



Carbon Farming Initiative

About the Carbon Farming Initiative

The Commonwealth's Carbon Farming Initiative (CFI) is a complimentary measure associated with the carbon pricing regime announced under the 'Clean Energy Future' banner. It is a land based offsets regime but with limited application.

The regulations make it clear that the CFI is clearly not a plantation forestry support program.

In particular, the legislation refers to 'positive' and 'negative' lists. These are lists of activities that are either automatically eligible or ineligible for participation in the CFI.

Five commercial forestry type activities have been placed onto the initial negative list contained in the draft regulations. They are relevant in full and this is taken from the draft regulation 61 *Excluded offsets projects*:

- (2) For subsection 56 (1) of the Act, the following kinds of project are specified:
 - (a) a project that:
 - (i) was mandated under a law of the Commonwealth or a State or Territory; and
 - (ii) is no longer mandatory because the law was repealed after 24 March 2011;
 - (b) the establishment of vegetation on land that has been subject to:
 - (i) clearing of a native forest; or
 - (ii) draining of a wetland;within 3 years of the lodgement of an application for the project to be declared an eligible offsets project;
 - (c) the planting of a known weed species;
 - (d) the establishment of a forest under a forestry managed investment scheme for Division 394 of Part 3-45 of the *Income Tax Assessment Act 1997*;
 - (e) the cessation or avoidance of the harvest of a plantation forest;
 - (f) the planting of trees in an area that receives more than 600mm long-term average rainfall, unless subregulation (3) applies.

Subregulation (3) states inter alia:

- (3) For paragraph (2) (f), a project is not specified under subsection 56 (1) of the Act if:
 - (a) the forest is a permanent environmental planting; or
 - (b) the project proponent demonstrates that:

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- (i) the project area receives between 600 – 800mm long-term average annual rainfall; and
- (ii) the project contributes to the mitigation of dryland salinity in accordance with the Salinity Guidelines; or ...

So, a 'for harvest' program would only be eligible for inclusion in the CFI and the earning of credits if it is a new planting, occurring on land that has not been converted in the last three years and has less than 600mm of average annual rainfall (or mitigates dryland salinity).

Then, if eligible, the proposed methodology must also meet the additionality and permanence criteria. With respect additionality, the test is 'beyond business as usual' and with respect permanence, it appears from the explanatory memorandum to the legislation that a net carbon balance approach will be taken across the nominal 100 year period.

See the attached, which is a briefing paper we distributed previously. It may add some insight into how it is proposed these issues will be considered.

As can be observed, the CFI is quite limited in the manner it can be used for commercial forestry activities.

This point was emphasised in original conversation with the secretariat for the Domestic Offsets Integrity Committee which is within the Department of Climate Change and Energy Efficiency and considers whether to approve methodologies. It was clear that the DOIC would rather the emphasis remained on 'environmental plantings'. You will not be surprised to learn that the DOIC's processes are arcane, unwieldy, lengthy and bureaucratic.

Clients need to consider and determine whether to proceed with the development of a 'for harvest' reforestation methodology.

References

Legislation ~

http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4543_ems_1455bc0c-24d3-4d9b-8072-f85c0d28a7ad/upload_pdf/353709.pdf;fileType=application%2Fpdf#search=%22legislation/ems/r4543_ems_1455bc0c-24d3-4d9b-8072-f85c0d28a7ad%22

Draft regulations ~ <http://www.climatechange.gov.au/~media/publications/carbon-farming-initiative/draft-regulations-positivenegative.pdf>

Industry position ~

http://www.ausfpa.com.au/userfiles/file/AFPA_Sub_CFI_Pos&NegLists.pdf

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Options for Clients

The opportunities under the CFI appear to be:

1. Establishing 'environmental plantations' on land that would without the application of the CFI, not have been planted. If this approach was adopted, there is an existing methodology awaiting approval. It can be viewed at <http://www.climatechange.gov.au/government/initiatives/carbon-farming-initiative/methodology-development/methodologies-under-consideration/environmental-plantings.aspx>
2. Developing a 'for harvest' reforestation methodology where the establishment of plantations would occur within the following broad parameters:
 - tree planting on a portion of the land only and not cleared in the last three years
 - planting on land with less than 600mm average annual rainfall
 - plantings that would have been unviable and thus would not have proceeded without the addition of the carbon price (a value would need to be implied here)

With those parameters it is possible that there is too little opportunity in the CFI for our clients.

