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**Kimberley Land Council Submission to Senate Environment and Communications
Reference Committee “Inquiry into the National Landcare Program”**

1. The Kimberley Land Council (“**KLC**”) is the Native Title Representative Body for the Kimberley region and represents Kimberley Traditional Owners in their vision to ‘get back country, care for country and get control of the future’. The KLC Land and Sea Management Unit assists Kimberley Traditional Owners to care for and protect their country through a range of cultural and natural resource management (“**CNRM**”) activities implemented through the Kimberley Ranger Network (please refer to Attachment 1 for an overview of the Kimberley Ranger Network).
2. The CNRM activities undertaken by the KLC to protect the outstanding environmental and cultural values of the region have been supported for the last 16 years through Australian Government Landcare programs, including the Natural Heritage Trust, Caring for our Country (“**CfoC**”), Working on Country (“**WoC**”), Indigenous Protected Area (“**IPA**”) and most recently the Biodiversity Funds program. This has included over \$7 million in WoC funding and over \$1.7 million of IPA funding during the 2013/14 financial year invested into the Kimberley network of 7 IPAs and 10 WoC ranger teams, demonstrating the significant role the KLC plays in the delivery of Australian Government natural resource management (“**NRM**”) initiatives in the Kimberley region.
3. Drawing on this long and successful history in delivering CNRM, the KLC welcomes the opportunity to provide comments to the Senate Environment and Communication Reference Committee on the “Inquiry into the National Landcare Program”, and would like to highlight the following key recommendations:
 - a. the continuation of direct funding relationships between the Australian Government and Indigenous organisations to deliver NRM activities;
 - b. the continuation of the existing CfoC model as a targeted programme for engagement of Indigenous organisations to deliver NRM activities; and
 - c. a consistent approach to delivery of programs that does not restructure conservation priorities to align primarily with current political policy priorities.

The establishment and performance of the Natural Heritage Trust

4. The establishment of the KLC’s Land & Sea Management Unit was seeded by the Australian Government investment into Indigenous Land Management Facilitators (“**ILMF**”) under the National Heritage Trust 1 (“**NHT1**”). In 1998, the KLC hosted the ILMF with the primary purpose of engaging Indigenous people and communities within the region to access NRM funding and implement NRM projects. The ILMF was successful in increasing Indigenous

access to NHT1 funds and engaging Kimberley Traditional Owners in projects like freshwater fish research surveys and desert fire management activities.

5. Between 1998 and 2005 the ILMF lead the engagement of Kimberley Traditional Owners in regional multi-stakeholder forums relating to NRM. In 2000, the KLC, via the support of the ILMF, accessed NHT1 funding to facilitate the multi-stakeholder “How Healthy is our Country” forum which resulted in the establishment of the Healthy Country Project, a core pillar of CNRM for Kimberley Traditional Owners. In 2001, one of Australia’s first IPAs, Paruku, was declared with the assistance of the KLC.
6. The aim of the Kimberley Healthy Country Project was to engage government, industry, community and Traditional Owners in a regional dialogue relating to setting NRM priorities and goals. A key contributing factor to the success of the Healthy Country Project in engaging stakeholders and setting regionally-relevant NRM priorities was the recognition that Aboriginal People in the Kimberley – who represent nearly 50% of the regional population - should have equal representation in the regional NRM forum.
7. The multiple successes realised by the KLC under NHT1 was made possible through the direct partnership between the Australian Government and the KLC. While the KLC leadership role under the National Heritage Trust 1 meant that Kimberley Traditional Owners should have been well placed to engage with the second round of the National Heritage Trust (‘NHTII’), the reduced engagement of Government with the KLC and corresponding withdrawal of funding for the ILMF from KLC resulted in an underrepresentation of Aboriginal people in NHTII regional governance models.
8. The experience from the National Heritage Trust 1 and II demonstrates that without dedicated investment and partnerships with organisations that represent Indigenous interests, traditional approaches to multi-stakeholder NRM models fail to engage Indigenous people. Further, the engagement of Indigenous people, as the most significant stakeholders in NRM in the North of Australia, is crucial to the success of NRM programs – both within the region and more broadly.
9. The KLC recommends that the Australian Government prioritise direct NRM partnerships with Indigenous organisations, such as that delivered under the ILMF NHT1 or CfoC model, in order to avoid the underrepresentation of Indigenous people in NRM initiatives and facilitate the successful delivery of NRM outcomes.

