

KIMBERLEY LAND COUNCIL

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1 December 2023

Sustainable Finance Unit
Climate and Energy Division
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To whom it may concern,

Kimberley Land Council submission on Sustainable Finance Strategy

1. The Kimberley Land Council (**KLC**) welcomes the opportunity to provide feedback on the Australian Government's Sustainable Finance Strategy. The KLC understands that these views will inform ongoing policy development and regulatory engagement on sustainable finance in Australia.
2. The KLC is an Aboriginal organisation established in 1978 for the purpose of working for and with Traditional Owners to get back country, care for country and get control of the future. As the native title representative body for the north-west region of Western Australia, the KLC has achieved native title determinations across 97 per cent of the Kimberley. There are currently 31 prescribed bodies corporate (**PBCs**) in the Kimberley holding and managing native title rights and interests.
3. The KLC works with PBCs to expand capacity and capability, as well as economic development opportunities and activities. The KLC also supports 18 Aboriginal ranger groups through the Kimberley Ranger Network, and conducts a range of land and sea management activities. In its representative capacity, the KLC plays a leading role amplifying the views and voices of Kimberley Aboriginal people locally, nationally and internationally.
4. While the KLC welcomes the Australian Government's commitment to sustainable finance, it is evident that, in its current form, the Sustainable Finance Strategy does not provide for the empowerment of Indigenous people or equal opportunity in policy development and regulatory engagement on sustainable finance in Australia.
5. The government has a unique opportunity to create real and long-lasting positive change for Indigenous people through the Sustainable Finance Strategy; however, this can only be achieved if the strategy:
 - a. Includes mechanisms that empower Indigenous people.

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- b. Assists Indigenous projects in accessing both private and public funding.
 - c. Supports Indigenous people's ability to make free, prior and informed decisions.
 - d. Ensures agreement-making of the highest standard that delivers real benefits.
6. For the purposes of this consultation, the KLC will provide principle-based feedback and limit our comments to key, relevant priorities identified within the consultation paper.

Objectives and principles

7. Given the importance of the Sustainable Finance Strategy, alongside the government's wider climate, economic and environmental agenda, it is notable that Indigenous rights and interests are largely absent from the consultation paper.
8. In the Kimberley, Indigenous people make up 41 per cent of the population and Traditional Owners are the largest landholding group. Indigenous cultures and wellbeing are intrinsically linked to country, with native title recognising the traditional rights and interests Indigenous people have to lands and waters. Indigenous participation, rights and interests are fundamental to the success and integrity of Australia's economy.
9. The KLC recommends that the Sustainable Finance Strategy be drafted to incorporate the value of Indigenous rights and interests within future sustainable finance systems. One way that this may be achieved is by including a key principle that outlines:
- a. A commitment to the rights and interests of Indigenous people as set out in the United Nations Declaration on the Rights of Indigenous People (**UNDRIP**)¹, including the principle of free, prior and informed consent.
 - b. A commitment to the rights and interests of Indigenous people as set out in the Native Title Act.
 - c. An acknowledgement of the impacts of past discriminatory policy, legislation and frameworks that have excluded Indigenous people and communities from Australia's financial system.
 - d. A recognition and incorporation of the value of Indigenous people's traditional and ecological knowledge in future sustainability efforts.

Pillar 1: Improve transparency on climate and sustainability

10. The KLC agrees that to be effective and sustainable, Australia's finance arrangements must be aligned with science-based global climate and sustainability goals, and with Australia's policy targets and commitments. Integral to this is a special focus on Australia's natural capital and biodiversity, as well as Indigenous perspectives and knowledge.
11. Recognising the inherent link between the rights, aspirations and knowledge of Indigenous people and Australia's net zero transition is integral to the development of effective financial systems, including increased private and public investment.

¹ United Nations Department of Economic and Social Affairs, (2018), United Nations Declaration on the Rights of indigenous Peoples.http://social.desa.un.org/sites/default/files/migrated/19/2018/11/UNFRIP_E_web.pdf

12. Indigenous-led initiatives, such as the East Kimberley Clean Energy project, the first 100% green energy, hydrogen and ammonia export project in Australia, are already playing a significant role in underpinning a prosperous, low emissions future for Australia and our global partners. Financial strategies that increase opportunities for investment, and lower risk, will lead to the development of more innovative projects by Indigenous people that harness cultural, social and environmental values to deliver sustainable outcomes.
13. Developing an Australian sustainable finance taxonomy that includes support for Indigenous initiatives and projects as a criterion for meeting sustainability goals will not only assist in Australia meeting its net zero commitments, but will serve as an important supporting strategy for Indigenous economic development across the nation.
14. The KLC welcomes the potential for a labelling system for sustainable investment products to highlight Indigenous-owned products and projects as a specific investment theme. With this additional information, consumers and investors can, if they wish, seek investment products that are supporting both sustainability and Indigenous economic/social outcomes.

Pillar 2: Financial system capabilities

15. Access to and analysis of data is imperative for the identification of economic development opportunities that align with the values of Indigenous people. The KLC, therefore, supports a Sustainable Finance Strategy that clearly identifies ways to support Indigenous people to address current data gaps and capacity challenges that exist across the Indigenous estate.
16. It is important that any attempt to tackle data challenges in relation to sustainable financial systems considers the existence of Indigenous knowledge and Indigenous data sovereignty. The definition of Indigenous knowledge should not be limited to standalone activities or products, and must acknowledge that Indigenous knowledge is not static and is continually reshaped and built upon by Traditional Owners.
17. Indigenous data sovereignty in Australia is the right of Aboriginal and Torres Strait Islander peoples to exercise ownership over Indigenous data. Ownership of data can be expressed through the creation, collection, access, analysis, interpretation, management, dissemination and reuse of Indigenous data.

Pillar 3: Australian Government leadership and engagement

18. In order for Australia to be a leader in sustainable financial systems internationally it is imperative that it looks towards its Indigenous peoples for the most effective and sustainable solutions to many of the climate challenges currently faced.
19. The KLC submits that the Sustainable Finance Strategy should incorporate the rights set out in UNDRIP, the most comprehensive international instrument on the rights of Indigenous peoples. It establishes a universal framework of minimum standards for the survival, dignity and wellbeing of Indigenous peoples of the world and it elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of Indigenous peoples.

20. Effective implementation of the UNDRIP in relation to policy development and regulatory engagement on the Sustainable Finance Strategy requires that Indigenous people in Australia have the ongoing opportunity to make choices about their social, cultural and economic needs. Any legislation, new standards, frameworks and practices under the Sustainable Finance Strategy should be drafted to be in accordance with the Declaration, including:
- a. Article 3 - Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
 - b. Article 18 - Indigenous peoples' right to participate in decision-making matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions
 - c. Article 19 - States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
 - d. Article 20 - Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
21. In addition, the KLC supports classification of eligible green and transition activities to support the issuance of green or transition-aligned financial instruments, including bonds and loans. The government should look towards Canada's Sustainable Finance Action Council which has recommended this as a use case for a potential Canadian taxonomy.
22. The KLC also supports an Australian sovereign green bonds program to attract green capital and support further growth of sustainable finance markets. A sovereign green bonds program must consider Indigenous participation in developing innovative products, technologies and financing models.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'T' followed by a horizontal stroke.

Tyrone Garstone
Chief Executive Officer
Kimberley Land Council