3. Developing with private landholders and their organisations, a methodology for avoiding harvesting by the application of the carbon price through the CFI. See the comments immediately below for some analysis of this option, though we note there may be a difference between privately held and publicly held land.

As we understand it, over the longer period (when compared to the effect of harvest, regrowth and re-sequestration of CO₂ and the carbon stored long term in wood products), the likelihood is that a standing forest – particularly of a wet eucalypt type – is unlikely to represent a greater store of carbon.

It is very difficult and probably impossible to argue that this would be additional given the above and in the fact that demonstrably, the decision not to harvest is outside FT's control.

We need not add that this would represent a perverse outcome of such magnitude it is probably untenable for most of our clients to be its proponent.

The politics

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While ever the industry through AFPA is rightly arguing the inadequacies of the CFI (see http://www.ausfpa.com.au/userfiles/file/AFPA_Sub_CFI_Pos&NegLists.pdf for instance), it may be difficult for clients to propose a methodology that even in part suggests that a 'for harvest' reforestation program could be allowed and could benefit from the CFI.

It may be difficult, should it be desirable, to find other forest managers prepared to engage in the development and promotion of such a methodology, though no doubt the instant it got up, they would consider it.

Many of our clients have a current need for resource as the supplier to meet future demand, particularly for solid wood purposes. The Government would not want its CFI to be seen as providing no options for the expansion of plantation forestry and so, it may prefer a methodology to be successful. On the other hand, the Greens may prefer the opposite.

The question for clients is perhaps, what happens if a methodology is approved? Does that let the Government off the hook with respect to a separate reforestation or plantation establishment funding pool, whether it is linked to carbon or not? Where are more funds likely to be available in any event?

Further information

Contact Fitzpatrick Woods Consulting for further information, discussion or support on, the Carbon Farming Initiative, the Biodiversity Fund or other aspects of the Clean Energy Future program.

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ATTACHMENT

24th March 2011

Briefing Note

Carbon Farming Initiative Legislation Submitted to House of Representatives

The Government today placed the Carbon Farming Initiative legislation before the House of Representatives.

We understand – although it is not yet announced – that it will be referred to a House of Reps Committee. This is to avoid the prospect of a hostile Senate Committee.

Links to the legislation are included below, however, we have extracted some key notes from the explanatory memorandum to the legislation and included highlights where we consider relevant.

The following is a rapid summary for information and was developed in the context of current work we are undertaking and is provided with due deference to your own analysis and the analysis and commentary of industry associations.

Please note that as it is not germane to work we are currently undertaking, we have not made any assessment of proposed methodologies and thus the extent to which reforestation activities are genuinely included in the CFI.

Some points of note are:

- Reforestation plantations established since 31 December 2009 or on illegally cleared land are excluded and will be placed on the ‘negative’ list. It is not clear when reforestation plantations will be able to be included in the CFI, but as this measure is intended to avoid conversion, we expect the date will be on or around the operative date of the CFI (nominally 1st July 2012). See 1.32 below.
- Reference is made to existing MIS plantations not being converted to sinks without harvest. See 1.29 and 1.30 below.
- It would appear that on-farm plantation forestry activities where wood production is an intended outcome would be able to be included in the CFI so long as the obligation to maintain standing carbon stocks is met (ie. So long as trees are regrown) for the 100 years or credits are relinquished. See 6.60 below. This potentially addresses the permanence issue.
- However, it also appears that additionality (beyond common practice) will be difficult to achieve because of the process of approval and depending on how ‘projects’ or activities are structured. For instance and perhaps over simplistically but to demonstrate the point, if the proponent industry is defined as the forest industry, it may difficult to prove that growing trees is additional activity while if



the proponent industry is farming in regions or sectors where little tree planting has occurred, it may be automatically deemed additional and join the 'positive' list.

