Submission No 384

INQUIRY INTO MANAGEMENT OF PUBLIC LAND IN NEW SOUTH WALES

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Greenfleet is pleased to have the opportunity to submit a report to the Inquiry for management for public lands in NSW. Our submission presents the opportunity for developing biodiverse revegetation projects as carbon sinks on cleared areas within NSW National Parks or other public lands. Assuming appropriate governance and transparency objectives are met, allowing carbon sinks on public lands is a unique opportunity to direct private funds to public lands in a way that enhances the ecolgoical values of the lands.

NSW Government Inquiry into the Management of Public Land

General Purpose Standing Committee No. 5

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1. Introduction

Commencing in 1997, Greenfleet was Australia's first biodiverse revegetation carbon offset provider. Greenfleet is a not for profit organisation. Greenfleet plants native vegetation on public and private land to sequester carbon and create credits for the voluntary and, more recently, the compliance markets. All revegetation projects are designed and planted to restore as far as practical the original pre-clearing vegetation community and build the conservation and economic value of degraded or otherwise unproductive land.

In New South Wales, Greenfleet has planted more than 600,000 trees revegetating over 600 hectares of degraded land in Kosciuszko National Park in 2009 and 2010, with lesser amounts planted in other National Parks. In the main, the Kosciuszko plantings were on cleared land gazetted into the Park following development of the Snowy Mountains Scheme leaving these former sheep properties remote and cut-off from towns and roads with the formation of Lake Jindabyne and Lake Blowering. Importantly, all grazing was removed from the land in 1969 to protect the quality of the catchments and to restore the conservation values of the National Park.

In the 40 years between gazettal and revegetation by Greenfleet, the properties were a refuge for rabbits and other vermin, creating an ongoing liability for the NSW National Parks and Wildlife Service due to annual weed and pest management costs.

Greenfleet's revegetation work in Kosciuszko National Park has brought respite to the NPWS budget while returning degraded land, in part, to its former conservation value and all at little cost to the NSW taxpayer.

The benefits of this revegetation work to the NSW Government can be summarised as follows:

- Funds from the private sector applied to Crown Land to enhance the environmental value of the National Parks and carry out works that would otherwise not be funded.
- Reduced maintenance costs through replacement of weeds with native vegetation, allowing NPWS and other staff to focus on other activities
- Improved conservation value and environmental integrity of the Parks, extending habitat for protected wildlife and ecosystems
- Reduced sediment run-off into rivers and lakes thereby improving downstream water quality and reducing water pumping and treatment costs, and
- Greenhouse emissions captured and increased resilience of our precious landscape to climate change.

Greenfleet believes this model, proven in Kosciuszko National Park, can now be extended to other public lands in the protected area estate.

These lands include those nominated in the Inquiry's Terms of Reference, namely:

- River Red Gum Forests in the Southern Riverina
- Native Hardwood State Forests of Northern NSW
- Yanga Station in Wakool Shire, and
- Toorale Station in Bourke Shire.

Greenfleet can revegetate and restore these and other public lands for the State at minimal cost to the taxpayer other than through negotiated carbon arrangements.

2. Guiding Principles for Biodiverse Carbon Sequestration Projects in National Parks

Greenfleet's CEO was awarded the Lamington National Park Churchill Fellowship in 2011 to specifically examine the opportunity to expand investment in biodiverse revegetation works within Australia's National Parks using the carbon market. A copy of this report is available[1]. Key questions addressed in the report included:

> *Can sufficient public value be generated to make efforts to undertake revegetation projects in National Parks politically and legally supported?*
>
> *Can the projects be conducted in line with the National Park's mission?*

