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20 May 2020

Climate Change Authority
GPO Box 787
Canberra ACT 2600

Via email: submission@climatechangeauthority.gov.au

Re: Submission to the Review of the Emissions Reduction Fund (ERF)

The Kimberley Land Council (KLC) is the recognised Native Title Representative Body for the Kimberley region in WA. The KLC actively facilitates the registration and operation of Indigenous carbon projects on behalf of native title holders and other Kimberley Aboriginal people, including those holding pastoral leases.

The KLC has a long history of engaging in climate change policy, working with the Australian Government on the development of the Carbon Farming Initiative, the Direct Action Plan and Emission Reduction Fund (ERF), and sharing experience in implementing carbon offset projects through the Indigenous Carbon Industry Network (ICIN), International Savanna Fire Management Initiative (ISFMI), World Indigenous Network and World Parks Congress.

Indigenous people have an important role to play in Australian climate change policy. As the largest land holding demographic in the Kimberley region and landholders / land managers of over 80% of the land area of Northern Australia, Indigenous people are already actively contributing to reductions in Australia's greenhouse gas emissions and improving the amount of carbon dioxide sequestered in the landscape through active fire management. Using a combination of western science and traditional knowledge and practice, Indigenous Rangers and land managers in the savanna region of Northern Australia have been establishing carbon enterprises to reduce greenhouse gas emissions from wildfires and deliver environmental, economic, social and cultural benefits to their communities, our country and the world. Collectively, savanna fire projects account for over 10% of Australia's credited emissions reductions, which contribute towards Government goals in regards to both climate change mitigation and improvement of Indigenous livelihoods.

These nationally and internationally acclaimed carbon projects have been shown to generate social, environmental and economic benefits in remote communities far beyond the value of ACCUs earned. Not only in the Kimberley, but across Northern Australia, savanna carbon projects are at a crucial point, poised to transition to the new savanna sequestration method which has the potential to secure their long-term viability.

While such carbon projects under the ERF offer significant opportunities for native title holders, without proper checks and balances, underpinned by the principles of free, prior and informed consent, there is a risk of projects resulting in disempowerment of Traditional Owners.

For Government to address the policy issues outlined below is a crucial step towards creating certainty for industry participants, including native title holders (both as project proponents, legal right and/or eligible interest holders), while contributing to the integrity, quantity and timeliness of carbon abatement.

I am pleased to outline the KLC's recommendations below, including comments in response to the specific questions posed by the ERF Review Consultation Paper.

Please do not hesitate to get in contact should you have any questions in regards to this submission.

Sincerely,

KRISTINA KOENIG
Program Manager, Carbon and Enterprise Development
Kimberley Land Council

COMMENTS ON SPECIFIC QUESTIONS POSED BY THE ERF REVIEW CONSULTATION PAPER

OVERALL PERFORMANCE

1. **How is the ERF performing overall?**

While there are a number of areas for improvement – outlined below – there have been a range of positive developments:

- ERF options contracts available for bidding at auction, giving the option but not obligation to sell an agreed amount of ACCUs at a future date at an agreed price;
- Increasing industry engagement, including with the indigenous industry, by the Clean Energy Regulator, with a recent positive example being the consultation in regards to indigenous co-benefits labelling;
- Provenance labelling of ACCUs in ANREU in order to increase transparency and traceability of abatement.

2. **What parts of the ERF could be improved and how?**

A. Native title rights and interests

With Indigenous people having rights and interests in over 80% of Northern Australia, carbon projects offer significant opportunities for native title holders; however, projects implemented without Aboriginal traditional owner consultation or consent have resulted in community backlash, disempowerment, undermining of traditional practices and erosion of native title rights – at odds with broader Government policy on Indigenous rights and native title.

Importantly, in developing carbon policy, it is crucial to note the distinction between native title rights and interests, and those of other interest holders. While Native Title specifically recognises the unique connection of Aboriginal people to country, it is often not afforded the same protections as other interests in land or water (e.g. it cannot be registered on title). For this reason, legislation which creates incentives for third parties to use and benefit from activities on areas of traditional country must provide positive protections for native title. As recognised by the Federal Court of Australia, activities under the ERF, such as savanna projects, have a clear capacity to interfere with Aboriginal peoples' rights and interests in areas of their traditional country and therefore trigger the need for this protection.

