100 t CO_2-e. Under subsection 32(1) the net abatement amount for the previous reporting period was thus zero.

For the current reporting period, subsection 37(2) provides that the value of A_{r-1} is -100. Equation 1 thus becomes:

$$A_r = \Delta C_{r,CO_2} - E_B - E_F - 100.$$

Example 2 – project previously reported under NFMR

A project reported under the *Carbon Credits (Carbon Farming Initiative) (Native Forest from Managed Regrowth) Methodology Determination 2013* for the previous reporting period. The net abatement amount calculated in accordance with the NFMR Determination was -50, and the proponent did not receive any credits for the reporting period.

The project has now transferred to the varied Determination. For the current reporting period, subsection 37(3) provides that the value of A_{r-1} is -50. Equation 1 thus becomes:

$$A_r = \Delta C_{r,CO_2} - E_B - E_F - 50.$$

Example 3 – project previously reported under an earlier version of the varied Determination

A project reported under an earlier version of the varied Determination for the previous reporting period. The project reported three times in total under that version of the Determination, and has not reported under any other version. The net abatement amounts reported for the three reporting periods were 2000 t CO_2-e, -10 t CO_2-e and -50 t CO_2-e.

The project has now transferred to the varied Determination. For the current reporting period, subsection 37(4) provides that the value of A_{r-1} is the sum of all the negative net abatement amounts calculated under a previous version of the method. For this project, it is the sum of -10 and -50. Equation 1 thus becomes:

$$A_r = \Delta C_{r,CO_2} - E_B - E_F - 60.$$

Part 5—Reporting, record-keeping and monitoring requirements

Subsection 106(3) of the Act provides that a methodology determination may subject the project proponent of an eligible offsets project to specified reporting, notification, record-keeping and monitoring requirements. The varied determination includes reporting, record-keeping and monitoring requirements, but does not specify any notification requirements.

Under Parts 17 and 21 of the Act, a failure to comply with these requirements may constitute a breach of a civil penalty provision, and a financial penalty may be payable.

Reporting periods

The Act and subordinate legislation provide for flexible reporting periods generally between six months and five years in duration (with monthly reporting available if abatement in a reporting period meets or exceeds 2000 tonnes of carbon dioxide equivalent).

Audit requirements

The Act provides for a risk-based approach to auditing emissions reductions. Subsections 13(1) and 76(4) of the Act provide for legislative rules to be made by the Minister, specifying the level of assurance, and the frequency and scope of the audit report that must be provided with project reports for different types of projects. These can be found in the Rule.

Reporting, notification and record-keeping requirements

In addition to the requirements in the varied Determination, the Act and the Rule specify other reporting, notification, record-keeping, and monitoring requirements that apply to all ERF projects.

Division 1—Offsets report requirements

38. Operation of this Division

Under paragraph 106(3)(a) of the Act, a methodology determination may set out requirements to include specified information in each offsets report. Division 1 sets out information that must be included in an offsets report about an HIR project.

39. Information that must be included in offsets reports

Further to requirements under the Act and subordinate legislation, section 39 sets out specific additional information that must be included in each offsets report for an HIR project.

Proponents must provide geospatial information about CEA boundaries, in accordance with the mapping requirements set out in section 24 and the CFI mapping guidelines, the names or labels used to identify CEAs, and a description of the HIR activity that was undertaken in each CEA. They must also provide information relating to the FullCAM modelling for each CEA: the model point location, modelling commencement date, and FullCAM modelling output files.

If applicable, and required in accordance with the FullCAM guidelines, proponents must also provide a description of the process used to assess the proportion of trees killed following a fire or other disturbance event. Example processes include, but are not limited to, aerial photographs, ground transects, or sight estimates supported with photographs.

If the project is a transferring project, the proponent must provide a copy of any clearing right that was exercised in the project area before the project commenced, and that imposes ongoing requirements relating to the management of the cleared land. This requirement is included to assist the Regulator in establishing that the proponent has the legal right to promote regeneration of native forest in the project area.

This section allows proponents to refer to information previously submitted in an offsets report rather than resubmitting the same information (for example, CEAs that have been previously identified in offsets reports).

The section also refers to the provisions relating to factors and parameters from external sources (section 6), requiring proponents to provide information if it has not been possible to use the version of the external source in force at the end of the reporting period.

Division 2—Record-keeping requirements

40. Operation of this Division

Under paragraph 106(3)(c) of the Act, a methodology determination may set out record-keeping requirements for an eligible offsets project. This section provides that Division 3 sets out record-keeping requirements for an HIR project. As noted above, these are in addition to requirements set out in the Act and subordinate legislation.

41. Records that must be kept

Section 41 requires proponents to keep records of the following:

- the species that are regenerating in CEAs, to demonstrate compliance with the definition of 'native forest' given in section 3;
- where relevant, the activities that prevented CEAs from achieving forest cover in the baseline period;
- the process that was followed for identifying, stratifying and re-stratifying CEAs;
- evidence that the modelling commencement date chosen for each CEA satisfies the requirements of subsection 28(2), namely that sufficient regeneration has occurred to demonstrate that the CEA has forest potential and has started to become native forest through regeneration;
- evidence that CEAs did not achieve forest cover in the baseline period and that the CEAs have forest potential;
- evidence that one or more HIR activities commenced in each CEA;
- a description of, and evidence of, management and disturbance events in each CEA;
- evidence that each FullCAM events queue used to model the CEAs accurately represents the management and disturbance events that occurred;
- evidence that any livestock grazing in a CEA meets the requirements of section 21(b); and
- records supporting the amount of fuel use assumed in the calculation of project emissions.

Some examples to illustrate what could constitute a record, have been included within the determination.

Division 3—Monitoring requirements

42. Operation of this Division

Division 3 describes the monitoring requirements applying to projects under the varied Determination.

43. Project monitoring

Section 43 requires the proponent to monitor the CEAs for compliance with the requirements relating to project operation in Part 3, such as the restrictions on the removal of biomass.

The proponent is also required to monitor the CEAs for management and disturbance events. For example, if there is a fire, the proponent must undertake sufficient modelling to be able to ascertain the area affected by fire. These requirements support the accuracy of the FullCAM events queue.

Division 4—Reporting under section 77A of the Act

44. No division of CEA

Section 77A of the Act provides for proponents to divide a project into parts and report on the parts separately. If proponents choose to undertake partial reporting, section 44 requires that the parts of the project comprise whole CEAs only.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

The *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination Variation 2016*

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest—1.1) Methodology Determination Variation 2016 (the Variation) amends the *Carbon Credits (Carbon Farming Initiative) (Human-Induced Regeneration of a Permanent Even-Aged Native Forest 1.1) Methodology Determination 2013*. The Variation requires carbon stocks and fire emissions to be modelled using the Full Carbon Accounting Model (FullCAM) rather than the Reforestation Modelling Tool (RMT). It clarifies arrangements for projects transferring from other determinations, negative abatement and adding project area after the commencement of the project. It also clarifies a number of definitions and project requirements, makes provision for the inclusion of conservation land and makes a number of minor consequential changes.

Project proponents wishing to implement the Determination must make an application to the Clean Energy Regulator (the Regulator) and meet the eligibility requirements set out under the *Carbon Credits (Carbon Farming Initiative) Act 2011*. Offsets projects that are approved by the Regulator can generate Australian carbon credit units.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Greg Hunt, Minister for the Environment