



Gecko - Gold Coast and Hinterland Environment Council Assn Inc.

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24 March 2014

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

Per email to: AREC@parliament.qld.gov.au

Dear Sir

Re: Environmental Offsets Bill 2014 and amendments to Currumbin Bird Sanctuary Act 1976 and to the governance of the National Trust of Queensland

Gecko-Gold Coast and Hinterland Environment Council (Gecko) thanks the Committee for the opportunity to offer our comments on the above Bill.

As a community conservation organisation of long standing, Gecko presents the following points for consideration for the better preservation of Queensland's environmental values in this era of great sensitivity and crisis with interconnected effects on our own species' survival.

Gecko- Gold Coast and Hinterland Environment Council Assoc. Inc. is a not-for-profit environment association founded in 1989 and has been active for the past 23 years in protecting the environmental values and ecological sustainability of the Gold Coast, Queensland and, when appropriate, nationally.

We offer our comments on the draft Bill which were raised yesterday in Briefing Papers discussed and presented to Ministers Powell and Dickson at the Gold Coast Community Cabinet. These are followed by our comments on the section of the draft Bill relating to the proposed changes to the governance of the Currumbin Bird Sanctuary. These comments were also presented to Minister Powell and Dickson.

Gecko offers its strong support for the submissions on offsets offered by Queensland Conservation Council and the Environmental Defenders Office. We share the concerns raised.

In examining the Bill, Gecko members formed the opinion that this Bill will be ineffective in protecting matters of local environmental significance because they do not triggers the "significant residual impacts" which this draft Bill proposes to remedy. While we understand that the benefit of enhancing bioregional corridors through offset funds has been weighed up against the myriad of smaller offset projects across the State and is a preferred option, we do not believe this will deliver overall environmental enhancement. The assessment of what constitutes a significant impact is unclear and the steady loss of areas through a convenient offsets scheme will indeed benefit developers but will result in decreased biodiversity across the State. We have seen the successive loss of locally endemic species

in coastal lowland ecosystems through development for example in the expansion of the GC Airport and construction of the Tugun Bypass. Placing offset funds into the reclamation of disturbed land in another area does not protect such species with limited range and specific requirements or the habitats in which they thrive.

We believe there is potential, as the Bill is currently drafted to allow developers to buy their way out of their environmental responsibilities at great cost to Queensland and Australia's biodiversity.

We are also concerned that the regulations for the Bill are still being drawn up and will be effective with the Bill once it is passed without any further public consultation. Minister Powell agreed at the Community Cabinet that he would look into extending consultation to cover the regulatory provisions and we ask that the Committee discusses this with him.

Further points are covered in the Briefing Paper below discussed with Ministers Powell and Dickson.

**Briefing Paper- Biodiversity Impacts from Changes to Vegetation Management Act, Environmental Offsets and
CSG Mining**
23rd March 2014

Community Cabinet, St Andrews Lutheran College, Tallebudgera.

1. Minister/Agency	Department of Environment and Heritage Protection
2. Topic title	Offsets and Biodiversity
3. Background	<p>In 2013 the VMFA Bill was passed with such major changes that the consequences will have far reaching economic, environmental and social negative impacts. At its time of its writing this Bill did not given sufficient consideration to the negative impacts and was only viewing it through a narrow prism of short term economic gain for one sector of society. Further the changes are not based on sound science, but rather an aspiration based on economic considerations only.</p> <p>The natural environment and its vegetation is the foundation of our society and economy and provides eco-system services which cannot be quantified, but are essential if our land is not to be degraded to the point of being unproductive. Sustaining natural vegetation is not just about saving our wildlife, though that is very important given the rate of extinction in Australia; it is about sustaining the land's ability to support us.</p> <p>Queensland's biodiversity is currently facing accelerating impacts of climate change, loss of habitat from increased land clearing, renewed forestry effort, urbanisation, coal mining, a proliferation of coal seam gas mining and now a proposed Environmental Offsets Bill which will effectively allow developers to buy their way out of their environmental responsibilities. The cumulative impacts of this array of environmental legislation/policies will deliver a loss of biodiversity and localised extinctions of flora and fauna that may only become identifiable after some years. Change can be steady and insidious and we question the ability of current environmental practice to adequately protect biodiversity in the long term.</p>
4. Issue Summary	<ol style="list-style-type: none"> 1. Environmental Offsets were originally intended as a last-resort tool to replace environmental values unavoidably lost through development activities. The progressive easing of restrictions have created a climate in which an offset option, however divorced from the impact in question can be taken up despite a very real serious impact to a particular species or ecosystem. 2. There may well be environmental gains from direct application of offset funds to identified corridors or targeted restoration projects, however this will not remedy direct impacts on species resilience in the direct or closely adjacent development area. 3. Biodiversity has been declining across Australia over many years and successive federal and Queensland Governments have recognised the need to halt and reverse this decline. There will be no net increase of biodiversity if the multitude of potential impacts which are not considered significant will be allowed to proceed. 4. Coal seam gas exploration and mining result in enormous loss of vegetation for on ground works, clearing for access roads and pipelines as well as recorded and potential threats to groundwater and the ecosystems reliant upon this groundwater.