As a result, the ERF needs to address gaps in the protection of native title rights and interests, ensuring that native title is adequately considered, while also driving abatement and ensuring the scheme's continued integrity, through the following:

1. Maintain the **right of native title holders to consent to area-based carbon projects** on native title land and ensure the removal of any proposed amendments to section 28A of the *Carbon Credits (Carbon Farming Initiative) Act 2011* as they relate to native title consent.
    - Native title holders (and claimants) have unique rights in relation to area-based projects, and these rights need to remain protected.
    - Amendments have been proposed to section 28A of the CFI Act which would significantly reduce native title rights in relation to projects on indigenous lands and

should be withdrawn. These amendments have in the past been tied to unconnected but necessary amendments to the CFI Act which are required in order to operationalise the Savanna Sequestration method. The latter should be pursued *(see below Recommendation 8)* and the CFI Act amended as per all previous changes proposed in the previous CFI Amendment Bill, *except* changes to s28A.

2. **Remove the ability to 'conditionally' register** projects on native title lands (prior to obtaining Indigenous consent), thereby preventing delivery of carbon and co-benefits being delayed and land being 'locked up' by conditional project declarations that do not generate carbon credits; and implement legislative and policy change to ensure carbon projects can no longer be declared *prior to* obtaining consent from native title holders. This is in line with Australia's obligations under the United Nations Declaration on the Rights of Indigenous People and practice under the *Native Title Act 1993.*
   [Note that this could be combined with Recommendation 11 below, outlining the possibility for a limited time delay between baseline ending and project commencing in order to allow for planning, consents, capacity building etc. without impacts on newness / baseline – the latter often being the reason for project applications without prior consent.]
   - Since the ability to obtain consent *after* project declaration was introduced as part of the 2014 amendments to the CFI Act, experience has demonstrated that these changes have resulted in increased risk and uncertainty, with over 30% of ERF projects being registered without first obtaining consent, and many later being revoked due to a failure to obtain this consent. The practice of only seeking approval (consent) after committing to an activity (through project registration) is neither common nor best business practice, and risks significantly undermining the integrity of the scheme – as is demonstrated by recent court actions. Within an Indigenous context, it undermines relationships, disempowers Traditional Owners by precluding free, prior and informed consent (FPIC), and creates a significant power imbalance.
   - During the period between conditional project registration and the project being revoked in a case of non-consent, benefits are not being delivered and more appropriate carbon governance arrangements for the project area cannot be developed, which entails adverse market outcomes:
     - Delayed abatement (and co-benefits realisation) due to the time lag from initial conditional registration, to extension of reporting period, to revocation of the project, re-negotiation and planning of an alternative project over the same area, and finally registration;
     - Risk of artificially lower credited abatement from the same area over the entire duration of the project due to baselines being impacted by land management having started during the period of conditional (but ultimately unsuccessful) registration.
   - The changes to the CFI Act which allow conditional consent, introduced in 2014, should be reversed, and proponents required to demonstrate native title holder consent *prior* to project registration.
     - There is a possibility to make an explicit distinction between native title consent and that of banks and other interest holders whose rights are not impacted by carbon projects and who therefore should not be able to delay project registrations; i.e. the ability to conditionally register projects could be retained where EIH consent for example from banks (as opposed to native title holders) is concerned.

- Alternatively, a mechanism for active and timely 'dissent' could be considered, whereby eligible interest holders provide a signed EIH dissent form to the Regulator that then allows for expedited revocation of conditionally registered projects that have no prospect of obtaining consent and therefore will never be viable. The project area is then available again for a proponent that has both the legal right and the relevant consents to register a sound project that results in abatement and related benefits in a timely manner.
- Either of the above increase both timeliness and integrity of crediting by avoiding both land being 'locked up' and sub-optimal outcomes from artificially favouring the 'first cab off the rank' over the best project proposal which will obtain the consent.

