

15th April 2011

Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Re: *Carbon Credits (Carbon Farming Initiative) Bill 2011; Carbon Credits (Consequential Amendments) Bill 2011 and Australian National Registry of Emissions Units Bill 2011.*

Dear Committee Secretary,

Thank you for the opportunity of making the following submission to ensure the effective Indigenous participation in action on climate change and involvement in developing carbon markets.

The Australian government's attempts to deal with native title through the *Carbon Credits (Carbon Farming Initiative) Bill 2011, Carbon Credits (Consequential Amendments) Bill 2011 and Australian National Registry of Emissions Units Bill 2011* (the Bills) are welcomed, however access and participation of native title holders to the carbon industry needs to be clarified, encouraged and agreed to.

The development of the Bills presents a unique and important opportunity to develop an Indigenous carbon industry on the 22% of Australian Indigenous owned and controlled lands. This economic activity would provide an avenue for independent wealth creation and employment for many Indigenous people to help 'close the gap'.

Corporate Australia is keen to partner with Indigenous groups who are able to provide carbon credits while generating a range of co-benefits for Indigenous people. There are also many individual Australians who would like to support Indigenous people by buying their carbon credits to offset their domestic consumption.

Many Indigenous organisations have an interest in or are participating in economic, ecosystem-service or capacity-building (including research and development) opportunities afforded by climate change mitigation and adaptation strategies. These opportunities include emission abatement initiatives, such as cool season fire management on Indigenous owned land, and carbon sequestration initiatives, such as tree planting on Indigenous owned land.

The work undertaken by the North Australia Indigenous Land and Sea Management Alliance (NAILSMA) in the Western Arnhem Land Fire Abatement project (WALFA) is a great example of a carbon abatement project. The early dry season burning of savannah country by Aboriginal rangers reduces the number of large wildfires and huge amount of carbon and other gases being released into the atmosphere. This work is being supported by ConocoPhillips, a major global energy company operating in northern Australia.

The development of the Aboriginal Carbon Fund as a *not-for-profit* company by Centrefarm Aboriginal Horticulture is an exciting initiative of an Aboriginal organisation having a role in the trade of carbon and developing co-benefits to add value. In the future the Aboriginal Carbon Fund will also have the capacity to provide specialised legal, scientific and project management advice to Indigenous groups to facilitate their involvement in the Indigenous carbon industry according to agreed industry standards to provide certainty in the market place.

The NSW Aboriginal Land Council is providing, where possible, information to assist Local Aboriginal Land Councils in informing decision relating to sustainable land use options and opportunities for engaging in the green economy.

Capacity for Indigenous groups to assess and respond to climate change opportunities varies across Australia and an industry development fund is clearly required to raise awareness of how Indigenous groups can participate, support the development of industry standards and provide certainty in the market place. The industry development fund would be a strong mechanism to avoid or minimise exploitation of Indigenous groups from 'carbon baggers'.

The National Indigenous Climate Change (NICC) working group led by Mr Joe Ross is a collaboration between indigenous leaders, with research and corporate leaders to examine the common opportunities and risks associated with indigenous involvement in carbon markets. A national forum was held at the Desert Knowledge Precinct, Alice Springs in late March 2011 that attracted over 50 participants from across Australia.

At the NICC forum the following people were identified as having a leading role in negotiating Indigenous interests in the development of the Bills; Mr David Ross, Mr Kim Hill, Mr Parry Agius, Mr Brian Wyatt, Mr Joe Morrison, Ms Mellissa George and Mr Oliver Costello.

The participants at the NICC forum identified a number of important regulatory, practical and capacity barriers to participation in carbon market and management opportunities for Indigenous people.

The design and intent of the Bills raised considerable concern at the NICC forum because sequestration activities on a significant percentage of land may not satisfy the *additional* requirement in the Carbon Farming Initiative (CFI) and therefore not qualify. For example, if an agreement exists with the Australian government that Aboriginal land will be managed for conservational purposes, such as an Indigenous Protected Area, and funding is provided to develop and implement a management plan, any cool season fire management carbon abatement initiatives could be considered 'business as usual', and be disqualified.

The additionality provisions in the CFI do not provide recognition of the conservation work already undertaken by Indigenous people on Aboriginal land. To exclude this significant area of work undertaken through conservation agreements being negotiated and implemented is detrimental to achieving positive climate change outcomes and engagement with markets that can sustain this work.

Indigenous people stand to be further disadvantaged through the cost burden associated with the introduction of the carbon tax and therefore there is an added imperative to ensure opportunities associated with carbon markets benefit Aboriginal people living on country.

The appointment of an administrator to control a special native title account for a Registered Native Title Body Corporate is of concern. The role of the administrator should be further clarified to ensure it is clear they have no control over the commercial transactions undertaken by native title holders.

Where a native title claim has been either lodged or determined on a national park, conservation reserve or forestry reserve then the State Government must negotiate an Indigenous Land Use Agreement (ILUA) or other formal agreement to ensure any financial benefits from the sale of any carbon credits are fairly distributed to the respective Indigenous people.

The legitimate use of Indigenous owned land as 'carbon sinks' under the avoided deforestation provisions should be clearly articulated. This could mean that Traditional Owners could obtain an income through carbon capture, storage and abatement activities and continue to use and enjoyment of their traditional country.

The option should exist for Australian Carbon Credit Units (ACCU) that are produced on Aboriginal land to be classified as Australian Indigenous Credit Units (AICU) that can include co-benefits and traded nationally and internationally.

Restrictions placed on Indigenous land holders under the CFI means that many Indigenous organisations may not have a recognised 'eligible interest' in offset projects. This represents a significant barrier to effective participation in carbon markets.

The CFI sets out the importance of permanence in the recognition of carbon credits. This requires carbon maintenance obligations that would require Indigenous landowners to maintain carbon stocks for 100 years. Legal frameworks that facilitate the creation and transfer of carbon rights or offsets generally require land rights to be demonstrated by freehold land and long-term leasehold land tenure. Concerns were raised that such policy initiatives and legal frameworks could complicate the use of native title rights as a basis for participation in emerging carbon markets.

The participation of Indigenous people who own their land through a commercial acquisition via the Indigenous land Corporation or who own a lease through a negotiated settlement arrangement is essential and is not tied to any native title provisions.

Decision-support frameworks are not available to guide Indigenous groups in their efforts to understand the trade-offs associated with choosing management programs that will achieve different (e.g. conservation vs sequestration or abatement) management goals.

The costs, feasibility and uncertainty of some of the potential sources of offsets available from carbon projects on Indigenous lands is not known and methodologies are not available

to help design and implement offset methodologies for common or co-benefit options that Indigenous groups may wish to pursue.

In conclusion, action on climate change is a welcome step forward however the proper involvement of Indigenous people in the design and implementation of any carbon policies and legislation is essential for Australia to have an effective response.

Yours Faithfully,

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National Indigenous Climate Change Coalition