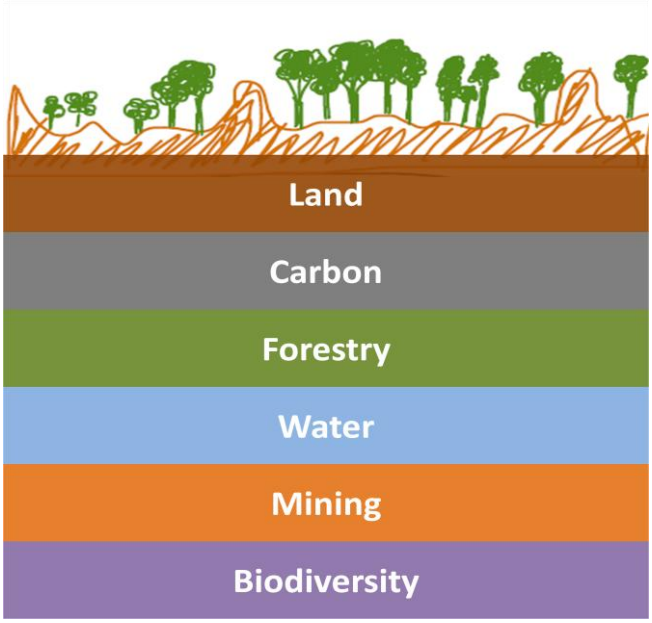
Discussions with academics, project originators, standard setters and public advocacy and 'watchdog' agencies reinforced common themes which, in their view, are of prime importance to these projects. These are:

1. Protecting the environmental integrity of the National Park and thus the public interest, and

2. Transparency in arrangements.

[1] Churchill Fellowship Report can downloaded at http://www.churchilltrust.com.au/fellows/detail/3574/

2.1 Protecting the environmental integrity of National Parks



As illustrated above, land in Australia is subject to a property right regime that can separate the carbon sequestration property rights from land which, in this case, allows the trade of carbon credits under the Carbon Farming Initiative (CFI), thus creating a return for the investor. This is further discussed in Section 3.1 – Technical challenges. It should also be noted that the carbon sequestration property right is unique in that it can be separated from other property rights that are attached to land without disturbing the performance of the ecosystems which the forests help support.

What are the important and valuable aspects that we need to preserve and protect on any project in a National Park? Could carbon project originators exert influence over the design of a project (eg species planted) and its management (eg fire intervention)?

Discussions with forest ecosystem specialists in Germany and the United States reinforced the fundamental importance that forest ecosystems are managed as systems, not the sum of collective parts. This means implementing integrated management plans that manage the projects as a whole, not merely as a portfolio of property rights, in order to protect the ecology of the National Park.

So can the integrity of the ecology in the park remain undisturbed if carbon rights are secured and traded?

Any revegetation project within a National Park should be undertaken in partnership between carbon project originators, National Park managers and the Crown, within existing or evolving operating guidelines, policies and guiding principles of NSW National Parks & Wildlife Services. These policies and protocols will dictate species planted, vegetation density, water management, pest control, approaches to establishment and ongoing monitoring and maintenance. In turn, they should be complimented but not compromised by carbon forest inspection, monitoring, measurement and verification

practice as necessary by any project partner. Arrangements should be subject to legal agreements that bind the parties and be submitted for independent review.

Furthermore, forestry, water, mining and biodiversity property rights cannot be recognised in National Parks under the law so there is less risk that the ecology of projects will be disrupted compared to freehold land.

In summary, in contrast to investments in other property rights associated with land such as water or mining rights, transfer of carbon rights can be undertaken without disrupting the ecological integrity of the National Park and diluting existing National Park management. On the contrary, investment in reforestation for transferable carbon rights can be done so it enhances the integrity of the park.

2.2 Transparency of Arrangements

Two aspects of transparency are discussed below.

2.2.1 Accrediting under standards to provide assurance

Governments can use market-based trading schemes such as the carbon pricing mechanism legislated by the Australian Government to regulate behaviour and demand consistent and uniform standards of information and communication (Fung, Graham, & Weil, 2007). Accrediting carbon reforestation projects under the CFI provides government assurance to investors and the market that the forest has grown and has been verified, the carbon sequestration property rights are secured, the project is additional and is not double counted[2]. Though the CFI provides carbon assurance, it cannot, and does not aspire to provide assurance as to the biodiversity or even native species makeup[3] of the project nor of any community involvement. It does however, demand local catchment management and planning authority approval of the project.