3. Recognise the **registration of savanna sequestration projects as a Future Act** under the *Native Title Act 1993*, and require proponents to implement ILUAs prior to project registration.
    - In light of the impact that sequestration projects have on native title rights and interests, the KLC, NLC and CYLC have advised the former DoEE (now DISER) and the Clean Energy Regulator (CER) that the registration of a sequestration project is a Future Act under s24MB of the *Native Title Act 1993* (Cth). Therefore, where native title is determined or claimed, the requirements of Part 2, Division 3 of the NTA must be complied with, such as for the project proponent to agree and enter into an ILUA with native title holders and claimants to obtain and demonstrate consent.
    - The declaration of a sequestration project gives rise to a statutory power for the CER to issue a Carbon Maintenance Obligation (CMO) over the project. As a CMO has the power to affect native title rights and interests by granting the Clean Energy Regulator a contingent right to control activities over that land area, the declaration of a sequestration project is a Future Act. The native title rights and processes which apply will depend on the application of Part 2, Division 3 of the *Native Title Act 1993* (Cth).
    - Additionally, s24MD of the *Native Title Act 1993* (Cth) requires that for acts which pass the freehold test, native title holders must be given the same procedural rights as holders of freehold title. Under the CFI, holders of freehold title must provide permission (legal right) for the project to occur (in addition to EIH consent), and therefore native title holders should be given the same right.
    - It is recommended that an ILUA is the most appropriate form to evidence native title permission for sequestration projects, particularly in light of permanence obligations, as an ILUA binds future generations. The ILUA must be obtained prior to the Future Act which is the project declaration.
    - The above should apply to both exclusive and non-exclusive possession native title areas, as well as in relation to areas where claims have been made but not yet determined, or where no claim has been made but where tenure is non-exclusive and a claim might be made in the future.
    - The following should be noted in regards to the broader implications of this policy area:
        - If an ILUA is not obtained prior to project declaration, the CER is limiting its ability to issue a CMO in the future. This risks undermining the integrity of the ERF as a whole, as the regulating body is not able to exercise its enforcement powers and thereby ensure carbon stocks remain sequestered.
        - The approach of requiring an ILUA for sequestration projects would bring the carbon industry in line with the practice of other industries operating on

native title land, including pastoralism and mining. It would also ensure compliance with the United Nations Declaration on the Rights of Indigenous People.

4. Extend **protection of native title rights and interests to native title claimants**, and recognise their consent rights.
    - Currently, the ERF through the CFI Act only provides protections for Registered Native Title Body Corporates (RNTBCs), but not registered claimants.
    - Given that a native title determination does not create new native rights, but confirms the existence (subject to extinguishment) of existing native title rights, registered native title claimants should be afforded the same rights as native title holders who have received a determination, especially as CFI projects can operate for 25-100 years. This approach would be consistent with the approach taken in the *Native Title Act 1993* (Cth), and improve project integrity, as it would ensure future rights holders have given permission (legal right) for and consented to the future potential impact on their land, for example through the application of a carbon maintenance obligation (for a given permanence period).
    - This means engaging with native title claimants in the same way as with native title holders, *prior* to project registration.
    - Otherwise, in relation to legal right, where exclusive possession native title is determined after project registration, this may affect whether the project proponent still holds the legal right. In relation to eligible interest holder consent, where native title is determined and an RNTBC established prior to the issuance of ACCUs, the RNTBC will be an eligible interest holder, and must still provide consent.

5. Clarify that **State and Territory Government Crown lands ministers and Commonwealth ministers responsible for land rights legislation do not have a legal right to undertake a project, nor an eligible interest / consent right** in relation to projects (proposed to be) registered over exclusive possession native title land that is Torrens system land (including exclusive possession native title (EPNT) pastoral leases).
    - The CER's stated commitment to addressing this 'grey area' of policy in collaboration with the Department would allow for more certainty and a faster process in planning for additional projects, especially on EPNT pastoral leases.
    - Where there is an eligible interest and resulting consent right for the relevant ministers on behalf of the Crown, the CER should work with State and Territory Governments to develop consent policies, processes and requirements that facilitate project development and minimise barriers, in line with the principles of FPIC.

6. Address outstanding **uncertainties in relation to legal right** to undertake carbon projects, where there are overlaps between native title and other land interests.

