

**INQUIRY INTO INTEGRITY OF THE NSW
BIODIVERSITY OFFSETS SCHEME**

Name: Sharon 'Ruby' & Peter Dykes

Date Received: 30 August 2021

Partially
Confidential



E-mail

ABN 65 663 446 045

30th August 2021

Cate Faehrmann
Chair
NSW Parliamentary Inquiry
Sydney

Re: Submission – Integrity of the NSW Biodiversity Offsets Scheme

Dear Cate,

We have only in the last week become aware of the existence of your inquiry and being one of the few Aboriginal families and/or organisations involved in Biobanking and/or Biodiversity Offsets Schemes we feel it appropriate that your inquiry is made aware of our experience and views in regard to current state of the NSW Biodiversity Offsets Scheme.

Firstly we believe that your committee need to be aware of a number of very significant facts, namely:

- **Under the Kyoto Treaty and its provisions the use of vegetation in existence prior to midnight on the 31st December 1993 is prohibited for use as carbon abatement credits to combat global warming and climate change.**
- **Native vegetation along with coral reefs and algal forests comprise must of the world's carbon sinks, are the major source of the world's oxygen supply and an essential component of the world's biodiversity.**
- **Aboriginal and Torres Strait Islander owned and managed land under the Commonwealth Government Indigenous Protected Area Scheme (IPAs) make up 46% of Australia's National Reserve System – the poorest and most disadvantaged group of Australians making up just under 3% of Australia population are contributing nearly 50% of the land being used to conserve and preserve Australia's biodiversity.**

So who are we and why are making this submission to your Parliamentary Inquiry?

Our names are Sharon (Ruby) and Peter Dykes.

Ruby grew up on Brewarrina Bushqueen Village (previously know as Dodge City or just Dodge to the locals) and Wyaliba camp on Weilmoringle Station in what can be best described as a traditional Murrawarri family life. Her mother was Essie (Bushqueen) Coffey OAM; she was a prominent Murrawarri Elder, film maker, entertainer and Aboriginal activist during the 1950s to late 1990s. Ruby has followed her mother's trail and is now regarded as one of the senior Murrawarri Elders and a driving force within the Murrawarri for the return to the traditional owners of Weilmoringle Station to be used for cultural and conservation purposes rather than to continue its past use as a grazing property. Ruby has a number of degrees and diplomas in Aboriginal Studies, Community Health and Community Social Work. Ruby is Deputy Chairperson on the Gandugari Murrawarri Aboriginal Corporation – the tradition owner representative body working with the ILSC for the eventual divestment of the Weilmoringle Station property to Gandugari clan group of the Murrawarri Nation.

Peter had a very different but in somewhat similar life history growing up in Caringbah, Sydney. His parents were both ex-servicemen having both fought in WWII; Peter parents were both members of the ALP, his mother rose in the union movement to be State President of the NSW Public Service Association in the late 1950s and early 1960s and with the help of a young lawyer named Robert Hawke launched one of the first successful equal pay cases in Australia. His father would be made a Life Member of the ALP for services to the party. Peter went through scouting and became extremely interested in caving and speleology particularly after he visited the block now known as Tricketts Arch in June 1973 on the Jaunter Station south of Oberon. Late in 1982 he was given the chance to buy the block which he did so to protect the unique karst feature known as Tricketts Arch and its surrounding native vegetation, wildlife and other cultural values. Peter is a prominent speleologist being the NSW Cave & Karst Numbering Coordinator since 1979; President of the Central West Speleological Society, he has just being elected President of the NSW Speleological Council. Peter has an Honours Degree in Vegetation Ecology.

