



Australian Government

**Submission to the Senate and House of Representative Inquiries on
the Carbon Credits (Carbon Farming Initiative) Bill 2011**

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Summary of Key Issues

Queensland strongly supports the Carbon Farming Initiative (CFI) as a concept as it provides the framework required for landholders to capitalise on the abatement potential of the land sector. Although uptake will depend on the long-term carbon price, Queensland has identified significant technical abatement potential in its landscape. The Queensland Government has a comprehensive policy to help landholders prepare and has invested significant resources in programmes and systems that will complement the CFI, such as its \$3.5 million *Carbon Accumulation Through Ecosystem Recovery* (CATER) web based information system.

The following summarises those remaining issues that have either not been addressed by the introduction of the *Carbon Credits (Carbon Farming Initiative) Bill 2011 (the Bill)* or where further clarification on interpretation or operation is required.

CFI needs to be linked to a future carbon pricing regime to drive abatement

- 1) Queensland strongly supports linking the CFI to any future compliance market (carbon tax, ETS or otherwise).
- 2) While the CFI provides the mechanism for generating credits, it won't effectively drive land sector abatement on its own. The CFI needs to be backed by market *demand* for those credits. The voluntary market alone is unlikely to drive significant activity under the CFI. A carbon price based on a strong emission reduction target is therefore essential.
- 3) Queensland prioritises Kyoto-compliant carbon forestry given it has the largest abatement potential, is technically-ready and can deliver biodiversity benefits. While carbon forestry is expected to be relatively low cost compared to abatement options in other sectors, and has significant long-term potential, Queensland does not expect significant uptake under the fixed carbon price.
- 4) The transition from fixed to full market pricing can be smoothed by allowing liable entities to use Kyoto CFI credits as offsets. This will allow emitters to transform their business in an economically sustainable way, whilst also supporting positive landscape outcomes.

Recognise Kyoto-compliant abatement, specifically environmental plantings and human-induced regrowth established between 1990-2007, as additional

- 5) The CFI scheme conflates compliance and voluntary additionality requirements, meaning some Kyoto compliant abatement activities previously eligible under the draft 2010 Carbon Pollution Reduction Scheme (CPRS) (including reforestation that has other environmental co-benefits such as environmental plantings and human-induced regrowth) will not be eligible to participate in the CFI.
- 6) Additionality requirements differ depending on the market. For offsets used in compliance markets, additionality is linked to the reporting requirements of the Kyoto Protocol and is directly linked to emissions reductions above a 1990 baseline. This is because the primary purpose of such schemes is to deliver on a country's international emissions reduction commitments. Voluntary carbon markets trade non-Kyoto compliant abatement, so have different additionality requirements – generally that any reductions be above a 'business-as-usual' baseline.

- 7) It is Queensland's position that voluntary market rules are not relevant to Kyoto-compliant abatement and that the CFI should reflect this. The CFI should recognise this abatement as automatically additional and differentiate between voluntary vs compliance market abatement. This will broaden scheme participation, increase investment, and result in positive environmental outcomes.
- 8) The Queensland Government is a significant investor in landscape restoration. Clarification is required as to what is the relevance of government funding and/or covenants in the context of applying the additionality test. Furthermore, confirmation is sought whether Kyoto-compliant landscape restoration or conservation projects secured with government funding or subject to covenants established in the absence of the CFI, will be considered additional.
- 9) Reconsider the requirement that any projects required by regulation are excluded. The current exclusion of projects required by regulation creates a potential tension between Queensland's ability to regulate for beneficial activities (e.g., avoided deforestation and helping Australia meet its Kyoto targets) and opportunities for landholders to participate in the carbon market. The exclusion of regulated projects should be reconsidered, especially where positive environmental outcomes result.
- 10) That the type of reforestation projects outlined above (i.e., biodiverse reforestation established since 1990) be automatically placed on the 'positive list'.