The establishment and performance of the Caring for Our Country program

10. Since its inception, the KLC has been actively engaged in CfoC, advocating for objectives that align with Traditional Owners aspirations and priorities for CNRM work, and administrative processes that meet the needs and capabilities of Indigenous organisations like the KLC.
11. A key success of CfoC is the high level of Indigenous participation as well as its delivery of national conservation targets in remote and regional settings. In order for Indigenous

participation to be meaningful it must be coupled with the free, prior and informed consent of the Traditional Owners on whose country NRM activities are being delivered.

12. Key to increased Indigenous participation in CfoC was the structure and delivery of the Program which allowed regional Indigenous organisations to directly access funding. The engagement of Indigenous people in NRM activities requires effective community engagement and consultations, and Native Title Representative Bodies, who have close working relationships with their Indigenous constituents, are in a strong position to facilitate this engagement, ensuring free, prior and informed consent. Through direct funding relationships, without intermediary NRM bodies, CfoC is able to efficiently deliver on outcomes as funding is targeted at regional Indigenous projects without being affected by additional administrative processes.
13. Through Indigenous partnerships the CfoC provides a mechanism for Indigenous communities to access funding for projects that incorporate cultural values into NRM priorities and align with community aspirations, while simultaneously delivering on national conservation priorities. Through facilitating Indigenous projects, CfoC is thereby able to deliver projects that not only realise national conservation outcomes, but achieve these in regional and remote areas with additional cultural co-benefits.
14. The KLC recommends that the existing CfoC model, which was arrived at through close consultation and ongoing improvement, be continued as a targeted programme for direct engagement between the Australian Government and Indigenous organisation to deliver NRM activities.

The outcomes to date of Caring for Our Country

15. Within the Kimberley region, CfoC activities facilitated by the KLC have delivered an expansive range of outcomes.
16. To date, the KLC's CfoC program has facilitated the establishment of seven new IPA's (including Bardi Jawi, Dambimangari, Willingin, Balangarra, Uunguu, Paraku, Warlu Jilajaa Jumu and Karajarri IPA's) creating the largest conservation corridor in northern Australia - covering an area of 91,504 km².
17. IPA Plans of Management (in the Kimberley called Healthy Country Plans) cover 16 million hectares of the 20 million hectare West Kimberley National Heritage listed area, negating the requirement to establish additional management arrangements. This demonstrates the effectiveness and achievements of CfoC in streamlining NRM activities to achieve multiple outcomes at the local, community, and national scale.
18. A further key pillar of the KLC CfoC Program is the Kimberley Ranger Network. In 2013/14 the Kimberley Ranger Network engaged 69 Indigenous Rangers in full-time employment, 80 regular casual rangers and in total 250 casual positions across the programme, showing the significant role the KLC's Kimberley Ranger Network plays in facilitating the participation of Indigenous Australians in CNRM activities. To guarantee future involvement of

Traditional Owners in CNRM continuing support for existing and successful programmes is required with long-term commitments to funding programs.

19. The KLC strongly recommends that CfoC receives continued and strengthened support from the Government, delivering the dual benefits of NRM activities, as well as aligning with the Prime Minister's commitment to support economic development and employment within remote Indigenous communities.

