

EXPLANATORY STATEMENT

Carbon Credits (Carbon Farming Initiative) Act 2011

Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination Variation 2021

Purpose

The *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination Variation 2021* (the Variation) amends the *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination 2015* (the Determination).

The Determination credits emissions reductions achieved through the destruction of methane generated by decomposing waste at landfill. The Variation implements the findings of two statutory reviews of the Determination by the Emissions Reduction Assurance Committee (the Committee). These reviews recommended changes to the Determination to ensure credited emissions reductions continue to be genuine—both real and additional to business as usual.

The Variation changes the Determination in four ways. First, it strengthens the definition of an upgrade project. This ensures that eligible upgrades involve an increase in gas capture and combustion beyond what would occur in the ordinary course of business.

Secondly, it encourages additional gas capture and combustion activities by extending the crediting period to 12 years for projects that capture and combust landfill gas using flares (flaring only projects). For projects that switch from flaring to generation, crediting for the generation component is limited to 7 years, with the crediting period ceasing after 7 years of generation. The variation introduces the restarting flaring project as a new type of landfill gas project, to set out the conditions under which projects can switch back to flaring after a period of generation.

Thirdly, this variation amends the proportion of landfill gas that is methane (W_{LFG,CH_4}), which is used to calculate the methane sent to a combustion device.

Fourthly, this variation amends the average proportion of methane from the landfill that is collected and destroyed before an upgrade project is started ($W_{Com,Bef}$), which is used to estimate the methane that would have been combusted under the baseline emissions calculations for upgrade projects.

Legislative provisions

The Determination was made under subsection 106(1) of the *Carbon Credits (Carbon Farming Initiative) Act 2011* (the Act).

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

Background

The Act enables the crediting of greenhouse gas abatement from emissions reduction activities across the economy. Activities achieve greenhouse gas abatement either by reducing or avoiding emissions or by removing carbon from the atmosphere and storing it in soil or trees.

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 avoidance or sequestration) from eligible projects, and rules for monitoring, record keeping and reporting. These determinations help ensure that emissions reductions are genuine—that they are both real and additional to business as usual.

Emissions Reduction Fund methods must comply with the offsets integrity standards—defined in section 133 of the Act. These standards ensure abatement credited by a method is genuine and additional to what would occur through business as usual practices.

The Determination was made on 12 January 2015, and sets out the detailed rules for implementing and monitoring landfill gas projects. When organic waste decomposes in landfill it produces methane, a potent greenhouse gas. The Determination allows crediting of activities which collect and combust landfill gas. The captured landfill gas can be combusted using flares or boilers, or can be used to generate renewable electricity. Combusting methane in the presence of oxygen generates carbon dioxide, which has a lower global warming potential.

The Committee is established by the Act as an independent, expert committee which assesses whether methods meet the requirements of the Emissions Reduction Fund. One of the roles of the Committee is to conduct reviews of methods to ensure they continue to meet the offsets integrity standards and to conduct reviews of the crediting periods of methods.

The Committee completed the crediting period review of the Determination in March 2018 and the periodic review of the method in March 2019. The Variation implements findings of these two reviews.

The Committee released proposed variations for public consultation during March-April 2019, receiving 7 submissions. After consideration of industry submissions the Committee sought and analysed data from industry and considered proposed further amendments. A revised proposed version of the variation to the Determination was released for public consultation on 26 October 2020. Stakeholder feedback through the public consultation process and from a stakeholder forum held on 12 November 2020 were considered by the Committee in the final drafting of the Variation.

Operation

Under the Determination eligible activities may be new, recommencing, upgrade or transitioning activities. The Determination requires an upgrade project to have a higher gas collection efficiency than applied in the two years before a project is registered.

The Committee found in its periodic review that requirements for an upgrade project should ensure that the upgrade involves an increase in gas capture and combustion beyond what would ordinarily occur.