7. Provide a mechanism for the **participation of non-exclusive possession native title holders** in the ERF.
    - While exclusive possession native title holders benefit from provisions which deem them to have the right to register projects, there is no such recognition for non-exclusive possession native title holders, making it difficult for them to participate in the ERF and generate carbon credits.

B. Method reviews and savanna burning sequestration

More efficient and effective mechanisms to review and amend existing methods are required in order to facilitate adoption of new methods in the early stage (before they have been adequately trialled). Clear and transparent processes should be in place to address issues, omissions and inaccuracies with existing methods should this be required. This is particularly evident for the 2018 combined emissions avoidance and sequestration savanna sequestration method (*Carbon Credits (Carbon Farming Initiative—Savanna Fire Management—Sequestration and Emissions Avoidance) Methodology Determination 2018*) which was developed with limited industry consultation and therefore includes a number of issues / oddities which have demonstrated themselves to be barriers to uptake / transition of existing projects.

The importance of the 2018 emissions avoidance and sequestration method to the Indigenous carbon industry cannot be overstated, with the potential for the sector to more than triple in size, significantly increasing its contribution towards Australia's emissions target and the liquidity of the domestic offsets market as one of the leading land sector ACCU producers, while driving business opportunities in Indigenous communities. Addressing outstanding issues will unlock abatement and so positively impact abatement by eliminating uncertainty and giving proponents confidence to adopt the new method:

8. Progress **CFI Act amendments relating directly to the Savanna Burning Sequestration method** as a priority, noting that these essential amendments need to be decoupled from previously proposed amendments to the CFI Act which would entail a reduction in native title holder rights in relation to consent (Section 28A in particular).
    a) Ensure a sequestration project's net total liability (if incurred) does not include credits issued for emissions avoidance or credits that have already been relinquished;
    b) Allow parts of a sequestration project to be removed from a project and only require sequestration credits for the carbon stored in that area to be surrendered;
    c) Provide for projects to easily transfer between the two 2018 methods.

9. Clarify and explain changes, and ensure consistency, of **fuel accumulation rates (L-values)** for both coarse and heavy, and fine fuels, across referenced scientific papers, inventory, and technical guidance documents applicable to the methodologies.
    a) The 2018 Methods introduce changes to fuel accumulation rates. The Department has indicated that this is due to updates in the science, however, there are a number of inconsistencies across published data in the referenced papers which remain unexplained.
    b) Providing a clear timeline on inclusion in inventory and method of new L-values and any other updates will further provide industry with confidence in the 2018 Methods, which will facilitate adoption.

10. Extend the **5-year transition window** during which existing projects can transfer to the sequestration method and get a new 25-year crediting period.
    a) The 'transition window' refers to a 5-year period (until April 2023) where existing projects who transfer to the sequestration method will be given a new 25-year crediting period for their project. The implications for projects not transitioning during this window is that crediting periods will continue, with the potential for significant misalignment between the crediting period and permanence period.
    b) A longer transition window will ensure that currently successful projects can participate fully, where – especially in an indigenous context – consultation

processes can be prolonged and a decision to transition should be based on free, prior and informed consent which may be difficult to achieve under time pressure.

11. Re-instate a **time-bound mechanism for a transition period between baseline ending and project start date**, in order to allow for project planning, capacity building, consultation and free, prior and informed consent (FPIC), without impacting the baseline and/or newness requirement.
    a) Transition periods between the end of the baseline and commencement of the project were possible under earlier EA methods (until 2014), recognising that proponents should not be negatively impacted (through reducing baseline emission amounts) by undertaking capacity building activities prior to project registration and particularly through the often-lengthy period of project consultation and planning.
    b) A transition period between baseline and project commencement could eliminate the need for conditional declarations which preclude FPIC *(refer above Recommendation 2)*.

