



Australian Government
Department of the Prime Minister and Cabinet

Dr Ian Watt AO
Secretary

Ref:EC14/409

Mr Peter Conran AM
Director General
Department of the Premier and Cabinet
Level 5, Dumas House
2 Havelock Street
WEST PERTH WA 6005


Dear Mr Conran

Thank you for your letter of 26 May 2014 about savanna fire management projects undertaken by the Kimberley Land Council under the Carbon Farming Initiative (CFI).

The Commonwealth supports savanna fire management projects to reduce the extent of fires late in the dry season when the weather is hotter, lowering fire risks to people and property. The Commonwealth recognises that savanna fire management projects offer important employment opportunities for Indigenous and other Australians living in remote parts of northern Australia.

You cite several instances where public safety may have been at risk due to fire management projects in Western Australia. It was concerning to hear about these. Like the Western Australian Government, the Commonwealth considers public health and safety to be paramount and takes any potential risks very seriously.

Given Western Australia's responsibility for fire management and the issuance of fire permits, project proponents must demonstrate they have the appropriate State approvals and the legal right to undertake a project when applying under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth). Approval as an eligible project does not provide the project with any immunity from State laws. It is a matter for the project proponent to ensure compliance with any State laws.

On 13 June 2014, officials from the Department of the Prime Minister and Cabinet, and the Attorney-General's Department met officials from your department to discuss this issue. Following concerns raised regarding a lack of State oversight of approved projects, the Clean Energy Regulator (the Regulator) has been in contact with Mr John Catlin, A/g Deputy Director General, of your Department, regarding the provision of information on upcoming savanna fire management projects. Commonwealth officials will also work with Western Australian Government officials to ensure savanna fire management projects have the necessary authorisation under the *Bush Fires Act 1954* (WA).

If any project proponent has undertaken fire management activities illegally, I encourage you to advise the Regulator. The Regulator can suspend or stop the CFI project and cancel any funding.

I trust these arrangements will better allow the Western Australian Government to enforce State fire management requirements. I note you have previously suggested that savanna project proponents should be required to have a carbon property right under the *Carbon Rights Act 2003* (WA) as a precondition for participation in the CFI. However, as outlined in the Emissions Reduction Fund White Paper released on 24 April 2014, the Commonwealth proposes to maintain and extend the current arrangements to include sequestration projects. This makes it easier for businesses and land managers to undertake projects.

Whether or not a proponent needs a property right to undertake a project will not affect the capacity of the Western Australian Government to effectively manage public safety, including through the *Bush Fires Act 1954* (WA).

At the meeting on 13 June, your department indicated concerns regarding savanna project approvals may be the result of native title issues. Officials from the Attorney-General's Department would be happy to discuss this further with your department. Officials also discussed a related proposal put forward by the States (through the Native Title Senior Officers' Group) to amend section 24LA of the *Native Title Act 1993* (Cth). This will allow the Crown (after a native title determination) to carry out activities on Crown land, such as bushfire and environmental management, where necessary for public health and safety. The Commonwealth is considering this proposal in preparing for the upcoming 2014 Native Title Ministers' Meeting.

Officials from the Department of the Environment, the Clean Energy Regulator and the Attorney-General's Department have agreed to work closely with your Department.

I have copied this letter to Dr Gordon de Brouwer PSM, Secretary, Department of the Environment and Mr Roger Wilkins AO, Secretary, Attorney-General's Department.

Yours sincerely



I J Watt

25 June 2014