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SENATE

LEGAL AND CONSTITUTIONAL AFFAIRS REFERENCES COMMITTEE

Reference: Wild Rivers (Environmental Management) Bill 2010 [No. 2]

TUESDAY, 13 APRIL 2010

CAIRNS

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SENATE LEGAL AND CONSTITUTIONAL AFFAIRS

LEGISLATION COMMITTEE

Tuesday, 13 April 2010

Members: Senator Crossin *(Chair)*, Senator Barnett *(Deputy Chair)*, Senators Feeney, Fisher, Ludlam and Marshall

Substitute members: (As per most recent Senate Notice Paper)

Participating members: Senators Abetz, Adams, Back, Bernardi, Bilyk, Birmingham, Mark Bishop, Boswell, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Eggleston, Farrell, Ferguson, Fielding, Fierravanti-Wells, Fifield, Forshaw, Furner, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Lundy, Ian Macdonald, McEwen, McGauran, McLucas, Mason, Milne, Minchin, Moore, Nash, O'Brien, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Siewert, Stephens, Sterle, Troeth, Williams, Wortley and Xenophon

Senators in attendance: (Insert, in alphabetical order, the names of senators provided by committee secretary)

Terms of reference for the inquiry:

To inquire into and report on:

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DE BUSCH, Mr Donald, Chairman, Nyacha Kumopinta Aboriginal Corporation 1

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Committee met at 11.04 am

ANDY, Mr John, Chairman, Girringun Aboriginal Corporation

CLAUDIE, Mr David John, Chief Executive Officer and Chairman, Chuulangun Aboriginal Corporation

DE BUSCH, Mr Donald, Chairman, Nyacha Kumopinta Aboriginal Corporation

CHAIR (Senator Crossin)—I warmly welcome everyone and open this inquiry into the Wild Rivers (Environmental Management) Bill 2010. This is the second hearing for the Senate's Legal and Constitutional Affairs Legislation Committee's inquiry into this bill. This inquiry was referred to the committee by the Senate on 25 February 2010 for inquiry and report by 9 May 2010. This is a private senator's bill. It was introduced into the Senate by Senator Nigel Scullion. An identical bill has also been introduced into the House of Representatives by the Hon. Tony Abbott.

The bill seeks to protect the interests of Aboriginal traditional owners in the management, development and use of native title land situated in wild river areas. It does this by requiring the agreement of traditional owners to the development or use of native title land in wild river areas regulated by the Queensland Wild Rivers Act 2005. We have received 32 submissions for this inquiry, and submissions authorised for publication are available on the committee's website.

I remind witnesses today that in giving evidence to the committee you are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of the fact that they have given evidence to this committee and any such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to the committee.

We do prefer all of our evidence to be given in public, but under our resolutions you have the right to actually be heard in private, in confidence and in camera, which means you would do so just by yourself with the committee and everyone else would leave the room. If you want to provide evidence in camera as a witness, you need to request this of the committee and we will consider that request.

Mr Claudie—We are situated in central Cape York, which is on the Wenlock River. That is in between Lockhart, Weipa and Coen. We are right in the middle. We conduct land management. We conduct our own governance and stuff like that as the Chuulangun Aboriginal Corporation.

Mr De Busch—Our homelands estate is on the bottom of the Archer, which is around the Peach Creek catchment.

Mr Andy—Our group is comprised of nine tribal groups, from Mission Beach, which is near Tully—on the coast of Tully—and goes down towards this side of Rollingstone, just north of Townsville, and out towards Greenvale. This comprises the nine traditional tribes in this area. We are here to talk about the wild river that was declared in February 2007 on Hinchinbrook Island.

CHAIR—You have given us submissions and we have them on the website as Nos 10, 20 and 26. I am going to ask you now to give us an opening statement or talk to us about your views about the legislation. There is a whole heap of us here, so if you could perhaps make your comments very quick, because we would like to ask you quite a lot of questions.

Mr Claudie—The views of the Chuulangun Aboriginal Corporation are that we are opposed to the Wild Rivers (Environmental Management) Bill mainly because of what they are saying in section 4:

> It is the intention of the Parliament that this Act be a special measure for the advancement and protection of Australia's indigenous people.

The basis for the Wild Rivers (Environmental Management) Bill is seriously flawed, in our eyes. It is clear that the motivation behind the bill is political and in no way reflects Mr Abbott's purposes for the advancement and protection of Australia's Indigenous people. Instead the bill reflects the views and agendas of one group which opposes the wild rivers legislation and has been spreading a misinformation campaign across Cape York Indigenous communities. The result of this campaign is confusion amongst some Indigenous people as to what wild rivers is all about. In other words, the people up in Cape York actually have not sat down with the people who are supposed to explain what the wild rivers legislation is all about. Instead it was a political campaign to lobby against the wild rivers of Queensland.

I say that because we have got the wild rivers there and it does not reflect of our homelands movement; in terms of creating jobs for ourselves; in terms of getting our capabilities up to a standard to work with different government regimes, not only state but also federal. Really it does not affect us at all. I think this bill that Tony

Abbott put through does not reflect what Indigenous views really are from the people on the ground and out on their homelands. It only reflects the views of centralised people, which is what the government did in the first place with the assimilation era.

Mr De Busch—My view is I do not agree with the wild rivers environmental bill. I particularly do not agree where it says that consent is required by all traditional owners. These are complicated matters that require further consideration in terms of reconciling the rights of Indigenous people to conserve and develop. Furthermore, it is about getting consensus from all the right traditional owners in the first instance to protect the rivers. In addition, it is about getting consensus from the right traditional owners about this bill. The view that I have is that we are not aware that this bill was taken to parliament by Tony Abbott. The Cape York regional bodies have a long history of using Aboriginal people from Cape York as pawns in their political games. My view is that enough is enough and in order to get consent their needs to be a consensus from the right traditional owners who speak for their homelands. This is the way that we have always continued to follow our traditional law.

I see that this bill and this wild rivers agenda have caused a huge wedge between Aboriginal people and families. Even here today walking into this Senate inquiry there are families outside that we are not speaking to, and that is not us progressing forward as a people together. I think that this wild rivers issue has become an agenda of the regional bodies and many traditional owners. As a representative of the KULLA Land Trust, I was not consulted about an inquiry or a submission being submitted to this either by Noel Pearson or the KULLA Land Trust executive. That is my statement about Aboriginal people from Cape York being used as pawns in this whole political agenda.

Mr Andy—As far as the Girringun Aboriginal Corporation is concerned, firstly, we are relatively new to the wild river issue. It has been declared over part of our country, which is Hinchinbrook Island, without any consultation. As my brothers have said, we have not really been told about what 'wild river' meant. At present we have been given two wild river rangers from the wild river funding, or whatever you call it. This is like looking through a darkened glass; we do not know what lies ahead of us.

Now this new legislation has been put forward to the government—Mr Abbott's legislation. Again, I am not quite familiar with this. What we have now before us is wild rivers legislation that we feel there was a lot of confusion about, as my brother said, on just how this one works. This new legislation that is going to go before parliament is again unsure to us. We do not really know what it is going to do from here on.

Senator IAN MACDONALD—Mr Andy, I think you just said you are new to the wild rivers and that it had been imposed upon you without any consultation; is that right?

Mr Andy—Yes, it was declared in February 2007 and from then on we applied to the wild river for rangers to be able to work in and around Hinchinbrook Island, and we got two rangers. To me, it seemed like we just take it day by day—

Senator IAN MACDONALD—I think you said before that happened nobody consulted you?

Mr Andy—Yes.

Senator IAN MACDONALD—Do you understand that it is the Queensland state government that imposed the wild rivers legislation? As to what Mr Abbott's legislation does—and this is a question I will ask all three of you—the actual bill says this:

The development or use of native title land in a wild river area cannot be regulated under the relevant Queensland legislation unless the Aboriginal traditional owners of the land agree.

What that is saying, just to explain that, is if this bill is passed in the federal parliament it is saying that Queensland cannot do anything on your Girringun land unless the traditional owners agree. That is what Mr Abbott's bill says. What don't you like about that? It sounds fairly fair, doesn't it?

Mr Andy—It sounds fair. But as long as the negotiation is done directly with us on the ground and not through some other organisations. Girringun has a longstanding relationship working through our land and sea, TUMRA—the traditional use of marine resources. We have done that directly with the Great Barrier Reef authority and the Queensland government, and we are looking forward to working directly and not through—

Senator IAN MACDONALD—That is what Mr Abbott's bill says.

Mr Andy—Okay.

Senator IAN MACDONALD—Could I ask the same question to both the others. Mr Abbott's bill states that the development and use of native title land in the wild rivers area—that is in your area—cannot be regulated by the Queensland government unless you agree. What don't you like about that?

Mr De Busch—First of all, my position on the wild rivers declaration of the Archer is that I have never had an issue with it. I was not consulted in the initial stages but after having a look at the piece of legislation I have not had an issue with it. I think it can create a lot of opportunity. That is my position in the first instance. In relation to getting a consensus from the right traditional owners within the area, I agree with Mr Andy that it is traditional owners on the ground that need to be engaged.

Senator IAN MACDONALD—That is what Mr Abbott's bill is all about. It says nothing can be done on your land by the Queensland government or by the Commonwealth government or by any government unless the traditional owners agree. You said you were opposed to this bill, but I am just wondering what you do not like about that. It seems to be exactly what you want.

Mr De Busch—The fear for me, being a supporter of the legislation, is that to have the wild rivers legislation now removed would not grant traditional owners such as ourselves, who are supportive of it, the ability to have large-scale mining, dams erected; it would be a huge problem to the environment and a huge problem to our homelands.

Senator IAN MACDONALD—I think you said before that some of the Aboriginal corporations have been spreading a campaign of fear. Could I suggest to you that perhaps the Wilderness Society is spreading a campaign of fear, because the operative part of this act is that no government can make any decisions on your land without your traditional owners' consent. I cannot understand why you are opposed to that.

Mr De Busch—Like I said, I am opposed to it because of the fact that I think there has been a lot of misleading information that has come out from the regional bodies.

Senator IAN MACDONALD—There is the bill. That is really what it says. Perhaps I could ask Mr Claudie again, repeating clause 5 of the bill, that the development and use of native title land in the wild rivers area cannot be regulated under relevant Queensland legislation unless Aboriginal traditional owners of the land agree.

Mr Claudie—The Queensland government has to go by the Native Title Act, which is at the federal level, which is handled by the regional native title representative bodies, to get these groups of so-called traditional owners that Mr Abbott is referring to, that is, to get consent from those people and not the true people on the ground.

Senator IAN MACDONALD—Well, traditional owners.

Mr Claudie—Yes, traditional owners. The definition of a 'traditional owner' plays a part here. The bill says 'to get consent from traditional owners'. It is referring to traditional owners under the Native Title Act, which is at the federal level. That is why the Queensland government has a bit of a problem trying to itemise out who is who and what is what in terms of traditional owners, and who they should be dealing with, because it is a federal issue.

Senator BOSWELL—In your submission you state, 'Homelands also provide greater opportunities for employment of Indigenous people in environmental services as well as opportunities for enterprise development. The Wild Rivers Act is consistent with facilitating all those important outcomes.' My question is: can you tell the committee what jobs and businesses you are talking about? How many jobs and what are they that are currently available on your homelands?

Mr Claudie—In order to create jobs and get economic development it has to be the federal government who actually help Indigenous people get back to that regime, because they took us out in the first place from our homelands. In other words, when we go back to our homelands we have got no money. Today you need money to conduct the things you are talking about in terms of creating jobs. With the ranger jobs, we got six rangers. We are getting training. In the training we are trying to get our mob to come back to homelands so that we can have our autonomy in terms of getting ourselves into workforces, and getting ourselves into economic development, like creating businesses. Anyway, we have got to create the autonomy or economy ourselves on our homelands, us Indigenous people. We cannot rely on people down here in Cairns to do that for us. We need to do it up there in Cape York.