The Variation amends sections 11 and 29 of the Determination and adds a new section 13A after section 13 in Part 3 – Project requirements. The amendments to sections 11 and 29 strengthen the definition of an upgrade project by including additional requirements such as installing new wells and providing operational records for four years. These requirements ensure the upgrade involves an increase in gas capture and combustion beyond what would ordinarily occur. The amendment to section 29 also specifies that the collection efficiency of the existing landfill gas system is the higher of the annual average efficiency achieved in the two or four years immediately prior to the upgrade being implemented. Applying the higher of the two annual averages applies a wider range of historical data to determining previous site operational levels, maintaining the conservativeness of the abatement calculations.

Upgrade projects declared as eligible offsets projects before the Variation commenced that apply the varied Determination through an application approved under section 130 of the Act have their collection efficiency determined on the basis of annual average efficiency achieved over as many as four years and as few as two years prior to the upgrade, depending upon the length of time for which data is available to the project participants.

The new section 13A extends the only crediting period under subsection 69(3) of the Act, and the second crediting period under paragraph 70(3)(d) of the Act, for projects that switch between flaring and generating electricity, and vice-versa, to a total of twelve years, but with a maximum of seven years of generation during the extended crediting period. The increased flexibility will ensure continued capture and combustion, by encouraging flaring projects to shift to generation as gas collection expands, and conversely for generation projects to switch to flaring as gas collection declines. The longer crediting period also allows flaring project proponents time to determine feasibility of switching to generation, including time to verify the resource; design, procure and commission the generation system; and establish an electricity grid connection.

The Variation also adds a new section 11A after section 11 to provide a definition for a restarting flaring project. This provision sets out the conditions under which a project proponent can apply to restart a previous new, recommencing, upgrade or transitioning landfill gas project that generated electricity as a flaring project once its crediting period has ended. Section 11A sets out requirements to apply for a restarting flaring project. The crediting period for a restarting flaring project is 12 years minus its previous crediting period when it was a new, recommencing, upgrade or transitioning landfill gas project. The crediting period ends when the restarting flaring project uses landfill gas to generate electricity or at the end of the 12 years minus the previous crediting period when it was a new, recommencing, upgrade or transitioning landfill gas project.

The Variation does not affect projects that are already registered and using the existing Determination. Section 126 of the Act sets out that even after a determination has been varied, a registered eligible offsets project can continue to use the determination for the remainder of its crediting period in the form it was at the time the project was registered. Under section 128 of the Act a project proponent may choose to apply to the Clean Energy Regulator for approval to move their project to the varied Determination from the start of their current reporting period.

All decisions to approve eligible offsets projects after the commencement of the Variation will need to comply with the Determination as varied by the Variation, even if the applications were submitted before the Variation commenced.

The third aspect of this variation amends the proportion of landfill gas that is methane (W_{LFG,CH_4}), from the default value of 0.50 applied under the National Greenhouse and Energy Reporting (Measurement) Determination 2008 (the NGER (Measurement) Determination) to a value of 0.42. The proportion is used under subsection 24(2) to calculate the methane sent to a combustion device.

The fourth and final aspect of this variation amends the average proportion of methane from the landfill that is collected and destroyed before an upgrade project is started ($W_{Com,Bef}$). This factor is used to estimate the methane that would have been combusted under the baseline emissions calculations for an upgrade project.

These adjustments are necessary to maintain the conservativeness of the abatement calculations, based on data voluntarily supplied by project proponents of projects under the Determination.

Public consultation

The Variation was initially developed by the Department of Industry, Science, Energy and Resources and completed by the Clean Energy Regulator following the transfer of the Emissions Reduction Fund method development function to the Regulator in September 2020.

An exposure draft of the Variation was published on the Department's website for public consultation for 21 days in October 2020. The Committee approved a 21 day consultation period because industry stakeholders had already reviewed and commented on the bulk of the changes proposed. Stakeholders were notified of the public consultation period. The Technical Working Group members that were previously involved in developing the Determination were also notified of the public consultation period. Details of non-confidential submissions are provided on the Department of Industry, Science, Energy and Resources website, www.industry.gov.au.

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. The definition of terms highlighted in ***bold italics*** can be found in the Variation.

For the purpose of subsections 114(2), (2A), (7A) and (7B) of the Act, in varying a methodology determination the Minister has regard to, and agrees with, the advice of the Committee that the varied methodology determination complies with the offsets integrity standards and that the varied methodology determination should be made. The Minister is 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 had 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.