	<p>Other serious potential threats include accidents, explosions, contamination of waterways and pollution of air and soil. Despite insufficient information about these impacts, this industry is expanding at an alarming rate.</p> <ol style="list-style-type: none"> 5. As each CSG operation has a relatively small site footprint and narrow pipeline corridors the totality of smaller impacts, not considered 'significant' mean an ongoing loss of biodiversity. 6. As a consequence of the removal of red tape, cuts to departmental staff and a reduction in effective consultation with all stakeholders, especially with academics and scientific experts, oversight into environmental impacts has been reduced. 7. The regulatory measures that should accompany the draft Offsets Bills are still being drawn up and according to the public briefing held on 19th March, they will be released when the Bill is passed but there will be no further consultation into these highly important measures that will determine the effectiveness of the offsets legislation. 8. Extreme weather events such as extended drought and record breaking heat associated with a rapidly changing climate take their toll on all ecosystem components and reduce the resilience of biota to recover from the additional impacts of development. 9. Specialist feeders and vegetation found in strictly limited ranges are unable to simply migrate away from habitat loss. 10. Offset planting occurs offsite and takes years to develop into functioning ecosystems. Biodiversity is not transportable as it involves a large number of living organisms that have co-evolved. Living organisms simply have to flee, if possible, into neighbouring areas, if possible but otherwise simply die.
<p>5. Key Points / Issues</p>	<ol style="list-style-type: none"> 1. The suite of legislative change that has taken place over the past year and a half requires urgent re-assessment in the light of increased vegetation clearing impacts from additional sectors. 2. Accelerating climate change impacts have not been factored into these legislative changes 3. Under the proposed new offsets framework, smaller impacts are simply viewed as a nuisance factor and do not require consideration or trigger the requirement for an offset. This is death by a thousand cuts. 4. Current Environmental Policy need to be revised to ensure biodiversity impacts are progressively reduced not increased. The primacy of economic gain is driving this downward spiral.
<p>6. Requests</p>	<ol style="list-style-type: none"> 1. All of the legislation referred to in this Briefing Paper has been in force for some time and we request that the impacts of these be assessed prior to the passing of the Environmental Offsets Bill. 2. That public consultation is undertaken of the regulatory framework prior to the passing of the Environmental Offsets Bill. 3. That the Bill is not passed until the completion of the Senate Enquiry into Environmental Offsets. 4. That existing protected areas, especially National Parks, should not be allowed as offsets.
<p>Submitted by</p>	<p>Rose Adams, Secretary secretary@gecko.org.au Lois Levy , Campaign Coordinator, advocate@gecko.org.au Rose Adams, Secretary Rochelle James Campaign Team Member</p>



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Briefing Paper- Repeal of Currumbin Bird Sanctuary Act 1976

23rd March 2014

Community Cabinet, St Andrews Lutheran College, Tallebudgera.