Senator BOSWELL—I would have thought this bill actually helps that procedure. How many people do not have a job in your area?

Mr Claudie—There are a lot of people that do not have a job in those centralised places. They are so embedded in the CDEP that was there before. They are so embedded in getting handouts from the government in terms of Centrelink. It was not giving them an opportunity to actually try and create jobs themselves, which is what I am saying here. Our only job is to be land managers and that is on our homelands.

Senator BOSWELL—You say you have been involved with the wild rivers initiative since 2006 and in that time you have secured funding for three rangers and access to a ranger vehicle. So, that is three jobs and a car and that is what the Queensland government has offered you in terms of you supporting their programs. It does not seem a lot, three jobs and a car.

Mr Claudie—Well, but it is something. That is what I am saying. At the moment the Queensland government under the Aboriginal Land Act does not give any Indigenous people any rights in terms of their land trust structures to create jobs, to create things on their homelands. It is all centralisation. That is the same with the federal government with the Native Title Act.

Senator BOSWELL—You say in your submission that the Queensland government could do much better in consulting, and the changes to the high preservation areas in response to submissions should also be closely consulted with relevant traditional owners. Would you like to see changes to some of the high preservation areas, and what changes and consultation would you like?

Mr Claudie—I will give you a bit of a history. When we moved back to homelands that is the first thing we looked at, conservation and environmental stuff, so that we can sustain that environment without affecting it. With the high preservation zones, there are rare and threatened species around there. We looked into the Western scientific side in terms of what we know as Aboriginal people from that area in terms of what we have to protect. Have you seen the Wenlock River in full flood? You have not?

Senator BOSWELL—No.

Mr Claudie—If I am going to be developing right next to those high preservation zones, which is next to the rivers, if I put in, say, $200,000 or $300,000 of infrastructure there, then next year, next flood, that $200,000 or $300,000 is going to be down the drain. We have got to look at sustainable economic development and to create employment around that area.

Senator IAN MACDONALD—But aren't you people the best ones to know what is endangered rather than some European scientists?

Mr Claudie—That's it. We do not need Tony Abbott and all them to tell us how to do it.

Senator IAN MACDONALD—No, all he is saying is that you should be the ones who decide, not the scientists that you are talking about. He is agreeing with you.

Mr Claudie—Yes, but like I said before, he is not agreeing with me. He is agreeing with the Native Title Act—

Senator BOSWELL—No, he is not. The Native Title Act says you cannot do this.

Mr Claudie—in terms of native title representative bodies.

Senator BOSWELL—As to the Chuulangun Aboriginal Corporation, how do you get to having a corporation? How many members are in that corporation?

Mr Claudie—We have about six members.

Senator BOSWELL—That is pretty light on, I would have thought.

Senator IAN MACDONALD—Six!

Mr Claudie—It is family based.

Senator BOSWELL—What about you, Mr De Brusch? How many people constitute your corporation?

Mr De Busch—There is about eight.

Senator BOSWELL—This is something I have trouble coming to terms with. There seems to be a proliferation of corporations and those corporations can have between six and 500 members. What weight of value do you give on a membership of a corporation that has six as against 400 or 500?

Mr Claudie—To answer your question, if you have 400 or 500 you have got more Aboriginal people arguing than actually getting implementation and moving forward, whereas if you get a small number, as with the five members that we have got, it is family based and we go by bloodline. It is not by what parliament does

in terms of voting, 'Oh, let's get this sector here or that sector there.' We have got different clan estates that are hooked up with bloodline to country.

CHAIR—Senator Heffernan, is that you on the line?

Senator HEFFERNAN—Yes, it is. I have been trying for half an hour to get through.

CHAIR—Senator Heffernan, welcome to our inquiry. Senator Boswell is nearly finishing his questioning to the first witnesses.

Senator HEFFERNAN—I have got a few questions for Mr Claudie, too, about the six-member organisation that he represents.

Senator BOSWELL—I will yield to Senator Heffernan.

CHAIR—You have about two minutes.

Senator HEFFERNAN—Give us a break!

CHAIR—You can ask your questions now. Thank you.

Senator HEFFERNAN—Mr Claudie, you represent six people in your organisation?

Mr Claudie—Correct.

Senator HEFFERNAN—There are three directors, your wife and yourself and someone else. Who is the third director?

Mr Claudie—I am the chairperson and I have got five other ones.

Senator HEFFERNAN—They say in life you are as independent as the person who pays you. You got funding in 2006, according to the Office of the Registrar of Indigenous Corporations, of $187,000; in 2007, $454,000; in 2008, $620,000; in 2009, $887,000. What did you do with that money?

Mr Claudie—We set up our corporation in the sense of getting in officers, getting up into insurances, buying tools and materials.

Senator HEFFERNAN—How many people are you dealing with? There are six people. There are three directors—yourself, your wife and another director—and three other people. What else did—

Mr Claudie—What we are saying is that those six directors are on homelands with me. All the rest of my people are in those centralised places that you mob put in.

Senator HEFFERNAN—So, $887,000 in 2009. Can we put on notice a question to you to provide how this budget for 2006, 2007, 2008 and 2009 has been spent? Could you provide us with those details?

Mr Claudie—I have not got the details in front of me so I can probably send them to you.

Senator HEFFERNAN—No. I would prefer that we got the paperwork, if we could get that paperwork.

CHAIR—Do you have questions regarding the legislation before us?

Senator HEFFERNAN—I do, indeed.

CHAIR—We have decided to share the time and you have got one question left. Then we are going to the other senators.

Senator HEFFERNAN—I have been trying patiently since 11 o'clock to get through, so I would have thought you could indulge me with a few minutes.

CHAIR—I am not going to do that today. We have agreed on a time slot and you have one question left and then we are going to other senators.

Senator HEFFERNAN—Mr Claudie, I do not know how old you are or how many kids you have got, but say your kids wanted to go to university or come back and farm 800 acres. By the way, I heard what you said earlier about every time there is a flood you will get your infrastructure washed away. Obviously you can overcome that with engineering if you go about it the right way. But if you had a son or grandson who wanted to develop a substantial piece in life rather than for the rest of his life having the economic opportunity of getting your photo taken with a spear for a tourist, do you not think we ought to be able to develop land that you blokes live on for real economic development, which can be done in conjunction with protecting the environment? Do you not think it is a fair thing? My other question is: do you get any other funding other than the funding I have mentioned? Do you get any funding from the Wilderness Society?

Mr Claudie—No, not really from the Wilderness Society, but I get it from the federal government. We cannot be big developers like you mob, like the white man. We cannot destroy our land, because if we destroy our land then we do not exist.

Senator HEFFERNAN—Mate, I understand that and I completely agree with it.

Mr Claudie—We have got to develop in a sustainable way in order to create that economic development for us.

Senator HEFFERNAN—I agree with you—

CHAIR—Thank you. Senator Heffernan, thank you.

Senator HEFFERNAN—This is pathetic.

Interjector—Madam Chair, excuse me.

CHAIR—No, I am sorry. You cannot interrupt from the floor.

Senator SIEWERT—As I understand this bill, it relates specifically to native title land, and many of the submissions outline the fact that there are a whole lot of different titles held in the cape. Are you native title holders?

Mr Claudie—We are, yes.

Senator SIEWERT—So this legislation would apply to you. I am just trying to work out which areas of land this actual legislation applies to, because it applies to native title lands. One of the criticisms of the wild rivers legislation is that it applies to other tenures as well and that the provisions under the Native Title Act do not protect those people who hold land under other tenures. I am just checking to see that all of you are in fact native title holders, because I wanted to ask others who are not what they thought about the legislation and if they had criticisms of the legislation. I do not think this bill addresses those criticisms. I am not necessarily validating those criticisms. I am just asking about them. In terms of consultation you raised in your submission the point around agreements in the bill. You talk about agreements. You talk about how you would reach agreement across all holders of title for that particular river, upstream and downstream. Could you explain that in a little bit more detail for me, please? What are your concerns around how you would reach agreement and the consultation process?

Mr Claudie—On a catchment basis, you have got different tribes all the way down on the river. For us, for example, we are on top. I have to talk to all of those mob down the bottom to try and get an agreement. We cannot override or impact on each other, if you like. If we contaminate the water up from the top there, for example, the mob down the bottom will get contaminated. For us, that is a big thing. We have to have an agreement with us on the ground in the catchment to sort of make a decision.

Senator SIEWERT—Are you saying that the current wild rivers legislation—not the bill, but the legislation—allows a whole of river approach?

Mr Claudie—Yes, and we do the consultation ourselves. But unfortunately the government does not give us the money to do that. So we do that in our own time, like our old people did before.

Senator SIEWERT—That is in terms of developing how you would manage that whole of the river?

Mr Claudie—Yes.

Senator SIEWERT—In terms of going back to when the wild rivers legislation was first introduced and there was funding provided for consultation, were you involved in that consultation process?

Mr Claudie—I was involved, yes.

Senator SIEWERT—Was each of your organisations involved?

Mr De Busch—No, I was not involved. We are a relatively new organisation, just to answered the question before as to why we have only eight members.

Senator SIEWERT—Have any of your organisations had developments or projects that you would like to do that have been stopped by the wild rivers legislation or that you think would be? A criticism I have heard is that organisations have not put up development proposals because they think they will be knocked back anyway. Have you had any knocked back or have you got any that you would like to do that you do not think you would be able to do under the wild rivers legislation?

Mr Claudie—No, not really, not me.

Mr De Busch—No, not for us. We have aspirations to have sustainable ecotourism ventures, and we do not feel at all that would be stopped by the legislation one bit.

Senator SIEWERT—Mr Andy, have you had any development proposals or any proposals that have either been stopped or that you think would be stopped by the wild rivers legislation?

Mr Andy—No. The only proposal was Caring for our Country, and we were looking strongly at managing our country. Our country, as you know, down past Cairns, is quite different from the cape, which is taken up by the sugar industry, banana industry and cattle—whatever. Not much land is left for us. Our concern is in managing our land. At this present moment we have 11 rangers given to us this year. Two of those were the wild river rangers. We find that economic ventures for our people are going to be hard, because we are battling with these existing structures, businesses, agricultural business in, as I said, bananas and sugarcane. We find at this very present time our business is managing our country. We do have a vision which is ultimately taking control of whatever existing country that we have—when I say 'take control' that means managing it. Also, the Queensland state parks and national parks cover a big lot of our country and are run by QPWS. They look after that. We have a vision that one day Girringun Aboriginal Corporation will run that. We will look after that. We will manage all the national park within the Girringun Aboriginal Corporation region and the government will front us and not QPWS. This is our economic viewpoint at this stage. Going into other things, it is hard below Cairns. Everything is taken up.

Senator SIEWERT—Thank you. As to the issue of management of national parks, the wild rivers legislation would not stop you from doing that if that is your vision for down the track. The wild rivers legislation would not stop you from doing that, would it?

Mr Andy—No, not really, no.

Senator SIEWERT—Could I just go back to this issue about consultation? You make a point in your submission also around the misrepresentation of traditional owners, and you were critical of the fact that your organisation is lumped in with other organisations being critical of the wild rivers legislation?

Mr Claudie—Yes, a general misrepresentation of traditional owners. What I see is that in 1997 the Northern Kaanju people registered a native title claim to 235,000 hectares of their homelands on the Wenlock River, over the area known as Batavia Downs Station. The claim is currently undergoing state land dealings towards an Indigenous Land Use Agreement. In 2008 the regional organisation has been contracted by the state government to undertake the land dealings on behalf of traditional owners to send out a submission to the Wenlock Basin Wild River declaration proposal on behalf of traditional owners. This submission is an inaccurate representation of the direction of the traditional owners of Batavia. As to all of the Batavia state land dealings meetings held at Weipa—the traditional owners of Batavia did not authorise the regional organisation to prepare and present a submission on their behalf without any input—I am talking about relevant traditional owners here—or agreement from traditional owners based entirely on that organisation's own position, which is anti wild rivers. This misrepresentation of traditional owners is one example of the overall agenda of particular regional organisations, which has been to misrepresent and misinform traditional owners of Cape York on land management and other issues such as wild rivers. Further, it is highly hypercritical of this particular regional organisation to criticise the consultation process, given their very high level of manipulation of the information to traditional owners and the blocking of several meetings with traditional owners to negotiate around the declarations. That is what is happening on the ground.