To ensure biodiversity benefits stem from the CFI, development of a reforestation methodology covering human-induced regrowth must be a priority

- 11) The Commonwealth's National Carbon Accounting System (NCAS) significantly underestimates the carbon sequestration potential of biodiverse carbon forests. As such, financial returns from biodiverse carbon forests are likely to compare unfavourably to some types of monocultures, resulting in poor outcomes for biodiversity. Further research into the carbon sequestration potential of biodiverse carbon forestry is required to maximise the financial attractiveness of these projects to landholders.
- 12) The development of a methodology covering human-induced regrowth reforestation needs to be prioritised as it offers maximum abatement potential in Queensland at least cost.
- 13) That the Commonwealth continue to work directly with Queensland to develop this methodology and utilise existing work and expertise in Queensland, including:
 - resolving technical barriers to the inclusion of regrowth vegetation;
 - improving carbon accounting for biodiverse carbon forestry;
 - calculating soil carbon in pasture and cropping systems;
 - developing laboratory techniques for precise measurement of carbon in samples of soil, water and plant tissue; and
 - remote sensing techniques to establish baseline and measure change in vegetation cover, landuse, and land management (including fire) at paddock to landscape scales.

Impacts on regional communities and environment

- 14) Queensland supports measures to minimise any adverse impacts from the CFI on regional communities, water and biodiversity and the requirement that CFI projects comply with State/local regulatory requirements.
- 15) Queensland has robust processes and policies in place to prevent adverse impacts on regional communities and environment

16) At the Commonwealth level, Queensland notes the Bill introduces two mechanisms to address adverse impacts:

- the first is via an 'excluded project' list whereby certain types of sequestration or emissions avoidance projects otherwise eligible for Australian Carbon Credit Units (ACCUs) will not be eligible to participate in the scheme; and
- the second is via the revocation of project approval declarations where project proponents cannot demonstrate the project has been undertaken in accordance with all relevant regulatory approvals before the end of the first crediting period (i.e., conditional project approval declarations are issued).

17) We note the first proposal has the potential to exclude the establishment of afforestation projects in ecosystems other than native forests (e.g., high value grasslands, non-woody wetlands), an issue Queensland raised in its previous submission. However we seek clarification on what process will be followed by the Minister when determining the risk of adverse impacts and how State/territory jurisdictions and/or local communities will be involved in this process.

18) Queensland supports the second proposal but is unclear how the Commonwealth will determine whether all relevant regulatory approvals have been met. In particular, further consideration of the administrative mechanisms to determine compliance (or not) is needed. For example is it intended to place an obligation on the Commonwealth to notify jurisdictions when applications have been received for projects in their State/territory? If yes, what process is expected and/or required from jurisdictions to satisfy the Commonwealth that all requirements have been met by the project proponent?

Workability and application of Native Title provisions still unclear

19) Queensland notes that the Commonwealth is continuing to work with State and Territory jurisdictions to further clarify the complex interaction between the CFI, the *Native Title Act 1993* (Cth) (NTA) and relevant State legislation.

20) Queensland's outstanding issues relate to ensuring the CFI Native Title provisions are workable and that unintended consequences do not occur at the State level. Key among those issues are the following:

- how to accommodate other parties who hold 'eligible interests' but who do not hold 'exclusive native title';
- what form of 'contractual undertaking' is deemed appropriate as consent given the potential long-term nature of any agreement and how this may impact on the viability of a carbon abatement project;
- interaction of the use of ILUAs (or other contractual mechanism) to ensure validity under the NTA, and what constitutes a 'future act'; and
- further analysis is required by the Commonwealth to determine if there are any implications for the State, given the period of time over which the interest may be in place.

Other/technical issues

There are several other technical issues on which Queensland seeks clarification, related to land titling, the definition of 'Torrens system land', and what is meant by the term 'plantation' under the definition of 'native forest'. These aspects are outlined in more detail in the body of the submission.

Key Issues for Queensland

General Comment:

Queensland has consistently supported a national cap on emissions and a market-based carbon price as the most efficient means of Australia meeting its international emission reduction obligations and incentivising land use abatement. Queensland welcomes the introduction of the CFI, in anticipation of, and as a complement to, any future compliance market.