A Statement of Compatibility prepared in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011* is at [Attachment B](#).

Regulatory impacts analysis

In 2014, as part of the Emissions Reduction Fund White Paper process, a regulatory assessment was certified in accordance with the 2014 Government Guide to Regulation. This process assessed the regulatory impacts associated with the Emissions Reduction Fund. This included assessing the impacts associated with future methodology determinations to be developed under the *Carbon Credits (Carbon Farming Initiative) Act 2011*, such as the potential future education costs, application costs, contract negotiation costs, and monitoring, verification and compliance audit costs. The regulatory impacts of the Emissions Reduction Fund were assessed as low. There have been no changes since the original assessment that would change the outcomes and as a result no further assessment of regulatory impacts is warranted.

Details of the Variation

1 Name

Section 1 sets out the full name of the Variation, which is the *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination Variation 2021*.

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.

4 Amendment of methodology determination

Section 4 provides that the *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination 2015* is amended as set out in Schedule 1 of the Variation.

Schedule 1

Amendments of the *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination 2015*

[1] Section 5

Item [1] adds a restarting flaring project to the list of definitions in section 5.

[2] Subsection 7(3)

Item [2] adds the concept of a restarting flaring project to the four types of landfill gas projects under the Determination.

[3] Subsection 8(2)

Item [3] adds to the existing in-lieu of newness requirements an additional one relating to restarting flaring projects – by referring to requirements set out under the new subparagraph 13(1A).

[4] Section 11 and a new section 11A

Section 11 of the Determination sets out requirements for *upgrade projects*.

Item [4] amends section 11 of the Determination by replacing the original requirements with amended requirements.

An upgrade project must be one that:

- upgrades an existing and operating landfill gas collection system to increase the annual collection efficiency of the system to a higher level than previously measured; and
- installs new gas wells to increase landfill gas collection; and
- combusts the gas collected using a combustion device.

These requirements ensure that the increase in gas capture and combustion as a result of the upgrade is likely to be beyond what would ordinarily occur.

For upgrade projects, proponents are required to include in their applications sufficient historical operational records to support the calculation of the collection efficiency of the existing landfill gas collection system. Proponents are required to use the higher of the two annual average proportions of methane collected and destroyed calculated over 2 years or 4 years prior to the commencement of the upgrade, in baseline emissions calculations.

Historical operational records must therefore cover the four-year period before the application.

Section 11 sets out that existing upgrade projects registered before the commencement of the *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination Variation 2021* are considered upgrade projects if they complied with the requirements of this section before it was varied. This allows existing upgrade projects to transition to the revised method if they complied with the section as previously written. Abatement calculations for existing upgrade projects will consider 4 years of previous data in accordance with section 29

of the Variation. However, abatement calculations for such projects can consider 2 years or, if data is available to the project proponent for that period, 3 years of previous data under section 29, if the project proponent does not have 4 years of previous data available.

Item [4] also adds a new section 11A after section 11 to provide a definition and eligibility requirements in relation to a restarting flaring project. The definition of a restarting flaring project is a generation project covered by subsection 7(3) that was either a new, recommencing, upgrade or transitioning landfill gas project that elects to switch to flaring. Subsection 11A(2) sets out eligibility requirements, including a written declaration from a chief executive officer or chief financial officer (however described) on the economics of the project, the likelihood of continued combustion activities in the absence of the project, and consultation requirements.

Subsection 11A(4) sets out that a restarting flaring project must use abatement calculations as if it were a new, recommencing, upgrade or transitioning project – whichever corresponds to the restarting flaring project’s project type during its previous iteration under the *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination 2015*. To avoid doubt, restarting flaring projects must use the relevant equations in the Determination as amended by the *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination Variation 2021*.

[5] After subsection 13(1)

Item [5] adds in-lieu of newness requirements to restarting flaring projects, with a requirement that any flaring equipment that needs to be installed or reinstalled under the new project has not been installed or reinstalled at any point in the 2 years from the day before (i.e. immediately before) the application for declaration of the project as an eligible offsets project was made. This provision is to ensure that the restarting flaring activity would be unlikely to occur in the ordinary course of business.