Senator SIEWERT—So as to having consultation with the government in terms of wild rivers declaration, you are saying that you are not being properly consulted in that process?

Mr Claudie—No. The regional organisations get the contract from the government, state or federal, in terms of getting the consultation out to the people on the ground.

Mr De Busch—I think the point here is that you have to understand that the regional bodies are not speaking for every traditional owner in Cape York. Mr Boswell and Mr Heffernan are pretty upset, but this is not an inquiry into Chuulangun. If he is going to do an inquiry into Chuulangun, he should go and do that some other time. We are here to focus on the environmental bill—

Senator BOSWELL—We are asking the questions.

CHAIR—Senator Boswell, thanks very much; we are going to Senator McLucas now.

Senator McLUCAS—Could you indicate to the committee the sorts of economic opportunities that you see for your country and how you would proceed to deliver those outcomes on your country? I understand you

have made the point about finances, but what sorts of economic development opportunities would you like to see and how would you go about achieving that?

Mr De Busch—I agree with David Claudie's statement earlier about the fact that the federal government has a role and the state government has a role in helping traditional owners back out on homelands that do not have families that own huge multimillion-dollar companies in relation to having seed funding to first establish our ventures so we can provide jobs, training and opportunity for people to come back onto homelands to manage our own homelands. The types of aspirations that we have are: sustainable ecotourism, opportunities for scientists to come up and work, and to own the intellectual property rights over the opportunities that exist up there through the flora and fauna. It is those types of opportunities that we see as sustainable and that provides us an opportunity to grant our people jobs back on homeland.

Senator HEFFERNAN—What about food production?

Senator McLUCAS—I understand it is your view that the Queensland legislation does not prevent you from achieving those aspirations?

Mr De Busch—Not at all.

Senator McLUCAS—Not at all?

Mr De Busch—As a matter of fact, we have seen the state government have more of a drive now to actually support traditional owners back out on homeland that have those aspirations. There has been misinformed information that has come out through the regional bodies about traditional owners going and actually cutting spear handles and there was a crazy statement this morning about people having a bucket to go and take water away from the camp because they were not allowed to draw their own water out. It is that sort of misinformation that is exactly what people like myself have issues with.

Senator McLUCAS—I am not trying to upset people, but when you say 'the regional body' I think it would be useful for our committee if you were to name that organisation.

Mr De Busch—I can name them. I will just say this: it has been upsetting to see David Claudie attacked a little bit here by two of the senators. Let us have an inquiry—

Senator Boswell interjecting—

CHAIR—Order! Senator Boswell.

Senator BOSWELL—On a point of order. I have a right to take a point of order.

Mr De Busch—Walk into the regional bodies, the Cape York Land Council, the Cape York Institute, the Cape York partnerships, and have a look at how many Indigenous people are sitting behind the desks.

CHAIR—Senator Boswell, I will give you an opportunity to reply, but please do not interrupt the witnesses.

Senator BOSWELL—Madam Chair, I am calling a point of order. Are you denying me the right to have a point of order?

CHAIR—I am saying to you that I understand you want a right of reply to Mr De Busch. I will give you that when he has finished and drawn a breath.

Senator HEFFERNAN—What about me, Madam Chair?

CHAIR—Mr De Busch, have you finished?

Mr De Busch—You'll get your chance.

Senator HEFFERNAN—What about me?

CHAIR—Mr De Busch, have you finished? You have.

Senator HEFFERNAN—I want to know whether these blokes are prepared to grow commercial tucker on their land.

Mr De Busch—It was Senator Heffernan that did it.

CHAIR—Senator Boswell, do you have something you want to say?

Senator BOSWELL—I want to address a statement Mr De Busch made. He said I attacked David Claudie and himself. I asked a question as to how many people were in your organisation.

Senator HEFFERNAN—Exactly.

Senator BOSWELL—I do not accept that that is a personal attack or an attack on your organisation. It was a mere question as to how many people you represent.

Mr Claudie—Didn't I answer you that?

Senator BOSWELL—You did. But you have not accused me of attacking you. Mr De Busch has accused me, and I deny it.

Mr De Busch—It was Senator Heffernan that did it.

Senator BARNETT—Senator Heffernan has requested, I understand—the microphones are not working that well—an opportunity to respond. Senator Heffernan is on the line and I think he should have the right to respond.

CHAIR—I am not sure he requested a response. I think he was interjecting with comments, which are two different things.

Senator HEFFERNAN—No, I wanted to reply.

Senator BARNETT—Right of reply.

CHAIR—Senator Heffernan.

Senator HEFFERNAN—Thank you very much. If there was a misconception that somehow going through the financials is an attack, I apologise if you have misconstrued that. My question really was: with all the land that is up there are the Indigenous people keen to have economic opportunity by way of commercial use of the land such as growing tucker and selling tucker et cetera? Are they opposed to that?

CHAIR—Senator McLucas, your final question.

Senator McLUCAS—My question to Mr Claudie was the same question I asked of Mr De Busch. Your submission indicates on page 3 that there is a range of opportunities that your group would like to pursue. Is there anything in the Queensland legislation that prevents your people from achieving the economic outcomes that you aspire to?

Mr Claudie—No, I do not think so, because it complies with the Wild Rivers Act in terms of protection and conservation and sustainable industries. It is not like we are asking for big mining companies to mine our land or to cut all the trees down and have a timber industry there—things like that. That is what I meant by saying that we have to protect our resources in order to protect ourselves, in a sense, with the land.

Senator HEFFERNAN—That is what Australia's farmers do.

Mr Claudie—What was that?

Senator HEFFERNAN—That is what Australia's farmers do.

CHAIR—Mr Claudie, just continue.

Mr Claudie—Well, I'm not an Australian farmer. I'm an Aboriginal of Australia.

Senator HEFFERNAN—Well, I'm a white fella farmer, mate. You know, we look after our land, too.

CHAIR—Senator Heffernan, I am not going to entertain you interjecting and interrupting witnesses while they are trying to answer a question.

Mr Claudie—Yes, to answer your question, like Mr Heffernan said there in the early part, in terms of our medicinal stuff, we can use that. We can use our bush tucker. We can get that up. We have to consider ourselves, not in terms of making a short buck; we are there for the long run. We need to look into the future for the long run.

Senator Heffernan interjecting—

CHAIR—No, Senator Heffernan. You cannot continue to interrupt in this way.

Senator Heffernan interjecting—

CHAIR—Senator Heffernan!

Senator HEFFERNAN—I would like to know whether Mr Claudie and his organisation is in favour of outside companies taking up—

CHAIR—Mr Claudie, we have come to the time we have allocated you for your evidence. I thank you, Mr Claudie, Mr De Busch and Mr Andy for your submissions and your time at our committee hearing today. Thank you very much.

Mr Claudie—Can I say one thing here. You down there and all of you politicians down there, come up and see our homelands.

Senator HEFFERNAN—I have been there.

Mr Claudie—You have never been there. You've been into Weipa.

CHAIR—Senator Heffernan! If you are going to continue to interrupt we will need to disconnect you, I think.

Mr Claudie—I think you've been in your own outhouse.

CHAIR—I now call representatives from the Cape York Land Council.

[11.55 am]

AHMAT, Mr Richie, Chairman, Cape York Land Council

YARROW, Mr David, Barrister, Victorian Bar, Counsel to Cape York Land Council

CHAIR—Welcome. Thank you for your time this morning. We have a submission from the Cape York Land Council numbered 25. Do you need to make any changes or alterations to that?

Mr Yarrow—Some slight amendments, yes. I will circulate a page of just editorial corrections.

CHAIR—I invite you now to make a short opening statement and then we will go to questions.

Mr Ahmat—It is the Cape York Land Council's role to take instructions from Cape York traditional owners. On their behalf, I would like to thank the committee for this opportunity to present their majority view. The view is in strong opposition to the wild rivers legislation and in support of the federal wild rivers bill that is the subject of this inquiry.

We believe the wild rivers declarations have robbed us of our land rights and the right to speak for country. We believe wild rivers robs traditional owners of their native title rights to negotiate over management and use of their homelands. We believe in free, prior and informed consent. Wild Rivers ignores this very basic right of Indigenous peoples as recognised in the UN Declaration on the Rights of Indigenous Peoples.

Senator Crossin, your government signed up to that declaration on 3 April last year, the very day that Anna Bligh, the Premier of this state, was stripping us of that right when she declared the three wild rivers on Cape York. Those so-called three rivers turned into three basins equalling 13 rivers. The Wilderness Society has tried to label us as non-conservationist and pro development. This is wrong. Consent is the issue here—consent.

We believe consent is required for development and conservation. If governments want to put a national park over our land, consent should be sought. If government and miners want to mine our traditional lands they should also seek traditional owner consent. This bill does not stop those in favour of wild rivers from maintaining the restrictive impositions of the legislation, if they choose to do so.

However, I cannot imagine any Indigenous person saying no to consent or knocking back the right to participate in decisions about their land. We believe a member of each family group should be represented in land use negotiations. Indigenous Land Use Agreements offer a proven model of consent under native title. We believe the wild rivers laws are racist in their impact on the Indigenous peoples of Cape York. This has the greatest effect on Indigenous people, yet we are not involved in talks and negotiation. Blackfellas have not inflicted environmental damage on the cape. The only damage done has been done by white fella companies and miners with the blessing of the Queensland government.

It is the Queensland government that has reached a cosy deal with them, in large exempting miners from the harsher effects of the wild rivers laws. What is so outrageous is that the effect of Anna Bligh's laws on Indigenous communities in the cape are far worse than anything Joh Bjelke-Petersen inflicted on us or denied us. If the Senate committee is truly committed—if you are truly committed—to understanding the gravity of concern held by Cape York traditional owners, on behalf of blackfellas in the cape, I would urge that you hold another hearing in Cairns or on the cape. I would like to hand over now to my legal counsel, Mr David Yarrow.

Mr Yarrow—I just want to make a few points additional to the chairman's comments. This bill is not anti wild rivers, it is actually pro consent. Consent is embodied in article 19 of the Declaration on the Rights of Indigenous Peoples, which particularly anticipates this kind of event. Where a government policy measure impacts on the rights of Indigenous people there must be free, prior, informed consent in regards to the measure that affects their interests. That is what this bill proposes to embody.

The wild rivers legislation in Queensland is particularly rigid, unlike any other land management legislation in Queensland history. In fact, it is a bit like painting by numbers. When a wild river area is declared there is very little flexibility in the land use arrangements. Obviously there is room for reasonable people to disagree about the degree to which that regime imposes restrictions. But on any view you take of the level of restriction the flexibility is virtually nil. All the wild river declaration I ask is that the minister paint circles—delimit areas, high preservation area, preservation area, identified features, floodplain area. The regulatory scheme then imposes a rigid system for the management of those areas. Flexibility is not permitted. This bill would allow negotiation to allow the extent of that regulation to be modified. Environmental benefits in one area

could be set off against another area to permit Indigenous development. That opportunity is not present in the bill in its present form.

