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The Parliament of the Commonwealth of Australia

Inquiry into Indigenous  
economic development in  
Queensland and advisory  
report on the Wild Rivers  
(Environmental  
Management) Bill 2010

House of Representatives Standing Committee on Economics

May 2011  
Canberra

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## Chair's foreword

This inquiry covered the important issue of Indigenous economic development in Cape York. The isolation of the region means that, while Indigenous participation in cultural activities is vibrant, Indigenous people face additional hurdles to participating in the market economy. The inquiry has brought out many of these problems, but has also pointed to opportunities and successes in areas such as natural resource management and Indigenous cultural activities.

The focus of the inquiry was on the Queensland *Wild Rivers Act 2005*. Although there is room for improvement in implementing the Act, this should not obscure the main picture that it benefits Queensland through preserving the natural values of rivers that have all, or most, of their natural values intact while still permitting Indigenous economic development and maintaining a suitable environment for traditional activities.

The committee held a number of hearings in far north Queensland and it soon became apparent that a large degree of misinformation has been in circulation about the Act. Perhaps the key message of the inquiry is that consultations under the Act need to be improved. Clearly, the Queensland Government expended significant resources in travelling to remote communities and discussing with them the Act and the declarations made under it. However, the committee received a clear message from some Indigenous communities that the consultations were not sufficient.

During the inquiry, the Queensland Government announced an important measure to improve its consultations. It will establish Indigenous reference committees for any potential wild river area on Cape York Peninsula. These bodies will ensure members can directly advise the Minister about declaration proposals as well as their community's aspirations for future economic

development. The aim of the Queensland Government is for each reference committee to reflect the native title, traditional ownership and Indigenous stakeholders in the relevant river basin.

The Queensland Government also outlined several other initiatives supporting Indigenous economic development. It will facilitate economic growth on Cape York through a strategic regional economic development plan. It will examine how to create jobs in the Cape, including nature-based opportunities that are being enhanced by the *Wild Rivers Act 2005*. The Queensland Government will also build the capacity of Indigenous councils in dealing with planning legislation and establish an independent economic development mentors support network.

I commend the Queensland Government for taking an active approach on these issues and for responding to concerns raised during the Inquiry.

The inquiry also examined the Wild Rivers (Environmental Management) Bill 2010, which was introduced in the House in November 2010. The inquiry process has revealed a flawed document which is unworkable for a variety of reasons. Importantly, the Bill uses ambiguous definitions which would result in confusion and would override the *Wild Rivers Act 2005* putting the successful Wild Rivers Rangers program at risk. The committee has concluded that the Bill should not be passed.

Indigenous economic development is a large and complex issue and this report can only cover part of such a wide topic. However, this report does include important recommendations on how the Commonwealth can be more involved in assisting Indigenous economic development in Cape York. I also anticipate that the material presented to the committee and made public will contribute to a greater awareness of these issues and assist policy development in the future.

I would like to thank those who made submissions to the inquiry and the witnesses who attended hearings. The committee is very appreciative of this assistance and expertise. I also thank my colleagues on the committee for their contribution to the report.

Craig Thomson MP  
Chair



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## Membership of the Committee

Chair	Mr Craig Thomson MP
Deputy Chair	Mr Steven Ciobo MP
Members	Mr Scott Buchholz MP Mr Stephen Jones MP Dr Andrew Leigh MP Ms Kelly O'Dwyer MP Ms Julie Owens MP

## Committee Secretariat

Secretary	Mr Stephen Boyd
Inquiry Secretary	Mr David Monk (from 9 March 2011) Mr Justin Baker (until 18 February 2011)
Principal Research Officer	Dr Andrew Gaczol
Technical Advisor	Ms Kit Quarry
Administrative Officer	Ms Natasha Petrovic



## Terms of reference

On the 3 November 2010 the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP referred the following reference to the Committee.

The Committee should examine the scope for increasing sustainable Indigenous economic development in Queensland and including in the Cape York region having regard to the aspirations of Indigenous people and the social and cultural context surrounding their participation in the economy.

The Committee should consider:

1. existing environmental regulation, legislation in relation to mining and other relevant legislation including the *Wild Rivers Act (Qld)* 2005 and the *Environment Protection and Biodiversity Conservation Act 1999*;
2. the impact which legislation in the form of the Wild Rivers (Environmental Management) Bill 2010 would have, if passed; and
3. options for facilitating economic development for the benefit of Indigenous people and the protection of the environmental values of undisturbed river systems.

The inquiry should pay particular attention to the following:

- The nature and extent of current barriers to economic development and land use by people, whether Indigenous or non-Indigenous, including those involved in the mining, pastoral, tourism, cultural heritage and environmental management;
- Options for overcoming or reducing those barriers and better facilitating sustainable economic development, especially where that development involves Indigenous people;

- The potential for industries which promote preservation of the environment to provide economic development and employment for Indigenous people;
- The effectiveness of current State and Commonwealth mechanisms for appropriate preservation of free-flowing river systems which have much of their natural values intact, including the preserving of biodiversity;
- Options for improving environmental regulation for such systems;
- The impact of existing environmental regulation, legislation in relation to mining and other relevant legislation on the exercise of native title rights and on the national operation of the native title regime and the impact which legislation in the form of the Wild Rivers (Environmental Management) Bill 2010 would have on these matters.

The Committee should also make recommendations as to what initiatives might be pursued in order to promote economic development while preserving environmental and cultural values.

On 17 November 2010 the House of Representatives referred the Wild Rivers (Environmental Management) Bill to the Committee for Inquiry and Report by the end of the autumn period of sittings in 2011. Submissions addressing this Bill will be received as part of the committee's broader inquiry into indigenous economic development.



## List of abbreviations

ALA	<i>Aboriginal Land Act 1991</i>
CAC	Chuulangun Aboriginal Corporation
CDEP	Community Development Employment Program
CLCAC	Carpentaria Land Council Aboriginal Corporation
COAG	Commonwealth Council of Australian Governments
CSIRO	Commonwealth Scientific and Industrial Research Organisation
CYPLUS	Cape York Peninsula Land Use Strategy
DEEWR	Department of Education, Employment and Workplace Relations
DERM	Department of Environment and Resource Management (Qld)
DOGIT	Deed of Grant in Trust
DRIP	Declaration on the Rights of Indigenous Peoples
EPBC	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
IDC	Inter-Departmental Committee
ILC	Indigenous Land Corporation
ILUA	Indigenous Land Use Agreements
LHA	<i>Aborigines and Torres Strait Islanders (Land Holding) Act 1985</i>
MCA	Minerals Council of Australia
NPA	National Partnership Agreement

NPARC	Northern Peninsula Area Regional Council
NTA	<i>Native Title Act 1993</i>
NTRB	Native Title Representative Body
QLD	Queensland
RTA	Rio Tinto Alcan
TSILA	<i>Torres Strait Islander Land Act 1991</i>
UN	United Nations
WRIC	Wild Rivers Inter Departmental Committee



# List of recommendations

## 1 Background

### Recommendation 1

The Commonwealth Government continues to address the economic and geographical barriers to Indigenous economic development through its closing the gap programs across Australia and in particular, in Cape York; and the Queensland Government proactively affirms its commitment to addressing Indigenous disadvantage by pursuing place based initiatives for economic participation in Cape York.

## 2 Cape York – Context and Consultation

### Recommendation 2

The committee notes the economic benefit of major infrastructure and investment programs and recommends that the Queensland and local governments in Cape York work with Infrastructure Australia and Regional Development authorities to progress these programs.

### Recommendation 3

The committee further notes the Indigenous training and employment benefits of major infrastructure and investment programs and recommends that Queensland and Australian Governments ensure these opportunities are maximised.

### Recommendation 4

The committee recommends that the Commonwealth Government continues to partner with the mining industry to facilitate training and employment so that workforce participation in the industry becomes a mainstream employment option for Indigenous people.

#### Recommendation 5

The committee recommends that the Queensland Governments mentors support network initiative be linked to Commonwealth Government initiatives for Indigenous small business development in business, tourism and administration.

#### Recommendation 6

The committee recommends that the QLD Government strengthen its consultation and engagement framework for the *Wild Rivers Act 2005* (Qld). The committee notes that the establishment of Indigenous reference committees group under the Cape York Sustainable Communities initiative is intended to address this and to work directly with Indigenous stakeholders on improving the wild rivers consultation process.

#### Recommendation 7

The committee recommends that the Indigenous Reference Committee framework be developed and extended to service Indigenous peoples throughout Queensland on issues relating to economic development.

It is important that all stakeholders be engaged in this process and endorse the framework.

#### Recommendation 8

The committee recommends that the Queensland Government provides information to Indigenous communities and individuals which assists them to step through the operation of the *Wild Rivers Act 2005* (Qld) and other conservation and land management legislation.

#### Recommendation 9

The Commonwealth support the Queensland Government in developing its strategic regional economic development plan for Cape York under its Sustainable Cape Communities initiative.

#### Recommendation 10

In consultation with Indigenous communities, the Queensland Government increase opportunities for Indigenous business partnerships under its Sustainable Cape Communities initiative.

### 3 The Wild Rivers (Environmental Management) Bill 2010

#### Recommendation 11

That the House of Representatives not pass the Wild Rivers (Environmental Management) Bill 2010.



## Background

### Referral of the Inquiry

- 1.1 On 3 November 2010 the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP, requested the committee to inquire into and report on Indigenous economic development in Queensland including issues surrounding the *Wild Rivers Act 2005* (Qld).
- 1.2 On 17 November 2010 the House of Representatives referred the Wild Rivers (Environmental Management) Bill 2010 ('the Bill') to the committee for inquiry and report by the end of the autumn period of sittings in 2011. This Bill was introduced as a private Member's Bill by the Leader of the Opposition, the Hon Tony Abbott MP on Monday 15 November 2010. The Bill, which was introduced without an explanatory memorandum, provides that the development or use of native title land in a wild river area cannot be regulated under the *Wild Rivers Act 2005* (Qld) without the agreement of the land owner in writing. Submissions addressing the Bill were received as part of the committee's broader inquiry into issues affecting Indigenous economic development in Queensland.

### Committee objectives and scope

- 1.3 The committee was asked to investigate barriers to and opportunities for Indigenous economic development in Queensland, with a particular focus on Cape York.

- 1.4 The geographical and socio-economic context of the Cape York Peninsula and the disadvantaged status of the Indigenous population underpin the issues central to participation in the 'mainstream' economy.
- 1.5 The committee's resources and the reporting deadline mean that a detailed economic analysis is beyond its scope. Nevertheless, the committee believes that the diverse range of primary stakeholders' views was well represented and that the threshold issues around Indigenous economic development have been brought out.
- 1.6 Indigenous economic development is a large and complex issue and this report can only cover part of that wider topic – in this case an overview of the barriers and opportunities, and recommendations to address them. Although this report cannot address all aspects of Indigenous economic development, the committee trusts that the material presented to it and made public will contribute to a greater awareness of the issues surrounding Indigenous economic development and that this material will contribute to better policy outcomes in the future.

### The 2010 Senate Inquiry and its outcomes<sup>1</sup>

- 1.7 A previous iteration of the Wild Rivers (Environmental Management) Bill 2010 was considered in the 42nd Parliament. It was introduced by Mr Abbott into the House of Representatives on 8 February 2010 and an identical bill was introduced into the Senate as a private Senator's Bill on 23 February 2010 by Senator the Hon Nigel Scullion. On 24 March 2010, Senator Scullion's Bill was referred to the Senate's Legal and Constitutional Affairs Legislation committee for inquiry. The committee presented its report on 22 June 2010.
- 1.8 The inquiry heard evidence regarding economic opportunities in wild river areas; the compatibility of the Bill with existing law; the applicability of the United Nations Declaration on the Rights of Indigenous Peoples (UN DRIP); the Queensland Government's wild rivers consultation process; and issues surrounding the Bill's drafting.
- 1.9 The committee concluded:
- While there might be a need for further information and assistance with development applications, the committee is not persuaded that the Queensland Act substantially interferes with the current or future development aspirations of Indigenous or other

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1 The report itself (hereafter referred to as 'The Senate Report') can be found at [http://www.aph.gov.au/Senate/committee/legcon\\_ctte/wildrivers/report/report.pdf](http://www.aph.gov.au/Senate/committee/legcon_ctte/wildrivers/report/report.pdf)

landowners in wild river areas. Even if it did, the committee does not consider that the Bill provides the comprehensive and considered solution needed to economically and socially empower Indigenous communities in wild river areas. Accordingly, the committee is of the view that the Bill should not be passed by the Senate.<sup>2</sup>

- 1.10 There was a dissenting report by the Liberal/National committee members and a separate set of additional comments by The Greens committee members.

## Pre-existing legislation

- 1.11 There is a wide variety of legislation that is applicable to Queensland and Cape York. Chapter 2 provides an overview of that legislation and the impact they have on the issues under review in this inquiry.

### *Wild Rivers Act 2005 (Qld)*

- 1.12 The *Wild Rivers Act 2005 (Qld)* ('the Act') aims to preserve the natural values of rivers that have all, or most, of their natural values intact and to preserve the natural values of rivers in the Lake Eyre Basin.<sup>3</sup>
- 1.13 Queensland's wild rivers policy is implemented through a regulatory framework that links together the Act, a wild river declaration, the Wild Rivers Code and other regulating acts.<sup>4</sup> The Act requires that other laws consider its objectives when making decisions on development and other activities in a declared wild river area.<sup>5</sup>
- 1.14 Wild river declarations aim to preserve the following natural values:
- hydrological processes (unimpeded runoff, stream flow, aquifer recharge and spring discharge);
  - geomorphic processes (unimpaired movement of sediments along the river system resulting in stable bed and banks and

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2 The Senate, Report, p. 28.

3 *Wild Rivers Act 2005 (Qld)*, <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/W/WildRivA05.pdf>, accessed 8 April 2011.

4 'How Wild Rivers Work' factsheet, <http://www.derm.qld.gov.au/factsheets/pdf/water/wr10.pdf>, accessed 8 April 2011.

5 'How Wild Rivers Work' factsheet, <http://www.derm.qld.gov.au/factsheets/pdf/water/wr10.pdf>, accessed 8 April 2011.

sediment delivery to estuaries, floodplains and downstream reaches);

- water quality (of sufficient physical, chemical and biological quality to meet human and ecological needs);
- riparian<sup>6</sup> function (intact riparian trees, shrubs and sedges to protect stream banks and to provide food and habitat for native animals); and
- wildlife corridors (sufficient areas of natural habitat within and along the river system to allow native fauna to migrate within their natural ranges).<sup>7</sup>

1.15 The Act does this by regulating new development within a declared wild river and its catchment area, and by regulating the removal of natural resources from the area. The Act establishes a framework that includes the declaration of wild river areas that may include:<sup>8</sup>

- high preservation areas – areas within and up to 1km each side of the wild river, its major tributaries and special features (such as floodplain wetlands);
- preservation areas – the wild river areas outside high preservation areas;
- floodplain management areas – floodplain areas with a strong hydrologic connection to river systems (may overlap with a high preservation and/or preservation area); and
- special floodplain management areas;
- sub-artesian management areas – aquifer areas with a strong hydrologic connection to river systems (may overlap with a high preservation and/or preservation area); and
- designated urban areas – a mapped urban area (e.g. towns, settlements, villages), including space for future urban expansion (based on either a town plan or other available information).<sup>9</sup>

1.16 Once a wild river area is declared, certain types of new development and other activities within the river, its major tributaries and catchment area

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6 'Relating to or inhabiting the banks of a natural course of water', Free Online Dictionary, <http://www.thefreedictionary.com/riparian>, accessed 11 April 2011.

7 The Wild Rivers Code 2007, p. 1. [http://www.derm.qld.gov.au/wildrivers/pdf/wild\\_rivers\\_code\\_2007.pdf](http://www.derm.qld.gov.au/wildrivers/pdf/wild_rivers_code_2007.pdf), accessed 8 April 2011.