We met in the early 1990s and have been together since than bringing up our children and grandchildren on our property. Together we desired to put in place a conservation agreement to protect the unique natural and cultural values of the property. In the 2000s we approached NPWS for a Voluntary Conservation Agreement (VCA) over the property. However when the Biobanking Scheme started in the mid 2000s and funding under the Landalive programme for Aboriginal communities/families to participate in the scheme was available, we jumped at the opportunity. We applied to Landalive in 2008 and were given funding to undertake the ecological assessment; a basic requirement to participate in Biobanking. We did so because unlike a VCA, Biobanking offered stewardship payments in perpetuity as well as the opportunity for what is called a “Part B payment” – an amount greater than is needed to fulfil the Total Fund Deposit (the fund that pays out the annual stewardship payments) which would allow us to help fund improvement/machinery/farm capital infrastructure etc.

We signed the **Tricketts Arch Biobanking Conservation Agreement No. 33 in late 2011**. The ecological assessment undertaken as part of the Biobanking assessment process had identified 5 different ecological communities, 3 of which were listed under NSW legislations as threatened ecological communities as well as the presence of a number threatened animals and plants; one plant in particular; **Buttercup Doubletail (*Diuris aequalis*)** was found to have 431 individual plants. **Given up to that date (2010) only 200 individual plants from over 20 very scattered sites had ever been found, the discovery of the population of 431 individual plants at a single site represented two thirds of the known population on the planet.** 1243 ecosystem biodiversity credits and 910 Buttercup Doubletail species biodiversity credits were created. The discovery of the large population of Buttercup Doubletail can in some ways be seen as a ‘Wollemi Pine’ discovery moment for the orchid family – a plant thought to be on the very edge of extinction still hanging on in ‘the wild’ with a substantial population. We had always from the beginning believed that our target group to sell the Biobanking biodiversity credits was to an environmental philanthropists or a large corporation looking to raise its environment profile by supporting the conservation of both the vegetation communities and the Buttercup Doubletail; however looking back over the last 10+ years nothing could more from the truth. Unfortunately for us the Landalive Programme had been disbanded in late 2010 and all of the expert Aboriginal staff had left for alternative employment; we were left to battle on our own trying to make contact with environmental philanthropists or a large corporation to sell our biodiversity credits. **While we were very good at culture and conservation we were absolutely lousy at the marketing and selling job.**

For us and our family we had a vision – THE NGALINA VISION (Murrwarri for ‘the two of us’) of funding our property’s conservation programme, building a Keeping Place and a bush camping area and providing an alternative culturally appropriate employment pathway for our kids and grannies. Biobanking was the great hope of the family that it could deliver the funding to fulfil our Ngalina Vision that is outlined in the attachment (see attached file - **1 Cover Letter ver3a2comp Rube ver.pdf**) which is the cover section to a Tricketts Arch report package we put together with funding from Landalive after we signed up to Biobanking; it basically outlined who we are and our Ngalina vision for country and people. We can provide the committee with the other sections of the report package dealing with property’s Aboriginal, Karst, Pioneer Mining Heritage and the full ecological assessment report if you wish.

After a decade of participating in the Biobanking scheme in late November 2018 we had our first enquiry to purchase from us 30 biodiversity credits for the NorthConnex project being built in Sydney. Throughout 2019 we were to eventually able to sell a total of 46 Snow Gum - Mountain Gum tussock grass-herb forest of the South Eastern Highlands biodiversity credits for what we now know was the really bargain price of \$2,000 per credit. As part of this deal from day 1 we had proposed and been promised a media release would eventuate (see attached file - **1904 MR Biocredits from Tricketts Arch-v5c.pdf**) which we hoped would help us sell more of the credits. The sales were finally completed in November 2019. From mid 2019 until November 2020 when we finally gave up, we tried unsuccessfully through phone calls and emails to get the media release released to national, local and Aboriginal media organisation. – WE GOT NOWHERE FOR ALL OUR EFFORTS. We had stated that our family was prepared to come to Sydney for a media event and help NorthConnex, Dept. of Transport and Lend Lease Bouygues Joint Venture sell the project's environmental benefits to community. The series of emails from us and “them” from November 2018 to November 2020 (particularly one sent from us on 23/6/2020) really makes interesting reading particularly in light that a substantial part of this time covers the “Black Lives Matter” campaign in 2020.

