



NORTHERN LAND COUNCIL

Our Land, Our Sea, Our Life

19 July 2023

Dr Paul Vogel AM
Chair, NT Environment Protection Authority
GPO Box 3675
Darwin NT 0801

Via email: eia.consult@nt.gov.au

Dear Dr Vogel

BLUE CARBON RESTORATION RESEARCH PILOT PROJECT – NORTHERN TERRITORY ENVIRONMENT PROTECTION AUTHORITY PROPOSED ACTION REFERRAL

1. We refer to the application made by Blue Carbon S2C Pty Ltd (BC-S2C) to establish the Blue Carbon Restoration Research Pilot Project in the Gulf of Carpentaria. The proposal includes conducting pilot research of blue carbon ecosystem (mangrove, saltmarsh) restoration methods across six hectares on Kangaroo Island (NT Portion 2433), and construction and operation of a blue carbon research institute on about three hectares of land near Black Rock Landing, north of King Ash Bay.
2. The Northern Land Council is an independent statutory authority responsible for assisting Aboriginal people in the northern region of the Northern Territory to acquire and manage their traditional lands and seas. A key function of the NLC is to express the wishes and protect the interests of Traditional Owners throughout its region.
3. The *Aboriginal Land Rights (Northern Territory) Act 1976* (Land Rights Act) combines concepts of traditional Aboriginal law and Australian property law and sets out the functions and responsibilities of the land councils. The NLC is also a Native Title Representative Body under the *Native Title Act 1993* (Native Title Act).
4. NLC has previously assisted Mowundurru Association, whose membership comprised of the traditional owners of Kangaroo Island. Mowundurru Association held title for Kangaroo Island

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in the form of a perpetual crown lease over NT Portion 2433, until the association's dissolution in 2011.

5. Title is currently vested in the CEO of the Northern Territory Department of Infrastructure, Tourism and Trade (DITT) (title transferred from Commissioner of Consumer Affairs to DITT in May 2023). Under the current tenure arrangement there is no requirement for traditional owner consultation in regards to land access and activities, and NLC is not satisfied that Blue Carbon has sufficiently consulted all interested and affected parties.
6. Based on our long association with traditional owners and custodians with rights and interests in the project area, the NLC recommends the NT Environmental Protection Authority (EPA) require this proposal be considered through a full environmental impact assessment due to:
 - a. Interested and affected Aboriginal people have not been afforded the opportunity to adequately consider this proposal and its possible impacts.
 - b. There is insufficient information in the project documents to understand the project fully, and therefore the NT EPA must request further information in order to make an informed decision.
7. Examples of instances where the application documentation is insufficient include the following:
 - a. The *Environment Protection Act 2019* (EP Act) requires the NT EPA to provide *inter alia* for broad community involvement during the process of environmental impact assessment and environmental approval; and to recognise the role that Aboriginal people have as stewards of their country as conferred under their traditions and recognised in law, and the importance of participation by Aboriginal people and communities in environmental decision-making processes (s. 3).
 - b. With the information provided in the application, the NT EPA cannot be confident that sufficient community involvement has occurred, and more specifically that Aboriginal people whose rights and interests may be affected by the proposal have had the opportunity to consider and comment on the proposal.
 - c. The application includes a summary of consultation activities undertaken by the proponent, including through the Yanyuwa Indigenous Protected Area and Yanyuwa Indigenous Protected Area Advisory Committee. The proponent notes that letters of engagement were issued to the Mawa Trust, Mabunji Corporation, and 'several other Land Trusts', but that efforts to reach key stakeholders have been impacted by cyclones.
 - d. As such, it cannot be proven that all relevant Aboriginal people and communities have been consulted with by the proponent. The release of the project referral documents on a website for four weeks consultation is also not an appropriate method for Aboriginal people living in remote locations, such as where this project is located, to be able to access information and provide meaningful and inform comments to the NT EPA through this proposed action referral.

- e. The NT EPA has developed environmental factors and objectives to improve certainty and increase transparency in the environmental impact assessment process. The People Theme includes community and economy; culture and heritage; and human health.
 - f. The application includes comments on the culture and heritage component of the proposal. Page 85 of the application notes that the proponent has applied to the Aboriginal Areas Protection Authority to 'map the location of known items of cultural heritage significance'. It is not clear whether the proponents have applied for an Authority Certificate to cover the activities, or whether an Abstract of Records is being sought.
8. In summary, we submit that in order to meet its objectives under the EP Act, the NT EPA must require the Blue Carbon Restoration Project be assessed through a full environmental impact assessment that ensures detailed consultation and engagement with interested and affected people, and requires an Authority Certificate to be obtained covering the whole area of the project.

Yours sincerely



Elisabeth Storor
LAWYER
Northern Land Council