8 *Wild Rivers Act 2005* (Qld), <http://www.derm.qld.gov.au/wildrivers/legislation.html>, accessed 8 April 2011.

9 'How Wild Rivers Work' factsheet, <http://www.derm.qld.gov.au/factsheets/pdf/water/wr10.pdf>, accessed 8 April 2011, and the *Wild Rivers Act 2005* (Qld), <http://www.derm.qld.gov.au/wildrivers/legislation.html>, accessed 8 April 2011.

are prohibited, while other types must be assessed against this code. Each wild river declaration identifies these developments and other activities.<sup>10</sup>

## Declared wild river areas

1.17 Declarations effective from 28 February 2007 are:

- Fraser Wild River Declaration 2007
- Gregory Wild River Declaration 2007
- Hinchinbrook Wild River Declaration 2007
- Morning Inlet Wild River Declaration 2007
- Settlement Wild River Declaration 2007
- Staaten Wild River Declaration 2007

1.18 Wild river areas declared on 3 April 2009:

- Archer Wild River Declaration 2009
- Stewart Wild River Declaration 2009
- Lockhart Wild River Declaration 2009

1.19 Wild river area declared on 4 June 2010:

- Wenlock Basin Wild River Declaration 2010

1.20 Current wild river declaration proposals:

- Cooper Creek Basin Wild River Area<sup>11</sup>

## Conduct of the Inquiry

1.21 The committee advertised the inquiry through a press release on 8 November 2010 and an advertisement in *The Australian* on 1 December 2010. Details of the inquiry and the Bill were placed on the committee's website.

1.22 The closing date for submissions was Friday, 28 January 2011 but was then extended to Friday 18 February 2011 subsequent to the Queensland floods of January 2011.

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<sup>10</sup> The Wild Rivers Code 2007, p. 1.

<sup>11</sup> Proposed Cooper Creek Basin Wild River Area, <http://www.derm.qld.gov.au/wildrivers/coopercreek/index.html>, accessed 8 April 2011.

- 1.23 A total of 41 submissions and three supplementary submissions were received by the committee and these are listed in Appendix 1. Submissions were placed on the committee's website.
- 1.24 Throughout the inquiry, the committee was mindful of Minister Macklin's request that 'the committee should make all efforts to ensure that a broad range of views are communicated to the committee, especially those of Indigenous people'.<sup>12</sup> The committee has sought to gather views from as many organisations and individuals with an interest in the subject matter relating to this inquiry as possible. In particular, the committee endorsed a program for the public hearings that sought a range of views and opinions about the proposed legislation and visited as many regional communities as was practicable given the adverse weather conditions and time restrictions during the December 2010 – March 2011 period.
- 1.25 Apart from initial and final hearings in Canberra, the public hearings included two series of visits to Brisbane, Cairns, Weipa, Bamaga and Chuulangun Aboriginal Corporation in far north Queensland. The first series was from Monday 29 November 2010 until Wednesday 1 December 2010 while the second was from Monday 6 March until Wednesday 9 March 2011. The open public hearings in Weipa and Bamaga were particularly successful as almost everyone who was present participated in the discussion.
- 1.26 A list of the witnesses who appeared at these hearings is available at Appendix 2, and the Hansard transcripts can be found at the committee's website.<sup>13</sup>

## Structure of the report

- 1.27 Chapter 2 outlines the barriers that exist for Indigenous economic development and how potentially to address them. These include the remoteness of many Indigenous communities; lack of infrastructure; weather and other environmental issues; land tenure issues; the impact of the *Wild Rivers Act 2005* (Qld); the legal framework surrounding

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12 The Hon Jenny Macklin MP, Media Release, 30 September 2011, [http://www.jennymacklin.fahcsia.gov.au/mediareleases/2010/Pages/wild\\_rivers\\_30sept.aspx](http://www.jennymacklin.fahcsia.gov.au/mediareleases/2010/Pages/wild_rivers_30sept.aspx), accessed 7 April 2011.

13 Inquiry into Indigenous economic development in Queensland and review of the Wild Rivers (Environmental Management) Bill 2010, <http://www.aph.gov.au/house/committee/economics/WildRivers/hearings.htm>, accessed 1 April 2011.

development in environmentally sensitive areas; and the consultation processes between government and Indigenous people.

- 1.28 Finally, Chapter 3 reviews the Wild Rivers (Environmental Management) Bill 2010 itself and its potential to impact on the *Wild Rivers Act 2005* (Qld), Indigenous communities and the environment should it be passed into law.

## Note on references

- 1.29 References in this report are to individual submissions as received by the committee, not to a bound volume. References to the committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard transcript.

## Overall finding

- 1.30 The difficult environmental and climatic conditions, remoteness, and the soil conditions of Cape York have hindered the type of development that has occurred across many other parts of Australia. The committee notes that, despite these disadvantages, there is a range of opportunities for Indigenous people to increase their participation in economic activities and that governments at all levels are seeking to maximise them.
- 1.31 In particular, the committee notes the potential for development of industries focussing on the sustainable management of natural resources. The wild rivers ranger program has been a highlight of the inquiry because Indigenous communities can leverage it to build internal capacity. This is already occurring.
- 1.32 More broadly, the Council of Australian Governments is the forum through which all the Australian governments, under Commonwealth leadership, are closing the gap in health, housing, economic participation, early childhood development, and remote service delivery with the Commonwealth Government investing over \$5.75 billion over three years.<sup>14</sup>
- 1.33 Evidence available to the committee confirms that the *Wild Rivers Act 2005* (Qld) does not present a barrier to economic development and does not

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14 'Closing the Gap – The Prime Minister's Report 2011', p. 23, [http://www.fahcsia.gov.au/sa/indigenous/pubs/closing\\_the\\_gap/2011\\_ctg\\_pm\\_report/Documents/2011\\_ctg\\_pm\\_report.pdf](http://www.fahcsia.gov.au/sa/indigenous/pubs/closing_the_gap/2011_ctg_pm_report/Documents/2011_ctg_pm_report.pdf), accessed 27 April 2011.

limit native title rights. Ultimately, the Act is little different from other environmental and planning legislation which is used to regulate development. While the ongoing engagement of Indigenous people is essential, the introduction of Commonwealth legislation overturning state environmental protections and giving unique veto powers to some stakeholders is not the solution to the issues examined during this inquiry.

- 1.34 The issues surrounding *Wild Rivers Act 2005* (Qld) and Indigenous economic development has inspired a lot of passion amongst the interested parties. In particular, the committee was presented with a range of information and views about the consultation and engagement processes under the *Wild Rivers Act 2005* (Qld) creation and implementation. Both the Queensland Government and stakeholders have a role to play in ensuring consultation and engagement is effective. The most effective way to resolve differences and ensure consultation can be strengthened would be for all parties – including the Queensland Government, Indigenous people and the various non-government organisations – to work together to develop policy solutions.
- 1.35 The Queensland Government has already moved to accommodate some of the concerns raised through this committee’s inquiry process. On 9 March 2011, the Queensland Government announced a number of initiatives which included: an Economic Development Mentor Support Network; capacity building for Indigenous local governments; a Strategic Economic Development Plan; and Indigenous Reference Committees<sup>15</sup>, and these can be used as a basis for strengthening engagement with Indigenous communities.
- 1.36 Indigenous communities suffer extreme disadvantage in Cape York with significantly lower life expectancy and much higher rates of unemployment than the Australian average. Similar patterns are repeated Australia-wide for Indigenous people. As long as the barriers to Indigenous development remain, governments must commit themselves to further action.

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15 ‘New Wild Rivers initiative gives power to Indigenous Cape Communities’, Hon Kate Jones, Minister for Environment and Resource Management, Press Release, 9 March 2011, <http://www.cabinet.qld.gov.au/mms/StatementDisplaySingle.aspx?id=73891>, accessed 27 April 2011.

**Recommendation 1**

- 1.37 **The Commonwealth Government continues to address the economic and geographical barriers to Indigenous economic development through its closing the gap programs across Australia and in particular, in Cape York; and the Queensland Government proactively affirms its commitment to addressing Indigenous disadvantage by pursuing place based initiatives for economic participation in Cape York.**



## Cape York – Context and Consultation

### Geo-economic context

- 2.1 Cape York, subject to current declared wild river areas, receives a tropical monsoonal climate that is characterised by a long, warm to hot dry season, and a shorter hot, humid, and intensive wet season, every year. This annual monsoon season is a major constraining factor on Cape York as it impacts on travel and many economic and social activities. It isolates most properties and communities for approximately four to five months due to flooded and boggy roads and air travel and freight can also be curtailed due to boggy airstrips and/or intensive thunderstorm activity. Delivery of food and mail supplies is regularly disrupted to virtually all areas.<sup>1</sup>

### Topography, soil and water

- 2.2 Extensive annual flooding during the ‘wet’ is normal for all watercourses on Cape York. In the lower parts of many catchments, floodwaters may extend for many kilometres across expansive flood plains. Other low lying or poorly drained areas also typically become seasonally inundated for many months.<sup>2</sup>
- 2.3 Balkanu Cape York Development Corporation Pty Ltd advised that broad scale irrigation is limited as there are few areas of arable soil on Cape York suitable for large scale irrigation, and added that the Commonwealth Scientific and Industrial Research Organisation (CSIRO) has identified that there are some areas on the west of Cape York with soils suitable for

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1 Australia Zoo, *Submission 30*, p. 1.

2 Australia Zoo, *Submission 30*, p. 1.

irrigation, but that water supply is not likely to be sufficient to support irrigated crops in much of the area.<sup>3</sup>

- 2.4 Most of the topography west of the divide on Cape York is very flat and unsuitable for dams. The east side flows into the Great Barrier Reef world heritage area and therefore any proposal to impact on the flow of a river would be subject to Commonwealth legislation.<sup>4</sup>

## Transport and infrastructure

- 2.5 Cape York's lack of development can make access to available services difficult. Roads are overwhelmingly classified as minor and unsealed,<sup>5</sup> and only one Weipa airport has a scheduled service.<sup>6</sup>
- 2.6 The condition of Cape York's main road, the Peninsula Developmental Road, remains a barrier to development as repairs can only be made in the dry and, like other roads, it is inaccessible during the wet season. The region's tourism website advises that:
- When accessible OPEN to local large 4WD vehicles only - dirt road  
- 4WD vehicles recommended. Conditions change with heavy rain  
- road subject to closure. Drive according to prevailing conditions.  
Dirt road can be slippery and boggy when wet.<sup>7</sup>
- 2.7 Mobile phone and internet coverage are available in most settled areas of the Cape, but beyond that, satellite phones are necessary due to the remoteness created by vast uninhabited distances.<sup>8</sup>
- 2.8 The majority of Cape York's communities rely on major diesel power generation systems with only the townships in the far south-east of the region connected to grid power.<sup>9</sup>
- 2.9 Under the Council of Australian Governments (COAG) Nation Building Program the Queensland and Commonwealth Governments have committed \$30 million to seal the Peninsula Developmental Road, the Wills Developmental Road, and upgrade remote community roads.

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3 Balkanu Development Corporation, *Submission 6:1*, p. 6.

4 Balkanu Development Corporation Pty Ltd, *Submission 6:1*, p. 6.

5 Department of Infrastructure, Transport, Regional Development and Local Government, Northern Australia Statistical Compendium, s.l. Commonwealth of Australia 2009, p18. Cited by the Wild Rivers Interdepartmental Committee, *Submission 31*, p. vi.

6 Wild Rivers Interdepartmental Committee, *Submission 31*, p. vi.

7 <http://www.cooktownandcapeyork.com/roads#section> - Accessed 7 April 2011.

8 Cape York Sustainable Futures, *Submission 27*, p. 2.

9 Cape York Sustainable Futures, *Submission 27*, p. 2.

- 2.10 \$15 million of this is allocated to the Peninsula Developmental Road which is due for completion in late 2011, weather permitting.
- 2.11 Although expensive to construct, reliable, adequate, efficient and consistent transport systems are essential for significant business and industry development.<sup>10</sup> The impact road upgrades can have is to be seen in the increased agricultural activity at Lakeland Downs and increased visitation and economic development activity in Cooktown since sealing of the Mulligan Highway was completed. Building approvals have jumped by some 150% in the period since, while some statistics indicate a jump in visitor numbers in the order of 40%.<sup>11</sup>

### **Recommendation 2**

- 2.12 **The committee notes the economic benefit of major infrastructure and investment programs and recommends that the Queensland and local governments in Cape York work with Infrastructure Australia and Regional Development authorities to progress these programs.**

### **Recommendation 3**

- 2.13 **The committee further notes the Indigenous training and employment benefits of major infrastructure and investment programs and recommends that Queensland and Australian Governments ensure these opportunities are maximised.**

## **Land Tenure**

- 2.14 The inalienable status of the variety of Indigenous land tenures recognises the communal nature of Indigenous land and of Indigenous peoples' historical and ongoing connection to and responsibility for that land. It also recognises the spiritual, cultural, social and health benefits of maintaining that connection through continuing presence and through structures of authority and responsibility. However the notion of inalienability is inherently at odds with the nature of "freehold land",

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10 Cape York Indigenous Employment Strategy, November 2005. Kleinhardt-FGI Pty Ltd/Business Mapping Solutions Pty Ltd. *Committee exhibit*, p. 22.

11 The Cape York Peninsula Regional Economic & Infrastructure Framework Report 2007, *Committee exhibit*, p. 6.

which, as well as being of significant value as an economic asset, can also be alienated from its owner – i.e., allows the owner to sell the assets and access the embedded economic value.

- 2.15 Indigenous land holding arrangements in Queensland primarily consist of Indigenous Deed of Grant in Trust (DOGIT) land. This is land granted as fee simple in trust under the *Land Act 1994* or the *Land Act 1962* (repealed) for the benefit of Indigenous inhabitants or for Indigenous purposes. Indigenous Shire Councils are the trustees of Indigenous DOGIT under the *Land Act 1994*, and may grant leases for public and private housing, and economic purposes under the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991* (Qld). There are 31 Indigenous communities on DOGITs in Queensland.<sup>12</sup>
- 2.16 A significant number of individual perpetual leases have also been granted throughout remote Indigenous townships under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* (LHA), primarily located in Cape York.<sup>13</sup>
- 2.17 Commercial investors and banks require secure tenure for loans and business investments, and the COAG Closing the Gap National Partnership Agreements (NPAs) for Remote Indigenous Housing and Remote Service Delivery require secure land title to underpin government investment. Under these NPAs the Queensland Government committed to reform land tenure and administration to facilitate commercial investment and home ownership on Indigenous land.<sup>14</sup>
- 2.18 Consistent with these commitments, the *Aboriginal Land Act 1991* and *Torres Strait Islander Land Act 1991* were amended to allow long term leasing (up to 99 years) of Indigenous land for private residential and commercial purposes.<sup>15</sup>
- 2.19 The Queensland Government is also taking steps to improve land administration in Indigenous communities. It has established an interdepartmental agency, the Remote Indigenous Land and Infrastructure Program Office, to develop land administration systems in remote Indigenous communities. This includes, for each community, surveying the land, establishing statutory town planning schemes to guide land use and development, negotiating Indigenous Land Use Agreements

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12 Wild Rivers Interdepartmental Committee, *Submission 31*, p. 24.

13 Wild Rivers Interdepartmental Committee, *Submission 3*, p. 24.

14 Wild Rivers Interdepartmental Committee, *Submission 31*, p. 24.

15 Wild Rivers Interdepartmental Committee, *Submission 31*, p. 24.

to facilitate social housing and private leasing, and negotiating leases to secure government investments. This work is ongoing.<sup>16</sup>

- 2.20 Given that Aboriginal Shire Councils have a significant role in leasing and town planning functions, the Queensland Government through its Department of Environment and Resource Management (DERM) has established the Indigenous Land Trustee Service Support Unit to help build the capacity of Aboriginal Shire Councils to undertake their functions relating to private residential and commercial leasing. As well, Queensland's Department of Communities is developing programs and policies to support home ownership on Indigenous lands, including determining methods for the valuation of leased lands. It released a discussion paper on this topic in November 2010.<sup>17</sup>
- 2.21 Both the Commonwealth and Queensland Governments are addressing the economic barrier that inalienability creates by working to establish long term leasing provisions which protect and acknowledge underlying title and facilitate opportunities for home ownership and commercial development under relevant legislation. They are also supporting local government councils to capacity build their expertise in land administration and planning.

