Submission on Code of Conduct review

Natural Carbon Pty Ltd

Key Recommendations

1   Natural Carbon supports the key recommendations from the review around:

   (a)   Congestion busting for Signatories

   (b)   Clients

   (c)   The Code Administrator

   (d)   The Code Review Panel

2   In addition, Natural Carbon calls for the Code Administrator to develop further guidance, checklists, and templates to assist with compliance and ensure a consistent approach across all signatories. Compliance capabilities and costs should not be a barrier to membership.

3   Finally, Natural Carbon calls for the Code Administrator to further reflect on its membership structure and how to leverage the code to improve the industry's performance over time. Too few operators have joined to date, and those who have joined already had some pre-existing commitment to better and best practice anyway. How could we bring into the Code all other agents/advisors/consultants/project developers? For example:

   (a)   Should the code be expanded to better cater for other business models and methodologies? At the moment, the code is heavily weighted towards land-based carbon credit generation, but the industry is much broader than that.

   (b)   Should the code consider 'tiers' of membership such as "compliant", "good practice", "best practice"?

   (c)   Should the code be made mandatory for participation in some or all markets?

   (d)   What are the incentives/penalties for non-members to join?

   (e)   Should formal training and associated units of competencies be developed to certify not only organisations but also individuals?

Free, prior and informed consent

4   Recommendation 2: Natural Carbon supports the recommendations to **adopt the Indigenous Carbon Industry Network (ICIN)** guidelines for *"Seeking free, prior and informed consent from indigenous communities for carbon projects – a best practice guide for carbon project developers"* **as best practice** for area based projects.

   We further note as a best practice approach, any other person with an interest in the land or the project should be given the benefit of prior information and the opportunity to have their views heard – and if appropriate and feasible, changes should be made to the project design accordingly. Those principles and procedures are well established in planning law across all jurisdictions. For example, this may include neighbours' concerns about fire or pest management, or the disclosure of benefits received by an Alternative Waste Treatment facility when charging a gate fee to their clients for receiving the waste materials.

5   Recommendation 3: Natural Carbon supports the recommendation whereby the highest possible bar is set for best practice, but in doing so, allows flexibility to still comply with the Code in those cases where best practice is not achievable or feasible. We further support the transparency associated with the approach.

6   Natural Carbon submits that the Code should seek to provide guidance on the **maintenance** of consents throughout the life of a project, including:

(a)   what the best practice approach for maintaining EIH consent is; and

(b)   whether best practice requires signatories to reassess and validate EIH consent for projects at any stage, including for projects which were registered before the relevant EIH consent was required to be obtained (i.e. before the 2014 amendments to the *Carbon Farming Initiative Act 2011).*

(c)   Under the CFI Act, EIH consent are only required at before the start of the project. However, new interests may appear over time (for example though the lodgement of a Native Title Claim or the determination of such claim). It would be best practice to accommodate those new interests in some way, or at least to have a risk monitoring system in place to ensure that such new interests do not undermine the Project's "Legal Right" to operate, (ie to carry out the project activities on or for the sites or assets included in the project, and a lawful and exclusive right to be issued all Australian carbon credit units (ACCUs) that may be created as a result of the project activities.)

7   Natural Carbon supports recommendations 4, 5, 6 relating to monitoring of dissent, fair and transparent sharing of "co-benefits" value & appropriate language.

Reducing administrative burden

8   Recommendations 19, 20 and 21: Natural Carbon supports the recommendations concerning reduction of administrative burden for signatories.

9   The Code should not duplicate reporting requirements, as the administrative burden is too high for small companies.

For example, annual reporting in accordance with section 2.5(6) of the Code of Conduct has the potential to cause an unnecessary administrative burden if guidance is not provided about what needs to be reported on and what does not (one example is that a signatory should not have to report on both compliance with AFSL requirements and the fit and proper person test, as AFSL would be sufficient to show that the holder is a fit and proper person).

Guidance on compliance with other legislation

10   The Code of Conduct requires that signatories comply with all legislation but does not provide clarification on the requirements of key legislation for the industry (section 2.4(1)(a)).

11   Natural Carbon submits that the Code should provide more guidance to signatories on best practice requirements and compliance with other legislation, including in the following areas:

(a)   Privacy;

(b)   Health and safety; and

(c)   Fair remuneration / Modern slavery

For example, the guidance should include whether best practice requires signatories to advise clients about safety and training requirements for undertaking project activities (such as in the savanna burning context).

AFSL and other administrative matters

12   Natural Carbon supports recommendations 7, 14, 15, 16, 18 : an AFSL is not always required if the services do no amount to financial services, including advice, dealing on behalf of clients, or making a market. This will become increasingly true as the Code seeks to expand to all advisors and not only cover aggregators and traders.

13   Natural Carbon supports recommendations 8 to 13, 17 & 18, 22 to 25

14   Natural Carbon supports recommendations 26 to 35 as they relate to the Administration of the Code

15   Natural Carbon supports recommendations 36 to 42 as they relate to The Code Administrator. Natural Carbon further submits that, rather than the number of projects or the number of ACCUs, it is the size of a member's business that is the best indicator of whether carbon service providers are small, medium, or large. In particular, the financial ability to maintain a dedicated compliance team is key.

16   Natural Carbon supports recommendations 43 to 46