12. Amend the inclusion of **prescribed weeds** in the method to reflect the science of invasive flora control (and the often-extended timeframes required) and conditions on the ground – either through removal of weed requirements until consultation take place, extension of timeframes for weed eradication in line with seasonality of the savanna, or a temporary suspension mechanism.
    a) Under the 2018 Methods, a project area must not include an area of land that contains a relevant weed species (currently only Gamba Grass). If a relevant weed species is detected, it must be permanently removed before the end of the reporting period, or the area must be permanently removed from the project (via subdivision and returning all credits earned to date for that weed area).
    b) Even under the current regime, a mechanism could be considered for areas where prescribed weeds have resulted in exclusion / excision to be re-included (possibly subject to renewed vegetation mapping), in order to avoid disincentivising reporting and to incentivise active weed control, as well as drive abatement from affected areas once they are again weed-free (if still eligible).

13. Remove uncertainty created by **potential changes to the Technical Guidance Document** (TGD) through limiting the TGD to scientific variables, grandfathering in any changes, and clarifying thresholds for method amendments and ERAC review, in order to provide certainty to proponents to commit to sequestration and associated permanence while ensuring scheme integrity.

14. Amend the CFI Act to allow **longer maximum and subsequent crediting periods**
    a) Currently, the CFI Act only allows one Crediting Period, which for each of the 2018 Savanna Burning Methods (and previous methods) is 25 years. There is a discretion for this Crediting Period to be extended once, with the extended duration uncertain until this occurs.
    b) An important feature of savanna burning projects is that, without support, the scale of landscape-scale burning undertaken does not become business as usual. This is due to a combination of factors, the most significant being the annual operational cost, which is prohibitive without the income derived through the sale of carbon credits. As a result, these projects will always be 'additional', and as such, the application of a 25-year Crediting Period is both arbitrary, and inconsistent with the intent of long-term

emissions reductions. Extended crediting periods for the emissions avoidance (EA) method and the EA component of the sequestration method would ensure the long-term sustainability of climate and other environmental benefits generated by savanna fire management.

15. **Include 'pindan' (acacia shrubland)** in the method through addition to the TGD as an eligible vegetation type.
    a) There are currently no registered savanna burning projects within the Dampier bioregion of the Southwest Kimberley. A primary reason for this is that the region's predominant vegetation type, Pindan (Acacia shrubland), is not considered eligible under the 2018 Methods.
    b) The science is now available to include pindan in the methods, which would not only eliminate inequities arising from its exclusion, but also unlock significant economic potential and additional abatement that is being constrained by a technical oversight. The addition of pindan to the list of eligible vegetation types would potentially result in an additional six indigenous savanna burning projects and a number of non-indigenous projects becoming viable.

C. Transparency of the ERF

The fact that the recent appointment and report-back of the Expert Panel chaired by Grant King was neither properly announced nor were the findings published when presented to Government, is disappointing and insufficient in light of a commitment to engagement and accountability. A consultation period of only a few days prevented many organisations from providing considered input and would have precluded the panel from having access to deep industry experience from across the spectrum.

16. **Consultation processes and lobbying efforts should be publicised in a timely fashion**, as should the rationale behind identification of priority projects, legislative amendments etc.
17. In line with suggestion from the Expert Panel, a **formal policy governing the prioritisation** and development of ERF methods should be developed and published in order to clarify the overall process as well as opportunities for consultation and collaboration for the industry.

D. Pricing

Lowest cost abatement purchasing, without taking into account the various additional benefits generated by indigenous-owned and operated carbon projects, does not reflect the true value of abatement and its co-benefits. It has been the voluntary market that was first to recognise and pay a premium for these additional public good benefits, whilst the ERF lags behind in valuing them.

18. **Alternative approaches to the ERF's lowest cost abatement** / reverse auction approach should be explored. At the very least, ERF pricing could be differentiated by method in order for pricing to better reflect the varying nature of different methods, including co-benefits / public good contributions they may entail.

E. Broader policy environment

19. **Collaboration between the Department and the Clean Energy Regulator, and State and Territory Governments** should be strengthened to facilitate access to carbon opportunities and ensure policy at all levels reflects the intent of the ERF and is implemented accordingly.

MAINTAINING INTEGRITY AND OPTIMISING GOVERNANCE OF THE ERF

3. Do you have any views on the operation of the offsets integrity standards and the additionality provisions as key principles supporting the integrity of abatement under the ERF?

In theory, the ERF's integrity standards serve the intended outcomes of the scheme and industry well overall.