## Industry sectors

### Minerals and Mining

- 2.22 Cape York consists of four main geological regions with differing mineral prospectivity. They are the Carpentaria, Cohen, Quinkan, and Cairns regions.<sup>18</sup>
- 2.23 Weipa and Cape Flattery are the two major mining operations in Cape York . In 2006, Rio Tinto Alcan (RTA) contributed \$364 million to the Weipa economy, representing 77 per cent of Weipa's total economic output.<sup>19</sup>
- 2.24 Mining growth will depend on global demand, financial markets and a range of local factors. These include water availability, energy supply,

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16 Wild Rivers Interdepartmental Committee, *Submission 31*, p. 25.

17 Wild Rivers Interdepartmental Committee, *Submission 31*, p. 25.

18 Wild Rivers Interdepartmental Committee, *Submission 31*, p. 10.

19 Wild Rivers Interdepartmental Committee, *Submission 31*, p. 14.

available skills, transport and infrastructure development, relationships with Indigenous communities, access to land, and government policy and incentives.<sup>20</sup>

- 2.25 The mining industry has played a significant role in supporting Indigenous people across Australia through employment and cultural recognition programs and the payment of royalties, however some witnesses are not in favour of mining on their land. The Pormpuraaw community stated:

Consultations held over recent years by both the Council and PL&SM with the Traditional Owners and the general Pormpuraaw Community, have fully, unambiguously confirmed that all forms of mineral exploration and mining development - from initial exploration through to actual mining of found deposits, proposed for the Pormpuraaw DOGIT area, now and into the future - are and will continue to be unanimously opposed by Thaayorre and Mungkan Traditional Owners, and the Pormpuraaw Community as a whole.<sup>21</sup>

- 2.26 Mr David Claudie from Chuulangun Aboriginal Corporation made a similar comment:

One thing about our homelands is that we cannot have mines, because it is not a sustainable industry. Our principle is that we have to look after our country in order to benefit economically.<sup>22</sup>

- 2.27 While mines will continue to operate in Cape York it is unlikely that the industry will provide a pathway to prosperity for every community.

## Indigenous workforce participation in the mining industry

- 2.28 The major mining operations at Weipa and Cape Flattery are the biggest single contributor to Indigenous employment with more than 270 Indigenous staff employed directly.<sup>23</sup>

- 2.29 Under the Australian Government and Minerals Council Memorandum of Understanding on Indigenous Employment and Enterprise (MOU), the Western Cape Regional Partnership Agreement was established. It is an agreement between four Cape York Indigenous Councils, the Minerals

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20 Wild Rivers Interdepartmental Committee, *Submission 31*, p. 12.

21 Ngamp inth Wantharr Yumpnham this is what we are going to do - Pormpuraaw Land & Sea Country Cultural and Natural Resource Management Plan 201-2015, *Committee exhibit*.

22 Mr David Claudie, *Committee Hansard*, Chuulangun, 8 March 2011, p. 1.

23 Queensland Government, *Submission 29*, p. 4.

Council of Australia, and the Australian and Queensland government. The Queensland Agreement is centred on Weipa and extends south to Aurukun and north to Mapoon.<sup>24</sup> It covers work readiness, transport to access employment, linking training to labour market participation, and supporting Indigenous business development.

#### **Recommendation 4**

- 2.30 **The committee recommends that the Commonwealth Government continues to partner with the mining industry to facilitate training and employment so that workforce participation in the industry becomes a mainstream employment option for Indigenous people.**

### **Agriculture**

- 2.31 In Cape York, opportunities for medium to large scale agriculture are limited due to the moderate quality of soils and constraints imposed by annual flooding of alluvial areas adjacent to watercourses. Potential does exist for smaller market gardens, fruit orchards and other mosaic style activities. These are seen as particularly important for both providing economic benefits, and a regular supply of produce for local communities (as currently exists at Napranum near Weipa).<sup>25</sup>
- 2.32 With its small internal market and distance to major external markets Cape York may have difficulty in sustaining not only competitive advantage, but also comparative advantage. That is, other regions closer to markets, with better supply chain links may be better placed to supply those markets. This has not been tested in the contemporary global environment and is a place to start in assessing industry feasibility.<sup>26</sup>

### **Cattle Grazing**

- 2.33 The cattle industry in northern Australia and Cape York is significant. It dominates the agricultural industry in the northern Australia region and has the potential for growth.<sup>27</sup>

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24 Wild Rivers Interdepartmental Committee, *Submission 31*, p. 15.

25 Australia Zoo, *Submission 10*, p. 6.

26 Kleinhart Business Consultants – ‘Cape York Peninsula Regional Economic and Infrastructure Framework Report’ November 2007, p. 13.

27 Wild Rivers Interdepartmental Committee, *Submission 30*, p. 31.

- 2.34 In its submission, Australia Zoo said that cattle grazing typically involves free range breeding on uncleared country, but that clearing for grazing has been minimal, and has often been unsuccessful due to vigorous sucker regrowth over subsequent wet seasons.<sup>28</sup>
- 2.35 The only abattoir currently in operation on the Cape is at Seisia in the far north. This provides an important local meat supply and employment for Northern Peninsula communities. An additional abattoir is currently being developed at York Downs via Weipa, and a fledgling live cattle export industry has commenced, with cattle being exported from Weipa in 2009 from York Downs and other cattle properties.<sup>29</sup>
- 2.36 Continued growth of the beef industry is likely due to a promising export outlook. Further growth can be achieved by investment in finishing cattle (fattening the cattle to market size) and processing meat in the north, and broadening farming business to include mixed crop-livestock systems based on irrigated pasture, fodder and other crops. Growth of the industry will also depend upon an increased water allocation and improved infrastructure.<sup>30</sup>
- 2.37 The Indigenous Land Corporation (the ILC) acquires and grants land to Indigenous corporations to build a secure and sustainable land base for Indigenous people. Properties are acquired for a range of reasons, including to: create or expand Indigenous businesses; generate employment; deliver social services; and protect significant environmental and cultural heritage values.
- 2.38 Further to land acquisitions and grants in the Cape York region, the ILC is involved with key land management projects in the region, including the Cape York Indigenous Pastoral Project. The ILC is currently assessing the proposed development of Billy's Lagoon as an ILC-operated pastoral business.<sup>31</sup>

## Tourism

- 2.39 The culture rich landscape and vast expanse of Cape York challenges and inspires travellers to this region. However tourism is seasonal and subject to factors such as global economic conditions, fuel prices and extreme weather events, and the fact that the average traveller chooses to be self

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28 Australia Zoo, *Submission 10*, p. 2.

29 Australia Zoo, *Submission 10*, p. 2.

30 Wild Rivers Interdepartmental Committee, *Submission 30*, p. 32.

31 Indigenous Land Corporation, *Submission 14*, p. 4.

sufficient. Between 60,000 and 70,000 people visit Cape York each year. Compared to Uluru (350,000) and Kakadu (160,000) these are small numbers.<sup>32</sup> Whilst tourism is an important contributor to the Cape York economy, it is a limited one. Mass tourism is not a feasible option for the Cape York Peninsula.<sup>33</sup>

- 2.40 The Queensland Government's own *Cape York Peninsula and Torres Strait Tourism Development Plan 2008-2011* recognises that whilst there are very real economic benefits that tourism is capable of generating, communities across Cape York are at different stages of understanding the tourism industry.<sup>34</sup>

During the inquiry, the Queensland Government announced its Sustainable Cape Communities initiative which includes the establishment of mentor networks to foster strong partnerships between corporate Australia, Indigenous communities and existing aspiring Indigenous entrepreneurs.

## Recommendation 5

- 2.41 **The committee recommends that the Queensland Government's mentors support network initiative be linked to Commonwealth Government initiatives for Indigenous small business development in business, tourism and administration.**

## Population and the labour market

- 2.42 Cape York is large and underdeveloped. It comprises 15 per cent of the area of Queensland, yet supports only 0.3 per cent of the State's population. Its residents are amongst the most disadvantaged in Queensland. Eighty three per cent of Cape York's population is in the most disadvantaged quintile (lowest 20 per cent of the State), while none are in the most advantaged quintile. Fifty-four per cent of Cape York's people aged 15 years and over have a gross weekly income of less than \$400 per week, compared with 40 per cent for the rest of Queensland.<sup>35</sup>

32 Balkanu Cape York Development Corporation P/L, *Submission 6*, p. 18.

33 Wild Rivers Interdepartmental Committee, *Submission 30*, p. 29.

34 [http://www.tq.com.au/tqcorp\\_06/fms/tq\\_corporate/destinations/tnq/plans\\_and\\_strategies/Cape%20York%20and%20Torres%20Action%20Plan/TQ\\_CapeYork\\_6pp.pdf](http://www.tq.com.au/tqcorp_06/fms/tq_corporate/destinations/tnq/plans_and_strategies/Cape%20York%20and%20Torres%20Action%20Plan/TQ_CapeYork_6pp.pdf) Accessed 4 April 2011.

35 Wild Rivers Interdepartmental Committee, *Submission 31*, pp. v-vi.

- 2.43 Institutional capacity and ability to engage with governance processes is low. This disadvantage is compounded by limited access to a range of services as well as 'soft' and 'hard' infrastructure. This relative economic disadvantage exists in all income bands.<sup>36</sup>
- 2.44 After New South Wales, Queensland has the second largest estimated resident Indigenous population. At 146,000 this is 28 per cent of the total Indigenous population of Australia.<sup>37</sup>
- 2.45 In the Cairns region, 7 per cent of the population is Indigenous, more than double the state average of 3.3 per cent.<sup>38</sup> Within that 7 per cent, there is a 19 percent unemployment rate, which is about twice the average of the Cairns region.<sup>39</sup>
- 2.46 Of Cape York's 14,406 inhabitants, 55 percent are Indigenous, compared with the Queensland state average.<sup>40</sup>

### Workforce participation in Cape York

- 2.47 Employment across the Cape York region (as of the most recent 2006 census) was dominated by public administration (approximately 2300 jobs). Other public services such as health care and social services provided approximately 800 jobs, and manufacturing provided approximately 700 jobs.<sup>41</sup>
- 2.48 Education and training (approximately 500 jobs), construction (approximately 400 jobs), retail trade (approximately 400 jobs), accommodation and food services (approximately 400 jobs), and agriculture, forestry and fishing (approximately 300 jobs), rounded out the main sources of employment in Cape York.<sup>42</sup>
- 2.49 Within these industry sectors, Indigenous people in Cape York were predominantly employed in public administration. Of the 2300 people employed in this sector, nearly 1800 were Indigenous. Health care and social assistance is the second largest employer of Indigenous people, with approximately 500 Indigenous people employed. This is followed by

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36 Wild Rivers Interdepartmental Committee, *Submission 31*, p. vi.

37 Professor Jon Altman, *Submission 15*, p. 3.

38 Cairns Regional Council, *Submission 13*, p. 1.

39 Ms Katrina Houghton, Cairns Regional Council, *Committee Hansard*, Cairns, 8 March 2011, p. 33.

40 Wild Rivers Interdepartmental Committee, *Submission 31*, p. v.

41 Wild Rivers Interdepartmental Committee, *Submission 31*, pp. 27-28.

42 Wild Rivers Interdepartmental Committee, *Submission 31*, p. 28.

education and training with approximately 170 Indigenous people employed, manufacturing, with approximately 120 Indigenous people employed, and agriculture, forestry and fishing, with approximately 110 Indigenous people with jobs.<sup>43</sup>

## Workforce Capacity

2.50 Balkanu Cape York Development Corporation said in its submission that

Cape York is suffering from an education crisis. Literacy and numeracy levels are considerably below those enjoyed in the broader community and for many people English is a second language. The rate of illiteracy in Cape York is unknown, but it would be fair to say that an overwhelming majority of indigenous people in the region would have only a rudimentary English literacy, if anything.<sup>44</sup>

2.51 The committee took evidence from Mr John Smith of Island and Cape, a locally owned Cairns-based grocery company with seven retail stores in the Torres Strait and Cape York region. Island and Cape has a 70 per cent Indigenous workforce. Mr Smith advised that the lack of skilled workforce was a barrier to employment. Island and Cape address this through certified training.<sup>45</sup>

## Consultation and consent on the *Wild Rivers Act 2005* (Qld)

2.52 The issue of consultation is a key driver of objections to the *Wild Rivers Act 2005* (Qld) (the Act). Some held the view that there had been no consultation at all. Mr Larry Woosup stated:

...this wild river thing is just a top-down approach. All of a sudden this legislation is declared. There is no consultation... It happened in the middle of the night. That is why there are some unhappy people around the cape.<sup>46</sup>

2.53 In contrast others said that there had been consultation. The Carpentaria Land Council Aboriginal Corporation (CLCAC) said that in April 2006 it

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43 Wild Rivers Interdepartmental Committee, *Submission 31*, p. 28.

44 Balkanu Cape York Development Corporation P/L, *Submission 6*, Attachment A, p. 13.

45 Mr John Smith, *Committee Hansard*, Cairns, 8 March 2011, p. 44.

46 Mr Larry Woosup, *Committee Hansard*, Weipa, 30 November 2010, p. 97.

made submissions on behalf of the Traditional Owners in respect of each of the proposed declarations following consultation with the Traditional Owners and, where relevant, native title claimants. The CLCAC itemised those who consented:

*The Gangalidda and Garawa Peoples, as Traditional Owners, and as the largest property holder in the area covered by the proposed Settlement Creek declaration area, advise of their overwhelming support of the declaration of both Settlement Creek and Gregory Rivers as Wild Rivers.*

*The Waanyi People, as Traditional Owners, and as property holders in the area covered by the proposed Gregory River declaration area, advise of their overwhelming support of the declaration of the Gregory River as a Wild River.*

*The Kurtijar People support of the declaration of the Staaten River as a Wild River.*

*The Kukatj People support of the declaration of the Morning Inlet as a Wild River.<sup>47</sup>*

- 2.54 The Queensland Government advised that its wild rivers policy consultation paper was circulated to key stakeholder representative groups including native title bodies and other peak Indigenous groups (Carpentaria, Cape York, and far north Queensland land councils, Balkanu Cape York Development Corporation and the Queensland Indigenous Working Group), conservation groups, Queensland Resources Council and AgForce. The Queensland Government advised that “Submissions from these and other key stakeholder groups were considered in the drafting of the Wild Rivers Bill 2005<sup>48</sup>”
- 2.55 Each of the consultation reports are publicly available on the Queensland Government’s website. The Wenlock Basin Wild River Declaration Consultation Report states that the Queensland Government sought advice from the Human Rights Equal Opportunity Commission and was referred to the *Engaging the Marginalized: Partnerships Between Indigenous Peoples, Governments and Civil Society* paper”. It then says that Departmental staff actively sought and followed advice from local Indigenous people, Traditional Owners and Indigenous organisations in regards to who to speak with, and what forms of engagement were appropriate. It says that Departmental officers conducted numerous meetings on country with Traditional Owners and Indigenous communities. Traditional Owners, people within Indigenous
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47 Carpentaria Land Council Aboriginal Corporation, *Submission 24*, p. 3.