It is also significant that this bill will overcome one of the other adverse features of the Wild Rivers scheme, which is to focus regulation at the middle and low end of land use activity while having relatively little impact on the upper end of development. Obviously, there are some key aspects of major development that are prevented, such as building dams. But mining activity is relatively unaffected. Outside the high preservation area mining can continue. In Queensland, mining is not regulated by planning law. Vegetation management controls do not apply to mining, so a mining project outside a high preservation area is feasible whereas an outstation, a low impact commercial tourism opportunity that involved the clearing of a moderate amount of vegetation, would not be permitted. There is a lack of balance. This bill presents an opportunity to overcome that lack of balance.

Senator SIEWERT—It has been raised in a submissions whether the wild rivers legislation counts as a future act. Have you sought advice on that and do you have an opinion on that, particularly as it relates to water as well?

Mr Yarrow—My view is that it is a future act and it does affect native title. You will see in the Cape York Land Council's submission that the Cape York Land Council says that section 44(2) of the Wild Rivers Act is not adequate to protect native title. Further to that, the submission of the land council also says that the protections of this bill should be extended to Indigenous land that is not native title land. The most important example would be Aboriginal freehold under the Aboriginal Land Act or the Aurukun Shire Lease under 1978 Aboriginal local government legislation. Yes, it is a future act. There is a degree of protection under section 44(2), but it is not adequate.

Senator SIEWERT—The bill before us applies to native title, but it does not apply to the other tenures that are held on the cape that all land is held under.

Mr Yarrow—That is right.

Senator SIEWERT—You believe that the bill should be extended to cover all lands on the cape?

Mr Yarrow—All Indigenous lands, yes; that is correct.

Senator SIEWERT—Were you consulted in the drafting of the bill?

Mr Yarrow—The bill has been through a number of iterations. There was no consultation of any great substance in 2005. There was extensive engagement with the Cape York Land Council in 2007. There were some amendments made to the Wild Rivers Act that came at the same time as the Cape York Peninsula Heritage Act. Unfortunately that act has not delivered what was hoped from it, and in fact the process is now run in parallel, so the benefits that are gained in terms of flexibility and what I mentioned before about offsetting environmental protection against development opportunity, has not been translated into the Wild Rivers Act.

Senator SIEWERT—I am Western Australian. Things are a bit different over there and over here.

Mr Yarrow—Should I identify that I am originally a Queenslander?

Senator SIEWERT—Okay. The Cape York Peninsula Heritage Act I thought was part of a process of negotiation and discussion about how to ensure there was a bit more flexibility. Is it your contention that that act is not providing that flexibility?

Mr Yarrow—It is not adequate to do so. Certainly it goes some way to providing flexibility under the state Vegetation Management Act, and that is the primary goal that it achieved. It does provide that Vegetation Management Act flexibility. But the difficulty with the Wild Rivers Act is that when, for example, a high preservation area is declared the Cape York Peninsula Heritage Act does not offer any flexibility at all. The wild rivers declaration at least for a high preservation area says that no application can be made to clear vegetation. Obviously that does not apply to mining, but as far as a high preservation area is concerned knocking down any native vegetation is unacceptable. That might go to I think a question you put to an earlier witness, which was: why are applications not made? The answer is: because many applications are prohibited. They are not able to be made.

Senator SIEWERT—You are saying that people are not putting applications in for the high preservation areas or for other areas in general?

Mr Yarrow—I think that would be my comment for the high preservation area. But I think it is true that the wild rivers legislation does not prohibit all forms of development. But I think there is an unfortunate kind of feeling out there in the public realm that there is this kind of glib way of saying that it offers opportunities for this kind of development, not that. I would say that the reality for Indigenous communities on the ground is that it presents such regulatory complexity and such uncertainty that it is just another impediment.

Senator SIEWERT—A number of submissions are critical of the amount of red tape but say that, no, the red tape is not there because the process is actually fairly clear about what you can do in specific areas.

Mr Yarrow—I did bring the relevant statutory provisions. I do not know whether I should table those or whether they would be of assistance to you. But the regulatory burden is quite high. If there were some legal or administrative measures that would actually make environmentally compatible, commercially viable opportunities for business communities more accessible compared to the degree of regulatory burden that would be great. This bill offers the opportunity for negotiation to be the forum in which that happens. But that is not the only way it could be done.

Senator SIEWERT—That takes me to the issue of the agreements as they are specified. There has been a lot of criticism in the submissions around the fact that the term 'agreement' is not defined in the bill, and so what is the definition of 'agreement' and how would it operate? There are a number of submissions and you heard the earlier witnesses saying, 'We in fact don't support this bill and we have got a different opinion on the wild rivers legislation and how you actually manage catchments.' How would you see in that case an agreement operating given the wide views of a number of traditional owners?

Mr Yarrow—That is an issue we picked up in the land council submission. It identifies the need to make this bill more compatible with the Native Title Act. Another example would be that the term 'traditional owner' does not appear in the Native Title Act. Our submission would be that the term should be 'native title holder'. The agreement should take the form of an Indigenous Land Use Agreement—either an area agreement or a body corporate agreement. The key point there is that it is the individual landholding group, the native title holders, who have the mandate for negotiation and decide the terms on which they would accept the application of a wild river to their land. If they have a desire to maximise environmental protection, that is their opportunity. It is self-determination for them. If they want to identify development opportunities and match them against conservation outcomes, that also is their opportunity.

Senator SIEWERT—I have a number of other questions. I will put them on notice.

Senator McLUCAS—Mr Yarrow, there is clearly a difference of opinion about what can happen in a high preservation area. My advice is that the sorts of things that are precluded in a high preservation area are in-river mining—I have a list of things here—intensive animal husbandry, aquaculture and surface mining one kilometre from the river. You said in your opening comments that it is your view that a low impact tourism operation could not occur in that high preservation area. On what basis do you say that?

Mr Yarrow—You might recall I did say a low impact tourism venture that involved any measure of clearing. You will not find any entry in the Queensland wild rivers regime or planning law that says 'Indigenous low impact tourism'. It is simply not a category that it talks of. Instead it talks of vegetation clearing or not. Remember I mentioned before any vegetation clearing in the high preservation area is strictly prohibited. This is my point about protecting the middle and low end but not paying attention to protecting the high end, or at least some aspects of the high end. The wild river system is so rigid that a vegetation clearing application, which is part of the development application under the planning law of Queensland, can simply not be made in the high preservation area. I did bring with me schedule 1 of the Sustainable Planning Act which bears this out, and I am happy to table that if that would help.

Senator McLUCAS—Would you mind if I send that portion of the *Hansard* to the Queensland government to ask for their comment on that?

Mr Yarrow—Absolutely. Yes, I would be happy for you to do that.

Senator McLUCAS—I understand the Cape York Land Council was involved in the consultation around the development of the Queensland legislation. For the record, can you provide the committee with an understanding of what involvement the land council had over time in the development and eventual passing of the legislation in the state of Queensland?

Mr Ahmat—My understanding was it was in the early days in Brisbane when the Cape York Peninsula Heritage Bill was being negotiated between the state and Cape York. I do not know how much involvement the land council had in the early days with the wild rivers legislation. I was not around in those days. I am not

making excuses, but I believe there was an understanding by former Premier Mr Beattie, in a conversation he had on a telephone conference; he understood that the wild rivers legislation was all about protecting the river. It was not about a kilometre either side of the river. It was only about protecting the river itself. From there we have gone from protecting the river to covering an area that is so vast that it actually stops economic development and aspirations of Aboriginal people in the cape.

Senator McLUCAS—What applications for activities have been made that you are aware of that have been rejected under the Queensland legislation?

Mr Ahmat—I do not know of any applications that have been put forward to the Queensland government. But as I said earlier this morning, please point me to any Indigenous person in the cape who can afford an environmental scientist and a lawyer to help them with a submission to develop any part of their country. Can anyone in this room tell me whether there are Aboriginal people in the cape who can afford a scientific environmentalist and a lawyer to help them with a submission? That is exactly why Aboriginal people, as I understand it, do not apply to develop their country; there is just no money to pay professional people.

Senator FEENEY—I think you were in the room when the previous witnesses gave evidence. I think we have an impression that the opinion of Aboriginal people on the cape is not unanimous about how this matter should be treated. One of the concerns seems to be—and I am grappling to try to understand it—that native title holders as defined federally are felt to be at least by some people a different group in terms of which Indigenous people have been consulted as part of the process. Do you have any comment on that and any comment more broadly about the divisions of opinion within Indigenous communities on these issues?

Mr Ahmat—My understanding as a blackfella and a traditional owner from Cape York is that traditional owners of Cape York are all over Cape York and all over this country. Decisions about their country are made by them. But I do not think just one family can make a decision over an area that is covered by numerous families. I believe people are saying there is a process. As I said earlier, the land council does not exclude traditional owners on any of its negotiations on native title. It actually bends over backwards to include everybody who says they are connected to a certain area of land. There are so many opinions about, you know, 'You are not a traditional owner. I am a traditional owner. You can't speak for country because I am senior.' That should be sorted out amongst the groups themselves. It is not our duty as a native title representative body to implement instructions over people's decisions, if that answers your question.

Senator TROOD—Does that answer mean that you believe the council does represent the views of many Indigenous people on Cape York?

Mr Ahmat—If you look around the room, there are many Indigenous people from Cape York who actually live in the cape. I think they would not be here if they did not give us instructions to represent them.

Senator TROOD—Your view is that there are relatively small groups around the cape for whom you do not speak?

Mr Ahmat—Definitely, but our door is always open.

Senator TROOD—The point has been made that native title rights are protected under the wild rivers legislation. It is often said that the right to hunt and fish, protect important places of the country, and so on, are all protected. Why do you say that is inadequate?

Mr Ahmat—If you go back to the inquiry a couple of weeks ago in Canberra, this legislation actually says that the blackfella can go and hunt, he can gather and he can do the traditional things on his country, but he cannot be a part of the real economy. We are saying that we are not against mining. We are not against development. But what we are saying is that we need people to understand from the Commonwealth, the state and territories that you have to gain consent from Aboriginal people for anything that happens on their land. Senator Crossin, may I ask you a question, please, if that is allowable? If it is not allowable I will aim it at everybody.

CHAIR—It is not actually allowable, but you can put a view to us.

Mr Ahmat—My view is that I cannot make a decision about your backyard. I cannot make a decision about that, because I do not have that right. But I am telling you that we are in the same boat. People cannot come and make decisions on behalf of human beings, blackfellas of Cape York, saying, 'We know what is best for you.' The rights have been handed down from our forefathers for generation after generation: you have to look after this country; this is your country. It appeases me when you think, 'Well, the natives, we still want them to be natives, and we'll just move ahead without them.' That is the statement I want to make.

Senator TROOD—Is it your view that the Queensland legislation puts you in a position which you have been in for thousands of years and does not provide you with the opportunity to progress your people?

Mr Ahmat—Absolutely.

Senator HEFFERNAN—In relation to something like the proposed emissions trading, where there seemed to be a flaw in the system both for Australia's white fella farmers and our Indigenous mob, with regard to the difference between Aboriginal freehold land and native title land in terms of being able to trade the carbon credits; in one lot of land the Commonwealth still owns the trees, so the Commonwealth would accumulate the credits. Is anyone able to make any comment beyond that? Also, when I was chair of the northern taskforce, we had a meeting in Cairns at which Michael Ross, the former chairman of the Cape York Land Council, attended and he talked about the development of his property that he lives on. For many years it was a pastoral station, and under the present arrangements and opportunities for the Indigenous people the best they could do was just go out to catch wild cattle while the white ants ate the house down. Would the people on the panel now like to make some comment on that proposition, that really we do need to give our Indigenous people commercial, economic opportunities?

Mr Ahmat—I go back to what I stated earlier. You cannot lock us up. You cannot lock Aboriginal people up when you talk about closing the gap. You cannot lock Aboriginal people up when they talk about the Prime Minister bringing tears to nearly every person in Australia, apologising for the way Aboriginal people have been treated. Give us a fair go. That is all we are asking from the Commonwealth and the states and territories. Let Aboriginal people lead the way. We do not want to be sitting under humpies for the rest of our lives. We want to build a future for our future children. Does that answer your question?