The implications of the 2014-15 Budget for land care programs

20. The 2014-15 budget, as outlined in the Budget Paper #2, highlights that the Department of Environment and Department of Agriculture will achieve savings of \$483.8 million over five years, primarily through a reduction in uncommitted funding of future grant rounds. The current consultation of the National Landcare Programme, which closes on the 29th of August, outlines the structure of the programme split into regional and national streams. To guarantee success of Australian Government investment in NRM initiatives it is important to build on the strength of past and existing programs, including delivering targeted support to Indigenous organisations to facilitate NRM activities.
21. Regional Indigenous organisations like the KLC have been pivotal in the successful delivery of Australian Government initiatives and must be closely consulted to ensure the ongoing implementation of NRM activities are not negatively impacted by the merging of Landcare and CfoC into the single National Landcare Programme.
22. To strengthen the long-term partnership that has been established between Indigenous communities and the Australian Government, a consistent approach to delivery of programs is essential. Improvements in landscape health and resilience of ecosystems requires lasting commitments from communities and government. Restructuring conservation priorities to align primarily with current political policy priorities will have an adverse impact on the resilience of ecosystems across all of Australia, and undermine the certainty required to forward-plan on successful NRM activities.
23. Further, to achieve on-ground outcomes which constitute value for money, the Australian Governments should continue to maintain long term investments and forward contracts for cornerstone programs like WoC and IPA. Additionally, contracts and structure of NRM initiatives need to be streamlined and simple so that activities can focus on achieving outcomes, without creating a large administrative burden which limits the ability of Indigenous organisations to participate. The existing CfoC arrangements, discussed above, provide a good model for this approach.
24. The KLC notes that the budget earmarks \$2.55 billion to establish the Emission Reduction Fund ('ERF') from 1 July 2014 for the next 5 years. The KLC has provided submissions to the Australian Government expressing its concerns with the structure of the ERF and the ability of Indigenous Australians to participate (please refer to attachment 2). While the ERF stands alone from the National Landcare Programme, the KLC notes that the success of the two initiatives are highly interdependent, particularly within an Indigenous context. The ability of Indigenous communities to engage in low-cost land sector emission reduction

activities is dependent upon being able to leverage and scale-up existing CNRM activities, as without this existing base, emission reduction activities would not be economically viable. Similarly, the ERF offers an opportunity to enhance and grow the environmental outputs of existing Landcare initiatives.

25. The KLC recommends that the National Landcare Programme and ERF be developed to complement each other and facilitate Indigenous participation. Within the ERF, this requires:
- limiting the applicability of the ‘newness requirement’ and ‘government program requirement’ to Indigenous carbon projects;
 - ensuring there is no limit on number of crediting period for land sector projects;
 - providing a mechanism within the ERF Bill for recognising the limitation of land sector and Indigenous projects to meet contractual ‘make-good’; and
 - recognising carbon co-benefits of Indigenous land-sector projects that deliver additional social, environmental and cultural outcomes
26. For the National Landcare Programme, changes should be consistent with the prior objectives and structure of the CfoC programme to successfully achieve long-term environmental outcomes in CNRM, and Indigenous people - as a major stakeholder across the North - require direct partnerships with the Australian Government to participate in CNRM initiatives as the learnings from NHTII and CfOC show.