48 Queensland Government, *Submission 29*, p. 13.

communities, clan groups, interest groups and peak bodies were all engaged, and consulted about the wild river declaration process. Follow-up meetings were also held after the close of the formal submissions period to ensure that the consultation with Traditional Owners and other stakeholders was comprehensive and effective.<sup>49</sup>

- 2.56 Despite this, many thought that although consultation occurred, it took the form of delivering information rather than sitting down with people to work through issues, problems and solutions. It was this lack of engagement that has led to perceptions that decision making powers about land have been taken away. Miss Tracey Ludwick states:

They may have come here. They may have talked to the people, but they did not ask the people what they wanted. They just came in here....They are the people making decisions across my land, my aunties' land and my brothers' land, and we do not have a say in it.<sup>50</sup>

- 2.57 Although land holders have a role under the Act, their consent is not required for a declaration to be made. This arrangement is akin to the range of planning and conservation legislation throughout Australia. However many groups believed that land holder consent was required under the Act through its native title provisions, through provisions under the *Native Title Act 1993* (Cth), and through Article 19 of the United Nations Declaration of the Rights of Indigenous peoples (DRIP).
- 2.58 While the DRIP sets important principles for the fundamental human rights of Indigenous people, it is not legally binding and does not have a technical effect on Australian law.

## Conclusions

- 2.59 The committee acknowledges the concerns raised during the inquiry about consultation under the Act.
- 2.60 The committee was presented with evidence that in some cases the QLD Government consulted and engaged effectively with stakeholders. The several amendments of the Act after consultations has demonstrated that the Queensland government has effected negotiated outcomes. In addition, declarations have been varied as a result of consultation. For example, the High Preservation Area at Breakfast Creek (Stewart Basin

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49 <http://www.derm.qld.gov.au/wildrivers/wenlockbasin/declaration.html> Accessed 4 April 2011.

50 Ms Tracey Ludwick, *Committee Hansard*, Weipa, 30 November 2009, p. 17.

Declaration) was originally proposed at 1km but was reduced to 500m after consultation with Traditional Owners. Consultation can and does work but it requires both the Queensland Government and stakeholders ensuring that consultation and engagement is effective.

- 2.61 While stakeholder views about the extent and nature of consultation were varied, effective and meaningful engagement with Indigenous people is essential to the ongoing operation of the Act.
- 2.62 This chapter makes a number of recommendations on how all parties including the Queensland Government could work together to develop policy solutions to ensure consultation and engagement is effective.

### **Recommendation 6**

- 2.63 **The committee recommends that the QLD Government strengthen its consultation and engagement framework for the *Wild Rivers Act 2005* (Qld). The committee notes that the establishment of Indigenous reference committees group under the Cape York Sustainable Communities initiative is intended to address this and to work directly with Indigenous stakeholders on improving the wild rivers consultation process.**

### **Speaking for country and “own representative institutions”**

- 2.64 Several times the committee heard contested authority to speak for country, most notably during the March 2011 hearings in Cairns, when the committee received a letter and maps from the Lama Lama Land Trust in which it advised that the Kulla Land Trust is made up of four clan groups Kaanju, Umpila, Lama Lama and Ayapathu<sup>51</sup>. Concerning the Kulla Land Trust submission to the inquiry (sub 28), it said:

...We are concerned that the decision to provide a submission, and its drafting was made ...without consultation or consent from the wider Lama Lama clan group and this may not be in our best interests as traditional owners<sup>52</sup>

- 2.65 The following day, the committee Chair advised Kulla Land Trust of this complaint. Its response was:

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51 *Committee exhibit*, Lama Lama Land Trust letter 7 March 2011, p. 1.

52 *Committee exhibit*, Lama Lama Land Trust letter 7 March 2011, p. 2.

it is not correct for you to describe Lama Land Trust as being consistent with Kulla Land Trust. There is an overlapping membership...<sup>53</sup>

- 2.66 The committee makes no judgement about these statements. However they do indicate how vexed the issue of right to speak for country is.
- 2.67 Despite an elected Shires' authority to speak for its constituents, some felt that their shire had no right to speak for them. Miss Tracey Ludwick and Mrs Marilyn Wallace stated:

“When it comes to land, I do not think it is appropriate for people to make a decision as a community, because we have traditional owner groups who are not people of the same clan. If you go to somewhere like Hope Vale, there are 13 different clans down there. In a community council you cannot make decisions on other people's land. That would be disrespectful to those people. That is the customary Aboriginal way of doing things. We have a different perspective on land. To us, land does not just mean money and the economy; it means a whole lot of other things.”<sup>54</sup>

With the Cook shire, we recognise them as our shire but they do not speak on behalf of us.<sup>55</sup>

- 2.68 The authority of registered Native Title Representative Bodies (NTRBs) established under the *Native Title Act 1993* (Cth) to speak on behalf of others who identified as traditional owners was also questioned. Mr David Claudie, Mr Jimmy Richards and Ms Gina Castelain stated:

But, to consent, I have to get the consent from the native title representative body's groups that they set up, which do not belong to these homelands. That is not right.<sup>56</sup>

So it is actually giving us, the Indigenous people down the bottom, the rights to speak for that country, whereas native title will not, because they ask you to draw that line<sup>57</sup>

The way things have been established under the Native Title Act is not in line with our traditional way of decision making processes<sup>58</sup>

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53 *Committee Hansard*, Cairns, 7 March 2011, p. 6.

54 Miss Tracey Ludwick, *Committee Hansard, Weipa*, 30 November 2010, p. 18.

55 Mrs Marilyn Wallace, *Committee Hansard Cairns*, 8 March 2011, p. 59.

56 Mr David Claudie, *Committee Hansard, Chuulangun*, 7 March 2011, p. 2.

57 Mr Jimmy Richards, *Committee Hansard, Chuulangun*, 7 March 2011, p. 13.

58 Ms Gina Castelain, *Committee Hansard, Chuulangun*, 7 March 2011, p. 3.

2.69 An expert on land law, Dr Chris McGrath, acknowledged that Native Title issues are very complicated. He said:

I am aware of the minefield that ultimately results when you try to define who is the traditional owner for particular land. I cannot really go further than saying that I think there is a minefield there, but probably no more of a minefield than the native title legislation already has, because that is often so difficult and there are often competing claims, as you know. It is a very problematic issue.<sup>59</sup>

## Conclusions

2.70 The complexity and variety of local government, legislative and tenure frameworks laid over the top of traditional boundaries and governance frameworks makes the issues of authority to speak for country complex and vexed. Traditional laws and customs define native title rights and interests, which means that they often do not correspond with common law property rights.<sup>60</sup>

2.71 In respect of the wild river areas, the committee notes and approves of the Queensland Government's Sustainable Cape Communities Initiative, announced during the inquiry; and in particular the establishment of Indigenous Reference Committees. Minister Jones stated they 'will be established to ensure members can directly advise the Minister about declaration proposals as well as their community's aspirations for future economic development'.<sup>61</sup>

2.72 The committee considers that Indigenous Reference Committees have considerable potential as a consultation mechanism and would like to see the reports made available to all Indigenous communities in Queensland.

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### Recommendation 7

**2.73 The committee recommends that the Indigenous Reference Committee framework be developed and extended to service Indigenous peoples throughout Queensland on issues relating to economic development.**

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59 Dr Chris McGrath, *Committee Hansard*, Canberra, March 23, 2011, p. 2.

60 *Australian Native Title Law*, Melissa Perry and Stephen Lloyd, p. 13.

61 Hon. Kate Jones MLC, Minister for Environment and Resource Management, 'New Wild Rivers initiative gives power to Indigenous Cape Communities', *Media Release*, 9 March 2011.

**It is important that all stakeholders be engaged in this process and endorse the framework.**

## **The *Wild Rivers Act 2005* (Qld) and Indigenous economic development**

- 2.74 The *Wild Rivers Act 2005* (Qld) (the Act) is designed to protect and conserve environmental values by regulating and limiting the impacts of human activity to ensure ongoing generational benefit.
- 2.75 The Act is a framework which regulates development under a suite of laws in Queensland including the *Sustainable Planning Act 2009* (Qld), the *Vegetation Management Act 1999* (Qld) and the *Water Act 2000* (Qld).
- 2.76 The committee heard from people who were unsure as to what developments were permitted under the legislation, and from others who felt that they understood it but were under-resourced to develop projects in wild river areas.
- 2.77 Some were concerned that not enough scientific rigour had been used in consideration of the extent of High Preservation Areas and Preservation Areas.
- 2.78 Principle 15 of the United Nations Rio Declaration on Environment and Development<sup>62</sup> says:
- In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.
- 2.79 Some groups believed that the high preservation area (HPA) was one kilometre uniformly across all declared areas. This is not the case. Furthermore, the HPAs' extent have been varied after consultation. For example at Breakfast Creek (Stewart Basin Declaration) the HPA was proposed as 1km but was reduced to 500m after consultations with Traditional owners, and the extent of the Embley Range special feature (Wenlock declaration) was reduced after consultation with TO's and other landholders.<sup>63</sup>

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62 <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm> Accessed 4 April 2011.

63 [http://www.derm.qld.gov.au/wildrivers/wenlock\\_hydro.html](http://www.derm.qld.gov.au/wildrivers/wenlock_hydro.html) Accessed 4 April 2011.

## Capital for developments

- 2.80 Witnesses noted that, even with an understanding of the complex development processes, lack of resources and capital were significant barriers to the extent that some might give up altogether. Miss Tracey Ludwick stated:

They will not personally have the money. They can go for funding. We have quite a few trusts around that people can get funding out of. With a lot of those trusts that are setup by the mining companies, we cannot get money out of them for businesses anyway because they are charitable trusts, so we still have to go to the bank or to the government and put in applications there to get money for small projects. And then we have to get these consultants into the cape to administer the money. We have to get corporations involved to house the money.

Wild rivers has just added to the difficulties of the Indigenous people of Cape York in trying to find some sort of opportunity to get out of poverty.

The reality of Cape York is that at least 90 per cent of people are on CDEP – that is \$240 a week....

They cannot walk into a bank and say, 'Here, I'll mortgage my house.' What house? We do not own homes up here – maybe a few people do, but we do not own homes. I cannot mortgage my car; it is still on a lease...For their funding submissions, you have to have two degrees to be able to fill out one of those. That is what stops people: you go and you see this five-, 10- or 15-page submission guideline.<sup>64</sup>

## Conclusions

- 2.81 The committee acknowledges the Queensland Governments Sustainable Cape Communities initiative announced during the inquiry, in particular its commitment to review the existing planning and development framework to ensure it does not act to limit economic growth in the region and where appropriate, to simplify processes.
- 2.82 The committee also notes that this commitment includes working directly with local government councils and Indigenous Reference Groups to ensure more representative consultation mechanisms, to enable local, on

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64 Miss Tracey Ludwick, *Committee Hansard*, 30 November 2010, Weipa, p. 19.

the ground input to regional development planning, and to capacity build Indigenous stakeholders.

- 2.83 The committee also notes the initiative's commitment to foster economic development opportunities for Indigenous stakeholders and private enterprise through a mentor support network.

### **Recommendation 8**

- 2.84 **The committee recommends that the Queensland Government provides information to Indigenous communities and individuals which assists them to step through the operation of the *Wild Rivers Act 2005 (Qld)* and other conservation and land management legislation.**

### **The *Wild Rivers Act 2005 (Qld)* and mining**

- 2.85 Cape Alumina said that Act had a significant impact on its operations in western Cape York and had rendered its Pisolite Hills bauxite mining project unviable under forecast economic conditions.<sup>65</sup>
- 2.86 Cape Alumina also said that the projects' Indigenous Land Use Agreement (ILUA) was at an advanced stage of negotiation with the Traditional Owners as well as other aboriginal stakeholders in the region and provided for employment, business development and training opportunities for the Traditional Owners and for their participation in decision making that might have an environmental or cultural impact on the project area.<sup>66</sup>
- 2.87 In relation to the Pisolite Hills Project, the Queensland Government's submission advised that:

The exploration permits that were held by the company extended over areas that included high preservation areas, and though they could continue to apply to mine over areas outside of the high preservation area, the scope of their project was changed by the declaration. As the mine proposal was at the exploration stage, it had not yet received an approval to mine, and there was no guarantee that such an approval would be granted. Due to the presence of rare and threatened species on and adjacent to an area known as the Coolibah Springs on the lease area, the project

65 Cape Alumina, *Submission 30*, p. 1.

66 Cape Alumina, *Submission 30*, p. 3.

would need to satisfy requirements under other legislation including the *Environmental Protection Act 1994* and the *Environment and Biodiversity Protection Act 1999* (Cwth).<sup>67</sup>

- 2.88 The Queensland Resources Council said that it was concerned about the future of resource industry projects in the Lake Eyre Basin subject to the Queensland government's declaration proposals for the Cooper Creek, Georgina and Diamantina Rivers. It noted that BHP Billiton's Cannington mine proposal to extend the life of the mine to 2022 will generate an additional 140 employees during the construction phase, as well as 60 full-time jobs during operation.<sup>68</sup>
- 2.89 The Queensland Government advised in its submission that 37 mining exploration permits have been issued since the wild rivers declarations and that this is indicative of an industry confident that, in the more than 80 per cent of the wild river area where mining can occur, it is worth continuing to explore for resources. It said two mines have been approved in wild river areas – the Legend phosphate mine, and the Lady Annie Mine, both in the Gregory wild river area. It said wild rivers pose no threat to development that does not have detrimental impact on the rivers.<sup>69</sup>

## Conclusions

- 2.90 The Act and other legislation regulate mining projects because they are designed to do so. Mining companies need to work with governments to find ways to develop sustainable mining practices.
- 2.91 In the context of this inquiry, it has been noted that participation in the mining industry ought not to be regarded as the only pathway to Indigenous economic development.

## The *Wild Rivers Act 2005* (Qld) and tourism

- 2.92 Ms Gina Castelain of Wik Projects, a tourism venture in the Arukun region, said that the wild rivers legislation is not an impediment.

For my business it is positive because it actually supports us and our values. It is in line with our objectives and our values about looking after these rivers. Right now it is positive. We have got plans to build a second boat. We have got plans at the moment to

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67 Queensland Government, *Submission 29*, p. 34.

68 Queensland Resources Council, *Submission 11*, p. 11.

69 Queensland Government, *Submission 29*, p. 2.

build lodges as well for the fishing clients. To run a business is not easy. You have to go through approvals, council permits. The numbers of hoops you have to jump through to set up any business is not easy; not everyone can do it. Luckily for us we have got good advisers. We have people who support our vision. So, yes, right now it is actually in line with our values.<sup>70</sup>

## The *Wild Rivers Act 2005* (Qld) and cattle

- 2.93 In relation to pastoral operations, the wild river declarations affect a number of ILC land interests on Cape York Peninsula. All or part of the following ILC-acquired properties fall within current wild rivers areas:
- Geikie Station;
  - Merepah Station;
  - Silver Plains; and
  - Bulimba.
- 2.94 Geikie, Silver Plains and Bulimba have been divested to local Indigenous groups, but the ILC continues to operate a pastoral business on Bulimba. The ILC holds title to Merepah and operates a pastoral business on the property.
- 2.95 On 6 May 2009, the ILC applied to the Queensland Department of Environment and Resource Management (DERM) for approval to clear vegetation and construct fence lines traversing a number of watercourses in the Archer Basin wild river area. This application was assessed against Part P of the *Wild Rivers Code* and was approved in full on 16 July 2009.
- 2.96 In Brisbane on Thursday 9 March the committee asked the ILC what effect that the Act would have on its Billy Lagoon Project near Napranum. The ILC replied:
- Our initial investigations have revealed that the Wild Rivers declaration is not expected to significantly disadvantage the proposed establishment of a cattle business and training facility at Billy's Lagoon<sup>71</sup>

## The *Wild Rivers Act 2005* (Qld) and Natural Resource Management

- 2.97 The Queensland Government's Wild River Rangers program was universally well regarded. Although not directly connected to the Act, this

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<sup>70</sup> Gina Castelain, *Committee Hansard*, 7 March 2011, Chuulangun, p. 8.