Senator HEFFERNAN—As to one of the questions that need to be answered, though, on Aboriginal country—there are 17½ million hectares on Cape York Peninsula, and the average annual wildfire area is five million hectares. Is one of the things that has to happen is that you have actually got to be able to commercialise the opportunity on your land plus have ownership of your own home, sort of thing, so you can pass it on in your will to your children, so that you are joining the world of the future rather than the history of the past? A lot of people think that economic opportunities for Indigenous people, as I said earlier, was getting your photo taken with a spear. I would like to see the great agricultural opportunities that are represented in the Cape York Peninsula, with the best of environmental science, commercialised to give Indigenous people a real economic return. Isn't the legislation of wild rivers defying that aspiration?

Mr Yarrow—I think the issue is about getting the policy settings right. Obviously, adequate protection of environmental values is important, and there is a crucial need for Indigenous communities that hold those valuable assets to attract investment. The difficulty with the wild rivers legislation is that it focuses on one to the exclusion of the other. There is no problem with negotiating a balance between the two. Unfortunately, intergenerational equity for Indigenous people will suffer because the environmental values that protect it today—the need for investment or more generally economic development of Indigenous people for tomorrow—is put off to another day to another policy setting. It would be preferable, using the device of this bill, to bring them together at the same table and allow negotiation to achieve compromises and to the best extent possible balance the two of them.

Senator HEFFERNAN—I agree with that entirely.

CHAIR—I am going to go to Senator Boswell now.

Senator BOSWELL—You expressed great concern in your submission about how the original election commitment for the declaration of 13 rivers became over time 13 basins. Were you ever told the 13 rivers were going to be 13 basins? Where does 13 basins get you in terms of the coverage of the land that will be excluded under wild rivers?

Mr Ahmat—I understand and I believe the word 'basin' was never, ever used in the negotiations for the declarations of the three rivers. Thirteen declarations in Cape York turned into about 76 rivers, and it covers 80 per cent of Cape York under this legislation. That 80 per cent is nearly all Aboriginal freehold land.

Senator BOSWELL—There was a map floating around down in Canberra. I would ask for that map to be produced again. Can you show us on a map the land on the cape that is affected by wild river legislation? Can you overlay that with freehold land that was allocated to the Aboriginal communities by the DOGIT agreement, the land that was allocated when stations were acquired, and the land given to Aboriginal interests, national parks and consequential agreements? I would like to see a map, and I would like the committee to see this map, of what land is DOGIT land, what land has been given to you by the sale of the stations—where

some land goes to you—and how much all this land is going to be affected, and what you cannot do on the land that is affected? Is there such a map?

Mr Ahmat—I think they are getting it now.

Mr Yarrow—Some of our colleagues will endeavour to get that map.

Senator BOSWELL—I am trying to come to terms with this and I think some of the other senators are, too. How many land councils, traditional owner councils and Aboriginal communities support the Queensland government legislation? We seem to have little diversions off with family groups that do not. But as to the more substantial organisations, do they all support it? Could you give us a breakdown of who supports it and who does not support it?

Mr Yarrow—In terms of support, the Wild Rivers Act from 2005 is an empty shell. It does not tell you how much land is affected or how substantial the protections are. There is no meaningful answer to: is the Wild Rivers Act supported? As far as the three declarations that have been made to date on Cape York, there is not universal opposition but there is very substantial opposition.

Senator BOSWELL—What would you put it at?

Mr Yarrow—I would have to ask the chairman.

Mr Ahmat—I would put it that about 80 per cent of Cape York do not support the legislation.

Senator BARNETT—The Queensland legislation.

Mr Ahmat—The Queensland legislation—the declarations.

Senator BOSWELL—You have made a claim in your submission that it is believed that on Cape York the 2004 wild rivers election commitment was primarily a trade-off to seek to appease conservation groups on the issue of dams in south Queensland. That is what you have stated.

Mr Yarrow—That is not the Cape York Land Council's submission. I think that is the Balkanu submission that you are referring to.

Senator BOSWELL—So, you cannot—

Mr Yarrow—No, I cannot answer that. We do have the maps now. Perhaps we could display them for you.

Senator BOSWELL—Will the Balkanu people be making a submission? What does the land in yellow represent?

Mr Yarrow—There are two maps here. They have not been merged. The left shows, in blue, the current, the three declarations made, and the additional 10 declarations proposed. On the right you have a Cape York tenure map. Orange on that Cape York tenure map is pastoral holdings. A large number of those pastoral holdings are now held by Indigenous people. Blue is DOGIT land and Aurukun Shire lease land. You can see on the west coast there a substantial amount of both DOGIT land and Aurukun Shire lease. I should say there is also Aboriginal freehold on the east coast. As you will see, if you compare the two, not all Indigenous tenure in Cape York will be covered by the proposed wild river declarations but a substantial part. I did say before that the declarations themselves are very mechanistic, so the restrictions I mentioned before are automatically imposed.

Senator BOSWELL—What is the yellow again?

Mr Yarrow—Yellow is pastoral lease.

Senator BOSWELL—But the Aboriginal communities have been given back some of that land.

Mr Yarrow—That is right; a number of those pastoral leases.

Senator BOSWELL—Is there any still in private hands?

Mr Yarrow—Yes, quite a substantial amount.

Senator BOSWELL—The wild rivers legislation impacts on all that land and the blue land as well. That land was given for Aboriginal development.

Mr Yarrow—That is right.

Senator BOSWELL—I was around when it happened. What title is that? Is it freehold title?

Mr Yarrow—It is a deed of grant in trust, which is a freehold; that is right.

Senator BOSWELL—How many acres or hectares of land is that?

Mr Yarrow—I do not have that figure, but I could obtain that for you.

Senator BOSWELL—That land now, which was given to Aboriginals to develop for an orchard, a farm or whatever they wanted to do on it—they could go in and ask the council to give them 20 acres or 50 acres; and I think on occasion they even developed cattle properties on them—can't be used for any development purposes?

Mr Yarrow—I would not say 'can't'. I would say the development opportunities are heavily constrained. It all depends on whether it is allocated to high preservation areas or preservation areas in the declaration. But I think it is fair to say that development opportunities are substantially constrained given the constraints that automatically apply with a wild river declaration, particularly around vegetation clearing and affecting in-stream and near-stream water lease.

Senator BOSWELL—I cannot see why anyone would be against this legislation. It is virtually giving you back what was given to you and been taken off you. That land was given to you by a conservative government. It has now been taken off you by a Labor government, and the conservatives are trying to give it back to you, and people do not seem to want it back.

Interjector—It was our land in the first place.

Senator BOSWELL—You are totally right. I could not agree with you more.

CHAIR—We cannot accept that interjection from the gallery. Senator Boswell, you know that.

Senator BOSWELL—It was your land and you got it back. Now they are taking it from you.

CHAIR—We are at the end of our questioning time now, so just answer that and we will need to move to the next witness.

Mr Ahmat—Could I just make a statement?

CHAIR—Yes.

Mr Ahmat—My understanding is that the Commonwealth government spends millions of dollars getting the land back on behalf of Aboriginal people. Then the state allocates some of it to an environmental regime with no compensation for blackfellas. Is this a fair and just system?

Mr Yarrow—In answer to Senator Boswell's question, there is no mechanism at the moment under the wild rivers legislation for creative and commercially productive compromises to be made for the use of Aboriginal land. There is a cookie-cutter approach to environmental legislation under the wild rivers legislation. This bill provides an opportunity to promote compromise about the balance between commercial opportunity and environmental protection through the form of agreement. That is consistent with Article 19 of the Declaration on the Rights of Indigenous Peoples:

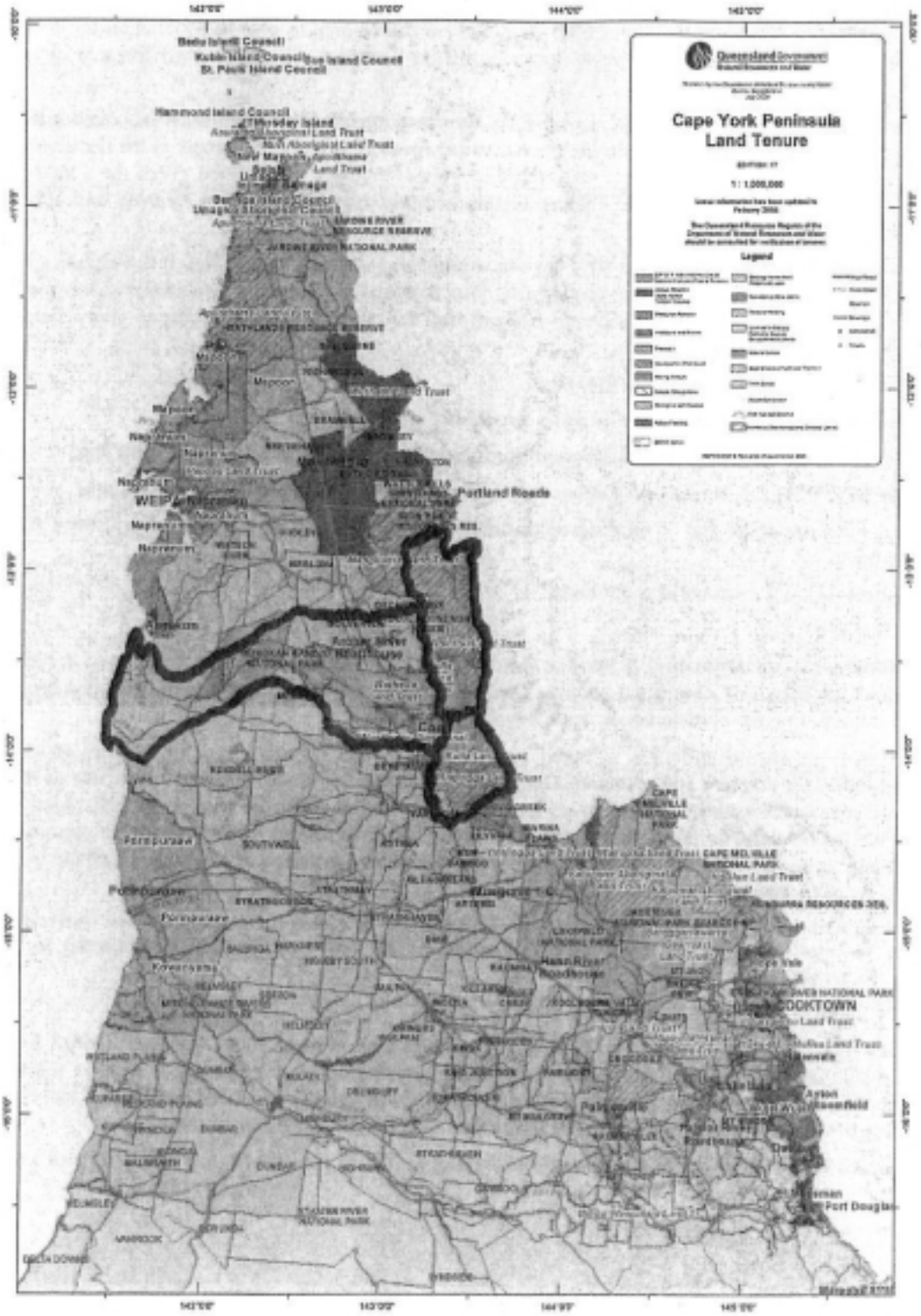
> States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

