

15 March 2010

Senate Finance and Public Administration
Committee
Parliament House
PO Box 6100
CANBERRA ACT 2601

*spirit
of
Change*

Level 1
63 Adelaide Terrace
East Perth WA 6004
PO Box 3058
Perth WA 6832

Tel: +618 9263 8700
Fax: +618 9218 9449

Dear Sir / Madam

Thank you for the opportunity to provide comments on the Inquiry into Native Vegetation Laws, Greenhouse Gas Abatement and Climate Change Measures being undertaken by the Senate Finance and Public Administration Committee. Set out below are general comments in relation to the Inquiry.

The National Native Title Council (NNTC) is an alliance of Native Title Representative Bodies and Native Title Service Providers (NTRB/NTS) from around Australia. It was informally established in August 2005, and formally incorporated in 2006 as a public company limited by guarantee. Its objects are, amongst others, to provide a national voice for NTRBs/NTSs on matters of national significance affecting the native title rights of Aboriginal and Torres Strait Islander people.

As you would be aware Aboriginal and Torres Strait Islander peoples have strong connections to country and caring for that country comes with a high cultural responsibility. As such, communities are deeply concerned about degradation to the natural environment whether it is from regional development, mining sector projects or climate change. With this in mind the NNTC has been urging the Government to adopt an aggressive strategy to minimise the effects of climate change on the Australian landscape.

The NNTC has argued that to date there has been insufficient research on the benefits that Indigenous people can gain from their participation in the proposed cap and trade carbon scheme. There has also been insufficient research on the particular impact that climate change will have on traditional knowledge or the ability of Indigenous people to develop a specific market based on cultural traditions. Given the tied nature of Government funding, there needs to be a flexible approach to funding native title organisations so that independent expert assistance can be sourced to assist traditional owners and their communities respond to the changing market and the economic opportunities it may bring.

The development and implementation of any domestic scheme for greenhouse gas abatement and climate change measures could have a significant impact upon Indigenous peoples. For example, it is feared that the creation of incentives in relation to carbon sinks will lead to large-scale forest plantations and a consequent loss of traditional country and abuse of ecosystems.¹ On the other hand it could also open up significant economic opportunities.

¹ Gerrard, E., 2008, *Impacts and Opportunities of Climate Change: Indigenous Participation in Environmental Markets*, Native Title Research Unit Land, Rights, Laws: Issues of Native title, Volume 3, Issue Paper No. 13, Page 6.

Under the right to self-determination and the principles of free, prior and informed consent, indigenous peoples must be included, if not centrally involved, in policies and programs at all levels that will have a known or potential impact on land. In this regard, the Explanatory Memorandum to the Carbon Pollution Reduction Scheme Bill not only provides for the engagement of Indigenous stakeholders on reforestation projects, but also amendments to allow reforestation projects on land subject to native title rights (see clauses 7.77 and 7.78 of the Explanatory Memorandum).

Indigenous people or communities could potentially be involved in any domestic greenhouse gas abatement scheme through carbon sequestration. To what extent economic opportunities for Indigenous people are possible under such a scheme is unclear and the NNTC would urge the Government to undertake significant discussion with Indigenous landholders and communities to investigate any economic risk or potential.

Native Title does offer some economic potential for traditional owners, particularly through the native title future act regime. The right to negotiate under this regime provides traditional owners with agreement-making mechanisms that can assist their participation in carbon markets.² This could be through negotiated agreements for use and access to traditional lands for major developments, which currently are predominantly with the extractive industry. Some of these projects will result in increased greenhouse gas emissions and the statutory requirements to negotiate under the native title act could provide a unique economic opportunity for the participation of traditional owners and their communities in carbon offset projects.

There are also potentially a number of native species that can be used for both food production and biofuels (eg some of the acacias), but this market needs to be open to Indigenous people. The NNTC would argue that the establishment of any new markets in Australia based on native species would need to actively include Indigenous peoples, or compensate the holders of that knowledge³.

A potential opportunity for Indigenous land holders could be renewable energy infrastructure, such as wind turbines and solar panels, to be situated on Indigenous held land. This could provide economic opportunities in the market for Indigenous communities and should form part of the consultation with Indigenous land holders.

I trust the above comments are useful for your purposes, however if you require any further information or have any queries please do not hesitate to contact the A/Executive Officer, Carolyn Betts on (08) 9263 8718 at your convenience.

Yours faithfully

Brian Wyatt
Chairperson

² ibid

³ See Articles 31 and 32 of the United Nations Declaration on the Rights of Indigenous People.