Extracts from Explanatory Memorandum to CFI bill

1.29 The Government intends to include on the negative list projects that involve the complete cessation of harvesting in plantations established for harvest; that is, converting harvest plantations into permanent carbon sinks.

1.30 Some harvest plantations established in response to incentives provided through Managed Investment Schemes may not be commercially viable. Converting such plantations into carbon sinks may have perverse environmental consequences and pose a risk to the integrity of the scheme. Plantations are designed to be harvested and may become sources of emissions if maintained over long periods. If converted into permanent sinks, such plantations could have relatively high fire risk. The costs of managing plantations designed for harvest could therefore increase over time, posing a growing risk of reversal. For these reasons, projects to protect forests from clearing or clear-felling for harvest can only involve native forests.

1.31 This would not prevent the replacement of unprofitable harvest plantations with permanent environmental plantings.

1.32 The Government will also include on the list reforestation projects established on land that has not been legally cleared or on land that has been cleared since 31 December 2009. This is to remove any perverse incentive to clear existing forests to establish new carbon sequestration projects.

5.43 Methodology determinations must relate to the kinds of projects that pass the additionality test [*Part 9, Division 3, clause 133(1)(a)*]. The purpose of the additionality test is to ensure that credits are only issued for abatement that would not normally have occurred and, therefore, provides a genuine environmental benefit.

5.44 The Government's intention is that this test will enable crediting of activities that improve agricultural productivity or have environmental co-benefits, but which have not been widely adopted.

5.45 An offsets project is taken to pass the additionality test if it relates to an activity or kind of project that is listed in the regulations [*Part 3, Division 6, clause 41(1)(a)*] and is not required to be carried out under state or territory law [*Part 3, Division 6, clause 41(1)(b)*]. In other words, the regulations will list activities or types of projects which are additional. This is referred to as a 'positive list'.

5.47 The Minister must obtain the advice of the DOIC as to whether a particular kind of project should, or should not, be included on the positive list [*Part 3, Division 6, clause 41(2)*].

5.48 The Minister must consider whether carrying out the project is beyond common practice in the relevant industry or part of an industry, or

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in the environment in which the project is to be carried out [Part 3, Division 6, clause 41(3)(a)]. The Minister may also consider other matters the Minister considers relevant [Part 3, Division 6, clause 41(3)(e)].

5.49 The common practice test is intended to provide a streamlined way of identifying activities that would not normally have occurred in the absence of this scheme and are therefore genuinely additional.

5.50 In assessing whether a project is common practice, the Minister will factor out the impact of the scheme [Part 3, Division 6, clause 41(3)(b)].

This is to clarify that activities that are common because of the scheme should not fail the additionality test.

5.51 Common practice is not defined in the legislation. This is to allow for the application of expert judgement as to what constitutes common practice in different environments and industry circumstances. The Government will consult with stakeholders on approaches to identifying common practice and provide further guidance.

...

6.60 Permitted activities may be specified in the carbon maintenance obligation declaration with reference to the manner, time, place, persons or time period during which the activity is carried out. This provision is intended to enable areas that are subject to a carbon maintenance obligation to be used for productive purposes such as for cropping, grazing or producing wood products. Such activities may result in variations in carbon stocks, including temporary reductions below the benchmark sequestration level.

Legislation link:

http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=yes;orderBy=priority,title;page=0;query=Dataset_Phrase%3A%22billhome%22%20ParliamentNumber%3A%2243%22%20Portfolio_Phrase%3A%22climate%20change%20and%20energy%20efficiency%22;rec=1;resCount=Default

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