<sup>71</sup> Letter from ILC *Committee exhibit*, 15 April 2011.

initiative is linked to it and some have leveraged off this program and other natural resource management programs into capacity building their communities. Mr David Claudie stated:

We set up ranger programs and we do get employment. We got a capacity from the federal government's working on country program to employ three and then we got the wild rivers one, with another three there, so that is six. We have an IPA here, which is 200,000 hectares of our whole 840,000 hectares, and we used that as a base for what we achieve in terms of land management and towards setting up businesses and working relationships between us and businesses on a big scale in Queensland or, for that matter, all over Australia.<sup>72</sup>

## Conclusions

- 2.98 There are many barriers to Indigenous economic development in Cape York (and Queensland). Apart from the underdeveloped nature of the region, barriers to development are capacity constraints in Indigenous communities and community organisations. Addressing poor education and literacy levels, workplace readiness and participation and organisational governance and expertise will greatly assist people to make choices about their own livelihoods and opportunities.
- 2.99 A diverse, integrated economy is inherently more robust and sustainable than an economy that comprises a restricted number of sectors. A diverse economy is less prone to seasonality, provides greater economies of scale offers more opportunities to small business, provides more choice of employment and enables transfer of skills and technology.<sup>73</sup>
- 2.100 With so many factors affecting Indigenous economic development in Queensland, it is imperative and urgent that Indigenous people be supported to engage in analysing opportunities in community, hybrid and mainstream economies determining and participating in capacity building their own future. Tracey Ludwick summed this up in evidence: 'The approach should be from the grassroots up, not from the top down.'<sup>74</sup>

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72 Mr David Claudie, *Committee Hansard*, 8 March 2011, Chuulangun, pp. 1-2.

73 Balkanu Cape York Development Corporation P/L, *Submission 6:1*, p. 3.

74 Miss Tracey Ludwick, *Committee Hansard*, 30 November 2010, Weipa, p. 17.

## Opportunities

### Current economic conditions

- 2.101 The economy in Cape York is very different to the rest of the Queensland and Australian economies. It does not have the breadth of inter-related industries that would typically trade with each other and sustain a basic level of economic activity. Rather, it largely depends on trade with the remainder of Australia for goods and services that would usually be internally generated.<sup>75</sup>
- 2.102 This is reflected in the employment profile of the Cape. The most jobs, both generally and in the Indigenous population, are in public administration and public services such as health. The most private sector jobs are in mining.<sup>76</sup>
- 2.103 One effect of this is that establishing and running a business is much more difficult than in cities and towns. Mr David Donald, a tourist operator in the Cape, described it as follows:

The cape is so far away from everyone. People drop in for a couple of hours or a couple of days and then go back to the wilds of Brisbane and Canberra. They have absolutely no comprehension of what it is like to live here and to run a business here. We do not just go down to the corner store and buy things. We have to source stuff from Cairns, which is 850 kilometres away – things like that. We have transport difficulties. The roads close for four months of the year and we cannot get things even. We are looking at a totally different situation and almost a totally different country to what normal society operates under.<sup>77</sup>

- 2.104 This economic isolation has two effects. Firstly, unemployment rates are higher in the Cape. The Department of Education, Employment and Workplace Relations stated in evidence that official unemployment rates in some communities are as high as 27 per cent.<sup>78</sup> In addition, it is accepted by Cape York locals that the real unemployment rate is much higher than the official figure.<sup>79</sup>

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75 Mr Andrew Tongue, Department of Families, Housing, Communities and Indigenous Affairs, *Committee Hansard*, Canberra, 26 November 2010, p. 3.

76 Wild Rivers Interdepartmental Committee (WRIC), *Submission 31*, pp. 27-28.

77 *Committee Hansard*, Weipa, 30 November 2010, p. 9.

78 Ms Joanne Wood, *Committee Hansard*, Canberra, 26 November 2010, p. 21.

79 WRIC, *Submission 31*, p. 67.

- 2.105 Secondly, there are few local jobs for Indigenous school leavers and they must often leave the area if they want paid employment. This then means that local communities lose potential future leaders. Councillor Joseph Elu, Mayor of the Northern Peninsular Area Regional Council (NPARC), stated in evidence:

The thing is there are not many jobs here. To educate kids to a level of parity with kids elsewhere in Queensland or around Australia, most of them will have to leave here to find jobs ... Kids look out the window and see most of their uncles and aunties wandering the streets without jobs and on the dole. They say, 'Why should I get educated if I am going to end up out there?' Some kids go through it and find work with the council here for a bit and then they have to go to Cairns or Townsville, or wherever, to find work. The system here is only feeding the system outside. It is about those kids who see their uncles and aunties wandering around out there. If you are born in a house where your parents are unemployed and their parents were unemployed for umpteen years, you get the message that employment is not worth anything to you.<sup>80</sup>

- 2.106 This then makes it difficult to address skill shortages. The Director of NPARC, Mr Alex Barker, stated that there was a \$2 million project to renovate a local school, but all the workers were sourced externally.<sup>81</sup>
- 2.107 By definition, regional areas will generally have a narrower skill base than centres of economic activity. The question is whether they have a sufficient nucleus of skills to be self-sustaining and Cape York falls short of this.
- 2.108 The committee is of the view that Indigenous people are well placed to determine for themselves how to balance their customary activities and their participation in the market. Chuulangun Aboriginal Corporation exemplified this hybrid economy.

## Supporting the Cape York economic development plan

- 2.109 During evidence, Ms Katrina Houghton from the Cairns Regional Council stated that the challenges in Indigenous development vary greatly from area to area. She also stated that, as a local body, the Council would

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80 *Committee Hansard*, Bamaga, 1 December 2010, p. 13.

81 *Committee Hansard*, Bamaga, 1 December 2010, p. 23.

benefit from having a strategy, endorsed at a higher level, that would give them some direction for local action:

... there is no real localised economic development strategy for the Indigenous community ... There is the Indigenous employment strategy at the federal level; however, it does not break it down into local government areas to provide us with recommendations that we may be able to pass on to the community ... We would make it a priority to provide an opportunity to have a local employment strategy for this particular region.

... Essentially, the challenges and opportunities that face the Indigenous community differ in every local government area. The challenges that Indigenous Australians face in inner city Brisbane are very different to what they are facing in Cairns. From attending several Indigenous forums and the like, we have found that there is not a real direction in that community and we feel that a local Indigenous economic development strategy would help to provide that support to that community.<sup>82</sup>

2.110 The committee received two other viewpoints on local Indigenous development plans. Mr David Galvin from the Indigenous Land Corporation stated that the value of such a plan largely depended on its content and whether it had an active role: 'There are a lot of good plans sitting on shelves, as they say'.<sup>83</sup> The committee appreciates this advice. One way of making a plan relevant would be to properly consult with Indigenous communities in developing it.

2.111 The Queensland Government was very supportive of developing a plan for Cape York. Mr John Bradley from the Department of Environment and Resource Management stated:

We would like to, with assistance and input from the Commonwealth government, focus on preparing a very clear, strategic economic development plan for Cape York which increases the impetus of economic development, but does so on a basis of recognising Indigenous communities' economic aspirations.<sup>84</sup>

2.112 On the same day as this hearing, the Queensland Government announced its Sustainable Cape Communities Initiative, which includes an economic development plan for Cape York and a focus on nature-based

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82 *Committee Hansard*, Cairns, 8 March 2011, pp. 32-33.

83 *Committee Hansard*, Cairns, 8 March 2011, p. 83.

84 *Committee Hansard*, Cairns, 8 March 2011, pp. 48-49.

opportunities that capitalise on the region's natural values.<sup>85</sup> One of the themes of this inquiry is that these natural values have been preserved and enhanced by the Act. The committee supports this initiative and is of the view that the Commonwealth should work co-operatively with the Queensland Government in developing the Initiative. A regional plan will be able to target issues relevant to each locality and maximise program effectiveness.

### **Recommendation 9**

- 2.113 The Commonwealth support the Queensland Government in developing its strategic regional economic development plan for Cape York under its Sustainable Cape Communities initiative.**

### **Partnerships**

- 2.114 The role of government in Indigenous economic development is to be a facilitator. Although Indigenous communities benefit from public sector employment and participating in the customary sector, they will have more choices and will have a larger role to play in society if they increase their private sector employment as well. In evidence, Mr Gerhard Pearson of Balkanu Cape York Development Corporation stated that this was one of their aims.<sup>86</sup> He also stated that governments should focus on co-ordinating partnerships:

Because you have the money, the programs and the truckloads of bureaucrats, the government's role must not be one where you disempower the community in bringing solutions. Your role is to assist in coordinating the partnership between the corporates, the philanthropics, the community and us.<sup>87</sup>

- 2.115 Governments already conduct some of this work, or at least recognise that they should do so. For example, the Commonwealth's draft Indigenous Economic Development Strategy discusses developing partnerships with the private sector to find mentors for Indigenous business people and to match employment supply with demand.<sup>88</sup> The Queensland Government

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85 Hon. Kate Jones MLC, Minister for Environment and Resource Management, 'New Wild Rivers initiative gives power to Indigenous Cape Communities', *Media Release*, 9 March 2011.

86 *Committee Hansard*, Cairns, 29 November 2011, p. 14.

87 *Committee Hansard*, Cairns, 29 November 2011, p. 14.

88 Australian Government, 'Indigenous Economic Development Strategy: Draft for consultation', May 2010, < <http://resources.fahcsia.gov.au/IEDS/> > viewed 11 April 2011.

has helped establish an arts hub and arts fair to build the profile of Indigenous artists.<sup>89</sup>

- 2.116 The Queensland Conservation Council recommended that governments should support the creation of more business hubs, particularly in cultural and conservation economies.<sup>90</sup> This is clearly an area of comparative advantage for Indigenous people, although business hubs could be created in other industries if Indigenous people preferred.
- 2.117 The committee would like to see the Commonwealth and Queensland governments do more to support Indigenous business hubs and other types of partnerships because this would be a vocational, hands-on way for Indigenous people to pick up relevant skills and advice. Further, this is sought after by one of the main Indigenous development bodies in the region and is seen by Indigenous people themselves as a priority. The Queensland Government's Sustainable Cape Communities initiative would be a suitable vehicle for achieving this.

### **Recommendation 10**

- 2.118 **In consultation with Indigenous communities, the Queensland Government increase opportunities for Indigenous business partnerships under its Sustainable Cape Communities initiative.**

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89 *Submission 29*, p. 40.

90 *Submission 19*, pp. 2-3.



## The Wild Rivers (Environmental Management) Bill 2010

### Background

3.1 The Bill was introduced on 15 November 2010 as a Private Member's Bill by the Leader of the Opposition, the Hon Tony Abbott MP.

### Purpose and overview of the Bill

3.2 The Bill contains six substantive provisions. They are:

- a proposed section 3 which has expanded definitions of 'Aboriginal land' and 'owner';
- a proposed section 4, which states:
  - ⇒ the Commonwealth relies on its legislative powers under section 51(xxvi) of the Constitution, and any other express or implied legislative Commonwealth power capable of supporting the enactment of the Bill;
  - ⇒ it is the Parliament's intention that the Bill be a special measure for the advancement and protection of Australia's Indigenous people;
  - ⇒ it is the Parliament's intention that the Bill protect the rights of traditional owners of native title land within wild river areas to own, use, develop and control that land; and
  - ⇒ should the enactment of the Bill result in the loss of employment by persons employed or engaged to assist in the management of a wild

river area then the Commonwealth Government should provide employment to those persons in accordance with details specified in the regulations.

- a proposed section 5, which provides that the development or use of native title land in a wild river area cannot be regulated under the Queensland Act unless the Aboriginal traditional owners of the land agree in writing;
- a proposed section 6, which provides that agreement of native title holders under the proposed section 5 may be obtained by the registration under Sections 24BI, 24CK and/or 24CL of the *Native Title Act 1993* which includes a statement to the effect that the parties agree to an area of land being regulated.
- a proposed section 7, which provides that a wild river declaration made before the commencement of the Bill (should it become an Act) will be valid until a fresh declaration is made with the agreement of the Aboriginal traditional owners of the land or six months elapse from the commencement of the Bill, whichever is the first; and
- a proposed section 8, which grants the Governor-General a discretionary power to make regulations for the purposes of the Bill, including:
  - ⇒ for seeking the agreement of Aboriginal traditional owners under the Bill;
  - ⇒ for negotiating the terms of the agreement;
  - ⇒ for giving and evidencing the agreement; and
  - ⇒ for the continued employment of all existing Aboriginal people and other people in its implementation.

## **Analysis of the Bill and its provisions**

### **Overview**

- 3.3 The Bill has a number of problems. Many of the criticisms received during the inquiry are that the Bill is poorly worded, confusing and unworkable. Chuulangun Aboriginal Corporation provided a succinct summary:

The Bill makes allowance for declaration of a wild river only with the consent or 'agreement' of 'owners'. Further, the Bill states: 'The development or use of Aboriginal land in a wild river area

cannot be regulated under the relevant Queensland legislation unless the owner agrees in writing.’ There is no clarity in the Bill about what is meant by the concepts ‘consent’, ‘agreement’ and ‘owner’? Consent and agreement are not properly defined, and the Bill provides eight different definitions of ‘owner’.<sup>1</sup>

3.4 The Bill is unclear in its intention. Further, it lacks detail as to how to achieve its underlying intentions. The Queensland Conservation Council noted:

... the terminology of the Bill is extremely vague and nebulous and does not really describe well what it is intended to do. ... while we acknowledge that there are reasons behind this Bill being presented, we do not necessarily think that it has been overly well crafted or targeted at the right area to achieve the outcomes that we think it is supposed to be addressing.<sup>2</sup>

3.5 The Bill’s structure and content also result in an ‘over-reach’ which would likely result in some form of legal or constitutional challenge. By stipulating that Indigenous owners must provide ‘consent in writing’, the Bill provides those owners with a veto power that no other Australians have.<sup>3</sup>

3.6 While the DRIP sets important principles for the fundamental human rights of Indigenous people, it is not legally binding and does not have a technical effect on Australian law.

3.7 These points will be expanded upon further in the specific analysis of the Bill’s clauses below.

## Clause 3

### Background

3.8 Clause 3 provides definitions for the Bill’s relevant terms. While some of these definitions are uncontroversial, others have been questioned – particularly the eight definitions of what constitutes ‘Aboriginal land’ and that of an ‘owner’.

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1 Chuulangun Aboriginal Corporation, *Submission 22*, p. 15.

2 Mr Nigel Parratt, Rivers Project Officer, Queensland Conservation Council, Committee *Hansard*, 9 March 2011, p. 70.

3 Mr John Bradley, Director-General, Queensland Department of Environment and Resource Management, *Committee Hansard*, 9 March 2011, p. 51.

3.9 The Bill states that it is ‘to protect the interests of Aboriginal traditional owners in the management, development and use of native title land situated in wild river areas.’ However, the legislation provides six other categories of Aboriginal land.<sup>4</sup> For the purposes of the Bill, ‘Aboriginal land’ means:

- (a) Aboriginal land under the *Aboriginal Land Act 1991 (Qld)*;
- (b) land where native title exists;
- (c) a lease under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985 (Qld)*;
- (d) deed of grant in trust land under the *Land Act 1994 (Qld)* granted for the benefit of Aboriginal people;
- (e) a reserve under the *Land Act 1994 (Qld)* for a community purpose that is, or includes, Aboriginal purposes;
- (f) freehold, or a term or perpetual lease under the *Land Act 1994 (Qld)*, held by, or in trust for, an Aboriginal person or an Aboriginal corporation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth)*;
- (g) the Aurukun Shire lease under the *Local Government (Aboriginal Lands) Act 1978 (Qld)*.