In preparation of the introduction of a carbon price, Queensland has undertaken a comprehensive biosequestration policy process including expert advice from the Premier's Council on Climate Change and the delivery of a groundbreaking report from CSIRO detailing the carbon storage and emissions reduction potential of the Queensland landscape. The report found there was significant technical potential for abatement, but that realising this potential would depend on the introduction of a carbon price. Information contained in the CSIRO report informed Professor Garnaut's Update Paper Number 4 – *Transforming Rural Land Use*.

The Queensland Government has invested significant resources in programmes and systems that will complement the CFI. One is the *Accumulation Through Ecosystem Recovery* (CATER) project. – a new \$3.5 million web based information system that will assist landholders to establish reforestation projects for the domestic carbon market by providing information on the carbon storage potential and growth rates of native regrowth vegetation. Queensland is also well advanced in its ability to measure changes in land vegetative cover via its Statewide Landcover and Trees Study (SLATS) and is actively engaged with the Commonwealth Government on the development of the reforestation methodology under the CFI.

The Queensland Government made a submission on the design details of the CFI to the Department of Climate Change and Energy Efficiency (DCCEE) and notes that many of the issues raised in that submission have been addressed via *the Carbon Credits (Carbon Farming Initiative) Bill 2011* (the Bill), Key issues raised included:

- An overly onerous additionality test which would exclude some legitimate Kyoto-compliant activities
- Incentivising biodiverse carbon forestry and prioritising methodological development for managed regrowth reforestation;
- That greater emphasis should be provided on preventing perverse outcomes, such as stronger measures to protect existing native forests or other important ecosystems;
- Ensuring the workability of the CFI as it relates to the operation of carbon rights on State leasehold and Native Title in Queensland; and
- Streamlining administrative requirements e.g., for reporting and receiving credits, providing flexibility in reporting and reducing audit requirements;

While significant amendments have been made to the operation of the CFI and many of the issues raised by Queensland addressed, there still remain several key issues that could compromise operational and environmental effectiveness of the CFI. Those issues, for the Committee's consideration, are outlined below.

1. CFI abatement must be linked to a carbon pricing regime (particularly for Kyoto-compliant activities)

To date little detail has been provided to determine how CFI abatement will interact with a carbon pricing mechanism.

We note comments made by the Australian Government and Professor Garnaut that the value of CFI credits will go up if companies are allowed to use them to meet obligations under the proposed carbon pricing mechanism. The sixth paper from the Garnaut Climate Change Review Update 2011, *Carbon pricing and reducing Australia's emissions*, supports linkage of the CFI to a carbon trading scheme and notes that the demand for voluntary credits will be limited until a national compliance market can be established (carbon tax, emission trading scheme or otherwise).

Importance of Kyoto-compliant abatement

Queensland strongly supports linking the CFI to any future compliance market (carbon tax, ETS or otherwise).

While the CFI provides the mechanism for generating credits, it won't effectively drive land sector abatement on its own. The CFI needs to be backed by market demand for those credits. The voluntary market alone is unlikely to drive significant activity under the CFI. A carbon price based on a strong emission reduction target is therefore essential.

The rate of uptake (or investment) under the CFI is uncertain and the economics of carbon forestry need to be better understood. Despite the significant long-term opportunities the CFI would provide, supply may be relatively low in the short term.

Preliminary government analysis of the cost of carbon forestry in Queensland suggests that there is unlikely to be significant investment in carbon forestry under the anticipated fixed carbon price.

Furthermore, many of the eligible abatement activities under the CFI are yet to have methodologies developed and approved by the Domestic Offsets Integrity Committee (DOIC). Methodological development can be a complex process, therefore substantial lag-times could be expected – another factor that will impact on the timing of supply of credits to the carbon market.