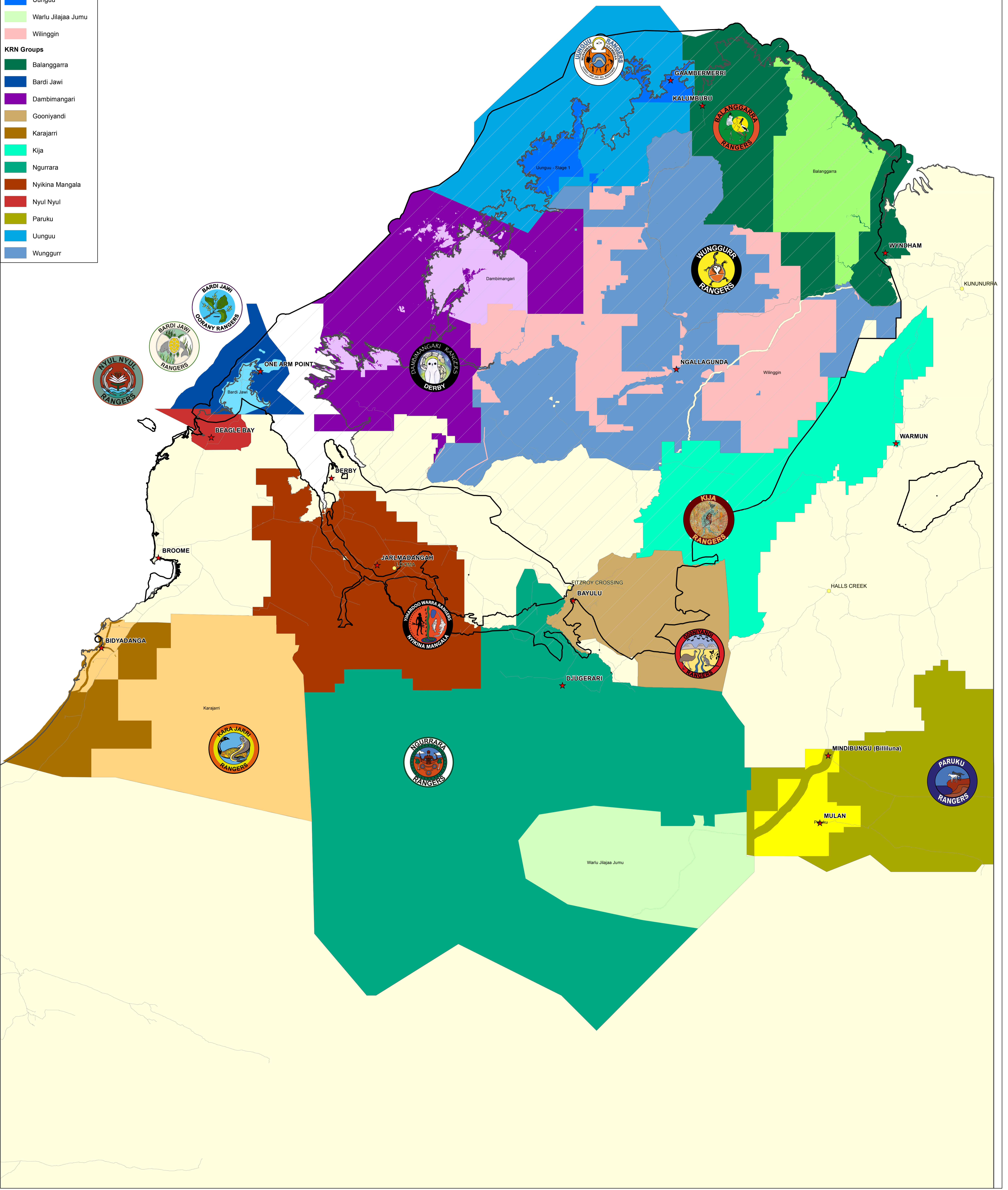
The role of natural resource management bodies in past and future planning, delivery, reporting and outcomes

27. Across the North of Australia, Indigenous lands represent a significant proportion of the land mass and Indigenous people the major stakeholder when it comes to NRM activities. Experience from CfoC and the National Heritage Trust demonstrates that traditional NRM forums are ineffective for facilitating Indigenous participation, and further, where Indigenous participation is missing, programs miss an important opportunity to maximise on delivery of outcomes.
28. Indigenous organisations, including Native Title Representative Bodies, play a significant role in the planning and delivery of NRM activities and the engagement of Indigenous stakeholders. Within the Kimberley region, Native Title has been determined across 72% of the region, underlining the significant role of the KLC as a major stakeholder for the engagement of Traditional Owners and the delivery of Australian Government NRM initiatives.
29. To guarantee value for money and facilitate NRM programs that align with community priorities, direct funding partnerships between Indigenous organisations – including Native Title Representative Bodies - with the National Landcare programme is pivotal. While conventional and established NRM bodies are an important enabler for smaller community groups to participate in natural resource management, Native Title Representative Body’s are integral to the successful participation of Indigenous People in NRM initiatives.