Generating landfills that contain flares on-site for backup or maintenance are not excluded under this provision if they wish to re-enter as restarting flaring projects. If projects have backup flares on site while generating electricity, the project does not need to remove those flares to create a 2 year gap to satisfy this requirement. However, if the backup flares present at a site were installed or reinstalled other than for backup or maintenance purposes at any point in the 2 years immediately before the application for declaration of the project as an eligible offsets project, the in-lieu of newness requirements would not be satisfied.

[6] After section 13

Item [6] adds a new section 13A to Part 3 – Project requirements, after section 13. Under the Act, the standard crediting period for an emissions avoidance offsets project is seven years, unless it is otherwise specified in the applicable methodology determination. The new section 13A specifies longer crediting periods for landfill gas projects that involve flaring-only, or switch between flaring and generation. This new section also clarifies the crediting period for projects that involve electricity generation. The longer crediting period will apply to the only crediting period under subsection 69(3) of the Act and to the second crediting period under paragraph 70(3)(d) of the Act. A landfill gas project has a second crediting period under

paragraph 70(3)(d) of the Act beginning on 13 December 2014 if the project was declared as an eligible offsets project under section 27 of the Act before that date.

Subsection 13A(1) specifies that for a flaring-only landfill gas project, i.e. where the project does not use landfill gas to generate electricity during its second or only crediting period, or a project that flares as well as generates electricity for less than 84 calendar months during its second or only crediting period, the second or only crediting period is extended from the standard 7 years to 12 years. The review of the crediting period of the method found extending the crediting period for flaring-only projects is unlikely to result in the issuance of Australian Carbon Credit Units (ACCUs) for emissions reductions that would likely occur in the ordinary course of events. The only source of revenue from the operation of flaring-only projects is the sale of ACCUs. The capture and combustion of landfill gas with flares involves ongoing capital expenditure for piping infrastructure, and maintenance and operational costs associated with equipment. The crediting period review found the capture and combustion activities are likely to cease at the end of the crediting period for flaring-only projects.

The crediting period extension review found extending the crediting period for electricity generation activities beyond 7 years would be likely to result in the issuance of ACCUs for emissions reductions that would occur in the ordinary course of events. Therefore this variation maintains a crediting period of 7 years for generation-only projects.

Electricity generation may become uneconomic for projects that experienced a decline in gas collection, and such projects are unlikely to continue combusting the methane using flares at the end of their crediting periods. Subsections 13A(1) and 13A(2) extend the second or only crediting period for projects that switch from flaring to electricity or vice-versa to up to 12 years, provided that generation activities within the 12-year period do not exceed 7 years. Subsection 13A(2) sets out that the crediting period ends at the beginning of the 8th year of the generation activity for a project that switched from flaring to generation, maintaining consistency with the 7-year crediting period for generation-only projects. The 7 year limit is triggered after the 84th month of generation, where any month where electricity was generated for more than three days is considered a month of generation. Some projects may be able to meet the criteria for a restarting flaring project under the new section 11A.

[7] Subsection 24(2) (definition of W_{LFG,CH_4})

Subsection 24(2) sets out calculation option 1, using equation 8 (out of three possible options) for determining the amount of methane sent to a combustion device when calculating project emissions. Option 1 employs the measured volume of landfill gas multiplied by the stipulated proportion of the volume of landfill gas that is methane (W_{LFG,CH_4}). Prior to the variation made by the Variation, subsection 24(2) allowed proponents to choose to use a default factor or a measured value for W_{LFG,CH_4} .

Projects covered by subsection 24(2A) (that is, landfill gas projects whose application under section 22 of the Act was made before 1 September 2020, and restarting flaring projects whose application under section 22 of the Act as a previous new, recommencing, upgrade or transitioning project was made before 1 September 2020) can choose the value for the factor of W_{LFG,CH_4} to be a default value of 0.42 or the default value as set out in section 5.14C of the

NGER (Measurement) Determination (consistent with earlier versions of the Determination), or a measured value worked out in accordance with the monitoring requirements prescribed in section 33 of the Determination. Projects that are not covered by subsection 24(2A) must choose the W_{LFG,CH_4} value to be 0.42, or choose to use the measured value.