Establishing a ready-supply of Kyoto CFI credits for use as offsets can smooth the transition to full-market pricing, when liable entities would begin competing for a finite number of permits (issued under a cap). Provided that an adequate supply of Kyoto CFI credits can be established, the CFI can help to lower the cost of abatement for others sectors of the economy. Offsetting is a key method recognised internationally, enabling countries to meet their emissions reduction targets at least cost. It plays an important role as a transitional measure while technological solutions to emissions reduction can be developed and adopted. While the cost of carbon forestry needs to be better understood, it is expected to be lower than other abatement options such as some forms of renewable energy abatement.

2. Recognise Kyoto-compliant abatement, specifically environmental plantings and human-induced regrowth established between 1990-2007, as additional

It is important that abatement is real and genuine. It is also important to realise the potential of the land sector to provide large-scale abatement at low cost.

The CFI scheme conflates compliance and voluntary additionality requirements, meaning some Kyoto compliant abatement activities previously eligible under the draft 2010 Carbon Pollution Reduction Scheme (CPRS) (including reforestation that has other environmental co-benefits such as environmental plantings and human-induced regrowth) will not be eligible to participate in the CFI.

Additionality requirements differ depending on the market. For offsets used in compliance markets, additionality is linked to the reporting requirements of the Kyoto Protocol and is directly linked to emissions reductions above a 1990 baseline. This is because the primary purpose of such schemes is to deliver on a country's international emissions reduction commitments. Voluntary carbon markets trade non-Kyoto compliant abatement, so have different additionality requirements – generally that any reductions be above a 'business-as-usual' baseline.

Common practice test still a problem for Kyoto-compliant reforestation

The additionality test as proposed still has the potential to rule out significant proportions of Kyoto-compliant reforestation.

Under the proposed additionality rules, projects are required to meet the 'common practice' test (i.e., the abatement activity would not normally have occurred in the absence of the CFI). Common practice is proposed to be assessed on an industry-wide or regional scale. This approach is likely to render ineligible many Kyoto-compliant reforestation projects commenced prior to 2007/2008 (the baseline proposed for reforestation projects under the reforestation methodology). This would include environmental plantings or human-induced regrowth established between 1 January 1990 and 2008.

The common practice test is problematic because although these reforestation projects did not occur as a direct result of the CFI, they clearly are delivering carbon sequestration (and other) benefits and are additional under the Kyoto Protocol. It is also likely that many reforestation projects established prior to 2007, were done so for 'carbon-related' reasons, either in anticipation of the introduction of a price on carbon, or to provide offsets to the voluntary carbon market. Recognising this abatement will ensure early movers are not unnecessarily penalised.

Furthermore, excluding this abatement is in direct contradiction of the Kyoto rules for reforestation, where forests established via human-induced methods since 1 January 1990 (the international *eligibility* baseline) are recognised as additional¹.

Recognising Kyoto abatement as automatically additional will further simplify the process for project proponents as well as the overall administration of the scheme by removing the need to second guess whether the activity was 'common practice' at a specific point in time, and whether it would have occurred in the absence of the CFI. Furthermore, automatically recognising Kyoto-compliant abatement will not compromise the integrity of Australia's Greenhouse Gas accounting and reporting requirements under the Kyoto Protocol as any reforestation on deforested land since 1990 would be internationally recognised.

It is Queensland's position that voluntary market rules are not relevant to Kyoto-compliant abatement and that the CFI should reflect this. The CFI should recognise Kyoto-compliant abatement as automatically additional on the basis that Kyoto compliant activities have

¹ Noting that under the Kyoto Protocol, only CO₂ sequestered since 1 January 2008 (i.e., the Kyoto crediting baseline) is credited.

additionality and permanence requirements implicit in their design. This approach will broaden scheme participation, increase investment, and result in positive environmental outcomes.

Failure to adequately recognise the additionality and permanence requirements of the Kyoto Protocol will ensure that CFI integrity standards are more onerous than those required for eligible reforestation projects under the Kyoto Protocol (and those proposed in the draft 2010 CPRS legislation), and will exclude otherwise legitimate abatement activities.