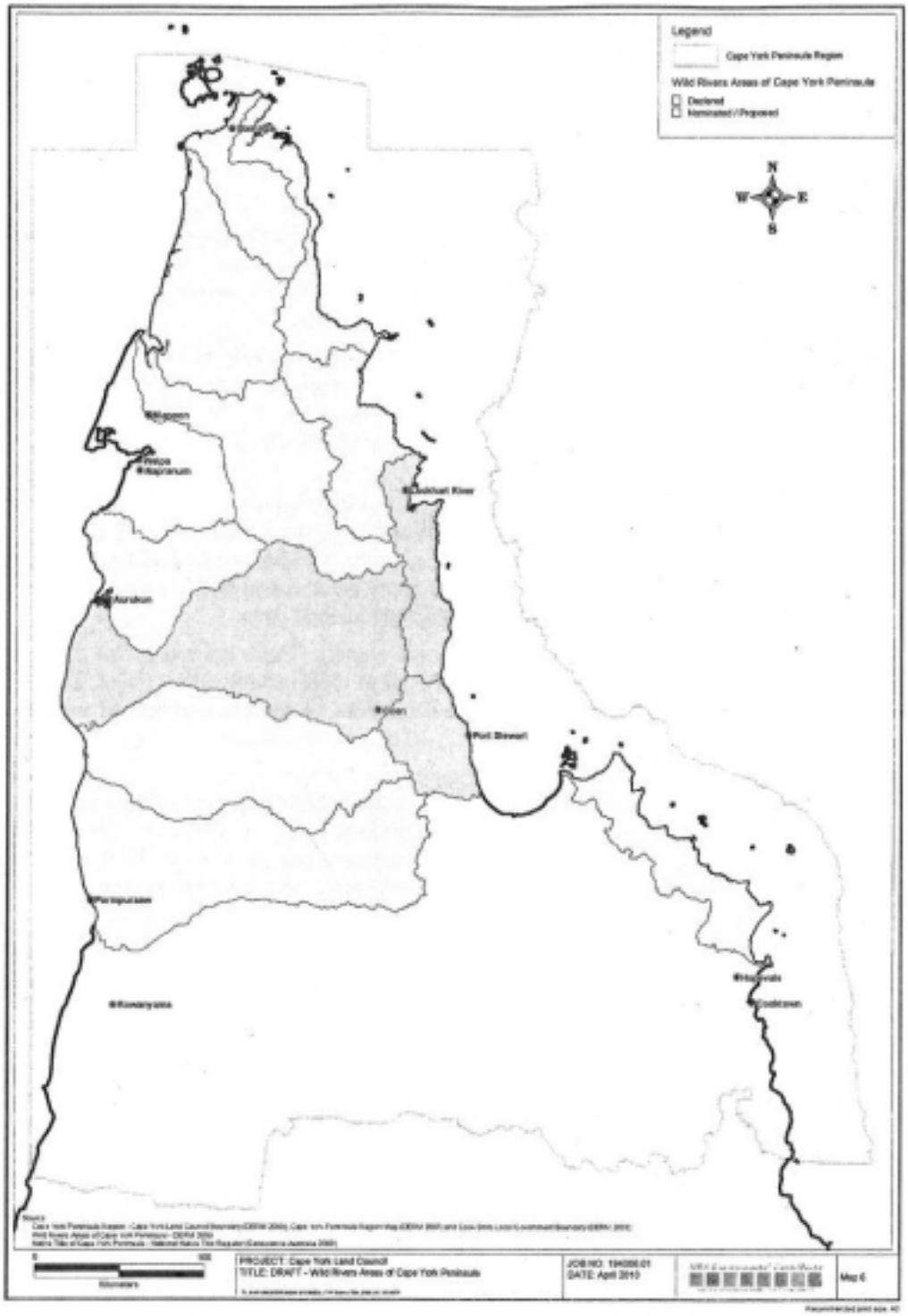
We submit that this legislation does exactly that.

CHAIR—Thank you for your time this morning. Thank you for your submission and thanks for making yourself available to appear before our committee. We appreciate that. We are going to have a five-minute break, because I understand that we have made arrangements to open up this petition to allow more people to have access to what we are doing. We will organise that and then go to the next witness.

Senator BOSWELL—Can that map be incorporated in *Hansard*? I move that it be accepted as a tabled document.

The documents read as follows—


Cape York Peninsula
Land Tenure
Legend
Portland Roads
COOKTOWN



Proceedings suspended from 12.35 pm to 12.44 pm

ESPOSITO, Mr Anthony, National Manager, Indigenous Conservation Program, Wilderness Society

SEELIG, Dr Timothy George, Queensland Campaign Manager, Wilderness Society

WALKER, Mr Glenn, Wild Rivers Campaigner, Wilderness Society

CHAIR—Welcome. We have a submission, which has been numbered 29. Do you need to make any changes or alterations to that?

Dr Seelig—No.

CHAIR—I invite you to make an opening statement and then we will go to questions.

Dr Seelig—Firstly, I just wanted to acknowledge the traditional owners of the land that the Senate inquiry hearing is on today. I thank also the committee for the opportunity to make a presentation and to answer your questions. The Wilderness Society strongly supports the Queensland Wild Rivers Act for three key reasons. Firstly, Queensland's natural free-flowing rivers need protecting from threats, current and future threats, from dams, in-stream mining, intensive irrigation and other damaging practices.

Secondly, wild rivers is a new and sensible approach to river protection where declarations occur regardless of land ownership in a tenure neutral way. The Wild Rivers Act very explicitly protects native title rights under declarations. I should add it is not a Cape York specific piece of legislation. It is state-wide. If you looked at a map of Queensland where wild rivers works, it is the whole state effectively. It does not discriminate. It does not focus on Cape York.

Thirdly, wild rivers supports and enables sustainable activities and lower impact development as well as traditional and cultural practices. Briefly to elaborate on those things, many of Australia's and Queensland's river systems are seriously degraded due to overextraction, pollution, catchment modification and lack of effective river regulation. Science and logic tells us that we really need to deal with river protection at a basin level or at a whole of river system level, not in little parts and incremental parts.

Queensland has some of the last free-flowing rivers in the country. These are rivers that the Queensland government has focused on, because they have all or nearly all of their natural values intact. They are found across the state. They are found in the gulf country and in Cape York, in western Queensland and the Channel Country and elsewhere and on the eastern seaboard, on the islands of Hinchinbrook and Fraser, and on coastal rivers.

The Wild Rivers Act itself was passed in 2005. It has been promoted and endorsed in three consecutive state elections. It has been through three sets of amendments, each of which has involved the input of Indigenous organisations and representatives, conservation groups and industry groups. Essentially those amendments have been designed to try to iron out problems. They may not be perfect, but there has been a process of trying to get the legislation right.

Wild river declarations are designed to prevent destructive development like dams and irrigation and mining occurring in sensitive river areas, but the declarations do support sustainable development and sustainable opportunities, whether they are from grazing, fishing, building infrastructure, and they certainly do support traditional activities. They also allocate Indigenous water reserves, which is a first in Australia.

There has been a great deal of misinformation and misreporting on how wild river works and we have even heard some more of that today. Our submission does touch on some of the misinformation campaign. I have other material, if you are interested in seeing that. There have been claims that it stops all development, that it stops cultural activities, it is akin to a national park, it locks up the land, and these are all wrong. It is claimed there are no threats when clearly there are existing threats from mining. Today in the *Cairns Post* there is a big story about a Cape Alumina mine that threatens the Wenlock River. Let us not be in any doubt that there are real threats and real risks to river protection. That is not from Indigenous people. That is from a big mining company, and this is an example of what can happen without adequate river protection.

It is claimed that wild rivers takes native title rights away, when the act explicitly states the native title rights are fully protected and none of the act itself or the code or any of the declarations have been found to be contrary to the Native Title Act.

There are other issues that are raised about the Wild Rivers Act, including that it impinges on broader Indigenous rights and, as people have raised today, questions about the principles of the United Nations Declaration on the Rights of Indigenous Peoples. These are really important issues and actually need to be dealt with in a more complex and serious way. I will come to the bill itself in a moment. Regrettably there has

been a lot of misinformation and very little proper analysis by those who oppose the Wild Rivers Act about what is actually wrong with it. There has been an awful lot of hyperbole and a lot of polemic.

The Wilderness Society does not support the bill that is before the Senate for three key reasons. Firstly, because the intent here is to undermine river protections, give larger scale development a clear run, and the backers of the bill have made this clear; they wish to see the declarations undermined or the Queensland Wild Rivers Act itself overruled. Secondly, we believe that all landholders should be subject to appropriate environmental regulation and that unfettered property rights of any description can pose a risk when they are in a fragile environment. Thirdly, and perhaps most importantly right now, the Wilderness Society believes that the bill is poorly constructed, is ill informed, politically motivated and it represents a threat both to environmental protection and to states' rights. It is a simplistic move in support of the anti-wild rivers campaign, which has been running for a long time, rather than a serious attempt to address complex issues around conservation outcomes and Indigenous rights.

Despite the claim that the Wild Rivers (Environmental Management) Bill is all about giving rights to Indigenous people to say no to wild rivers declarations, it is very clear that the intent here is to override the Wild Rivers Act, certainly as far as Cape York is concerned. That leaves serious questions, as we have heard this morning, for traditional owners who want their rivers protected, as well as for the broader community who support environmental protection for rivers and associated landscapes, and of course the government, in this case the Queensland government, which has a responsibility to look after the environment.

With the bill there are no explanatory notes and nor any other sort of material that helps you work out what it is really trying to get to. For a bill titled 'environmental management' it does not actually have any positive environmental purpose and it does not say a good thing about environmental regulation. 'Agreement' in the bill is undefined. It is unclear what will be required to satisfy the test of 'agreement'. Is it at a community level? Is it at each and every individual level? I think again this morning from some of the earlier evidence it is quite clear that this is a complex area. It is not as straightforward as simply saying you can have one voice and one plan. If there is a river with a number of families or a number of clans, you may end up with a number of views on the river protection. I guess the bill also does not understand the nature of traditional ownership, Indigenous decision making or how representation works.

How the legislation would work in terms of the effect on non-native title lands covered by the same declarations is also not clear, nor whether if this bill were to be implemented it would set aside an entire declaration or just a part of a declaration. The reasons the current legal provisions of both the Wild Rivers Act and the Native Title Act are inadequate to deal with the issues that are being raised are not given. The bill fails to define Indigenous rights and interests it claims to be protecting and instead seeks to provide a superficial and selective response to a complex set of issues, as I said, with conservation outcomes and Indigenous rights.

The Wilderness Society believes the bill has really failed to understand and reconcile the diverse rights and interests of Indigenous and non-Indigenous people that surround wild rivers. By joining a supposed special measure for Indigenous people to an argument about sovereign property rights the bill attempts to create a precedent for the removal of a state's regulatory powers and responsibilities with respect to land tenure and environmental management. By extension, this principle could be applied to any environmental protection measure at a state level and could theoretically be extended to any government policy of any description, social, economic or ecological.

Ultimately I think there are key questions about where we draw the line between regulations for the common good and respect for the equal rights and interests of individuals and groups especially around land and water. I guess the Wilderness Society believes that public opinion has been decidedly in favour of environmental regulation taking precedence over unfettered property rights, especially where those entitlements may lead to the cumulative destruction of the environment.

To conclude—and I am doing this because I guess our submission is quite an extensive piece of work and I am not expecting you all to have read it from cover to cover—the Wilderness Society acknowledges the rights of traditional owners to the use and enjoyment of their lands and to negotiate on developments occurring on them. We also recognise the responsibility of state and Commonwealth governments to ensure that all land use and development, whether on Aboriginal land or other tenures, is subject to relevant environmental regulation and planning processes.

The Wilderness Society recognises that there are very important political and policy questions to be addressed in regard to how Indigenous rights and interests are supported and enhanced, how economic and

social disadvantage in Indigenous communities is properly addressed and how pristine environments can be protected through progressive conservation approaches.