However, suggestions like below-safeguard baseline crediting of emissions reductions (as proposed by the Expert Panel) pose a significant threat to the integrity of the ERF and risk undermining its legitimacy if not implemented with appropriate conditions, restrictions and oversight.

Conversely, the interpretation of additionality requirements in some cases appears to be misaligned with the intent of that standard. For savanna burning carbon projects in particular, the activity and resulting reduced emissions levels never become business-as-usual, as the activity is contingent on operational implementation of annual fire management year-on-year – rather than self-sustaining. This means that, in order to maintain reductions, annual costs will be incurred in perpetuity. This is in contrast to certain other methods that require mainly one-off capital investment (e.g. into emission reductions technology). As such, savanna burning should always be considered additional – if the activity stopped, annual emissions reductions would be reversed. This has two implications:

- A transition period between baseline end and project commencement should be re-instated *(as detailed in Recommendation 11 above)*. This maintains the integrity of abatement (as it is additional) and avoids a perverse incentive to delay project implementation and delivery of environmental and other benefits.
- Longer and/or subsequent crediting periods should be available to savanna burning emissions avoidance projects and the emissions avoidance component of combined emissions avoidance and sequestration projects *(as per Recommendation 14 above)*.

4. Do you think the governance structures of the ERF remain fit for purpose?

Existing governance structures should be underpinned by better cross-departmental / cross-agency collaboration and communication, to facilitate issues and policy questions being addressed in an efficient, effective and consistent manner.

Equally, there is room for better collaboration between the different levels of government, notably the Commonwealth and State / Territory Departments involved with carbon policy. This would ensure more effective consent policies and related processes and requirements that facilitate access to carbon opportunities *(as per Recommendation 19 above)*.

Actions and decisions taken outside of existing governance frameworks (e.g. as a result of lobbying by industry participants) should be published and their rationale explained *(as per Recommendations 16 and 17 above)*.

5. **What are your views on method prioritisation, method development and method review processes in the ERF? Please include any thoughts on how these processes could be improved, including how the expertise of industry could be better incorporated.**

In regards to method prioritisation, the process urgently requires increased transparency *(also refer above Recommendation 17)*. In particular, where a criterion of new abatement is used to prioritise investment into methods, it is important to consider that new abatement may not only be confined to new methods, but that review / amendment of existing methods may also result in additional abatement that otherwise would not be realised. This is the case in particular for the savanna burning sequestration method, which is plagued by ongoing issues that require amendments to make adoption viable for the savanna carbon industry. This is also the case for innovative approaches to potential new methods (such as proposed Desert Carbon methodologies) that may require additional flexibility or direct investment approaches.

20. To facilitate such processes, **method reviews should be streamlined for non-contentious issues**, and be more flexible to expedite critical amendments that would facilitate uptake. Where additional information is required from industry / scientific research, such **requirements need to be clearly defined** and publicised. (One example is the addition of the pindan vegetation type to the savanna burning methods as eligible vegetation *(refer above Recommendation 15)*. This has been pending for two years despite the scientific research underpinning an inclusion being available. More recently, there has been an indication of further data requirements; however, this should have happened much earlier and should be communicated clearly and publicly.)
21. Method development should be facilitated by allowing **third parties to propose and draft** methods. Additionally, new methods should be **trialled and tested** (without impacting early adopters' additionality requirements), and then be efficiently amended in light of resulting findings, in order to avoid oversights and unintended consequences of legislative drafting and operational implications. Prioritisation and development of ERF methods should be subject to a **clear and published policy** that outlines opportunities for industry input. All three of these suggestions are also reflected in the Expert Panel report.

MANAGING RISKS TO ABATEMENT

5. **What are your views on the suitability of the permanence period discount?**

22. In light of the unpredictability of climate change impacts on projects under the various methods, increased flexibility of permanence periods and related discounts would be beneficial for risk mitigation. For example, there could be provisions for rolling permanence periods or a greater number of duration options – with permanence period discounts changing in relative alignment with these.

6. **What are your views on the suitability of the risk of reversal buffer?**

23. The risk reversal buffer itself is adequate; however, its balance should be returned to the project proponent at the end of the crediting period, when it has served its purpose.