Clarification on the treatment of reforestation projects with environmental co-benefits

Irrespective of whether the carbon reduction occurred as a result of the CFI, allowing this Kyoto-compliant abatement under the CFI can promote a range of co-benefits, including.

- incentivising greater protection of biodiverse forest leading to considerable positive conservation outcomes (i.e., greater biodiversity, improved water quality, reduced soil erosion, and improved catchment management etc);
- providing landholders with an alternative annualised income from carbon credits, leading to more sustainable communities and rural sector; and
- an opportunity to reward changes in land-clearing behaviour and potentially as a first step to realising the economic value of the environment (e.g., setting up parallel processes to value biodiversity).

In its submission on the CFI design, the Queensland Government also sought clarification on, and reconsideration of the following:

- the relevance of government funding and/or covenants in the context of applying the additionality test. Government funding is usually required where projects are unlikely to be provided by individuals or the private sector, i.e., they are not considered financially viable. To assume such projects don't meet the additionality test because they are publicly funded and therefore would have occurred anyway, seems an unfair application of the additionality test. With respect to covenants, the majority of them do not specify a requirement to undertake abatement (such as planting a forest), rather they impose a restriction on what you can do with the vegetation (e.g., no clearance or the avoidance of harm). Covenants do not therefore have implications for additionality, rather their value is in securing permanence.
- reforestation established as a result of regulatory requirements (i.e., under Queensland's *Vegetation Management Act 1999*). It was noted that excluding such projects had the potential to create a tension between Queensland's ability to regulate for beneficial activities (e.g., avoiding deforestation, helping Australia meet its Kyoto obligations, or increasing biological diversity) and opportunities for landholders to participate in the carbon market.

The CFI should seek to complement regulatory or other government processes that produce positive abatement outcomes, not exclude them from participation in the carbon market.

Recognising mature (or woody) regrowth reforestation will maximise opportunities for landholders and will provide a smoother transition to the operation of a carbon price.

Queensland notes that the 'common-practice' test would deem these types of reforestation as ineligible under the CFI, this is a perverse outcome.

It appears the Australian Government may be reconsidering the treatment of biodiverse carbon forestry under the additionality test. Pages 6 and 7 of the Explanatory Memorandum on the Bill states the common practice requirement “...will not prevent crediting of activities that improve agricultural productivity or have biodiversity and other co-benefits.”

However we are still unclear whether landscape restoration or conservation projects established via regulation or secured with government funding/via covenants; or human-induced regrowth established in the absence of the CFI would meet the additionality test.

Queensland seeks confirmation that all Kyoto compliant biodiverse reforestation (established since 1990) will be considered additional and eligible as CFI abatement projects.

3. To ensure biodiversity benefits stem from the CFI, development of a reforestation methodology covering human-induced regrowth must be a priority

The Commonwealth has released a draft *Reforestation (Permanent Sinks) Methodology* to apply to new or recently established reforestation projects that involve permanent biosequestration of CO₂. The methodology can also be used to model forest regrowth where forests have been established through direct human effort. However it is unclear whether the ‘older’ Kyoto compliant reforestation (e.g., human-induced regrowth) will be covered by this methodology.

A key issue for Queensland, is that the Commonwealth’s National Carbon Accounting System (NCAS) significantly underestimates the carbon sequestration potential of biodiverse carbon forests. As such, financial returns from biodiverse carbon forests are likely to compare unfavourably to some types of monocultures, resulting in poor outcomes for biodiversity. Further research into the carbon sequestration potential of biodiverse carbon forestry is required to maximise the financial attractiveness of these projects to landholders.

Queensland has the tools and systems to work with the Commonwealth to develop a regrowth methodology.

One of those tools is the development of CATER, a new web based information system to assist landholders to establish reforestation projects for the domestic carbon market. One of CATER’s objectives is to provide more accurate data on the carbon sequestration potential and growth rates of native regrowth vegetation. Queensland also has an extensive library of above-ground biomass site-data that could be used to improve accounting for regrowth and biodiverse carbon forestry under the National Carbon Accounting Toolbox (NCAT).