OFFERED AS PART SUBMISSION TO ENVIRONMENTAL OFFSETS BILL 2014- Change of Governance of Currumbin Wildlife Sanctuary

1. Minister/Agency	Department of Environment
2. Topic title	Repeal of Currumbin Bird Sanctuary Act 1976 Repeal of National Trust Act with change to status as a company limited by guarantee.
3. Background	<p>Gecko- Gold Coast and Hinterland Environment Council Assn. Inc. (Gecko) has been an advocate for the integrity and sustainability of the Currumbin Wildlife Sanctuary (CWS) since Alex Griffith donated the CWS to the people of Queensland via the trust of the National Trust of Queensland (NTQ) as stated in the Deed of Gift in 1976 <i>“That the Sanctuary be preserved and continued in perpetuity, or for so long a period as the circumstance shall allow, for the benefit, welfare and education of Queenslanders and other persons generally”</i>. Over the decades since this Gift there have been many occasions when it has been necessary to call the National Trust to account for its lack of stewardship of CWS such that it favoured the interests of the National Trust over those of the CWS. Our major concerns have always related to the NTQ desire to sell CWS property and to use the proceeds for the benefit of NTQ and not CWS.</p> <p>In 2011 Gecko had numerous communications with NTQ and Peter Hutchison, then General Manager, Environment Strategy & Policy, Natural Resources and Environment Division, Department of Environment and Resource Management, regarding the intention to change the status of both NTQ and CWS to two separate companies limited by guarantee. In an email 11th August 2011 received from Peter Hutchison we were advised that any such change would involve <i>“Consultation arrangements will first be subject to the consideration of any reform proposals by the Minister. If the reforms that have been requested by both CWS and the NTQ are supported, I would anticipate that broad public consultation, including release of the draft constitutions, will follow.”</i></p> <p>This has not occurred.</p>
4. Issue Summary	<p>The repeal of the Currumbin Bird Sanctuary Act and its two Schedules which list the property owned by CWS was concealed within part 15 of the Environmental Offset Bill 2014. It was purely by chance that this was discovered by Gecko’s Secretary and brought to our notice. We were also advised on 14th March 2014 by Jann Stuckey, the Minister for Tourism and the Member for Currumbin that she was aware of the Bill over two weeks ago, but she did nothing to advise Gold Coast constituents or Gecko of this fact despite her clear knowledge of their interest in the matter. Her assurances that she will support the interests of CWS while voting for the repeal do not have our confidence.</p> <p>The assurances of broad community consultation given in 2011 have been completely ignored.</p> <p>Gecko has now read the draft Constitution of National Trust of Australia(QLD) Ltd (the Constitution) and finds several issues of concern in relation to the CWS including the matter that a Constitution, including its objects, can at any time be changed by the board elected at the time. The board elected following the passing of this Bill cannot control what a future board may decide to do in relation to the CWS and its property. This is stated clearly in <u>9.1 General Powers</u> (b) <i>“the board may make regulations, by-laws and</i></p>

policies consistent with the constitution and amend or rescind any regulations and by-laws". It might be said that the Constitution cannot be changed without an extraordinary meeting, but there is no requirement to inform the public or concerned persons that such a meeting was being held. The NTQ has a history of selling its properties in recent years. Section 2.3 Exercise of powers to achieve objects appears to allow the board to exercise unrestricted powers for any "*purpose which is incidental to the charitable objects of the company or which is intended to generate revenue for, or otherwise further, those objects.*" There is no clarification in this statement as to whether CWS lands can be sold to "*generate revenue for those objects.*"

Section 3.1 Promotion of the objects states that "*the income and property of the company must only be applied toward promoting the company's objects as set out in the constitution*". There is nothing in this statement to indicate that income from the sale of CWS lands would go to CWS and not the NTQ generally.

Section 9.2 (a) (i) states that the "*sale of other transfer or disposal of prescribed property*" cannot be carried out by the Directors and must be referred to the governing members for decision by special resolution. However the definition of prescribed property in Section 1.1 Definitions simply states that such property "*means the properties described in the schedule to this Constitution*". Since this schedule is not available for scrutiny Gecko is unable to determine if CWS lands are included in this definition of prescribed property. Indeed the Minister's Explanatory Notes for the Bill state " the requirement to seek Ministerial support and Governor in Council approval for **actions such as selling property**" will be removed.

