Carbon Farming Initiative Amendment Bill 2014

(Amendment to be moved by the Leader of the Australian Greens, Senator Milne, in committee of the whole)

(1) Schedule 1, page 120 (after line 12), at the end of the Schedule, add:

Part 4—Amendments relating to excluded offsets projects

Carbon Credits (Carbon Farming Initiative) Act 2011

548 Section 5 (definition of excluded offsets project)
Omit “section 56”, substitute “sections 56, 56B and 56C”.

549 Subsection 27(4) (note 3)
Omit “section 56”, substitute “sections 56, 56B and 56C”.

550 After Division 12 of Part 3
Insert:

Division 12A—Other excluded offsets projects

56A Definitions

In this Division:


Note: The report is, in 2014, accessible at www.ipcc.ch.

CFI rainfall map means the map:
(a) that shows long-term average annual rainfall; and
(b) that uses data that is:
(i) collected by the Commonwealth Bureau of Meteorology for the period from at least 1921 to 2010; and
(ii) processed by the Department; and
(c) published on the Department’s website; and
(d) as in force from time to time.

**clearing** means the conversion, caused by people, of native forest to cropland, grassland or settlements (within the meaning of “cropland”, “grassland” and “settlements” in the 2006 IPCC Guidelines for National Greenhouse Gas Inventories).

**consent** means approval to commence clearing or conversion to a plantation, required by Commonwealth, State or Territory law, issued by the relevant Commonwealth, State, Territory or local regulatory authority responsible for giving the approval.

**dryland salinity** means a build-up of salt in soil occurring on land not subject to irrigation.

**environmental planting** means a planting that consists of species that:
(a) are native to the local area of the planting; and
(b) are sourced from seeds:
   (i) from within the natural distribution of the species; and
   (ii) that are appropriate to the biophysical characteristics of the area of the planting; and
(c) may be a mix of trees, shrubs, and understorey species where the mix reflects the structure and composition of the local native vegetation community.

**forest** means land of a minimum area of 0.2 of a hectare on which trees:
(a) have attained, or have the potential to attain, a crown cover of at least 20% across the area of land; and
(b) have reached, or have the potential to reach, a height of at least 2 metres.

**known weed species** means a plant species which:
(a) is on the Weeds of National Significance list or another list produced by the Australian Government for the purpose of identifying weeds; or
(b) is declared under any of the following Acts:
   (i) the Noxious Weeds Act 1993 of New South Wales;
   (ii) the Catchment and Land Protection Act 1994 of Victoria;
   (iii) the Land Protection (Pest and Stock Route Management) Act 2002 of Queensland;
   (iv) the Plant Diseases Act 1914 of Western Australia;
   (v) the Agriculture and Related Resources Protection Act 1976 of Western Australia;
   (vi) the Natural Resources Management Act 2004 of South Australia;
   (vii) the Weed Management Act 1999 of Tasmania;
   (viii) the Pest Plants and Animals Act 2005 of the Australian Capital Territory;
   (ix) the Weeds Management Act 2001 of the Northern Territory.


**National Water Commission** has the meaning given by section 4 of the National Water Commission Act 2004.
**National Water Initiative** has the meaning given by section 4 of the *National Water Commission Act 2004*.

**permanent planting** means a planting:
(a) that is not harvested other than:
   (i) for thinning for ecological purposes; or
   (ii) to remove debris for fire management; or
   (iii) to remove firewood, fruits, nuts, seeds, or material used for fencing or as craft materials, if those things are not removed for sale; or
   (iv) in accordance with traditional indigenous practices or native title rights; and
(b) that is not a landscape planting.

**plantation** means a forest established for harvest.

**Salinity Guidelines** means the guidelines, published on the Department’s website and as in force from time to time, to assist project proponents to determine whether the planting of trees is an excluded offsets project for the purposes of a provision of this Act or the regulations.

**specified tree planting** means the planting of trees in an area that, according to the CFI rainfall map, receives more than 600 mm long-term average annual rainfall.

**tree** means a perennial plant that has primary supporting structures consisting of secondary xylem.

**water access entitlement** means an entitlement to water held in accordance with the relevant law in the jurisdiction in which the project area is located.

**water interception** means the interception of surface water or ground water that would otherwise flow, directly or indirectly, into a watercourse, lake, wetland, aquifer, dam or reservoir.

**wetlands** are areas of marsh, fen, peatland or water:
(a) that are either temporary or permanent; and
(b) which have water that can be static or flowing, fresh, brackish or salty;
and includes areas of marine water the depth of which at low tide is not more than 6 metres.