In 2017 the NSW Government amended the existing Biobanking legislation by creating the NSW Biodiversity Conservation Trust (BCT) to manage not only Biobanking but a new conservation stewardship system; we had great expectations that this new government body would be able to finally help us sell our biodiversity credits but when we saw their “Draft Biodiversity Conservation Investment Strategy 2017-2037” we were really disappointed. We submitted our comments on the BCT Investment Strategy (see attached file - **Comments on DBCIS.pdf**) but except for an automated electronic generated reply we never received any formal reply/comments to our submission. It was the same response when 12 months later we made a submission to the Australian Government, Senate Enquiry in Australia's Faunal Extinction Crisis on behalf of us (Ngalina) and the Gandugari Murrwarri Aboriginal Corporation (GMAC) which we are both board members (see attached file - **Senate Submission Letter.pdf**).

In March 2020 we applied to the BCT to sell biodiversity credits to them under their new State Wide Biodiversity Credit Open Fixed Price Offer (BCT-OFPO). We were eventually successful in selling 46 Narrow-leaf Peppermint – Mountain Gum – Brown Barrel moist open forest biodiversity credits for \$6,000 per credit. While the \$ amount of these credit sales seen nothing to complain about they belie a deeper problem; when we negotiated the Biobanking agreement in 2009-10 our Total Fund Deposit (TFD) amount was set at 1.74 million to give an annual stewardship payment of \$50k to \$60k. The TFD operates very much like a super fund; one has to top up the fund to get annual payments. Also we under estimated what we needed in the TFD by at least \$250k because we have only found out over time that we need a kangaroo/wombat proof fence around at least 1.5 km of the orchid site to guarantee the orchid long time survival. A more correct figure for our TFD is around \$2million.

In March this year the BCT invited submissions on the use of the Calculator (the processed used by developers to determine the amount they pay for “credits” to clear native vegetation.). We again put in our submission which although strayed from the original terms of reference for submissions is really quite telling about where we are at as a family and the state of funding for native vegetation in NSW (see attached file - **Tricketts Arch Submission v3.pdf**).

So how is our story of relevance to the Kyoto Treaty, global warming and climate change? Well Peter has a tale to tell that draws our experience in seeking to fund the conservation of the native vegetation on our property and how the Kyoto Treaty has made that task so very much harder.

Sometime around 1997/98 Peter noticed an advertisement in the Land Newspaper for farmers wanting to take advantage of the provisions of the Kyoto Treaty and obtain carbon abatement credits by planting trees on their property; the add read something like “plant trees on your property and get paid for doing so”. So he contacted and met up with a representative of the company on our property and after showing him over it, sat down to talk business around where we want to build a Keeping Place. Basically, we wanted to use the old

growth trees/forests on our property to gain carbon abatement credits as per the Kyoto Treaty and sell them to help finance our conservation and cultural projects (Our Ngalina Vision). **Well, we got the shock of our lives** – Peter was told by the company representative that our native vegetation couldn't be used for carbon abatement credits because the Kyoto Treaty specifically excluded vegetation planted/growing prior to midnight on 31/12/1993 for carbon abatement credits. The representative went on to say that they could arrange a logging firm to log all the hardwood timber worth logging (the old growth stuff), then clear fell the remaining using a dozer to push it into windrows and burn the windrows. Then he could arrange the planting of Radiata Pine (*Pinus radiata*) over the cleared ground and we would start to receive annual payments in the third or fourth year as well as a percentage of the timber sale price when the trees are cleared felled around 25 to 30 years and processed in the Oberon mill. The whole project would cover approx. 60-70% of the 145 hectares of our property, including by the way the then unknown Buttercup Doubletail orchid site; only the limestone karst areas and areas too steep to clear would be excluded from "the project area".

