



Yamatji Marlpa
ABORIGINAL CORPORATION

Our Ref: GEN033
Office: PERTH

12 April 2011

Committee Secretary
House of Representatives Standing Committee on
Climate Change, Environment and the Arts
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

INQUIRY INTO CARBON CREDITS (CARBON FARMING INITIATIVE) BILL 2011

Yamatji Marlpa Aboriginal Corporation (YMAC) generally welcomes the introduction of the above Bill into Parliament. We also acknowledge and support the Government's commitment to further consultations on future amendments to clarify the legal and practical intersection of the Bill with native title.

Nonetheless, we wish to briefly draw the Committee's attention to a number of issues arising from the Bill as it stands that will impact on Traditional Owners' ability to participate in carbon farming initiatives and/or limit the positive outcomes generated by such projects.

- i. Native title holders with non-exclusive rights and registered native title claimants must be clearly identified as having an 'eligible interest' in projects within their claim determination area. Not only is this an appropriate option given the procedural and other rights and interests of native title holders registered claimants under the *Native Title Act 1993*, but it will ensure consistent treatment of native title throughout the Bill under inquiry, given the deeming of carbon rights to exclusive native title holders.

Recognition of all native title holders and registered claimants is also imperative so that native title holders are not treated unequally in relation to non-native title holders with equivalent non-exclusive property rights.

- ii. The non-extinguishment principle should apply to land on which carbon farming initiatives are undertaken, as a matter of consistency with the remainder of the Bill.

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- iii. It is premature to assume that projects under the scheme are unlikely to be future acts just because the Bill does not create any new property rights. This issue requires more detailed modelling, analysis and consultation with Traditional Owners and their representatives.

In YMAC's view, it is likely that some carbon abatement and sequestration projects themselves could constitute future acts because they will limit the exercise of native title rights and interests. It is therefore vital that strong mechanisms are incorporated into the planning, development and implementation of carbon farming projects to ensure they are valid under the Native Title Act, for the benefit of all parties.

- iv. Greater clarity is required as to the administration and operation of the 'special native title account' required to hold Australian Carbon Credit Units (ACCUs) on trust for common law holders of native title. The Government should clarify if it intends to impose limitations in relation to options for the future trading of ACCUs by native title groups and the use and distribution of proceeds.
- v. The legislation should recognise social, cultural and economic co-benefits for Traditional Owners as a means of measuring additionality. This would increase the potential for the carbon economy contribute to COAG's broader Closing the Gap targets, generating new opportunities to align Indigenous land management with economic participation and cultural strengthening.
- vi. The Government should subsidise the provision of reliable technical and legal advice for Traditional Owners interested in participating in carbon farming initiatives. This is required in order to preserve the financial incentives for Indigenous groups given the complex administrative requirements of the scheme.

Yours faithfully

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