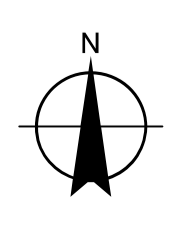
KIMBERLEY RANGER NETWORK

- Legend**
- ★ KRN Ranger Bases
 - West Kimberley NHL
 - IPA Areas**
 - Balangarra
 - Bardi Jawi
 - Dambimangari
 - Karajarri
 - Paruku
 - Uunguu
 - Warlu Jilajaa Jumu
 - Wilinggin
 - KRN Groups**
 - Balangarra
 - Bardi Jawi
 - Dambimangari
 - Gooniyandi
 - Karajarri
 - Kija
 - Ngurrara
 - Nyikina Mangala
 - Nyul Nyul
 - Paruku
 - Uunguu
 - Wungurr

Name	Ranger Group Area (Sqkm)	IPA Area (Sqkm)	IUCN Zone
Balangarra	30265.8	10906.4	6
Bardi Jawi	5340.8	1268.9	4&6
Dambimangari	31434.5	6423.0	6
Gooniyandi	13585.5	-	-
Karajarri	32337.9	24806.0	2&6
Kija	23185.5	-	-
Ngurrara	99761.4	-	-
Nyikina Mangala	26107.1	-	-
Nyul Nyul	1811.7	-	-
Paruku	25836.5	4284.9	2&6
Uunguu	25839.0	3441.6	6
Warlu Jilajaa Jumu	-	16184.6	6
Wilinggin	-	24188.5	5&6
Wungurr	63199.2	-	-



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**Kimberley Land Council: Submission to Environment and Communications Legislation
Committee on the Carbon Farming Initiative Amendment Bill 2014**

1. The Kimberley Land Council ('KLC') has a long history of working with the Australian Government on Indigenous cultural and natural resource management initiatives, and has actively engaged with Government in the development of the Carbon Farming Initiative ('CFI') and more recently the Direct Action Plan and Emission Reduction Fund ('ERF').
2. Carbon projects provide an opportunity for Indigenous people to engage in business opportunities that improve livelihoods and allow people to maintain and strengthen connection with country. In addition to carbon abatement, projects on Indigenous land deliver environmental benefits such as biodiversity, weed reduction and landscape linkages, and social benefits such as looking after cultural sites, strengthening connections with country and providing training and employment opportunities. Support for Indigenous participation in carbon abatement projects must be a key element of any commitment to improve economic development opportunities for Indigenous people, and the KLC strongly emphasises the need to ensure that Government policy is reflected consistently within legislation.
3. The opportunity for Indigenous communities to develop sustainable carbon businesses and realize this host of co-benefits is at risk from the proposed changes in the Carbon Farming Initiative Amendment Bill 2014 ('ERF Bill') which will create a significant barrier to Indigenous participation in carbon projects.
4. In order to enable ongoing Indigenous participation in carbon projects, the KLC recommends:
 - a. Remove proposed changes to additionality or provide further clarity – within the ERF Bill – on the application of the 'newness requirement' and 'government program requirement' to Indigenous carbon projects;
 - b. Remove the limit on number of crediting period;
 - c. Maintain existing arrangements for eligible interest holders to consent as part of the application for an eligible offset project;
 - d. Allow the public to put forward new or amended methodologies, and prioritise methodology developments that will assist Indigenous project proponents;
 - e. Introduce transparent pricing and purchasing arrangements for credits in the ERF Bill; and
 - f. Provide a mechanism within the ERF Bill for recognising the limitation of land sector and Indigenous projects to meet contractual 'make-good'.