Project originators in other parts of the world are seeing a premium paid for projects which have additional certification under the Community, Care and Biodiversity Alliance (CCBA). Through the CCBA, biodiversity and social aspects of projects which incorporate multi stakeholder consultation frameworks can be audited to provide confidence that the work has been done and facilitate acceptance by putting this information into the public domain. CCBA certification was developed with a focus on developing countries where overseas investors may run 'rough shod' over local communities. CCBA's CEO, Joanna Durbin has advised us that while focused on developing countries, the methodology can be applied in developed countries such as Australia and we understand that some state government agencies use this standard as a basis for participation in some state funded revegetation projects.

CCBA certification or other equivalent and appropriate standards may evolve, combined with appropriate project governance, to provide high levels of assurance to the community

[2] Double counted occurs when two agencies both count the carbon for their own purposes (eg to offset emissions and also to meet a national target.

[3] The Californian Air Resources only allow forests comprised of local native species to participate in the Californian Emissions Trading Scheme which is due to commence in 2015.

and government. The process of accreditation may generate further questions by community or government that need to be addressed.

Greenfleet has held discussions with the NSW Parks & Wildlife Services and we are keen to be part of any working group that establishes protocols for biodiverse revegetation projects within NSW National Parks. We believe that the existing Greenfleet plantings within Kosciusko NP can provide an appropriate pilot to test and further develop these principles.

2.2.2 Consultation, involvement and transparency

To be acceptable to society, investment in carbon biosequestration projects in National Parks must transparently build public value. Targeted transparency policies are designed to change the behaviour of information users and/or disclosures in specified ways. They differ from standards and other government interventions as they create broader choices for response to any issue raised. They may develop where gaps in information create problems for government such as if a carbon sequestration project creates a financial risk to the public or where it may be perceived that private purposes are unduly influencing public decisions (eg management of the National Park) (Fung, Graham, & Weil, 2007).

Strategies for information sharing should target citizens rather than governments, but must be underpinned by targeted transparency policies where the responsibilities of organisations for timely delivery of specified information and the frequency of its release is understood. It will require disclosure of:

- mandated information from both the participants' and citizens' perspectives,
- actions taken on feedback received, and finally
- release of information provided by interpretive source in language the community understands.

This approach will require project participants to identify interested parties at the start, to ensure expectations are clearly set and their information needs are met, but it must be mindful that only considering those parties that express interest may bias the effectiveness of the transparency policy.

This approach, where information requirements are understood, developed and disseminated in concurrence with project development, and which can evolve over time, is much more likely to be acceptable than an announcement in a media release from the Minister. It provides for disclosure of information and allows users to make choices about what action they take – they may take no action at all. Furthermore, by demonstrating the public value of the project, it is much more likely to be sustained beyond electoral timeframes. Finally, its effectiveness requires enforcement of the transparency policy such that those parties that do not meet their obligations are penalised.

3. Challenges that Impede Carbon Market Investment in National Parks

For the purpose of this discussion, barriers to implementation have been classified as either 'technical' – where a known solution to a problem exists, or 'adaptive' – where the responses or solutions to a complex problem will emerge over time from the collective efforts of different players in the response (Heifetz, Grashov, & Linsky, 2009).

3.1 Technical challenges

Carbon market investment in revegetation projects in National Parks requires appropriate legislation and regulations to be in place. These requirements include:

- The capacity to recognise carbon sequestration property rights on Crown Land.
- The capacity to create carbon credits on Crown Land under carbon trading laws.
- Regulations that permit carbon projects in National Parks to be treated as additional.

Each of the issues is dealt with separately below.

3.1.1 The capacity to recognise carbon sequestration property rights on Crown Land

In Australia, each state has land property rights legislation which restricts and recognises ownership of land. These laws place restrictions on who can own the land, property rights associated with the land and to what uses the land can be dedicated. These laws usually classify land as freehold, lease hold, native title or crown.

The legislation for recognition of carbon property rights also differs from state to state. Until recently no state in Australia allowed for the recognition of carbon sequestration property rights on Crown Land, however, the State of Victoria has recently passed the *Climate Change Act (2011)* which permits this to occur, as does legislation in WA. National Parks occupy Crown Land and by their very nature are owned by the government on behalf of the community. In short, this means that it is now possible for National Parks in Victoria to transfer carbon sequestration property rights under the law.