7. **What are your views on the risks posed to land-based abatement and the adequacy of ERF and project-level risk mitigation measures?**

New methods are intended to unlock additional abatement. If these methods are unviable or difficult to adopt for industry, realisation of that abatement will, at best, be delayed and, at worst, never be delivered.

As a result, methods that require amendments to facilitate adoption should be addressed as a priority. This includes the savanna sequestration method, with a range of amendments required to address outstanding issues in the methodology determination as well as the CFI Act. *Please refer to comments on Question 2, B – Method reviews and savanna burning sequestration, for detail.*

It should be noted that some methods entail additional risk not explicitly covered by the buffers, and therefore borne by the project proponent, such as potential changed to the Technical Guidance Document (TGD) for the savanna methods, which may impact abatement forecasts and potentially viability of individual projects. Any changes to the TGD should therefore be grandfathered *(as per Recommendation 13 above)*.

Relatedly, with a changing climate, circumstances under which projects are operated will change. More flexible permanence periods, more adequate pricing mechanisms and greater availability of options contracts to all projects would help mitigate such risks in the medium-long term *(refer Recommendations 22 and 18 above)*.

Lastly, as mentioned at other points in this document, inadequate Crown consent policies pose a risk to realisation of abatement. There should be avenues for the Department, Regulator and carbon industry participants to work proactively with State and Territory Governments in order to devise policy that supports carbon abatement *(also refer Recommendations 5 and 19 above)* .

8. **What are your views on the risks to contracted abatement resulting from ERF projects being concentrated geographically and by method type?**

As a national scheme, the ERF overall is diversified; concentration of certain methods / abatement is of a similar nature as are certain industries and therefore should not be considered to be out of the ordinary. Nonetheless, there is an opportunity to incentivise carbon project development especially in remote areas and by indigenous groups, and, conversely, to support risk mitigation and management from a policy and operational perspective *(refer comments on Question 9 below))*.

OPPORTUNITIES FOR ENHANCING OUTCOMES

9. **What role could the ERF play in future economic recovery efforts?**

Access to the carbon market as a result of savanna burning projects has led to the emergence of a significant remote Indigenous carbon economy, supporting employment, training, social, and cultural outcomes in remote communities, and setting a new precedent for Aboriginal-owned enterprise on native title land. This contributes significantly towards National and State Government goals for improvement of Aboriginal livelihoods, while reducing climate change impacts and risks, and increasing adaptation ability.

Revenue from savanna carbon projects, which has totalled well over $10 million to date for indigenous projects in the Kimberley alone, contributes directly to the regional economy and job creation.

Support for the establishment of savanna burning carbon projects would increase the magnitude and strengthen the positive impact of these ancillary benefits of the ERF, which contribute to economic development and recovery. Specifically, this means:

- 'Fixing' the savanna sequestration method and making amendments to the CFI Act to facilitate method adoption and realisation of its carbon abatement potential *(as per above Recommendations in response to Question 2);*
- Inclusion of pindan as an eligible vegetation in the savanna methods to make Southwest Kimberley projects viable *(as per Recommendation 15); and*

24. Provision of start-up funding to support early-stage projects prior to credit earn.

10. Should the ERF more explicitly address climate resilience and impacts? If so, how?

In line with the objectives of the ERF, explicit inclusion of activities that contribute to climate resilience, and support for such activities over those that may have adverse climate impacts could be reflected through pricing and method requirements.

Savanna Burning carbon projects deliver not only emission reductions, provide employment for Indigenous rangers and Traditional Owners, deliver skills development and training, protect cultural and heritage sites, and increase environmental outcomes, but also reduce risks to life and infrastructure from wildfires and position Indigenous communities to better respond to climate change impacts, such as increased wildfires, through building landscape resilience in the face of a more extreme climate. These significant benefits should be priced into the ACCUs generated from such methods *(refer above Recommendation 18)*, and further project development should be supported *(refer above Recommendations 14, 15 and 24)*. At the same time, perverse incentives in terms of climate impacts which could result from approaches such as below-safeguard baseline crediting – if not properly managed – need to be avoided.

END.