Additionality

5. The ERF Bill introduces a number of changes to how additionality is identified. These include a ‘newness requirement’ and ‘government program requirement’ that will create significant barriers to the continuation of existing Indigenous CFI projects under the ERF, and as currently drafted will prevent the registration of possible future Indigenous projects.
6. The requirement that the project has not begun to be implemented (newness requirement) impedes the ability of existing projects to invest in long-term business decisions, and removes the ability of land sector carbon abatement projects to complement and build upon existing initiatives.
7. The newness requirement creates a perverse incentive for landowners not to engage in activities that may later become carbon projects, and in particular not to invest in long-term business decisions that would take them in this direction. Further, it is not clear how this newness test will apply in the context of existing CFI projects transitioning to the ERF. Where these projects have tried to realise efficiencies by making long-term business decisions – such as for example the purchase of assets – these projects could be precluded from participation in the ERF under these new additionality tests.
8. The requirement that the project would be unlikely to be carried out under another Commonwealth, State or Territory government program or scheme (government program requirement) creates a further barrier to the participation of Indigenous groups. It is important to differentiate between industry projects and community driven projects, recognising that in order to be viable, community driven projects – particularly Indigenous-run projects - will generally require support from other Government programs in order to establish. While the new additionality requirements appear to be aimed at other kinds of energy efficiency projects, the current wording of the ERF Bill encompasses – and could therefore exclude - Indigenous carbon projects undertaken through an amalgam of contributions.
9. The Kimberley Ranger Network is a regional cultural and natural resource management network made up of fourteen Ranger groups across the Kimberley. These Ranger groups receive funding through land management and employment programs to engage in a broad range of activities, including for example, biodiversity monitoring, cultural site management, fire management and landscape restoration, which have an array of cultural, environmental and economic benefits for Traditional Owners. Land sector carbon abatement projects offer an opportunity to complement and strengthen existing Ranger activities with projects to reduce emissions or store carbon on the land. Under the additionality requirements in the ERF Bill, these groups could be prevented from participation in carbon projects. This overlooks the fact that the funding they receive focuses on a much larger range of land management activities that do not include carbon abatement activities, and that, without funding from the ERF or CFI, they would not have the resources nor capacity to undertake carbon projects.
10. We note that the ERF Bill allows for the methodology determination to provide alternative approaches to additionality. However, under proposed changes to the process for methodology

development, proponents will have very limited control over the content of methodologies. It is undesirable that the ability of Indigenous people to participate would be reliant on the priorities and discretion of the Minister in amending methodology determinations.

11. It is recommended that the ‘common practice test’ approach to additionality – currently in place under the CFI – be reinstated. Alternatively, further clarification is required – within the ERF Bill – on how the ‘newness requirement’ will apply to Projects transitioning in from the CFI, and to land sector Projects wishing to scale-up existing activities. Clarification is also specifically required on the application of the ‘Government programs requirement’ to Indigenous projects, and this clarification should be provided within the legislation.

Crediting Periods

12. The ERF Bill introduces a number of changes to crediting periods that undermine long-term sustainable business opportunities for indigenous communities through limiting projects to one crediting period. This not only removes the ability of projects to continue to participate in the Government scheme, but also removes the opportunity for projects to continue to generate credits for the purpose of the voluntary market, and in doing so also removes an important contribution to Australia’s emission reduction task.
13. For existing CFI projects, new transitional arrangements provide that the current crediting period will end on commencement of the ERF legislation and a second crediting period will begin the following day. It is noted that for ‘designated savanna projects’ this transition period is extended till 01 January. For new projects, crediting periods are limited to only one crediting period. This is a significant change from the existing CFI framework which allows projects to apply for subsequent crediting periods.
14. This change undermines business certainty and removes the opportunity for Indigenous communities to develop long-term sustainable businesses based upon carbon projects. The change puts at a significant disadvantage existing CFI projects that have made business decisions based on the assumption that future crediting periods would be available.
15. Land sector carbon abatement opportunities including, for example, savanna burning projects, deliver significant levels of abatement within the north of Australia and given the remoteness of the areas involved, are unlikely to become ‘common practice’ over the life of the project. Ongoing and long-term incentives, such as those offered by the carbon economy, will be crucial to ensuring these projects continue to deliver emissions reductions into the future. Given the high effort and expense to implement land sector projects, seven years is too short and it does not seem reasonable to restrict a project to one contract if it remains additional and is delivering abatement.
16. Further, crediting is necessary for projects to participate in the voluntary market – this becomes important when contracts expire. Limiting crediting to one period will prevent projects from selling credits outside the ERF thereby undermining a healthy voluntary market outside of government programs.

17. In order to enable long-term business certainty, facilitate ongoing emissions reductions and allow for sustainable business opportunities outside of the ERF, it is strongly recommended that the ability to apply for subsequent crediting periods be included in the ERF Bill.