Another area where Queensland can provide expertise is determining whether reforestation is a result of ‘human intervention’. Queensland’s response to the CFI design outlined the potential application of our Statewide Landcover and Trees Study (SLATS) to be used as a component of a reforestation method to determine ‘human-inducement’ in regrowth forest. SLATS is a remote sensing method, which is now being adopted in other states, that could be used in conjunction with other information and Commonwealth data to verify any claim to human-induced regrowth (e.g., SLATS can provide finer detail of changes in land cover) and update vegetation mapping data into NCAS. It may also be useful in determining leakage and baselines for other methodologies such as avoided deforestation.

Given the large potential for CO₂ abatement through human-induced regrowth reforestation, the development of a relevant methodology needs to be progressed as a matter of priority.

4. Impacts on regional communities and environment

Queensland supports measures to minimise any adverse impacts from the CFI on regional communities, water and biodiversity and the requirement that CFI projects comply with State/local regulatory requirements.

Under Queensland's carbon sequestration policy, and other relevant policies, a range of initiatives to minimise impacts on regional communities and the environment are in place, including:

- the Queensland Government's Strategic Cropping Lands policy which protects against prime agricultural land being taken by competing permanent land uses;
- the Delbessie Rural Leasehold Lands and Reef Protection Policy which are designed to improve land management practices and soil resilience; and
- utilising the existing framework for water resource planning, allocation and trading under the *Water Act 2000* to periodically review Water Resource Plans to ensure the impact of carbon farming/forestry initiatives are minimised.

Queensland noted in its previous submission that afforestation in native grasslands and non-woody wetlands had the potential to significantly degrade biodiversity values in these systems and that measures to prevent abatement activities affecting the health of native forests should be expanded to include "non-forest ecosystems".

The Bill now has provision to exclude certain projects (an 'excluded project list') that would otherwise be eligible for Australian Carbon Credit Units (ACCUs) under the scheme where the Minister considers there is a significant risk of an adverse impact on the availability of water; biodiversity conservation; employment; or the local community.

Queensland notes this approach has the potential to include other ecosystems other than native forests, however it is unclear what process will be followed by the Minister when determining the risk of adverse impacts and how State/territory jurisdictions and/or local communities will be involved in this process.

The Bill also provides a power for the Scheme Administrator to revoke a project approval declaration where projects have not demonstrated they are in accordance with all relevant regulatory approvals before the end of the first crediting period (i.e., conditional project approval declarations are issued).

Queensland is also supportive of a conditional project approvals process but it is unclear how the Commonwealth will determine whether all relevant regulatory approvals have been met. In particular, further consideration of the administrative mechanisms to determine compliance (or not) is needed. For example is it intended to place an obligation on the Commonwealth to notify jurisdictions when applications have been received for projects in their State/territory? If yes, what process is expected and/or required from jurisdictions to satisfy the Commonwealth that all requirements have been met by the project proponent?

5. Workability and application of Native Title provisions still unclear

Queensland sees it as very important for the legislation to be clear and precise about how the CFI scheme interrelates with any compliance requirements under the *Native Title Act 1993* (Cth) to ensure that things done under, or in accordance with, the CFI are valid. Queensland notes that the Commonwealth has been working with the Queensland Government to further clarify the interaction between the CFI, the Native Title Act (NTA) and relevant State

legislation and that they intend to undertake further consultation and detailed legal analysis before finalising the approach under the CFI. Subject to further consideration, Queensland notes a number of unresolved issues.

Interaction with State legislation and complex consequences

Queensland supports Indigenous stakeholders participating equally in the scheme and supports the proposition that a native title holder with an exclusive determination of native title over the project area, or their registered native title body corporate will be deemed the project proponent for the purposes of the scheme. However due to the complex nature of Indigenous land ownership in Queensland (e.g., a number of entities that may not be the exclusive native title party may hold 'eligible interests' in the land), providing exclusive native title holders with the right to participate, has a number of consequences.