Though NSW law allows for recognition and transfer of carbon sequestration rights on freehold land, from legal advice Greenfleet obtained and previously shared with the NSW Parks & Wildlife Service, we understand that NSW legislation prohibits dealings on NSW National Park lands. This prohibition acts as a regulatory barrier to undertaking carbon sequestration projects in parks (with the aim for verification of carbon credits under the CFI). We would be happy to provide a copy of this advice to the relevant agencies on request.

In summary, the technical challenge of recognising carbon sequestration property rights on Crown Land has been overcome in Victoria and WA but is yet to be resolved in NSW, however it can be resolved using existing knowhow. We note that we were advised by NSW Government Officers that a policy position was being considered in 2008 but are

unaware of any advance since then and acknowledge that federal policy uncertainty may have impaired state policy development over recent years.

3.1.2 The capacity to create carbon credits on Crown Land under carbon trading laws

The Australian Government passed the Carbon Credits (Carbon Farming Initiative) Act 2011 which allows for the creation of tradable carbon credits[4] from approved projects on Crown Land. Under Part 3, Section 27 of the legislation, where the State is not the project originator, the relevant State Crown Lands Minister must state that the State is not the carbon sequestration rights' owner and that the State will not deal with the project or allow others to deal with the project in a manner that would disrupt the carbon sequestration right. This means that the Commonwealth legislation allows for the creation of carbon credits for land based sequestration on Crown Land and that those rights can be held by others – a key piece of the puzzle.

3.1.3 Regulations that treat carbon projects in National Parks as additional.

The environmental integrity of sequestration projects is embodied in their additionality. The Australian Government has embedded a common practice test for additionality with the CFI legislation: activities are considered additional if they are neither common practice nor activities which are required by regulation (Department of Climate Change & Energy Efficiency, 2011). People instinctively feel that revegetation projects are conducted by National Park agencies as a matter of course but as discussions with National Park agencies across Australia including NSW shows that is not routinely the case.

It also became apparent during discussions with project originators in New England and California that forest carbon sequestration projects in the USA are largely to protect existing vegetation from being cleared. In New England (USA) in particular, agricultural land that is abandoned 'grows back on its own'. This is in significant contrast to the nature of Australian forests, particularly those in the more temperate parts of Australia which have been subject to extended periods of grazing and cropping. Greenfleet has undertaken numerous projects in the last 15 years in Australian National Parks where the project land had remained cleared even though stock ceased grazing on the areas many years beforehand; in the case at Kosciusko NP, at least 50 years earlier. So neither regrowth of former grazing or cropping land in National Parks, nor the investment in revegetation projects to enhance the revegetation project is, in our view, common practice. We have had discussions with National Park agencies in NSW, Victoria and WA which indicate that they hold similar views.

Sadly, the presumption that revegetation projects are core business of National Parks that routinely occurs has recently been embodied in the Regulation 3.28 of the CFI by the Australian Government. Within the regulations that underpin the operation of CFI, The Federal Department of Climate Change & Energy Efficiency has excluded from the 'positive list' plantings on conservation land as they believe that *'taking action to encourage regeneration*

[4] Australian Carbon Credit Units (ACCU's) are defined under the CFI legislation as a tradable property right as issued under the legislation that equates to 1(one) CO_2-e tonne.

is considered to be common practice in these areas'. Inclusion on the 'positive list' is a requirement for projects to become eligible for recognition under the CFI. We believe that the case for additionality with NSW National Parks services remains very strong so there remains, the opportunity to submit a methodology or practice for inclusion on the positive list, which, if accepted, will allow revegetation projects in NSW National Parks to become eligible to generate carbon credits under the CFI. Again, this is a technical challenge that existing knowhow can overcome.

3.2 Adaptive challenges

Greenfleet's vision is to mobilise the carbon market to inject funds for biodiverse revegetation projects within Australia's National Parks. This adaptive challenge requires organisations and people to work together in ways not previously tried. This proposal goes beyond a government outsourcing model and does not dilute the responsibilities to protect the aspects of National Parks and their management that we value. Allowing private investment in national assets may create suspicion and anger amongst parts of the community. The adaptive challenge is to not merely address those concerns, but to ensure that the projects have sufficient bipartisan support to be enduring. It may require experimentation across different projects and management models with careful reflection, learning re-injected into the projects and tactics developed to overcome resistance. To meet the goals of the mission, 'bite sized chunks' of the tasks can be identified, such as small pilot projects where people learn by doing, so that people remain engaged and feel that the goal can be achieved with persistence. Some models developed may be found to be unworkable; however adaptive leadership requires experimentation and patience but remains focused on the overall mission.