Analysis of data from a broad sample of landfill sites following the periodic review found that the previous default W_{LFG,CH_4} value of 0.5 as set out under section 5.14C of the NGER (Measurement) Determination was too high, resulting in a less-than-conservative abatement calculation. Historical records from 2018 and 2019 indicate the average across projects under the Landfill Gas method is 0.42. The proportion of methane in landfill gas is determined by a number of factors, including the proportion of organic waste and ambient conditions. The proportion of organic waste sent to landfill is likely to decline over time given objectives under the *National Waste Policy 2018* to reduce organic waste through diversion away from landfill. This amendment sets the default at 0.42 to maintain the conservativeness of abatement calculations, while continuing to offer the option of using actual measurements under subsection 24(2).

[8] After subsection 24(2)

Item [8] inserts subsection 24(2A) to set out the types of projects for which the factor of W_{LFG,CH_4} may be, at the election of the project proponent, 0.42 or the default value as set out in section 5.14C of the NGER (Measurement) Determination (consistent with earlier versions of the Determination) under subsection 24(2), unless the project proponent elects to work out that factor in accordance with the monitoring requirements. This provision ensures that abatement calculations for existing projects are not affected by the change in the default methane proportion. The date chosen is the date when the intention to change this proportion was announced to industry participants.

[9] Subsection 29(1) (definition of $W_{Com,Bef}$)

Items [9] and [10] strengthen the eligibility requirements for upgrade projects.

Subsection 29(1) sets out how to calculate the proportion of methane that represents the magnitude of improvement to collection efficiency achieved by the upgrade project ($W_{B,Ex}$). The calculation given in **equation 17** has two terms:

- the collection efficiency of the existing landfill gas capture system before the upgrade ($W_{Com,Bef}$)
- *divided by* the collection efficiency of the landfill gas capture system after the upgrade ($W_{Com,Aft}$).

Item [9] substitutes the definition of $W_{Com,Bef}$ in subsection 29(1) with a new definition. Under its new definition, $W_{Com,Bef}$ is the higher of the average annual proportion of the methane from the landfill that is collected and destroyed during the 2 or 4 years immediately before the upgrade is started. This parameter is calculated using equations 19 for the two-year average proportion and 19A for the four-year average proportion.

In the instance that the value of $W_{Com,Bef}$ worked out using equations 19 and 19A are the same, which will be the case if equation 19A is calculated on the basis of data only for 2 years in accordance with subsection 29(7), then the average proportion of the methane from the landfill that is collected and destroyed during the 2 years before the upgrade is started, worked out using equation 19, is to be used as $W_{Com,Bef}$.

[10] Subsection 29(3)

Item [10] substitutes subsection 29(3) and inserts a new subsection 29(3A). These provisions set out how to calculate the collection efficiency of the existing landfill gas collection system, before the upgrade ($W_{Com,Bef}$). To perform this calculation, proponents require four years' information on the amount of landfill gas collected and combusted from the landfill prior to the upgrade. This requirement is included as an eligibility requirement for upgrade projects, to ensure that proponents have access to this historic data to establish baseline landfill gas combustion levels applying to the upgrade.

Equations 19 and 19A set out the calculation for an annual average proportion of methane from landfill collected and destroyed during the 2 years or 4 years from the day before the upgrade is started, and contains the following terms:

- the sum of the amount of methane captured and combusted on site ($Q_{cap,y} + Q_{flared,y}$) and the methane captured and destroyed when transferred out of the landfill ($Q_{tr,y}$), which are terms defined in the *NGER (Measurement) Determination*
multiplied by
- the conversion factor (γ), which is used to express the amount of methane in tonnes CO₂-e
divided by
- the estimated total amount of methane generated by the landfill (CH_4^*,y for equation 19 and CH_4^{*+},y for equation 19A), determined using the *NGER (Measurement) Determination* and calculated in accordance with subsections 29(4) and 29(4A) respectively.