### 56B Other excluded offsets projects

(1) Without limiting section 56, the following kinds of projects are **excluded offsets projects** for the purposes of this Act:
(a) a project that involves an activity that:
   (i) was mandatory under a Commonwealth, State or Territory law; and
   (ii) is no longer mandatory because the law was repealed, or amended to be less onerous, after 24 March 2011;
(b) the planting of a species in an area where it is a known weed species;
(c) the establishment of a forest under a forestry managed investment scheme for the purposes of Division 394 of Part 3-45 of the *Income Tax Assessment Act 1997*;
(d) the cessation or avoidance of the harvest of a plantation;
(e) the establishment of vegetation on land that has been subject to illegal clearing of a native forest, or illegal draining of a wetland;
(f) the establishment of vegetation on land that has been subject to clearing of a native forest, or draining of a wetland (that was not an illegal clearing or draining), within:
   (i) 7 years of the lodgement of an application for the project to be declared an eligible offsets project; or
   (ii) 5 years of the lodgement of an application for the project to be declared an eligible offsets project, if there is a change in ownership of the land that constitutes the project area after the clearing or the draining;

(g) a project that protects native forest on freehold or leasehold land, for which a clearing consent or harvest approval plan was granted on the basis that the clearing or harvesting of the native forest:
   (i) would lead to an environmental improvement or benefit, or would maintain an environmental outcome; or
   (ii) was for fire management purposes.

(2) Paragraph (1)(a) does not apply to a project which involves an activity that is required to be carried out under a State or Territory law that is made after 24 March 2011 and that implements an agreement between the Commonwealth and a State or Territory Government:
   (a) to establish new reserves or reduce annual native forest harvest; and
   (b) that recognises the potential for carbon offset opportunities for areas protected by the agreement.

(3) Subparagraph (1)(g)(i) does not apply to a project if:
   (a) the clearing consent or harvest approval plan provides options for vegetation management; and
   (b) the project provides active and on-going management of the project area in accordance with one of those options.

56C Other excluded offsets projects—specified tree planting

(1) Without limiting section 56, specified tree planting is an excluded offsets project unless it is covered by any of subsections (2) to (5) or by subsection (8).

(2) Specified tree planting is not an excluded offsets project if the planting is a permanent planting that is also an environmental planting.

(3) Specified tree planting is not an excluded offsets project if the project proponent demonstrates that the planting contributes to the mitigation of dryland salinity in accordance with the Salinity Guidelines.

(4) Specified tree planting is not an excluded offsets project if the project area is in a region in relation to which the National Water Commission has determined that the commitments by the relevant State or Territory government under the National Water Initiative to manage water interception by plantations have been adequately implemented.

(5) Specified tree planting is not an excluded offsets project if the project proponent holds a water access entitlement that:
   (a) grants or confers an entitlement to water in the project area; and
   (b) relates to either groundwater or surface water, or both, depending on the water resource management arrangements applicable in the project area; and
   (c) is held from the date that is no later than 2 years after the forest is first planted for the duration of the project; and
(d) provides a long-term average yield, per year, of at least 90% of the volume of water required as an offset, calculated in accordance with the formula in subsection (7).

(6) However, subsection (5) does not apply if the water to which the water access entitlement relates is held, taken, intercepted, stored or used for any purpose other than to offset the water intercepted by the forest.

(7) The volume of water (in megalitres) required as an offset per year for the life of the project is to be calculated using the following formula:

\[ A \times 0.9 + B \times 1.2 + C \times 1.5 + D \times 1.8 + E \times 2.1 \]

where:

- \( A \) is the area (in hectares) of the project area that, according to the CFI rainfall map, receives between 600–700 mm long-term average annual rainfall.
- \( B \) is the area (in hectares) of the project area that, according to the CFI rainfall map, receives between 700–800 mm long-term average annual rainfall.
- \( C \) is the area (in hectares) of the project area that, according to the CFI rainfall map, receives between 800–900 mm long-term average annual rainfall.
- \( D \) is the area (in hectares) of the project area that, according to the CFI rainfall map, receives between 900–1,000 mm long-term average annual rainfall.
- \( E \) is the area (in hectares) of the project area that, according to the CFI rainfall map, receives more than 1,000 mm long-term average annual rainfall.

Note: The figures in the formula are based on the following volumes of water required as an offset per hectare per year in each of the areas of long-term average annual rainfall as indicated by the CFI rainfall map:

- 0.9 ML of water—600-700 mm of rain
- 1.2 ML of water—700-800 mm of rain
- 1.5 ML of water—800-900 mm of rain
- 1.8 ML of water—900-1,000 mm of rain
- 2.1 ML of water—greater than 1,000 mm of rain.

(8) Specified tree planting is not an excluded offsets project if:

(a) the project area is in a region in which it is not possible to obtain a water access entitlement; and

(b) the Regulator, after seeking the advice of the relevant State or Territory agency that manages the water resource and other expert advice as necessary, is satisfied that there is no material impact on water availability, or on the reliability of existing water access entitlements, in or near the project area, for the duration of the project.

(9) However, paragraph (8)(a) does not apply to a project in relation to which it is not possible to obtain a water access entitlement because the relevant catchment is fully allocated.

[excluded offsets projects]