



**CAPE YORK LAND COUNCIL
ABORIGINAL CORPORATION**

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The Research Director
Agriculture, Resources and Environment Committee
Parliament House
George Street
BRISBANE QLD 4000

**Cape York Regional Organisations submission regarding the Environmental Offsets
Bill 2014**

Cape York Regional Organisations (CYROs), consisting of the Cape York Institute for Policy and Leadership, Balkanu Cape York Development Corporation and the Cape York Land Council Aboriginal Corporation, provide the following comments on the Environmental Offsets Bill 2014.

Overall, the rationalisation of Queensland's various offset policies into a single policy is a positive move since it will simplify and standardise the application of the offsets policy and provide a much needed mechanism to identify and fund conservation for the public good on private land. However, Cape York Regional Organisations have identified a number of issues that do not adequately provide for the rights and interests of Cape York's Aboriginal stakeholders, or do not support the Queensland Government's policy objectives to improve the social and economic circumstances of Aboriginal people. These issues should be amended as outlined below before the Bill proceeds.

Declaration of an environmental offset area

Part 8 of the Bill does not adequately provide for the interests of Aboriginal people in the process to declare, or give or withhold consent to the declaration of, an environmental offset protection area. Native title has been determined to exist over approximately one third of Cape York, and it is anticipated that native title will be determined over virtually all of the remainder of Cape York in the foreseeable future. The Bill should accept the presumption that native title parties have a proprietary

interest in land and therefore the definition of “owner”, as used in s29, should be amended in Schedule 2 to also include native title parties. In this case it would allow native title parties to apply for an area to be declared an environmental offset protection area, and for the chief executive to decide the application after following the remainder of the process provided in s29.

Similarly, s29(6) requires that the chief executive must not make a declaration about an environmental offset protection area unless the chief executive reasonably believes each other “person with an interest in land” within the area has consented to the declaration. However, the definition of a “person with an interest in land” clearly excludes native title parties. This definition is unacceptable since it ignores the proprietary, cultural heritage and traditional interests that Aboriginal people have in land. These interests are widely recognised in many statutory and non-statutory processes and the Bill must be amended to include native title parties as persons with an interest in land. Indeed the definition of “person with an interest in land” in the Bill is inconsistent with s24MD(6A) of the *Native Title Act 1993* (Cth). CYROs also maintain that where an environmental offset protection area is to be declared this change in land use should be consented to by native title parties through the negotiation of an Indigenous Land Use Agreement.

Commitment to reducing red tape

The financial settlements offset, which allows proponents to acquit their offset obligations post approval by paying a calculated sum of money to an Offsets Account, is supported since this simplifies proponents’ participation in the offsets framework whilst delivering environmental outcomes using funds in the account.

However, the revision of matters subject to offsets, and the increase of the offsets threshold from any impact to only significant impacts, is not supported since this will have the effect of reducing the quantity of environmental offsets, reducing payments to Offsets Accounts, and therefore reducing the outcomes that may be achieved under the offsets framework. Because of the simpler participation in the framework provided by the Offsets Account it is unnecessary to revise the offsets framework in the ways proposed.

This position is held by CYROs because enhancing and protecting the environmental values of Aboriginal land on Cape York has very good potential to offset environmental impacts from development in other parts of Queensland. Reducing the need for offsets and therefore the need for payments to Offset Accounts reduces the potential for investment in the management of Aboriginal land.

Stronger environmental outcomes through strategic offset delivery

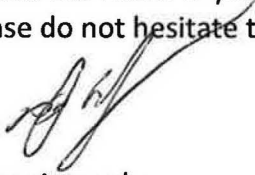
The strategic offsets approach is supported because it provides landholders with opportunities to receive income in return for voluntarily agreeing to manage their land, or part of their land, as an offset under a legally binding agreement. The options to deliver environmental offsets through a financial settlement offset or a proponent-driven offset are supported since this provides greater flexibility for the form of offset. This approach also has potential to improve the social and economic circumstance of Cape York’s Aboriginal landholders since arrangements could be made to manage Aboriginal land to achieve environmental outcomes.

Strategic Offset Environmental Corridors

CYROs consider there is potential synergy between the objectives of the Environmental Offsets Bill and objectives to improve the social and economic circumstances of Cape York's Aboriginal people. Extensive land areas on Cape York are owned by Aboriginal people, including land under the tenures of Deed of Grant in Trust (DOGIT) and Aboriginal freehold, some of which is not suitable or available for development such as mining, agriculture or urban development but does have high environmental values as identified under the *Vegetation Management Act 1999*. Corridors of this land could be identified, through consultation with and agreement from the Aboriginal land and native title holders, to be included in Strategic Offset Environmental Corridors, and the Aboriginal land holders receive income for managing this land to enhance and protect its environmental values.

The identification of Strategic Offset Environmental Corridors should also consider Aboriginal land which is already managed to enhance and protect its environmental values but is insufficiently resourced to achieve desired outcomes. CYLC offers to work with the Queensland Government to identify the Aboriginal land holders who would be interested having their land included in a Strategic Offset Environmental Corridor.

Thank you for the opportunity to consider and comment on the Environmental Offsets Bill 2014. If you have any questions or comments regarding this submission please do not hesitate to contact me.



Yours sincerely

CAPE YORK LAND COUNCIL

Peter Callaghan
CEO