3.10 Similarly, the definitions of ‘owner’ are quite broad. For the purposes of the Bill, ‘owners’ means:

- (a) for Aboriginal land under the *Aboriginal Land Act 1991 (Qld)* – the grantees of Aboriginal land under that Act;
- (b) for land where native title exists – native title holders under clause 224 of the *Native Title Act 1993*;
- (c) a lease under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985 (Qld)* – the lessee;
- (d) deed of grant in trust land under the *Land Act 1994 (Qld)* granted for the benefit of Aboriginal people – the grantee;
- (e) a reserve under the *Land Act 1994 (Qld)* for a community purpose that is, or includes, Aboriginal purposes – the trustee of the reserve;
- (f) for freehold held by, or in trust for, an Aboriginal person or an Aboriginal corporation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth)* – the registered proprietor under the *Land Title Act 1994 (Qld)*;
- (g) for a term lease or perpetual lease under the *Land Act 1994 (Qld)* held by, or in trust for, an Aboriginal person or an Aboriginal corporation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth)* – the lessee;
- (h) the Aurukun Shire lease under the *Local Government (Aboriginal Lands) Act 1978 (Qld)* – the Aurukun Shire Council.<sup>5</sup>

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4 Australians for Native Title and Reconciliation (ANTaR), *Submission 23*, p. 5.

5 Wild Rivers (Environmental Management) Bill 2010,  
[http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r4467\\_first/toc\\_pdf/10258b](http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r4467_first/toc_pdf/10258b)

## Analysis

- 3.11 The definitions of both ‘Aboriginal land’ and ‘owner’ are so broad as to cause confusion and possibly bring the Bill into conflict with other legislation, such as the Commonwealth *Native Title Act 1993*. With specific focus on ‘Aboriginal land’, The Queensland Government observed:

The ‘Definitions’ (clause 3) state that Aboriginal land is to include land where native title exists – under the principles of the *Native Title Act* this may include land where native title has not necessarily been resolved.

If the Bill is intended to extend the rights afforded to native title holders, a more appropriate mechanism would be amendment to the Commonwealth’s *Native Title Act 1993* (NTA). This Act already provides the framework and processes to recognise and protect native title rights and interests – and is within the jurisdiction of the Commonwealth Government to address.<sup>6</sup>

- 3.12 The question of native title status of over a particular piece of land was also raised. As native title is a pre-existing right, native title could exist over land which is not yet subject to a native title claim or determination. Adding to this ambiguity is the question over who the relevant owner or owners of the land are if negotiations need to occur over a potential wild river declaration. The Inter-Departmental Committee of the Commonwealth Government (IDC) commented:

Also, through its definition of ‘native title land,’ the Bill applies to land over which native title exists. Because native title is a pre-existing right, native title could exist over land which is not yet subject to a native title claim or determination. There is no compulsion for a claim to be lodged, so the proposed definition could have the effect of requiring the agreement of the owner of land over which no claim need ever be lodged, and over which native title may not exist. Due to this, it is possible that the Bill could enable Indigenous land owners who have not lodged native title claims, or do not have a native title determination, to prevent regulation of land in a Wild River area. This may create practical problems as it may be difficult to ascertain who the relevant owners of the land are in order to obtain their written agreement to the development or use of the land as required by the Bill.<sup>7</sup>

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[01.pdf;fileType=application%2Fpdf](#), accessed 31 March 2011.

6 Queensland Government, *Submission 29*, p. 21.

7 Commonwealth Inter-Departmental Committee (IDC), *Submission 31*, pp. 20–21.

3.13 The definition of owner in particular has been identified as problematic.<sup>8</sup> The definition's expansive nature has the potential to result in 'overlap' between different individuals or groups who may all claim to be the 'owner' under one or more of the definitions. This results in confusion as to who does or does not have the right to provide the required 'consent'. The Carpentaria Land Council Aboriginal Corporation (CLCAC) provided a tangible example:

...if the Bill is passed in its current form and there was a proposal to declare a wild river in the southern Gulf of Carpentaria (and the proposed transitional provisions also applied), CLCAC would be concerned that consent may possibly be required from all of the following (in addition to native title holders/traditional owners) before a declaration could be made:

- The local Aboriginal Shire Council; and
- grantees of Aboriginal land under the *Aboriginal Land Act 1991*; and
- any individual Aboriginal person who has been given a lease by a Shire Council on [Deed of Grant in Trust] DOGIT land; and
- the trustee of any community purpose reserve; and
- any body or person holding freehold on trust for an Aboriginal person or corporation; etc....<sup>9</sup>

3.14 CLCAC also noted that the Bill, through its diverse definitions of 'Aboriginal land' and 'owner', may provide Aboriginal persons other than traditional owners with a right to veto proposed wild rivers declarations.<sup>10</sup>

3.15 Professor Jon Altman also addressed this question. He considered it a legitimate concern that the Bill's definitions resulted in an ambiguous and contentious list of those required to give consent in writing. Professor Altman observed:

Many questions arise here: Who has to give consent? All members of a land owner group by consensus? An elected or self proclaimed leader of the 'traditional owners'? The applicants (if it is a native title claim group) or the prescribed Body Corporate (if it is a determined group)? What if there are overlapping claim groups?<sup>11</sup>

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8 Dr Tim Seelig, Queensland Campaign Manager, The Wilderness Society, Committee *Hansard*, 9 March 2011, p. 12.

9 Carpentaria Land Council Aboriginal Corporation (CLCAC), *Submission 24*, pp. 3-4.

10 Carpentaria Land Council Aboriginal Corporation (CLCAC), *Submission 24*, pp. 3-4.

11 Professor Jon Altman, *Submission 15*, pp. 8-9.

- 3.16 There is also the issue of consensus. Should it be found, for example, that five 'owners' are required to consent to a wild river declaration, it is unclear if the declaration would proceed if only four of the five agreed. The result may well be that the one dissent may prevent the declaration proceeding despite the fact that the majority have approved. At the least it is likely to result in a long and protracted consultation process.
- 3.17 The combination of these two broad sets of definitions has the potential to render the existing *Wild Rivers Act 2005* (Qld) unworkable and open to litigation.<sup>12</sup> The Queensland Government stated:
- The 'owner', as defined, encompasses a wide range of people. Because of the historical displacement of Indigenous peoples, there will likely be disputes over who the owners are for different areas. Some Indigenous people elect others to make decisions on their behalf because they do not want to sign documents. Others are unable to do so for various reasons: some owners have moved from their traditional country and live in other parts of Australia. It may be difficult to identify all the owners, leaving any declaration open to legal challenge.<sup>13</sup>
- 3.18 This question of legal challenge is of great importance as such action could lead to conflict between different communities. CLCAC expressly stated their concern that if the Bill is passed it will result in conflict between Aboriginal individuals and groups and between traditional and non-traditional owners.<sup>14</sup>
- 3.19 The Bill's broad definitions have resulted in an unworkable Bill. The many and varied definitions of 'Aboriginal land' and 'owner' have resulted in confusion and their practical application will likely result in long, protracted and confusing consultation processes. Further, these definitions may result in different Indigenous communities being in conflict, potentially resulting in legal action.
- 3.20 While the Bill's broad definitions make it unworkable, it is also important to note that the issue of potential 'overlap' between different 'owners' was equally of concern in the previous version of the Bill introduced into the 42<sup>nd</sup> Parliament. The complex and contested issue of indentifying the appropriate owner to provide consent is a fundamental issue with the Bill's intent, as well as the poor drafting of the current version of the Bill.

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12 Queensland Government, *Submission 29*, p. 21.

13 Queensland Government, *Submission, 29*, p. 25.

14 Carpentaria Land Council Aboriginal Corporation (CLCAC), *Submission 24*, pp. 3-4.

## Clause 4

### Background

- 3.21 Clause 4 provides the Bill's constitutional basis, sets out its intent and proposes a compensatory claim for any loss of employment currently undertaken through the provisions of the Queensland Act. It proposes that:
- the Commonwealth relies on its legislative powers under section 51(xxvi) of the Constitution, and any other express or implied legislative Commonwealth power capable of supporting the enactment of the Bill;
  - it is the Parliament's intention that the Bill be a special measure for the advancement and protection of Australia's Indigenous people;
  - it is the Parliament's intention that the Bill protect the rights of traditional owners of native title land within wild river areas to own, use, develop and control that land; and
  - should the enactment of the Bill result in the loss of employment by persons employed or engaged to assist in the management of a wild river area then the Commonwealth Government should provide employment to those persons in accordance with details specified in the regulations.

### Analysis

- 3.22 Constitutionally, the Bill raises some serious questions about the continued validity of the *Wild Rivers Act 2005* (Qld). Supporters of the Bill, such as Balkanu and Cape York Land Council, commented that the Bill did not overturn the Queensland Act.<sup>15</sup> Considered legal opinion, however, concludes that the Bill would override the Act.

Professor George Williams citing legal precedent, concluded that the Bill would override the Queensland Act under section 109 – the laws of the Commonwealth prevail over the laws of a State to the extent of any inconsistency – obliging them not to regulate wild river areas that are also subject to native title without first obtaining agreement from the Aboriginal traditional owners.<sup>16</sup>

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15 Balkanu and Cape York Land Council, *Submission 6.1*, p. 2.

16 Professor George Williams, *Submission 1*, p. 2.

- 3.23 Enactment of the Bill would therefore override the legislation of the Queensland Parliament setting a particular precedent. The Queensland Government observed that the Bill would undermine and remove the democratically elected Queensland Parliament's power to regulate the environment in wild river areas without consent of Indigenous owners: an outcome which it considered to be an intrusion into the lawful legislative powers of the State.<sup>17</sup>
- 3.24 Clause 4's second point – that 'this Act be a special measure for the advancement and protection of Australia's Indigenous people' – is broad and ambiguous. The Queensland Government questioned as to how Indigenous peoples' interests will be protected and advanced 'nor specify exactly what Indigenous people are to be protected from, or in what areas advances will be made'.<sup>18</sup>
- 3.25 Clause 4's final point – that of compensatory employment for any loss of jobs due to the Bill's passing – also attracted comment. The Queensland Government argued that the Bill's passing could lead to the collapse of employment for people managing wild river areas – particularly the Wild Rivers Rangers program.<sup>19</sup> Evidence was received that the program was a success and should be continued.<sup>20</sup> Further, the Bill's alternative employment provisions are not adequately explained. The Queensland Government stated:

The Bill addresses this to some extent by stating the Commonwealth Government should provide employment to those people in accordance with details specified in the regulations – but with no regulations available for examination it is unclear whether the employment proposed by the Commonwealth would amount to fair compensation for the termination of rangers' current employment. In particular:

- in the absence of the regulation, it is not clear over what period the Wild River Rangers will be guaranteed employment
- it is not clear whether the terms and conditions of employment will align with those currently provided to Wild River Rangers, and if the community-based approach will continue
- no guidance is given in the Bill about the duties to be performed under Commonwealth employment

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17 Queensland Government, *Submission 29*, p. 22.

18 Queensland Government, *Submission 29*, p. 24.

19 Queensland Government, *Submission, 29*, p. 26.

20 Professor Jon Altman, *Submission 15*, p. 7; Australia Zoo, *Submission 10*, p. 6.

- the Wild River Ranger program has an accompanying training, mentoring and support structure funded by the Queensland Government. It is not clear whether the Bill also guarantees this supporting framework.<sup>21</sup>

- 3.26 The Queensland Government was similarly concerned about the potential revocation of the existing wild river declarations as it could end the employment of the current group of thirty-five Wild Rivers Rangers but also the potential employment of a further sixty-five rangers. The loss of this employment would reduce the economic opportunities for the Indigenous people the Bill purports to protect.<sup>22</sup>
- 3.27 The wording of the Bill's clause 4 will likely result in the overriding of the *Wild Rivers Act 2005 (Qld)* and the discontinuance of an effective state program. The resulting precedent would make the states' task of enacting legislation for the purpose of protecting the environment more difficult, and potentially may result in opening up areas of Cape York and other environmentally sensitive places in Queensland to damaging exploitation.

## Clause 5

### Background

- 3.28 Clause 5 provides that the development or use of native title land in a wild river area cannot be regulated under the Queensland Act unless the Aboriginal traditional owners of the land agree in writing.

### Analysis

Clause 5 is the most controversial aspect of this Bill as it provides for a right of consent not available to any other group in the country.

- 3.29 Clause 5 provides that the development or use of Aboriginal land in a Wild River area cannot be regulated under the relevant Queensland legislation unless the owner agrees in writing. The requirement for consent is already a difficult one due to the broad definition of 'owner' as discussed earlier in this chapter.<sup>23</sup> The Bill provides for several categories of owner and arguably creates precedents for other jurisdictions and in law. The Queensland Government explained:

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21 Queensland Government, *Submission*, 29, p. 26.

22 Queensland Government, *Submission*, 29, p. 26.

23 John Altman, *Submission 15*, p. 9.

... the Wild Rivers (Environmental Management) Bill 2010 ... appears to provide a power of veto for all owners of Aboriginal land over any wild river declaration. This provides a power beyond any held by any person for any other act of parliament, including for the regulation of mining, land-use planning, health or environmental legislation. Such a power is not one enjoyed by any other citizen in any part of Australia, and its introduction raises serious implications for both the responsible protection of the environment and for a state's rights to make laws to protect the environment – or other laws, for that matter. If passed it would set a dangerous precedent for Commonwealth intrusion into lawful state environmental protection, remembering that this policy has been explicit in the mandate of elected state governments over three election cycles.<sup>24</sup>

- 3.30 The Wild Rivers Inter-departmental Committee too expressed its reservations over this aspect of the Bill. Written consent, they argued, is an extension of the rights of native title holders beyond what is provided for in the *Native Title Act 1993* and is not applied consistently nation-wide.

The Wild Rivers (Environmental Management) Bill 2010 requires the written agreement of the owners of the land to the regulation of the development or use of Aboriginal land in wild rivers areas under the [*Wild Rivers Act 2005 (Qld)*]. For land involving native title, this is an extension of the rights of native title holders beyond what is provided for in the *Commonwealth Native Title Act 1993*. As noted, the [*Wild Rivers Act 2005 (Qld)*] does not affect the rights of native title holders. In contrast, the Commonwealth bill before the parliament extends the rights of the native title holders. It is also important for the committee to note that this extension applies only to native title holders in areas subject to the *Wild Rivers Act 2005 (Qld)*.<sup>25</sup>

- 3.31 This effective granting of a veto-power purely for a particular group of people from Queensland sets an unusual and undesirable precedent. The committee agrees with Professor Jon Altman of the Australian National University who stated that providing some form of 'geographic

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24 Mr John Bradley, Director-General, Queensland Department of Environment and Resource Management, Committee *Hansard*, 9 March 2011, p. 48.

25 Mr Andrew Tongue, Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs, Committee *Hansard*, 26 November 2011, pp. 5– 6.

exceptionalism' – whether it be in Cape York, Queensland or elsewhere – will not result in satisfactory and consistent national policy making.<sup>26</sup>

## Clauses 6 and 7

### Background

- 3.32 These Clauses are examined together as they deal with gaining the consent of the 'owner', and the mechanisms by which permission is sought from those owners, particularly with regards to Indigenous Land Use Agreements (ILUA).
- 3.33 Clause 6 provides that agreement of 'owner of land where native title exists' may be obtained by the registration under Clauses 24BI, 24CK and/or 24CL of the *Native Title Act 1993* which includes a statement to the effect that the parties agree to an area of land being regulated.
- 3.34 Clause 7 provides that a wild river declaration made before the commencement of the Bill will be valid until a fresh declaration is made with the agreement of the Aboriginal traditional owners of the land or six months elapse from the commencement of the Bill, whichever occurs first.

### Analysis

- 3.35 The six month time-frame for agreement stipulated in the Bill was considered unworkable, particularly with regard to where ILUAs are involved.<sup>27</sup> The Chuulangun Aboriginal Corporation observed that this six month time-frame for agreement clashed with the requirements of the *Native Title Act 1993*:

The timeframe of six months provided for in the Bill for a new declaration to be made with the agreement of the owner of the Aboriginal land is unworkable. If an agreement is not made in six months, the declaration will lapse. The Bill notes that agreement be made by way of the ILUA process under the [*Native Title Act 1993*] and the National Native Title Tribunal states a six month 'cooling off' period after an ILUA application is submitted, so the Wild River declaration proposal would lapse before the agreement making process ever began.<sup>28</sup>

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26 John Altman, *Submission 15*, p. 2.