One issue is, if this consent does not include some form of contractual undertaking, given the obligations under the initiative may continue for 100 years, and given there may be future alternative owners of the land (Indigenous land is transferrable to grantees either for the benefit of the Indigenous people particularly concerned with the land or to the native title holders of the land), then this may seriously impact on the viability of the carbon project.

Consent and use of Indigenous Land Use Agreements (ILUAs)

The Bill outlines how the consent of the native title party, as an eligible interest under the scheme is to be obtained; one way is via the use of an Indigenous Land Use Agreement (ILUA). As currently drafted, the Bill does not expressly confirm whether ILUAs are the required form to secure this long term consent and ensure validity under the NTA. This is relevant because of the way the NTA 'future act' processes operate in regards to the procedural rights afforded to determined holders of native title, or registered native title claimants, and associated compensation rights.

Consent is not always required under the NTA to ensure the future act is valid. Further if an ILUA is required then it will be the proponent of the project and **not** the State who will be responsible for any compensation payable to the native title party. However, ILUAs can be very costly² to negotiate and meeting this cost may otherwise inhibit participation in the CFI. Accordingly where another future act provision of the NTA provides validity (for example Subdivision G of Part 2 of Division 3 or Subdivision J of Part 2 of Division 3) then an ILUA is not likely to be the primary consent mechanism. Where this is the case, then the State takes on the compensation liability for the future act without the requisite ability under those Subdivisions to pass this on to the proponent who is benefiting from the future act and the CFI.

Lastly, further analysis is required by the Commonwealth to determine whether there are any implications for State participation, given the period of time over which the interest may be in place.

6. Other/technical issues

² Estimates are anywhere between \$30,000 to \$100,000 in transaction costs to negotiate an ILUA, not including consideration for native title consent, and approximately 12-18 months to negotiate and register an ILUA with the National Native Title Tribunal (as required under the Commonwealth Native Title Act).

a) Land titling and definition of 'Torrens land'

Queensland seeks clarification on the technical definition of "Torrens system land" under section 5 of the Bill. Section 5 states that:

Torrens system land: land is ***Torrens system land*** if the title to the land is registered under a *Torrens system of registration*.

Under Queensland's *Land Act 1994*, all leases, licences and reserves are *created* by registration of a document (the tenure document for a lease or licence; a dedication notice or plan of subdivision for a reserve). If the definition relates to the 'creation' of a title, this will have consequences as to how land is treated for the purposes of this Bill as outlined below:

- If Torrens system land is titled land **created** by registration, leases, licences and reserves under the Land Act would be Torrens system land for the purposes of the Bill.
- If Torrens system land is land held under an indefeasible title created by registration, the land held under a lease or licence or dedicated as a reserve under the Land Act would be, for the purposes of the Bill, Crown land.

Does that mean the title to the land is indefeasible on registration? Or does that mean the "system" creates a title for the land on registration?

Queensland seeks confirmation that the definition of 'Torrens system land' is not restricted to land held by indefeasible title but includes all land held by title created by registration e.g., a lease under a Land Act.

b) Amendment to wording in section 43(3)(d) - relating to 'land titling'

We note there is a minor issue with the wording in s 43(3)(d) - reference to 'certificate of title'. For Queensland, the appropriate wording is 'noted on the title' (instead of 'certificate of title'). The title for Torrens land in Queensland is in electronic form and a 'certificate of title' does not exist for every parcel of land.

We recommend the provision be amended to cover various jurisdictional land titling systems.

c) Definition of Native Forest and what is meant by 'plantation'

The definition of 'native forest' (section 5 of the Bill) expressly notes that a 'plantation' is not a native forest. However further information is not provided defining the term plantation. This is relevant as depending on how it is defined, may exclude some native forests (especially where they are dominated by a single species) from being considered a native forest protection project.

Clarification is sought whether the term plantation means:

- Forest subject to a timber harvest regime (clear-fell and replant) of either native or exotic species comprised of one or more tree species;
- Forest comprised of a single native species;
- Forest comprised of a single exotic species;
- Or some other definition.