As an environmental advocacy group, our primary focus is on the environment, but this does not mean that we fail to understand or fail to recognise the legal, social justice and economic opportunity imperatives that also exist when it comes to remote Aboriginal communities. We do not support measures that deliberately or inadvertently contribute to a contravention of Aboriginal rights under the law. Protecting the environment, including our last remaining pristine free-flowing rivers, is a positive legacy that traditional owners and the rest of the Australian community can ensure is left for present and future generations. You can only truly protect the environment if you are prepared to rule out its potential destruction via damaging practices. Subscribing to environmental protection approaches is the easiest and the best way of demonstrating this. We believe that wild rivers makes sense and is a sensible approach.

I guess the idea that a seven clause bill with no explanatory notes or policy details represents an informed and appropriate response to the complex issues at hand to us is farcical. We think it is also demeaning and disrespectful of the need for a serious discussion about how conservation legislation and native title rights and broader Indigenous interests currently interact and how they should in the future.

Senator IAN MACDONALD—Your PhD is in law?

Dr Seelig—No, it is in urban sociology, actually.

Senator IAN MACDONALD—What I understand from your submission is that you believe scientists, urban sociologists and others have to tell Indigenous people how best to care for their country in Cape York. I take it that is what your submission—

Dr Seelig—Not at all, no. In fact, we work very closely with a number of traditional owner groups and we spend a lot of time on Cape York talking to Indigenous communities and traditional owners, and they very much inform our approach to conservation.

Senator IAN MACDONALD—You have heard evidence from the most representative group that they believe they can properly care for their country far better than any—I think I am quoting them—white man, any scientist could, and many of us think that is probably correct.

Dr Seelig—I think you also heard evidence that that group is not regarded as truly representative by a number of traditional owners.

Senator BOSWELL—By a family of six people.

Dr Seelig—No, I think by a number of Aboriginal communities.

Senator IAN MACDONALD—Let us not go into that. I guess parliament is not representative of the Australian people, either, but that is the system.

Dr Seelig—I think it is an important point to make, though. The Cape York Land Council is the native title representative body, but it does not necessarily mean that it is representative of all Indigenous interests on Cape York, nor of all views on wild rivers. What we hear on a very regular basis is that there is a disparate number of views on wild rivers, and the Cape York Land Council represents one of them but, as you have heard this morning, there are many other views.

Senator IAN MACDONALD—As a North Queenslander I can say this. Scientists from down south and from George Street and from Canberra know better how to protect the Cape York country/land of the Indigenous people than the Indigenous people do? That is what you are in fact saying.

Dr Seelig—No, I just said traditional owners themselves inform us on our approaches to conservation. Our views on wild rivers are as much informed by them as they are by science, by good policy and by other means.

Senator IAN MACDONALD—Where it is a conflict between Indigenous people and science you will go with the science every time?

Dr Seelig—I did not say that.

Senator IAN MACDONALD—Well, say that I am wrong.

Mr Esposito—We are not here to act as individuals but to represent the position of the Wilderness Society. There are a number of things in there. I think you are trying to impute that science overrides Indigenous people and by inference that somehow traditional owners have a superior set of knowledge and therefore—

Senator IAN MACDONALD—Yes, I am; you are quite right.

Mr Esposito—That is how I understand it. Our view is a simple one. There are two very valid sets of ecological knowledge systems. One is the traditional ecological knowledge system based on Indigenous knowledge and ownership of land, and it is evolving as well. It is not stuck in the past. Indigenous knowledge particularly at a local scale is vitally important to understanding what is actually happening in the environment. Scientists too have a very valid knowledge system and operate on different scales, different specialisations and in different ways. In the contemporary world we are not dealing with an environment in which simply the application of traditional knowledge is enough on its own to protect the environment solely or prevent destruction. Simply also science is not enough to guide everything we need—

Senator IAN MACDONALD—You are saying Indigenous people have done pretty well for the last 60,000 years, but suddenly they cannot handle it?

Mr Esposito—No, I am not saying that. You are saying that. If you want to ask a question I will answer a question, but I am not saying that. What I am saying is there are knowledge systems that are both important and that contemporary conservation work actually understands that and does an enormous amount to combine them to provide scientific support to Indigenous people, because they are actually—

Senator IAN MACDONALD—We have done pretty well, haven't we?

Mr Esposito—And vice-versa. The question of Indigenous stewardship of land for 60,000 years or 40,000 years is not a statement about contemporary conservation issues or about knowledge, but whether people are in a position to actually effect conservation.

Senator IAN MACDONALD—Part of your criticism is on the content of the bill. Are you aware that the bill was drawn by a senior counsel and looked at by the parliamentary draughtsmen? You have heard a witness here who is a qualified barrister who does not seem to have any problem with understanding it.

Mr Esposito—I do not have a problem with understanding it.

Senator IAN MACDONALD—Or thinking that it would work in practice?

Mr Esposito—The workability issues I think are profound. It spells out nothing about workability. The question is: what does this do? There seems to be somehow a protection of native title rights so why is it that the native title regime as we understand it is not applicable in this situation? Why can we not revert to the native title regime? If ILUAs are in order why can we not use ILUAs?

Senator IAN MACDONALD—Tell me which part of these words do you not understand:

The development or use of native title land in a wild river area cannot be regulated under the relevant Queensland legislation unless the Aboriginal traditional owners of the land agree.

Mr Esposito—There are no parts of that sentence that I do not understand. It is a question of terms. It is a use of terms. There is no definition of terms and there is no reference to any legal concepts that actually apply at the moment. What are native title lands, where is 'traditional owners' defined? What does that mean? What constitutes 'agreement'? When do you know you have agreement? The issue we take with the bill is why should the state not have any regulatory powers? In effect, the bill is saying only with agreement can the state regulate.

Senator IAN MACDONALD—Yes.

Mr Esposito—Yes. And it is a very particular thing. Only with agreement can the state of Queensland regulate in Cape York with respect to wild river declarations. Broadening that principle out, are you saying that governments have no right to regulate in respect of anything that affects an Indigenous person unless the agreement of the traditional owners is present?

Senator IAN MACDONALD—Have you read clause 7?

Mr Esposito—I would have, yes.

Senator IAN MACDONALD—Do you accept that regulations can be made to deal with the issues that you have raised?

Mr Esposito—Yes, I note that.

Dr Seelig— Except that there were no explanatory notes so how do we—

Senator IAN MACDONALD—I am not sure that that is correct, actually.

Dr Seelig—It is correct.

Mr Esposito—Where are they?

CHAIR—There is no explanatory memorandum with this bill.

Senator BARNETT—The second reading speech makes it very clear with regard to the intent and the object of the bill.

Dr Seelig—So, there is a first reading speech from the Leader of the Opposition and there is a second—

CHAIR—But there is no explanatory memorandum.

Dr Seelig—There are no explanatory notes or memoranda. The first reading speech and second reading speech in the House of Representatives and the second reading speech in the Senate indicate the intent of the bill, which is to override the Queensland Wild Rivers Act.

Senator IAN MACDONALD—That is correct.

Dr Seelig—This bill does not actually have the capacity to do that, so the intent does not seem to be met by—

Senator IAN MACDONALD—Why does it not have the capacity to do that?

Dr Seelig—Because it talks about unpicking declarations, not overriding the state legislation. That is not to say that—

Senator IAN MACDONALD—Sir, I asked you the question whether your—

Dr Seelig—Perhaps you are suggesting by regulation now that there will be an intent to override the act.

Senator IAN MACDONALD—Are either of the others of you trained lawyers?

Dr Seelig—No, I am not a trained lawyer.

Mr Esposito—Does that mean I do not understand law?

Dr Seelig—Are you a trained lawyer, Senator?

Mr Esposito—Do you think we operate in the absence of legal advice?

Senator IAN MACDONALD—This is drawn by a senior counsel and the parliamentary draughtsmen.

Mr Esposito—Getting three lawyers in a room and asking them to agree is like getting three economists in a room and asking them to agree. It does not happen.

Dr Seelig—This is not a question of it being competently drawn by a Queen's counsel. It is a question of what content—

Senator IAN MACDONALD—And getting the Wilderness Society in a room to try to work out the problems in Tasmania is like having 15 different views on—

Mr Esposito—How long did that take?

Senator IAN MACDONALD—I have had more than my fair share of time.

Senator BOSWELL—Is your organisation privately run and funded?

Mr Esposito—What does that mean?

Senator BOSWELL—It means what it says.

Mr Esposito—Our organisation is a voluntary, not-for-profit public association based on membership, and the membership predominantly provides the funds by which we operate.

Senator BOSWELL—Thank you. That was the answer I was looking for. The Wilderness Society is not a landholder then with any legal rights or interests in the areas under examination?

Mr Esposito—We have no interest in the land as such.

Senator BOSWELL—Your officers are not elected or accountable to anyone in the affected areas?

Mr Esposito—No.

Dr Seelig—Where is the affected area?

Senator BOSWELL—In the cape—

Senator IAN MACDONALD—In the Cape York wild rivers area.

Dr Seelig—Except that the bill does not talk about Cape York and wild rivers is not about Cape York.

Senator IAN MACDONALD—He is asking a question.

Mr Walker—I will note that we do have a number of members on Cape York.

Mr Esposito—But we have no interest in the land.

Senator BOSWELL—Your officers are not elected or accountable to anyone in the affected areas so no—

Mr Esposito—There is no pecuniary interest, if that is what you mean.

Dr Seelig—Accountability is a different issue.

Senator BOSWELL—Would you agree generally speaking that ultimately there is an intention under the Wild Rivers Act to preserve almost 80 per cent of Cape York unchanged?

Mr Esposito—If you look to the map of Queensland and ask—

Senator BOSWELL—I am asking about Cape York. My question is about Cape York.

Mr Esposito—What was the question again?

Senator BOSWELL—I will repeat the question. Would you agree generally speaking that ultimately there is an intention under the Wild Rivers Act to preserve almost 80 per cent of Cape York unchanged?

Mr Esposito—No, I would not agree on that.

Mr Walker—No, not at all.

Senator BOSWELL—What percentage would you agree with?

Mr Esposito—It is not a methodology based on percentage.

Senator BOSWELL—You would not agree with 80 per cent, but you would not say what—

Mr Walker—The purposes of the Wild Rivers Act is to preserve natural values and to protect ecological values both for nature and for people. As to that map, which presumably is meant to show 80 per cent of the cape supposedly being under some sort of restrictive regime, you have to understand that the key mechanism under the Wild Rivers Act is a high preservation area and that is just around the most sensitive rivers and wetlands.

Senator BOSWELL—I understand that.

Mr Walker—It is just in those areas where no dams, no large irrigation schemes and no mining in-stream can occur, but sustainable grazing, building outstations—contrary to what we heard from the land council—can still happen in these areas. We are not talking about an 80 per cent lockup of Cape York.

Senator IAN MACDONALD—You know more than the lawyers and more than the land council.

Mr Walker—Let us be really clear about this. And I think that should be checked in *Hansard*, the comments—

Senator BOSWELL—Okay. No—

CHAIR—Senator Boswell, I am going to seek some order here.

Senator BOSWELL—Yes, I agree.

CHAIR—Listen to what I am about to say.

Senator HEFFERNAN—Madam Chair, I have a question.

CHAIR—It is very difficult for us following this. It is most difficult for Hansard to record it, and we will have one person at a time. I know people have polarised views, but I just everybody to wait and then have your say rather than interject all the time.

Mr Walker—If I could just finish my statement?

Senator BOSWELL—You are answering questions we have not asked.

CHAIR—Senator Boswell, thank you. Mr Walker, yes, please finish your statement and then we will go to Senator Boswell.

Mr Walker—My point is the claim that has been made that 80 per cent of the cape is somehow locked up by wild rivers is completely false. Wild Rivers does not stop all development. It regulates highly destructive development in the most sensitive parts of the region, because we are talking about some of the world's most pristine, healthy river systems left. All we are asking for is that they are looked after and we do not repeat the same mistakes that we have made in places like the Murray-Darling. That is all.