27 Queensland Government, *Submission 29*, p. 25.

28 Chuulangun AC, *Submission 22*, p. 15.

3.36 The Queensland Government raised essentially the same concern – that the process by which ILUAs are negotiated and concluded would make further Wild River declarations impossible if the Bill were passed. In their words:

It appears, by default, the Bill must cause the collapse of a wild river declaration in those cases where an ILUA is required. As noted above, the Bill provides only a period of six months to reach agreement with the owners of Aboriginal land before the existing wild river declaration collapses (clause 7). Also noted above, the Bill states that where native title exists, the agreement of an owner may be obtained by a registered body corporate or an Indigenous Land Use Agreement (ILUA) (clause 6).<sup>29</sup>

3.37 Further, not only does the Native Title Tribunal require a six month ‘cooling-off’ period for the registration of an ILUA, but there is also the broader consultation and negotiation process which, in the Queensland Government’s experience, takes between 12 – 18 months .

The National Native Title Tribunal states parties must allow a minimum of six months simply for the registration of an ILUA:

- ‘A further six months should be allowed as a minimum once an application to register the ILUA is made to the Tribunal. The Registrar must notify certain people and organisations of the application to register the ILUA and in the case of area and alternative procedure agreements, must also notify the public. Time must also be allowed for any objections to the registration of the ILUA to be considered.’

It is the experience in Queensland that ILUAs take between 12 and 18 months to negotiate... This means that, even with regulations in place at the outset, it is virtually impossible, according to the best available advice, to develop an ILUA, negotiate and draft its terms of reference, register it, gain consent of native title holders for the ILUA to act on their behalf, and negotiate and reach agreement over wild river declarations, all in the six months allowed under the Bill.

Consequently it must be assumed the effect of the Bill is that declarations will expire, even in areas where there is widespread support.<sup>30</sup>

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29 Queensland, Government, *Submission 29*, p. 27.

30 Queensland, Government, *Submission 29*, p. 27.

- 3.38 Clauses 6 and 7 add a further layer of unworkable stipulations to a Bill which, through its definitions of 'Aboriginal land' and 'owner', is already very difficult to implement. The six-month period for the conclusion of a consultation process before making a wild rivers declaration is particularly onerous and unrealistic given the evidence presented to the committee. Further, there is also the issue of trying to use ILUAs where non-native title holders are involved. Incorporating those non-native title owners into the ILUA decision-making process and gaining their written agreement adds a further layer of difficulty.

## Conclusions

- 3.39 Analysis of the Bill's provisions casts serious doubt on its effectiveness and workability.
- 3.40 The Bill's broad definitions in clause 3 have produced what is likely to be an unworkable Bill. The many and varied definitions of 'Aboriginal land' and 'owner' creates a series of permutations for negotiating consent which must be navigated for wild rivers declarations to proceed. These definitions will likely result in long and protracted consultation processes. There is also the possibility that these definitions may result in different Indigenous communities being in legal conflict.
- 3.41 Legal analysis provided to the inquiry shows that the Bill's clause 4 will likely override the *Wild Rivers Act 2005* (Qld). This has a number of undesirable outcomes. Firstly, the resulting precedent would make the states' task of enacting legislation for the purpose of protecting the environment more difficult. Secondly, the overturning of this legislation may potentially result in opening up areas of Cape York and other environmentally sensitive places in Queensland to damaging exploitation. Finally, the successful Wild River Rangers program may be put in jeopardy by the Bill despite its stated intention of providing compensatory employment.
- 3.42 Clause 5 stipulation that consent must be granted in writing has a particularly unique impact. This effective granting of a veto-power purely for a singular group of people from Queensland sets an unusual and undesirable precedent. To grant one group of people a particular set of rights above everyone else, however well intended, is detrimental to good policy.

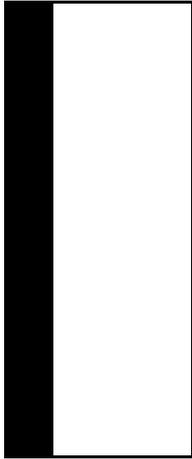
- 3.43 Clauses 6 and 7 add a further layer of unworkable stipulations to a Bill which, through its definitions of 'Aboriginal land' and 'owner', is already very difficult to implement. The six-month period for the conclusion of a consultation process before a wild rivers declaration is particularly onerous and unrealistic. Experts in this field state that such a process, if conducted properly, is likely to take at least twelve months.
- 3.44 The Bill as a whole is ambiguous in its intent, poorly drafted, inconsistent with other legislation, and produces a number of undesirable outcomes none of which guarantee that the Indigenous people of Queensland will achieve better economic, social, environmental or cultural outcomes. Ultimately, an Act of the Commonwealth Parliament to overturn state legislation will not fundamentally address the barriers to economic development in Cape York or the concerns of stakeholders.
- 3.45 The Bill is flawed and should not be passed into law.

### **Recommendation 11**

**That the House of Representatives not pass the Wild Rivers (Environmental Management) Bill 2010.**

Mr Craig Thomson MP  
Chair  
4 May 2011





## Dissenting report

### **Introduction**

Indigenous Queensland communities, especially those in Cape York, face significant challenges due to their profound isolation, a history of underdevelopment and a sore lack of meaningful employment and training opportunities.

These communities represent the most disadvantaged in Queensland, so are deserving of considered and comprehensive government policies which encourage their development and seek to ensure their long-term sustainability.

While any such policies must include measures to address the widely-acknowledged gap between Indigenous and non-Indigenous communities in areas such as health and education, there is also a pressing need to examine the extent to which certain barriers may prevent Indigenous communities pursuing economic development in the short and medium terms.

Certainly, given the extremely limited prospects for Indigenous youth in these communities, failure to urgently acknowledge and remove impediments to economic development will at best perpetuate the cycle of disadvantage and at worst perhaps lead to the eventual disbandment of these communities through attrition to populated centres.

Following a better understanding of the obstacles faced by these communities, it is essential to then facilitate the creation of private sector opportunities enough to meet the aspirations of Indigenous people rather than limit the prospect of employment to the State's ability to fund public administration positions.

The Coalition members of the House of Representatives Standing Committee on Economics (the Committee) appreciates the opportunity to inquire and report on

the barriers to Indigenous economic development and to make recommendations which would see Indigenous people afforded the same opportunities as other Queensland landowners to benefit from their natural assets and to invest in their futures.

## **Background**

Much of Queensland's wider economic development is due to the mining industry which has created countless jobs, invested in the education and training of thousands of employees, driven the growth of communities adjacent to operations and realised an economic benefit for both investors and the State.

Notwithstanding the economic benefits of mining, a range of legislative instruments and regulations exist to temper activity by ensuring applications to carry out such activity consider the environmental impacts of doing so. In Queensland, for example, the *Environmental Protection Act (Qld)* 1994 requires a comprehensive analysis of economic, social and environmental implications before any application is considered for approval.

This balanced approach to development has - up until 2005 - provided developers with a reasonably transparent and consistent approach to exploratory activity across Queensland. It has also gone some way to mitigate investment risk by prescribing environmental standards whose cost can be incorporated into feasibility studies and business cases.

The uniform way in which approvals were treated across Queensland was abandoned with the introduction of the *Wild Rivers Act (Qld)* 2005 (the Act) purportedly intended to ensure wild river areas are protected from destructive development.

While the Coalition members of the Committee acknowledge and share a desire to protect the natural value of these areas, it is our view the Act was brought into effect, not out of any demonstrated need, but as a political response by the Queensland Labor Government to the ideological campaign of the Greens and the Wilderness Society. Coalition Members of the Committee view the consequence of this political decision to be a catalyst for the exchange of preferences between the Greens and the Labor Parties in Queensland.

Given the distinct lack of demonstrable need for this legislation, it is clear to Coalition Members based on testimony and evidence provided to the Committee that consent from indigenous communities was not obtained prior to enactment.

This legislation has created insurmountable barriers to any form of worthwhile Indigenous economic development whether it could be demonstrated to have a negligible environmental impact or not.

Being that many wild river areas are subject to native title it then follows, in the view of the Coalition, Indigenous communities in these areas are in effect excluded from pursuing investment through mining, which is guaranteed to generate employment opportunities and has demonstrated an ability to generate wealth.

Perversely, by specifically preventing Indigenous landowners from benefiting from their assets, the Queensland Government would seem to have legislated discrimination, entrenched disadvantage and undermined many principals of native title.

Accepting evidence from witnesses about the ability for the mining industry to create employment and training opportunities for Indigenous people in short order, the Coalition members of the Committee have come to view the Act as possibly the most immediately-addressable and significant barrier to economic development for these communities.

If the *Wild Rivers Act (Qld) 2005* presents the greatest barrier to the economic development of Indigenous communities in wild rivers areas, then the passing of the *Wild Rivers (Environmental Management) Bill 2010* (the Bill) provides communities with the best opportunity to fulfil their aspirations.

Significantly, the Bill is not intended to prevent those communities who wish the Queensland Government to continue to regulate the development and use of their land from doing so. Instead, it simply provides communities with the right and ability to benefit from their natural assets – including resources, for example – in a manner which is consistent with the environmental planning regulation to which any other project would otherwise be subject.

## **Barriers to economic development**

### **Prima facie rejection of any social or economic development**

The *Wild Rivers Act (Qld) 2005*, in effect, places a blanket prohibition on willing Indigenous communities from realising economic benefits inherent in their land so defined under native title legislation. As such, members of these communities are unnecessarily encumbered when seeking to create meaningful employment and training opportunities for locals, who otherwise must relocate to distant populated centres or, alternatively, completely withdraw from the labour force.

Of significant concern to the Coalition members of the Committee is the Act's consideration of environmental impacts exclusively, and so, by definition, precluding any assessment of the likely economic or social benefits the development or use of wild rivers area land may provide to local Indigenous communities.

By overriding existing planning instruments which consider all of these factors, the Act represents a barrier which cannot be overcome through any amount of Indigenous consultation notwithstanding the Queensland Government's assurances to the contrary.

The extent to which the Act functions as a deterrent for any level of activity was revealed during the testimony of Mr Scott Buchanan, a member of the Queensland Department of Environment and Resource Management's Wild Rivers Team.

**Mr CIOBO**—In the Queensland government's perspective, the knowledge base that would enable the traditional owner to prove that they could undertake those activities without impacting in a negative way—can I also ask whether impacting in a negative way is a net negative impact or is that just a requirement to demonstrate no negative impact?

**Mr Buchanan**—No negative impact.

**Mr CIOBO**—So any negative impact at all would effectively void the application.

**Mr Buchanan**—That is right.<sup>1</sup>

## Arbitrary sterilisation of usable land

The Committee considered evidence from Ms Frances Hayter, Director of Environment and Social Policy at the Queensland Resources Council, relating to the manner in which the Act prevents development of usable land if any part of the useable land contains within it any "special features".

Given the Queensland Government provides no guidance as to what areas may be so excluded prior to an exploratory company having incurred significant expenses, there are significant disincentives for operators to consider making investments in wild river areas.

This, of course, is an issue as it may prematurely lead investors to deem a project as unfeasible where it would otherwise have been able to consider strategies to

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<sup>1</sup> Mr Scott Buchanan, Committee Hansard, Queensland Department of Environment and Resource Management – Wild Rivers Team, 9 March 2011, p.55

mitigate environmental concerns while still able to deliver an economic benefit to the community.

**Mr CIOBO**—Is it possible to know prior to submitting an application in broad terms which special features are likely to be declared or have been declared so that an assessment can be made about whether to even lodge an application, or is that something that will only come as part of the application process?

**Ms Hayter**—You would not know which ones were going to be declared until you had a declaration proposal and then when that is in there you cannot lodge an application over those areas. The special features effectively are high-preservation areas—I am not trying to go too deep into the legislation—so effectively you cannot apply for those areas anyway. The short answer is: no, you would not know, but on the other hand if you do your environmental impact assessment process I am sure those values would be identified whether or not they had a particular name.

**Mr CIOBO**—In other words, once the declaration happens, a prospective miner would know immediately that there is no point in lodging an application because of the special features and the high-preservation areas—

**Ms Hayter**—Depending on how much—

**Mr CIOBO**—Yes, depending on how much it impacts on the actual site.<sup>2</sup>

**CHAIR**—I am not trying to be controversial at all. I am just going through your arguments with you—that is all at this stage. Let us talk about a more practical example—Cape Alumina and the Wenlock River. What is your view about what the environmental effects would have been if that proposal had gone ahead and can you give us some details of the benefits that Indigenous Australians would have received from that mine going ahead?

**Ms Hayter**—The absolute potential impact of the mine was never determined. The company had started its EIS process but did not complete it because a decision was made about setback areas from significant features. Those decisions effectively sterilised the significant portion of their ore body, so the determination of the impacts and the consideration of potential mitigation measures

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<sup>2</sup> Ms Frances Hayter, Committee Hansard, Director of Environment and Social Policy, Queensland Resources Council, 9 March 2011, p.31

were never fully completed. So I cannot answer that part of the question. I know that they were working through an agreement with the local Indigenous people. I cannot recall whether anything was formally signed, but there was certainly an agreement and it was based on a number of elements. One of those elements related to jobs and, I think, other supporting opportunities in education and training.<sup>3</sup>

Ms Hayter noted the operation of the Act has ruled out further Indigenous employment opportunities in Cape York – an area of particular concern and the subject of this inquiry – and so would seem at odds with both the Commonwealth Closing the Gap strategy and objectives of this inquiry.

**Ms Hayter** – ...Our view is that anything that has the potential to impact on economic opportunities for Indigenous people is not desirable and in fact would suggest that the wild rivers is contradictory to the Commonwealth's Closing the Gap strategy. We already have the example of Cape Alumina, which was not able to proceed on Cape York because of the Wenlock declaration. Also, as mentioned in our submission, the Queensland Resources Council has a memorandum of understanding with the state government. We are renewing that and it will be a tripartite arrangement for the first time, with the Commonwealth government, which we strongly support. It is very positive. Again, the focus of that is increasing Indigenous employment and business development opportunities within the resources sector.

The first round of work in that particular project has been an initiative based in north-west Queensland. The next tranche of wild rivers declarations is anticipated to be in the Lake Eyre Basin, which interestingly covers about a third of Queensland, so we are not talking about insignificant coverage. We have already had indications from at least one of our companies that one of the declarations has significant potential to impact on an expansion of that mine, and it is a large mine. Part of that program is to get our members to work on increasing Indigenous opportunities. If the expansion cannot proceed, it obviously precludes that happening.<sup>4</sup>

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<sup>3</sup> Ms Frances Hayter, Committee Hansard, Director of Environment and Social Policy, Queensland Resources Council, 9 March 2011, p.28-29

<sup>4</sup> Ms Frances Hayter, Committee Hansard, Director of Environment and Social Policy, Queensland Resources Council, 9 March 2011, p.26-27

## Bureaucratic barriers to economic development

The Coalition took particular note of testimony from Mr Terry Piper, Chief Operating Officer of the Balkanu Cape York Development Corporation, regarding the tendency for added bureaucracy to actively discourage Indigenous people from investigating opportunities for any form of economic development.

Mr Piper highlighted the *Wild Rivers Act (Qld) 2005* as not only a barrier to the carrying out of economic development per se, but also as seriously limiting to the aspirations of Indigenous people.

**Ms O'DWYER**—... I was wondering if you could perhaps elaborate a bit further on the extra layers of regulation that wild rivers imposes in trying to get up an economic project in the region.