Finally, people may need to break old loyalties or long held views which impede the success in achieving vision. For example, allowing injection of large amounts of non-government funds to invest in biodiverse revegetation projects in National Parks and receive in exchange tradable carbon credits: government officials, park rangers and workers may feel very uncomfortable with this approach. If we can demonstrate and assure these people that the ecology of the park will not be compromised and in fact may be enhanced, can they raise further objection to the investment? Or to quote Professor Brad Gentry, of Yale University, "would the objections be the same if the non-government investor contributed the same amount of money for the same project as an unencumbered donation?" Perhaps these important stakeholders have other valid objections that are not yet understood and these issues need to be fleshed out.

So it is that this and other difficult questions can be answered as long as there is commitment to the adaptive challenge: to expand investment in biodiverse revegetation projects within NSW's National Parks.

4. Existing Arrangements for Carbon Plantings In NSW National Parks

Greenfleet's plantings on NW National Parks have been governed by the principles set out in the original Memorandum of Understanding that was signed with the NSW Government and NPWS in 2007 and which can be provided on request.

The MoU expired in 2009 and has not been renewed, notwithstanding numerous overtures and the best efforts from Greenfleet to continue the work under a new MoU. A replacement, new draft MoU has been provided to staff at NPWS but there has been no response from staff on its implementation given the overall lack of clear policy direction. Again, we are happy to provide the draft MoU on request. As a result, Greenfleet has limited its biodiverse revegetation projects in NSW National Parks until the matter becomes clearer.

In short, all the project risks to date are borne by Greenfleet alone in this arrangement and we rely entirely on good faith that the legislation in NSW may one day be amended, as it has been in Victoria and Western Australia, to allow third-party carbon rights on Crown Land.

4.1 Management Practices on Public Land

The conversion of public land from un-used paddocks to more natural ecosystems through the planting of native vegetation is in our view the most cost-effective means of minimising fire and pest management costs and ensuring cooperative relationships with neighbouring property owners and local communities.

In 2011, Greenfleet provided the NSW Government with revegetation management plans for Pillicarnwarrina Station in the Macquarie Marshes Conservation Park and is currently working with local NPWS park rangers to assess revegetation works for the Tom Groggin property within Kosciuszko National Park. Both Pillicarnwarrina Station and Tom Groggin are former irrigation and grazing properties respectively and incorporated into the protected area estate in recent years. With the removal of livestock and resident landholders both properties have become refuges for weeds and feral animals and a source of annoyance to neighbours.

Greenfleet's offer to the NSW Government to restore the natural vegetation communities to both properties would remove much of the weed threat and pest vertebrate habitat at minimal cost to the state. Our establishment practices include weed spraying, rabbit culling and removal of other pests to ensure successful establishment of native species. Project planning typically incorporates fire breaks along boundary lines and elsewhere within the planting areas to minimise fire risks to neighbours as necessary. Greenfleet is unable to obtain carbon credits from its projects unless these risks are managed and mitigated and the focus remains with Greenfleet to continue risk assessment as projects develop and mature.

Projects of this nature can restore the conservation value of these areas in the quickest possible timeframe, which was the very reason the properties were purchased by the state in the first instance, and at little or no cost to the government. Yanga Station, Toorale Station, Riverina Red Gum Forests and other public lands across the state can also be

revegetated in the same manner providing the conservation value to the state they were purchased to provide. However, the carbon sequestration right on Crown Land issue would need to be resolved if funds were to be mobilised from the carbon market for these projects. Greenfleet, as a not for profit organisation acts as a conduit for directing voluntary and compliance market carbon funds to biodiverse revegetation projects and we believe this represents a unique opportunity for the State of NSW to inject funds from the private sector into National Parks in a manner that will enhance the Park's ecological value.