



**Kimberley Land Council**

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**Kimberley Land Council: Submission on Corporations Amendment (Emissions Reduction Fund Participants) Regulation 2015**

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 Emission Reduction Fund ('ERF').
2. The KLC supports the proposed amendments to the *Corporations Act 2001* and *Corporations Regulations 2001*, which will help to further simplify participation in the ERF for Indigenous project proponents. The KLC notes the risk of 'rogue' operators providing incorrect advice to potential Indigenous project proponents, particularly in relation to expectation management in regard to the viability of projects, but notes this risk is better managed through clear communication with Indigenous people regarding opportunities in the ERF, rather than through the Australian Financial Services Licence ('AFSL') arrangements.

**Carbon Abatement Contracts**

3. The KLC is supportive of the proposed changes which would clarify that carbon abatement projects are not financial products. This proposed amendment is clearly in keeping with Government policy of streamlining participation in the ERF, and avoids the perverse outcome of imposing additional regulatory requirements on scheme participants.

**Financial product advice incidental to technical advice**

4. The KLC supports the proposed amendments which would enable experts providing technical advice to provide incidental financial product advice. As noted in the consultation paper, it is common for project proponents to undertake feasibility studies and engage experts prior to commencing a project. Feasibility studies generally provide estimates of potential abatement, as well as looking at project costs, including start-up and ongoing operational costs. An incidental element of the feasibility study is to look at what price is required in order for the project to operate. In these circumstances, it is appropriate that this advice does not need to be regulated by the AFSL requirements.
5. Exempting incidental financial advice from AFSL requirements will make the ERF more accessible to Indigenous people through removing additional costs associated with paying for additional expert advice.

**Further amendments**

6. The KLC notes that the proposed amendments apply only in the context of the ERF, without applying to the secondary carbon market. It is suggested that the amendments be implemented so to apply consistently in the context of both the ERF and the secondary carbon market.

7. The KLC notes that it is common for Indigenous project proponents to act through agents in order to participate in the carbon market. It will be important that all of the above exemptions apply equally to the agent of project proponents, as to the project proponent.
8. It may be appropriate to consider additional amendments relating to the brokering of sales contracts – particularly in a secondary market context. Current *Corporations Act 2001* rules require that where someone is engaged in assisting with a sale of ACCUs, this constitutes brokering the sale, and therefore an AFSL is required. The KLC notes that where, for example, an agent is merely acting as a conduit of information between a potential buyer and seller, as opposed to providing advice as to price or creating a market, this should also be exempted from the requirements of having an AFSL so as to avoid Project Proponents having to unnecessarily engage brokers to provide this incidental service.