Section 11.1 of the Constitution states that the new NTQ company limited by guarantee (a) must have a Currumbin Wildlife Sanctuary Committee and (b) the.... Committee must have at least three (NTQ) directors and such other persons as appointed by the board from time to time. There does not appear to be a mechanism for the concerned public to vote a person onto this Committee.

- There is no detail in section 11.1. (c) regarding the requirement to have a "current written policy in relation to the role of the CWS Committee, its composition, appointment process and its procedures." There is no indication of the degree of independence of deliberations or decisions of this CWS Committee or its ability to retain control of lands which form part of the original Deed of Gift and the so-called non-core lands purchased after the Gift with money from CWS. In the Huchison email (11.8.2011) it was stated "*Post-1976 land – I recall confirming that, under the proposed arrangements, proceeds from any potential sale of post-1976 land could only benefit the Sanctuary directly, not the National Trust. This is consistent with the current legislation, and is maintained in the draft constitution. **There is no intention that NTQ should benefit from the sale of any CWS land.***" (my emphasis). **There is no such statement or guarantee in the current draft Constitution of NTQ as a company limited by guarantee.**

In Section 18.5 of the Constitution the Winding up of the NTQ company is discussed and while it appears to be a common arrangement that any surplus assets of the Gift Fund are to be passed on to an organisation with similar objects to the NTQ, there is no statement about special arrangements for the preservation and continuation in perpetuity of the CWS lands both core and non-core as required in the Deed of Gift. At the very least the community has the right to expect that the CWS lands would remain as public open space under the trusteeship of the Gold Coast City Council should the business/ zoo component of CWS prove not to be viable.

We remain concerned about the long term protection of this Australian icon and will continue our representations on behalf of the Sanctuary and the community. The Government is proposing to repeal an Act of Legislation, which relates to a Gift to the people of Queensland and we maintain that it is the right of Queenslanders to have a say in this action and consequently in the arrangements that are proposed to take its place. The operative word here is "trust", considering the original purpose of the Gift and we believe that discussion to change the existing status of the Sanctuary should honour this trust and be conducted in an open and transparent manner.

We do not believe that this has occurred. The limited exposure of the Bill on the Government and NTW websites can hardly be considered a clear and transparent method

	of informing residents of Queensland of the proposed repeal of the CBS Act and subsequent change of status of the NTQ hidden within the Environmental Offsets Bill 2014.
5. Key Points / Issues	<ol style="list-style-type: none"> 1. The repeal of the Currumbin Bird Sanctuary Act has not been made widely known to the citizens of Queensland and full public consultation undertaken. 2. The draft Constitution of the National Trust as a company limited by guarantee, does not provide protection for the property of the Currumbin Wildlife Sanctuary given to the people of Queensland under the 1976 Deed of Gift from Alex Griffith in perpetuity. 3. There is nothing in the draft Constitution of the National Trust as a company limited by guarantee, to ensure that CWS lands will remain a public asset for the people of Queensland in the event of the winding up of NTQ or CWS.
6. Requests	<ol style="list-style-type: none"> 1. That the citizens of Queensland are fully informed and provided with opportunities for full consultation of the intention of Part 15 of the Environmental Offsets Bill to repeal the Currumbin Bird Sanctuary Act 1976 and replace it with a body known as the National Trust as a company limited by guarantee. 2. That Part 15 of the Environmental Offsets Bill is excised from this Bill until there has been full and informed debate about the repeal of the Currumbin Bird Sanctuary Act 1976. 3. That should the National Trust become a company limited by guarantee, that there will be clauses inserted in the constitution of NTQ to guarantee the preservation and continuation of the CWS lands in perpetuity as a public asset such as an environmental reserve under the trusteeship of the Gold Coast City Council.
Submitted by	Lois Levy, Campaign Coordinator. advocate@gecko.org.au Rose Adams, Secretary. secretary@gecko.org.au

We thank the Committee for their consideration of the above submissions.



R. Adams
Secretary