**Mr Piper**—I will give an example. The Lamalama people negotiated to get their land back at Running Creek. A condition of that was that the state said, 'We want a nature refuge over that.' So that imposes a layer of regulation over the Lamalama people. They agreed. It was done by consent. Conservation arrangements have historically been done by consent on Cape York. So there was a nature refuge. But then over the top of that is now a wild rivers declaration. So you have yet another layer of regulation. Over the top of that is potentially a coastal protection plan. You have yet another layer of regulation. Then there is the aspiration of the conservation movement to have world heritage on Cape York—a layer of federal legislation over the top of that. It is killing people on Cape York; it is death by a thousand cuts. People need to know the regulations, particularly when the government's commitment is to return land to traditional owners for economic development. In that deal they have already agreed to areas to become national park and they are getting their land back for economic development and only finding that that has been taken away by various layers of regulation.

**Ms O'DWYER**—Is it your view then that people simply will not pursue a number of projects that they would have considered as a result of the fact that it would be too difficult to go through all those layers of regulation? Rather than being rejected under the wild rivers legislation they simply will not progress economic development projects because they think it is too hard?

**Mr Piper**—It is much too hard when you are living in areas like Cape York and you need to get legal advice to be able to work

through what a wild rivers declaration means. You probably need to get a surveyor to have a look at where you fall within the declaration, you most likely need professionals to come and give environmental advice so that you can comply with the declaration, you need meetings amongst your people and you need to work with commercial people to get your development up. You can spend many, many thousands of dollars on that, only to find that it gets knocked back in the end.<sup>5</sup>

## **Opportunities for sustainable and environmentally sound economic development**

### **Genuine economic development**

The *Wild Rivers (Environmental Management) Bill* 2010 introduced by the Leader of the Opposition, the Hon Tony Abbott MP, and referred to this Committee for comment, provides Indigenous communities with the option to pursue investment capable of creating employment opportunities far in excess of those promised by the Queensland Government.

Further, it is the view of the Coalition members that encouragement of private investment – subject to the environmental conditions applicable elsewhere in Queensland – is a superior policy option to create long-term employment given the expected life of mining operations.

This concern was brought to the fore during the testimony of Mr John Bradley, Director-General of the Queensland Department of Environment and Resource Management, when he admitted the much-lauded rangers programme could be threatened by funding cuts and, therefore, could not be considered sustainable.

**Mr BUCHHOLZ** – It is a perplexing issue and we have a range of views but we are unanimous on the success of the rangers program up there. In your opening comments you spoke to the permanency of that program. When speaking with the rangers on the ground, they are of the opinion that it is linked to a funding round and that they are not permanent. Can you expand on that ambiguity?

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<sup>5</sup> Mr Terry Piper, Committee Hansard, Chief Operating Officer, Balkanu Cape York Development Corporation, 29 November 2011, p.16

**Mr Bradley**—I will take a step back. One of the things we were trying to do when the wild river rangers program was initiated was to build capacity in local communities by engaging local community service providers—often the council is a provider of that service—and to engage the wild river rangers in their local area. Very often wild river rangers identify with their community rather than as part of a whole of state approach. They are very strongly tied to their country and being back on their country. So we try to engage through that outsourced approach through local service providers but one of the consequences is that you then have those rangers in positions where they are not directly engaged by the state and therefore do not have the permanency of public servants or other state employees.<sup>6</sup>

Given the terms of reference which call for an investigation into options for facilitating the economic development of Indigenous people, the Coalition members underscore the failure of current programmes to satisfy this objective.

### **Failure of the Wild Rivers (Qld) Act 2005 to create opportunities**

The Government members of the Committee and other witnesses have pointed to existing approvals and mining activity as a validation of the Act. Unfortunately, they have failed to consider the Act has curtailed green field mines – arguably better able to use low impact techniques – progressing from the exploratory phase. As such, they have underserved the long term interests of the Indigenous communities and discouraged the adoption of environmentally-friendly mining practices.

**Ms Hayter**—Yes, but what we are talking about is a disincentive for exploration.

**Mr Barger**—The other point that it is important to make about that list of names that you ran through is that a lot of those are existing operations. They are existing mines that are saying, ‘What is the next ore body that is going to sustain my operation? What gives me an extra 15 years or 20 years, front of life, for my mine?’ Where the deterrent value is strongest is in the greenfields explorations. They are the people using new technologies, and increasingly they are low impact, so it is you-beaut laptop things in aeroplanes

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<sup>6</sup> Mr John Bradley, Committee Hansard, Queensland Department of Environment and Resource Management,  
9 March 2011, p.62

flying over, rather than the traditional sort of rock pick exploration. Again, the deterrent value is largest at the smallest end of the exploration market, which is the greenfields stuff, looking for new minerals, new techniques and new modelling approaches. That is where the deterrent is strongest and that is where the longterm economic impact is perhaps greatest.<sup>7</sup>

## Conclusions

The *Wild Rivers Act (Qld) 2005* (the Act) has created a discriminatory development approvals process which places an inequitable regulatory burden on native title holders who may wish to encourage investment in areas proclaimed, or which may be declared in the future, as wild river areas.

Given existing Queensland and Commonwealth legislation already provides for environmental factors to be considered when granting approvals for projects, it is the view of the Coalition the Act is an unnecessary and costly layer of bureaucracy.

Bureaucracy, of course, has been difficult for Indigenous communities to navigate in the past and has compounded their difficulties to understand investment opportunities.

Additionally, as the Act has undermined guaranteed employment and training opportunities for Indigenous people – and discouraged many businesses from offering to do so in the future – the Coalition maintains its effect is to prevent Indigenous communities from furthering their economic development through access to local long-term employers and education.

The Act and its implementation to date are clearly at odds with the Commonwealth and Queensland Government's public undertakings to improve outcomes for Indigenous people in their communities.

Furthermore, the testimony and evidence clarifies the legislation is illegitimate given there was not consent from indigenous peoples prior to the passage of the legislation.

As such, Coalition Members of the Committee are of the view this legislation should be repealed.

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<sup>7</sup> Mr Andrew Barger, Committee Hansard, Director of Industry Policy, Queensland Resources Council,

9 March 2011, p.34-35

***Recommendation 1***

For the reasons outlined above, Coalition members of the committee recommend the Queensland Parliament repeal the *Wild Rivers Act (Qld) 2005*.

In the absence of political will or action by the Queensland Government to repeal the *Wild Rivers Act (Qld) 2005*, Coalition members of the committee view the passing of the *Wild Rivers (Environmental Management) Bill 2010* as a necessary step to restore the rights of Indigenous people to explore and create for themselves, and in partnership, community-sustaining industries which are subject to proven and consistent environmental planning provisions.

It is important to note, the *Wild Rivers (Environmental Management) Bill 2010* is not designed to necessarily prevent Indigenous communities from pursuing investment opportunities under the existing *Queensland Wild Rivers Act (Qld) 2005* regime should they so wish.

***Recommendation 2***

For the reasons outlined above, Coalition members of this committee recommend the House of Representatives pass the *Wild Rivers (Environmental Management) Bill 2010*.

Mr Steven Ciobo MP, Deputy Chair

Mr Scott Buchholz MP

Ms Kelly O'Dwyer MP

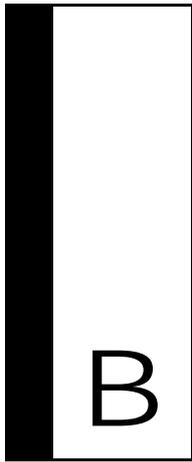




## Appendix A- Submissions

No.	Provided by
1	Gilbert + Tobin Centre of Public Law
2	Dr Geoff Mosley
3	Dr. Barrie Pittock, PSM
4	Terry J Mills
5	Australian Floodplain Association Inc.
6	Balkanu Cape York Development Corporation P/L
6.1	Balkanu Cape York Development Corporation P/L (Supplementary Submission No.6)
7	Island & Cape
8	Anglican Diocese of Brisbane
9	Pormpuraaw Aboriginal Shire Council/Pormpuraaw Land & Sea Management
10	Australia Zoo
11	Queensland Resources Council
12	Tracey Ludwick
13	Cairns Regional Council
14	Indigenous Land Corporation
15	Professor Jon Altman
16	Mr Harold Ludwick

17	Ms Noeline Gross and Dr Joanne Copp
18	Queensland Conservation
19	Australian Conservation Foundation
20	Western Rivers Alliance
21	Rio Tinto Alcan
22	Chuulangun Aboriginal Corporation
23	Australians for Native Title and Reconciliation
24	Carpentaria Land Council Aboriginal Corporation
25	Cummings Economics
26	Bana Yarralji Bubu Inc
27	Cape York Sustainable Futures
28	KULLA Land Trust
29	Queensland Government
29.1	Queensland Government (Supplementary Submission No.29)
30	Cape Alumina
31	Wild Rivers Interdepartmental Committee
32	The Wilderness Society (Qld)
33	The Hon Bob Katter
34	Emeritus Professor John Holmes
35	Dr Chris McGrath
35.1	Dr Chris McGrath (Supplementary Submission No.35)
36	WIK Projects Ltd
37	Cook Shire Council
38	Agforce Queensland
39	Attorney-General's Department



## Appendix B– Public Hearings

**Monday, 29 November 2010 - Cairns**

**Aurukun Shire Council**

Mr Neville Pootchewanuka, Mayor

**Balkanu Cape York Development Corporation P/L**

Mr Gerhardt Pearson, Chief Executive Officer

Mr Terry Piper, Chief Operating Officer

**Cape York Land Council**

Mrs Lucy Hobson, Traditional Owner

Mr Greg Pascoe, Traditional Owner

**Cape York Sustainable Futures**

Mrs Margot Richardson, Finance - Audit Committee Chair

Mr Robert Sullivan Bob, Acting CEO - Treasurer

**Ewamian Aboriginal Corporation**

Mr Jimmy Richards, Ranger Coordinator

**Social Responsibilities Committee of Anglican Church**

Mr Peter Pearce, Director Social Justice Advocacy, Diocese of Brisbane

**Tuesday, 30 November 2010 - Weipa**

**Individuals**

Mr David Donald

Mrs Kakie Hausia

Miss Dawn Koondunbun, Traditional Owner

Miss Tracey Ludwick

Mr Peter Miller

Miss Phonda Parry

Mrs Maleta West

Miss Phyllis Yukaporta, Traditional Owner

**Ankomuthi Traditional Owners Groups**

Mr Larry Woosup, Native Title Clamonts

**Cape York Regional Board**

Mr Dick Foster, Board Member, Tourism and Industry

**N.Q. Civil Engineering Contracting P/L**

Mr Greg Williams, Operations Manager

**Napoon Deposit Trustee**

Mr Sylvester Blanco, Trustee

**Taepithggi People**

Mr Cecil Arthur, Ranger S.I.W.R

**Wednesday, 1 December 2010 - Bamaga**

**Apudhama Land Trust**

Mr Wally Moses, Ranger

**Northern Peninsula Area Regional Council**

Mr Alex Barker, Director

Mr Joseph Elu, Mayor

Mr Danny Sebasio, Deputy CEO

**Monday, 7 March 2011 - Cairns****Chuulangun**

Mr David Claudie, Chief Executive Officer

**Ewamian Aboriginal Corporation**

Mr Jimmy Richards, Ranger Coordinator

**Wik Projects**

Ms Gina Castelain, Managing Director

**Tuesday, 8 March 2011 - Cairns****Individuals**

Mr Harold Ludwick

**Bana Yarralji Bubu Inc**

Mr Peter Wallace, Ranger Supervisor

Ms Marilyn Wallace, Executive Officer

Mr Bruce White, Anthropologist, Nyungkal Ranger Service

**Cairns Regional Council**

Ms Katrina Houghton, Senior Economics Development

**Cape York Sustainable Futures**

Mrs Patricia Anne Butler, Chief Executive Officer

Mr Bryan Cifuentes, Board Member

**Cook Shire Council**

Councillor Colin Burns

**Island & Cape**

Mr John Smith, Chief Executive Officer

**Kulla Land Trust**

Mrs Agnes Creek, Councillor

Mr Peter Kyle, Chairman

Mr David Yarrow

**Lockhart River Aboriginal Shire Council**

Mr Rodney Accoom, Mayor

Mr Peter Opio-Otim, Chief Executive Officer

Ms Veronica Piva, Councillor

Mr Paul Piva, Councillor

**Wednesday, 9 March 2011 - Brisbane****Individuals**

Mr Andrew Barger, Industry Policy

Mr Andrew Luttrall

Mr Nigel Parratt, Rivers Project Officer

Mr Glenn Walker

**Australia Zoo**

Mr Barry Lyon

**Indigenous Land Corporation**

Mr David Galvin, Chief Executive Officer

**Queensland Resources Council**

Ms Frances Hayter

**Queensland Government**

Mr John Bradley, Director General

Mr Scott Buchanan, Wild Rivers Team

**The Wilderness Society**

Mr Anthony Exposito, National Manager

**Wilderness Society**

Dr Tim Seelig, Manager

**Wednesday, 23 March 2011 - Canberra**

**Individuals**

Dr Christopher McGrath

**AgForce Queensland**

Mr Drew Wagner





## Appendix C– Exhibits

**1 Northern Australia Land and Water Taskforce, Northern Australia Land and Water Science Review 2009**

Mr Andrew Tongue, Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs 26 Nov 2010

**2 Northern Australia Land and Water Taskforce, Northern Australia Land and Water Science Review 2009 (Chapter Summaries)**

Mr Andrew Tongue, Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs 26 Nov 2010

**3 Northern Australia Land and Water Taskforce, Sustainable development of northern Australia, a report to Government from the Northern Australia Land and Water Taskforce**

Mr Andrew Tongue, Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs 26 Nov 2010

**4 Australian Government, Indigenous Economic Development Strategy, Draft for consultation and Action Plan 2010-2012**

Mr Andrew Tongue, Deputy Secretary, Department of Families, Housing, Community Services and Indigenous Affairs 26 Nov 2010

**5 A letter, dated 27 October 2010, from Cape York Partnerships to Premier of Queensland**

Ms Anna Bligh      Balkanu Cape York Development Corporation  
29 Nov 2010

- 6 Email conversation commencing 11 February 2009, released by Queensland Department of Environment and Resource Management under the Right to Information Act (Qld).**

Balkanu Cape York Development Corporation 29 Nov 2010

- 7 Email conversation dated 30 March 2009, released by Queensland Department of Environment and Resource Management under the Right to Information Act (Qld).**

Balkanu Cape York Development Corporation 29 Nov 2010

- 8 Map of Archer Basin showing declared area during consultation process versus the final declaration.**

Councillor Neville Pootchemunka 29 Nov 2010

- 9 Dr Joanne Copp, Wild Rivers Policy, Likely Impact on Sustainable Development, September 2010.**

Anglican Church (Archdiocese of Brisbane) 29 Nov 2010

- 10 Dr Joanne Copp, Wild Rivers Policy, Likely impact on Indigenous wellbeing, August 2009.**

Anglican Church (Archdiocese of Brisbane) 29 Nov 2010

- 11 Letter, dated 16 August 2009, from Queensland Government to Mr Peter Pearce, Anglican Church (Archdiocese of Brisbane).**

Anglican Church (Archdiocese of Brisbane) 29 Nov 2010

- 12 Copy of submission, dated 30 March 2010, from the Kokoberrin Tribal Aboriginal Corporation to Senate Legal and Constitutional Affairs Committee inquiry into the Wild Rivers (Environmental Management) Bill 2010.**

Indigenous Environment Foundation 29 Nov 2010

- 13 Correspondence and maps from Gavin Bassani, Chairman Lama Lama Land Trust**

Mr David Claudie, Chuulangun Aboriginal Council 7 March 2011

- 14 Map illustrating indigenous access and restrictions.**

Kulla Land Trust 8 March 2011

**15 Photo document of structures and facilities as well as analysis of development applications.**

Bana Yarraliiji Bubu Inc 8 March 2011

**16 Examples of 'misleading' pamphlets**

The Wilderness Society 9 March 2011

**17 Corrections of Claims made at Cape York Peninsula Hearings**

The Wilderness Society 9 March 2011

**18 Consultation Reports for Wenlock Basin, Lockhart Basin, Stewart Basin, and Archer Basin**

Queensland Government 9 March 2011