



Government of **Western Australia**
Department of the **Premier and Cabinet**
Office of the **Director General**

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Submissions
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The following is Western Australia's submission to the Climate Change Authority's Review of the Carbon Farming Initiative.

The Western Australian Government has unsuccessfully sought amendments to the *Carbon Credits (Carbon Farming Initiative) Act 2011* ('the Act') through extensive engagement with the Commonwealth Government since the State's original submissions on the design of the *Carbon Credits (Carbon Farming Initiative) Bill* in early 2011.

There are fundamental inconsistencies between the Act, Western Australia's land management framework and the State's rights as the administrator of Crown land. The carbon farming regime has introduced a right and an incentive for third parties to conduct activities on Crown land without a requirement to seek the consent of the State unless required by law. This compromises the State's ability to manage competing land uses on State Crown land and adequately mitigate public safety risks, leaving all parties, including all levels of Government and proponents, exposed to unacceptably high liability risks.

Western Australia is particularly concerned with the following features of the Act:

- a) The Act does not provide the State with the right to consent to carbon sequestration projects on specific categories of Crown land. In particular, the need to obtain the consent of the 'State Crown lands Minister' to conduct sequestration projects is removed for projects on exclusive possession native title land. Similarly, the Act enables emissions avoidance projects on Crown land to be approved by the Clean Energy Regulator ('the Regulator') without the consent of the 'State Crown land Minister' or any State Government land administrator. This is contrary to the State's rights as administrator of Crown land, and impedes the State's ability to effectively manage Crown land and address any risks to the public.
- b) Where native title holders are taken to be the proponents for carbon farming projects on Crown land under s46 of the Act, the State Government is only required to be notified about the project once an eligibility declaration has been made by the Regulator under s27 of the Act. To enable better exchange of information, and to ensure that carbon farming projects complement State land management activities, the State should be provided with detailed information about proposed projects prior to a declaration being made. This would enable the State to raise any concerns with the Regulator in relation to the project at the planning stage, rather than immediately prior to an activity occurring.

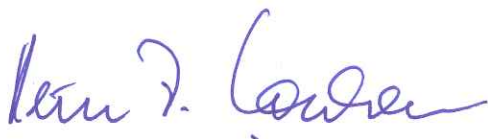
- c) The Act and the *Carbon Credits (Carbon Farming Initiative) Regulations 2011* ('the Regulations') do not require the Regulator to make its own enquiries about regulatory approvals, or to consult with the State Government to ensure that all approvals have been obtained to the State's satisfaction. Rather, the Regulations rely on proponents informing the Regulator about their compliance with regulatory approvals. The Act does not require consultation with the State as to applicable regulatory approvals at any stage, and therefore fails to provide a sufficient level of due diligence to ensure compliance with all relevant State approvals.

Recent events in the Kimberley highlight the risks to life and property arising from bush fires and demonstrate the importance of adequate bush fire management and oversight. Without this level of oversight, the State is unable to ensure that burning is conducted safely and in a manner that complements the State's land management activities.

In light of these issues, WA proposes the following amendments to the Act and/or Regulations, which aim to ensure that projects complement State land management activities, and effectively deliver their intended benefits without placing public safety and infrastructure at risk:

- establish a compulsory consultative and/or referral mechanism which would ensure involvement of the State prior to an eligibility declaration being made by the Regulator. This would enable the Regulator to make a fully informed decision about whether to make an eligibility declaration with appropriate conditions attached, and would allow the State to ensure that projects complement State land management activities; and
- require the Regulator to confirm with the State that all applicable approvals have been obtained for the reporting period, following provision of the proponent's report, and prior to credits being issued to the proponent.

Yours sincerely



Peter Conran
DIRECTOR GENERAL

30 OCT 2014