Needless to say we weren't impressed; at the time we knew that the property contained unique karst values as well as pioneer heritage mining sites and around 320+ acres of the 360 acres was covered in old growth native vegetation. We didn't know then that there were also significant Aboriginal sites (scarred trees, ceremonial grounds, artefact scatters), nor that a very rare orchid was present on the property. Afterwards we began our quest to find a way to preserve and conserve the property's cultural and conservation values. In the early 2000's we invited Uncle Bill Allen the NPWS Aboriginal Sites Officer located in Bathurst to come and look over some of the areas on the property we had a strange feeling about. Bill identified scarred trees, a camping ground, men's ceremonial site and artefact scatters sites on the property; four of which he listed on the NSW NPWS AHIMS database.

We like to think of ourselves as trailblazers for other Aboriginal Families seeking to own and manage property not by running sheep and cattle or clearing the trees for crops but by protecting and enhancing the cultural and natural values for our children and our communities. But to do that we can't do it without finance (money) no matter how hard we try; so whatever the faults or criticism people may have about Biobanking it is and was our only option if we want to keep the property within the family over generations of time.

For us as an Aboriginal family we have over the last decade had some really truly great moments:

- In 2013 the Australian Speleological Federation Inc. awarded us the inaugural Peter Birrel Award for Conservation for our effort in establishing the first karst Biobanking site (named after the late President of Central Queensland Speleological Society who led the fight to preserve the Mt. Etna Caves west of Rockhampton).
- In 2015 & 2016 by family agreement we were given custody of _____; they have grown up on 'the farm' and are the joy of our lives.
- In 2020 we managed to get our large extended family of over 30 members to agree to form the Tricketts Arch Biodiversity Site Aboriginal Corporation (TABSAC) ICN No. 9354 under the rules of Office of the Registrar of Indigenous Corporations (ORIC) to eventually hold title to property known as Tricketts Arch.
- In October 2020 Peter and the Boys found an albino Pikipila (echidna) on the property and eventually had their story published in Koori Mail with photos on 4th November 2020 (see attached file - **Koori Mail p2 & 23 4nov2020c.pdf**)
- Just recently Uncle Bill Allen who is now retired has asked us if we would agree to have an Aboriginal Place Declaration placed over our property which we very happy and ecstatic about.
- Also representatives of the NSW caving community have proposed nominating our property for a NSW heritage listing.

We feel that our experience in managing native vegetation for conservation is extremely relevant to your inquiry and the issues we have raised in our various submissions to other government inquiries highlights the difficulties and problems that people like us face in trying to raise the finance to cover the cost associated with

'looking after native vegetation'. We particularly would like to draw to your committee's attention the issues we raised in our 2017 and 2021 submissions, namely:

- Draft Biodiversity Conservation Investment Strategy 2017-2037 (see file **Comments on DBCIS.pdf**)
- Strengthening the Biodiversity Offsets Scheme (see file **Tricketts Arch Submission v3.pdf**)

We apologise for the length of this submission and all its attachments and hope it does not overwhelm your committee; we hope that you find the time to read our story and appreciate where we are at and how much we need assistance and support to tell our story; just one of what we think are many stories about people trying to conserve and preserve Australia's natural environments and biodiversity.

Please note that both of us are very keen to appear either in person or via video link to answer questions and expand on our submission with what we see is wrong with current Biodiversity Offsets Scheme

With kind regards and many thanks; please feel free to phone us if you require more information,

Digitally signed by Peter Dykes
DN: cn=Peter Dykes, o, ou,
c=AU
Date: 2021.08.30 17:58:12 +10'00'

Digitally signed by Sharon Dykes
DN: cn=Sharon Dykes, o, ou,
c=AU
Date: 2021.08.30 17:59:00 +10'00'

Peter & Ruby Dykes
& 'The Boys'