Consent of Native Title Holders

18. The ERF Bill introduces a number of changes to the requirements for declaration of an eligible project. One of these changes is to allow the Clean Energy Regulator to issue a conditional declaration without consents being obtained from eligible interest holders.
19. The KLC is concerned that this change will impact upon the rights of native title holders, including their right to consent to carbon sequestration projects. Through allowing projects to proceed to the stage of Declaration without obtaining the consent of native title holders, the ERF Bill undermines the ability of native title holders with an eligible interest in the project to provide *prior* consent.
20. The KLC recommends that the ERF Bill reinstate the current approach of requiring project proponents to obtain consent from eligible interest holders prior to the declaration of the eligible offsets project.

Methodologies

21. Significant changes to the approach for methodology development within the ERF Bill will further limit the opportunities for new Indigenous carbon projects.
22. The top-down approach to methodology development introduced in the ERF Bill, whereby the Minister may make, vary or revoke a methodology, limits the opportunity for stakeholder input into the development and prioritisation of methodologies.
23. The KLC is concerned the current prioritisation of methodology development does not take into account participation of remote Indigenous communities. In particular, the KLC would encourage the Government to prioritise the finalisation of the savanna sequestration methodology, and to further investigate opportunities related to rangelands and feral animal management, all of which provide important opportunities for remote indigenous communities to participate in carbon projects.
24. The KLC recommends the ERF Bill directs the Minister, in prioritising methodology development, to take into account opportunities for Indigenous communities to contribute to the emission reduction task. Further, to facilitate continued innovation, the ERF Bill should allow the public to develop and propose methodologies, including variations and amendments to existing methodologies.

Purchasing

25. The ERF Bill grants substantial discretion to the Regulator in relation to the purchasing of abatement. While the KLC supports some level of discretion, the lack of guidance within the

ERF Bill and associated Explanatory Memorandum in relation to how abatement will be purchased is of great concern, and undermines market certainty and the ability of project proponents to plan their participation in the ERF.

26. A major factor that will impact upon the ability of Indigenous communities to participate in the ERF is the price that they will receive for abatement. The Government has previously indicated that the benchmark price for the first auction would be published prior to the first auction. This commitment is not reflected within the ERF Bill. Without transparent and up-front information on the likely price for abatement, Indigenous communities will not be in a position to undertake the advanced planning – including feasibility assessments – required to participate in the ERF.
27. Further, the KLC remains concerned with the ERF Bills failure to take into account the extensive co-benefits provided by indigenous carbon projects.
28. Land sector projects, which represent the only real opportunity for Indigenous landholders to participate in carbon abatement activities, are significantly disadvantaged by the ERF Bills focus on ‘least cost abatement’ and failure to take into account a broad range of externalities – including co-benefits – that are of direct relevance to purchase price. Land sector projects are typically more expensive to conduct than industry-based carbon abatement activities due to higher production costs. An ERF focused purely on lowest cost abatement fails to take into account the source of abatement and provides no mechanism for valuing the co-benefits associated with land sector projects.

Contracts

29. The ERF Bill contains minimal guidance in relation to purchase contracts. The KLC would like to note concerns in relation the proposed use of a standard form contract.
30. The Emission Reduction Fund White Paper stated that contracts will contain ‘make good’ provisions whereby project proponents will be required to buy credits in the event of an under-delivery on the proposed amount of abatement. This proposal will create a significant barrier to Indigenous involvement and represents significant risks for land sector projects.
31. In order to allow Indigenous participation in the ERF, the unique circumstance of Indigenous organisations must be taken into account. Small Aboriginal Corporations who wish to participate in the scheme will not have the financial capacity to take on the risk of ‘make good’ provisions.
32. Further, the design of the standard form contract must take into account the nature of land sector emission reduction and sequestration projects that are impacted by a range of phenomena outside the control of the project proponent. For example, for savanna burning projects, a late season lightning strike may result in a wildfire that substantially reduces the abatement realized by the project. For these types of projects to participate under the proposed make-good provisions, they would be required to substantially underestimate their

levels of abatement, and take on the risk of being required to make-good on abatement where impacted by an event beyond the control of the project.

33. The KLC recommends that the ERF Bill introduce provisions that recognise the need for certain Indigenous and land sector projects to deviate from standard form contracts, including make-good provisions.

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