people land opportunity

Australian Government
Indigenous Land Corporation

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Committee Secretary
Standing Committees on Environment and Communications Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2601

Carbon Farming Initiative Amendment Bill 2014

The ILC is an independent Commonwealth statutory authority established in 1995 to assist Indigenous Australians to acquire and manage land to achieve economic, environmental, social and cultural benefits. Through its key policy framework, the National Indigenous Land Strategy, the ILC prioritises involvement in projects that lead to socio-economic development for Indigenous people, including creating sustainable employment opportunities.

The ILC has developed significant capacity and is actively engaging with the Carbon Farming Initiative (CFI) to enable participation by Indigenous landholders by:

- Providing significant financial and in-kind support to CFI methodology development, including methodologies for carbon abatement through controlled savanna burning, biosequestration and conservation grazing;
- Undertaking the first Indigenous CFI project and being the first entity to have a savanna burning project accredited under the CFI through the *Fish River Fire Project*, with over 39,000 Australian Carbon Credit Units sold to Caltex Australia in the past two years; and
- Promulgating the lessons learnt from establishing the *Fish River Fire Project* and supporting other Indigenous organisations to engage with the CFI, including the *West Arnhem Land Fire Abatement Project* and the *North Kimberley Fire Abatement Project*.

Comments on the Carbon Farming Initiative Amendment Bill 2014 (the Bill)

Indigenous landholders are well positioned to play a significant role in Australia's transition to a low carbon economy through land sector Emissions Reduction Fund (ERF) projects, especially given that more than twenty per cent of Australia's land mass is Indigenous owned. To date, the CFI has provided opportunities for Indigenous landholders to engage in productive land uses on what is often marginal country and where alternative economic development opportunities are limited.

ERF projects also provide opportunities for Indigenous Australians to achieve significant co-benefits that align with other Australian Government policy commitments. By way of example, the seven approved savanna burning projects with Indigenous ownership or involvement across northern Australia cover an area of approximately 3.5 million hectares. Of these, four have been issued with more than 270,000 credits to date. The three remaining projects are expected to be issued approximately 125,000 credits, bringing the total to over 400,000. Both the activity itself, and the income generated by sale of the credits, continue to produce broad benefits for Indigenous Australians.

Almost the entire eligible area in the north Kimberley region is covered by CFI savanna burning projects with Indigenous ownership or involvement. Many Indigenous people are employed through these projects and more are involved in their planning and consent. Further, hundreds of Indigenous people benefit from this important land management activity through improved social, economic, health and cultural well being. On Cape York, at least seven Indigenous land owner groups are currently undertaking feasibility studies to decide whether to participate in the CFI through savanna burning and other approved activities. The Indigenous owners of large areas of land in the Top End are also looking to enter into the CFI market. The current abatement figures and estimated numbers of Indigenous people involved in the CFI could be expected to more than triple, should the right legislative and policy settings be in place to enable approval and implementation of further projects.

The ILC acknowledges the efforts that have been made by the Government to consult and incorporate the views of diverse stakeholders on the design and content of the ERF. A number of provisions contained in the current version of the Bill before the Senate are supported, namely:

- The early notification process, whereby project proponents will be able to notify the Clean Energy Regulator (CER) of the intention to commence a project;
- The extension of the crediting period for biosequestration projects from 15 to 25 years to align with the permanence requirement;
- The intention not to allow the CER to purchase international credits or enable proponents to use international units to satisfy make-good provisions. However, this intention should be strengthened so that the purchase of international credits is disallowed, which will ensure that the broader benefits of emission reduction projects remain within Australia; and
- The provision for project proponents to choose a later start date (within 18 months from the project registration date) for the crediting period.

The ILC is concerned, however, that some key elements of the ERF, as outlined in the *Carbon Farming Initiative Amendment Bill 2014* (the Bill), will greatly disadvantage the land sector, particularly Indigenous landholders.

Crediting periods

As previously acknowledged by the Government, the ILC is concerned that the introduction of a single crediting period, or a maximum of two crediting periods (for existing CFI projects), will mean that: (a) very few new projects will be economically viable; and (b) existing projects will cease activity once the crediting period is over. The ILC believes that this provision will negatively impact upon both project viability and the Government as the buyer of credits, which misses the opportunity to purchase genuine emissions reductions achieved beyond the first (or second) crediting period.

In the case of savanna burning projects, a single crediting period of seven (7) years will remove the long term sustainability of early dry season savanna burning across northern Australia. Savanna burning will not become common practice or business-as-usual at the end of a single crediting period and the absence of ongoing and long term incentives for landholders means that the annual late dry season fires, which ravage the North every year, are unlikely to be managed strategically into the future and will continue to contribute significantly to Australia's emissions. The transitional rules for crediting periods in the Bill refer to a "first" and "second" crediting period; however, the first crediting period appears to allow for a short initial transition period, followed by one full crediting period.