The calculation is repeated for each of the two or four years immediately prior to the upgrade starting. The higher of these two averages is used to determine the collection efficiency of the existing landfill gas capture system before the upgrade ($W_{Com,Bef}$). The revision also sets out that the two or four year period ends either the day before the upgrade is started, or the day before the date on which the application under section 22 of the Act for declaration of the upgrade project as an eligible offsets project is made. This enables users of the varied Determination to apply this provision even if the date on which the upgrade started is difficult to establish or document.

The Variation also sets out that as per the new subsection 29(7) inserted by item [12], if an upgrade project applying the Determination before the commencement of the *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination Variation 2021* does not have 4 years of data to apply in equation 19A, then the references to “4 years” in subsections 29(1), (3A) and (4A) are taken to mean “2 years or, if data is available to the

project proponent for that period, 3 years”. The variable x in equation 19A reflects that such projects may utilise data from periods shorter than 4 years.

Therefore, if upgrade projects registered prior to the making of the Variation transfer to the varied Determination but do not have 4 years of data available, they should instead use as long a period of time as they have data for (but not less than 2 years) in equation 19A, in addition to the 2 year period calculated using equation 19 in-line with previous versions of the Determination.

[11] After subsection 29(4)

Item [11] prevents a calculation of collection efficiency that exceeds 100 per cent.

Subsection 29(4A) sets out that $CH_4^{*,y}$ is determined using the *NGER (Measurement)*

Determination. In other cases in the Determination, the amount of landfill gas generated in a landfill is calculated as CH_{4gen} , also using the *NGER (Measurement) Determination*.

The parameter $CH_4^{*,y}$ is used instead for this equation, because it has a calculation step (not used for the calculation of CH_{4gen}) that ensures that the amount of landfill gas collected does not exceed the amount of landfill gas that is estimated to have been generated in the landfill. This calculation is analogous to the determination of $CH_4^{*,y}$ in subsection 29(4) but is conducted over four years of data (unless subsection 29(7) applies) instead of two.

[12] Subsection 29(5)

Item [12] inserts a reference to subsection 29(4A) in subsection 29(5) so that $CH_4^{*,y}$ can be calculated in the same way as $CH_4^{*,y}$ where a year y covers 2 financial years.

Item [12] sets out subsection 29(6) that, to avoid doubt, the time periods in section 29 relating to a restarting flaring project which was previously an upgrade project relate to the previous upgrade project—and are not reset if the project is declared as a restarting flaring project.

Item [12] sets out subsection 29(7) to clarify that if an upgrade project applying this determination before the commencement of the *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination Variation 2021* does not have 4 years of data to apply to subsections 29(1), 29(3A) and 29(4A), then the references to “4 years” in those subsections are taken to mean “2 years or, if data is available to the project proponent for that period, 3 years”. The intent is that the project proponent of an upgrade project transferring to the varied Determination should instead use as long a period of time as they have data for, in addition to but not less than the 2 year period that would have been required under previous versions of the Determination.

[13] Section 31A

Item [13] requires the offsets report for a reporting period to include the total number of calendar months that landfill gas has been used to generate electricity, noting that subsection 13A(3) specifies any month with 3 or more days of electricity generation must be counted and the months do not need to be consecutive. Subsection 31A(2) sets out that offsets reports for

restarting flaring projects must indicate if landfill gas was used to generate electricity during the applicable reporting period.

Statement of Compatibility with Human Rights

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

Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination Variation 2021

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

The *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination Variation 2021* (the Variation) amends the *Carbon Credits (Carbon Farming Initiative—Landfill Gas) Methodology Determination 2015* (the Determination). The Variation strengthens the definition of an upgrade project to ensure that the upgrade involves an increase in gas capture and combustion beyond what would ordinarily occur. The Variation also encourages additional gas capture by extending the second or only crediting period for flaring-only projects to 12 years, while clarifying that the crediting period for projects that switch between flaring and generating ends after seven years of electricity generation within this 12 year period. The Variation also establishes conditions for some projects to restart flaring for the remainder of the 12 year period after their crediting period has ended.

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.