Given the general provision that projects cannot have more than two crediting periods, there is a risk that the Government will be locked into an inflexible one-size-fits-all position where the other benefits that accrue from ERF projects will not be realized. Limiting the number of crediting periods is also likely to create a general disincentive for land owners to participate in the ERF.

The change to crediting periods also has the potential to significantly impact existing CFI projects that have made business decisions at the feasibility stage based on the assumption that subsequent crediting periods would be available.

Other matters of concern

The ILC notes a number of other areas where participation of Indigenous landholders could be better enabled through the ERF, including:

- Building on existing initiatives by allowing projects to have commenced prior to registration. This includes, but is not limited to, allowing bids from projects that were initiated with the primary aim of generating credits and which have been funded by Government programmes, such as the Indigenous Carbon Farming Fund Capacity Building and Business Support Stream, the Biodiversity Fund and Indigenous ranger programs funded through Working on Country, the Indigenous Protected Area program and similar initiatives. This issue is somewhat addressed within the Explanatory Memorandum. Further clarity is required around (a) project eligibility requirements, particularly the list of government programmes that the CER will issue which "typically provide sufficient funding for emissions reduction activities", thereby excluding projects from the ERF and (b) deregistration of projects if the proponent later obtains funding for the project under a listed programme.

- Ensuring when ERF project proponents have additional credits for sale exceeding that which must be delivered under contract, the price paid by Government for the excess credits is the current auction price or the original contract price, whichever is higher. Provision for this arrangement should be included in the Bill.
- Prioritising methodologies that are likely to attract significant Indigenous landholder participation. This is particularly important as, unlike the current system, the process for methodology development will be controlled and determined solely by the Minister. The Bill removes the formal pathway for members of the public to put forward credible, scientifically supported methodology proposals. Care needs to be taken to ensure that innovative research and development continues within the field of Emissions Reduction, and that opportunities for Indigenous landholders to engage in ERF projects continue to be enabled.
- Ensuring the CER has sufficient administrative capacity to manage the new reporting and contract arrangements and that the land sector is not disadvantaged by these changes. The ability for an even shorter (that is, less than 6 months) reporting period for project proponents may seem a good idea in practice; however, it is likely to place a much greater administrative burden on the CER. The issuing of credits for projects that have a minimum reporting period of one year (for example, savanna burning projects) should be prioritised above other projects that report more frequently to ensure project income flows in a timely fashion.
- Similarly, ensuring the CER has sufficient capacity to cope with the administrative burden of less prescriptive methodologies. The Bill indicates that methodologies will have the ability to provide high-level guidance, rather than detailed rules for the estimation of emissions reductions. While this may seem to have merit, in practice it is likely to result in a greater administrative burden on the CER, greater risk being absorbed by the CER and a need for increased involvement of auditors, leading to higher project costs for proponents.
- Clarifying whether the special rules pertaining to the transition of designated Verified Carbon Standard (VCS) projects to the ERF will also include transition of the applicable VCS methodologies. Transition of VCS methodologies into the ERF would increase the range of project activity types available to project proponents, and reduce the costs associated with methodology development and the approvals process faced by the Emissions Reduction Assurance Committee, the Minister and the Government.

Principles to enable Indigenous landholder involvement - Emissions Reduction Fund design

- When prioritising new methodologies for development, it would be prudent to consider not only the adverse social, environmental and economic impacts that may result, but also the potential for positive social, environmental and economic benefits to be delivered.
- Provide the opportunity to generate non-Kyoto ACCUs from land sector activities such as feral animal management. It is understood that non-Kyoto ACCUs cannot be bid into the ERF; however, such projects could still be issued with ACCUs for use in the voluntary market.
- Introduce flexible arrangements around the requirement for proponents to demonstrate capacity to generate credits and commercial readiness of projects prior to bidding at auction. This would account for the challenges faced by Indigenous organisations in providing this level of information with no guarantee of success.
- Align and streamline, wherever possible, the crediting period, contract period and auditing requirements.
- Where consent is to be obtained from Indigenous landholders for biosequestration projects, there should be a requirement for the principles of free, prior and informed consent to be used from the outset of project planning.
- Decisions around discretion for out-of-auction contracts for major projects should be transparent and consider the broader potential for benefits to be achieved by Indigenous landholders, aligning with other Australian Government policy commitments.

Concluding remarks

The ILC looks forward to further engagement in relation to carbon policy, including the ongoing design of the Emissions Reduction Fund, the development and delivery of practical Emissions Reduction Fund projects or any other related policy matter.

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