Senator BOSWELL—Should the agreement of local Indigenous people be a prerequisite to wild rivers declaration?

Mr Esposito—Please define 'agreement'.

Senator BOSWELL—Should the agreement of local Indigenous people be a prerequisite to wild rivers declaration?

Mr Esposito—Could you please define 'agreement' and 'local people'.

Senator IAN MACDONALD—If you do not understand what an 'agreement' means—

Mr Walker—No, you have to define it.

Senator IAN MACDONALD—You are just being typical Wilderness Society—

CHAIR—All right—

Senator BOSWELL—It will stand on the record, what you have answered.

CHAIR—Senator Boswell! Order!

Mr Esposito—I did ask could it be defined, and the reason I asked that those terms be defined is that I am not interested in having a general debate in which the idea is to entrap the Wilderness Society in some sort of conspiracy.

Senator IAN MACDONALD—We do not need to do that. We know your record.

CHAIR—Senator Macdonald, thank you.

Mr Esposito—I know yours. The point is this. There are many forms of agreement. There are many forms that consent could take. There are many issues that may require agreement and consent. The only mechanisms that we are currently familiar with in terms of land dealings are those primarily provided under the Native Title Act in terms of ILUAs. There are forms of agreement that do exist under the Aboriginal Land Act in Queensland which may be relevant in some circumstances. The use of the term 'local community' seems general and very vague. Are we talking about the communities of Coen, Kowanyama and Aurukun? Are we talking about traditional owners and on what basis is their agreement being sought? Are we talking about regional representative bodies as the representatives of those communities? That is why I asked for the terms to be defined. We are more than happy to answer questions and answer them precisely, but we—

Senator HEFFERNAN—Could I ask that precise question?

CHAIR—Just wait one moment. You have one minute left, so are you going to take up the minute, Senator Heffernan, or Senator Boswell?

Senator HEFFERNAN—Yes, I will.

Senator BOSWELL—No, I want to finish this.

CHAIR—We will go to other senators.

Senator HEFFERNAN—I want to ask about annual wildfires.

Senator BOSWELL—Is local Indigenous agreement necessary prior to World Heritage tentative listing? What about World Heritage nomination? Should Indigenous people's approval be in place first before it goes on to a tentative list?

Senator HEFFERNAN—Good question.

Mr Esposito—I think there are some issues around tentative lists, but to address the question of nomination, absolutely. We are very firmly on the public record that traditional owner consent is required before a nomination would proceed.

Senator BOSWELL—On the tentative list? The question was: on the tentative list?

Dr Seelig—Let us answer the question clearly, then. In terms of any nomination for World Heritage, our opinion is that it represents a future act and so we do regard consent as being a critical component of that process. There is no precedent for that, though, as I understand it, and certainly no precedent for tentative listing. It is a Commonwealth government decision in the end, because they are the people who will make the nominations. But there is no precedent for there to be a requirement of a tentative listing. That does not mean that we would not be very actively supporting any active consultation, negotiation, discussion process to ensure that there is adequate and as full as possible support for a tentative listing. But the main game is

actually at the end where a formal nomination has to occur, and that must occur with the consent of traditional owners.

Senator HEFFERNAN—Can I ask a question about wildfires?

CHAIR—No, you cannot. Your 15 minutes is up. We are going to share the time. You have had more than 15 minutes. I am going to Senator Siewert.

Senator HEFFERNAN—Just let me ask one question on wildfires.

CHAIR—Senator Siewert.

Senator SIEWERT—A point was made by the Cape York Land Council that you cannot cut any vegetation in the high preservation areas, and I think it was you, Mr Walker, who just touched on that?

Mr Walker—Yes, I think the committee really needs to check those statements with the Queensland government, because certainly my understanding is they are incorrect. Clearing can happen within a high preservation area for specific purposes, such as managing weeds, building roads, building fences, building outstations and even tourism and fishing lodges. We have heard all sorts of misinformation, including from the Cape York Land Council unfortunately previously, from Noel Pearson and others, that it stops these sorts of development, but it does not. This is what we are really keen for this committee to actually look at—

Senator HEFFERNAN—If you've got enough lawyers it doesn't.

CHAIR—Let Mr Walker finish, please.

Mr Walker—Refer to the legislation, refer to the codes, rather than media statements made by wild rivers opponents, because the fact is wild rivers does not stop clearing within high preservation areas for specific purposes. It prevents dams, irrigation and in-stream mining. It does not prevent sustainable grazing, fencing, et cetera. This is one of the great pieces of misinformation.

Senator HEFFERNAN—What about the millions of hectares of annual wildfire?

CHAIR—Senator Siewert, your question?

Senator HEFFERNAN—Ask about the wildfires, Rachel.

CHAIR—Senator Heffernan, you do not have the call.

Mr Walker—I think he was referring to himself!

Senator HEFFERNAN—There are 17 million hectares; the biggest annual wildfire—

Mr Walker—I think we've got a wildfire on the phone!

CHAIR—Senator Heffernan, I would ask you to have some adherence to the agreement we have, and it is Senator Siewert's question time.

Senator HEFFERNAN—Ask them for me, Rachel.

Senator SIEWERT—It's funny: I open my mouth and his voice comes out! It is very weird. It is the first time anyone has told me that I am like that with Senator Heffernan! I am presuming you saw the pile of documents Mr Yarrow had on the table, saying that that is the level of red tape. Your submission refers to red tape. Mr Walker, I would like to take you to the issue around tape. I will take your word that you can do all those things you have just said. The next question would be—and you have raised it yourself—the issue around red tape.

Mr Walker—If you want to do development anywhere in Queensland you have to adhere to planning laws. There is a Sustainable Planning Act which applies to all of Queensland and that relates to various bits of legislation. That is true across all of Australia. Everybody doing any form of development has to adhere to planning laws. When it comes to wild rivers development—and you can confirm this with the Queensland government when they come up to give evidence—if a developer or Indigenous community puts in a development application that goes to the one agency, which then sends it to various Queensland government agencies to assess. There is not extra burden in that case on the landowner or the developer to do extra applications. There is a strong argument on Cape York that because of social and economic disadvantage there should be additional help; that there should be additional support for Indigenous communities to navigate through planning laws, because they can be complex things. That is a really good recommendation that this committee could make, because it is a very relevant one.

Senator SIEWERT—In other words, to help navigate a proposal through?

Mr Walker—Absolutely.

Dr Seelig—Balkanu is a development corporation. It gets many millions of dollars of public funding. I would have thought if there was a problem with getting access to legal advice or assistance with development applications is that not the sort of thing that an Aboriginal development corporation should be doing?

Mr Esposito—Our view is that where there are capability issues in terms of dealing with regulation the idea is to provide capacity support, not to lower the bar on regulation.

Senator SIEWERT—You addressed the issue of consultation in a number of areas in your submission. On page 51 of your submission you state that you believe there is still room for significant improvements in the consultation process. I want to link that through to the issues around ILUAs and whether ILUAs are provided for in the wild rivers legislation, because the bill deals with that as well and it is part of what the Native Title Act provides for. I would just like you to flesh that out a little bit more if you will, please?

Mr Esposito—There is no doubt from our perspective that the Queensland government took some time to get up to speed in terms of dealing with the issues of consultation. I think they could have been far more extensive at the early stages and it probably would have avoided a lot of these problems. It may not have changed the scheme all that much. There is further room without doubt for consultation to be improved on a whole range of issues. I think the state government to its credit has at least understood that and started resourcing that, getting officers out to the regions, effectively trying to provide baseline information for communities to use. There is certainly room to go with that. Most pieces of legislation do not make provision for ILUAs. Anything that triggers the future act provisions, as I understand it, will necessitate a negotiation or the right to negotiate or some procedural arrangements and will likely result in an ILUA. Our initial legal advice on the impression of wild rivers is if there were a future act trigger then the Native Title Act would automatically have its effect and the process would be dealt with through normal negotiations. The state did not accept, on some of the advice we have seen—and I know other people in the legal profession have different views on this, and it would be good if some certainty could be brought to the matter—that there was a future negotiation to be taken on. The issue of consultation became one of developing and devising processes that did not exist.

Senator SIEWERT—What is your opinion on whether it constitutes a future act?

Mr Esposito—I do not want to express an opinion. Our advice is that it is not. Our advice is also that ILUAs could be used for anything if parties choose to do so. But an ILUA is an agreement, so whatever the appropriate form of agreement that people need and seek needs to be developed. It needs to be articulated. The problem at the moment is that nobody has actually put the right model on the table as far as we can see. If it were an ILUA negotiation, we are very familiar with those through state land dealings and so on. We have absolutely no qualms about them. They do deliver results. It is just that the bill in its present form lacks specifics. It does not reference the Native Title Act and it does not provide any other models, any other clarity, any other content in respect of what an agreement looks like and how it will be gained and who it is with. Then there is the further issue of how does that intersection between agreement making sit with the imperatives of conservation, particularly at a certain scale? Agreements may often be local or multilateral. Environmental issues are often of a different scale—regional, national or global. The intersection between the question of agreement making and rights or by extension even to treaties comes into play with a whole other set of imperatives to do with conservation. The problem here in Australia generally is that we do not have the architecture to support that. We cannot suddenly run the UN declaration of rights into the system and say, 'We have a fully fledged system for agreement and free, prior informed consent', because we do not. We do not have a history of that. This is a work in progress. The importance of an inquiry like this is to establish how those principles need to take effect in law, in administration and in policy, and how they intersect with a range of public policy issues such as the environment, health or anything else. They are all important issues. Free, prior informed consent is a fine principle. The application of it is what we are interested in.

Senator McLUCAS—I think we have heard this morning that there is a significant amount of disagreement about how the Queensland legislation would work. The difficulty our committee will have is making a judgment about the different points of view, simply because in my understanding—and this is my question—we do not have any examples of where applications have been made that have been accepted, refused or whatever. We might disagree about what the Queensland legislation does, but I have not heard any disagreement from any of our witnesses about the desire for Indigenous people who live on Cape York Peninsula to achieve economic development opportunities. What would your advice to our committee be in terms of how to get to the next step? How do we get to a point where we can ascertain whether or not activities

in a high protection area can or cannot occur, because all we have at the moment are assertions from one side and assertions from another?

Dr Seelig—I suppose the simple answer for that is to see development applications put in and let them run through the system. I guess as Mr Esposito or Mr Walker suggested, we would fully support the Queensland government looking at assisting traditional owners in some of those cases. That is the only way really. Otherwise when you ask the question about how the Wild Rivers Act would work, it has been in place for five years. These declarations have been around for a few years now. It is not a question of how they would work. It is are they working? Are they stopping applications? Are they stopping sustainable development? If there is a problem with development applications being put in for sustainable activities, the only way to test the system is to test it.

Senator McLUCAS—Are you aware of any applications that have been made?

Dr Seelig—No, because all we have been confronted with is propaganda that has said that it is akin to a national park, it locks up—

Senator IAN MACDONALD—You would recognise propaganda, wouldn't you?

Dr Seelig—Absolutely.

Mr Walker—Yes, it comes from the Liberal Party.

Senator IAN MACDONALD—You are the greatest purveyors of propaganda I know.

Mr Esposito—I just wanted to add to what Dr Seelig was saying. I agree with that fully. The other way is to do it by hypotheticals. In other words, identify a number of projects with some level of detail and do the run through the administrative system. That may well be important, because the question has come up numerous times: are there development applications? No, there are not. Do the land council and others know of any that are being put in? No, they do not. Regulatory costs seem to be one issue. But I have also heard others talk about preservation of rights, if you like. This is not about things they want to do now but things they may want to do in the future. That is fine. I believe rights should be preserved if they are rights in fact. The hypothetical becomes more realistic in that sense. Some anticipation of what a regional economic strategy might look like for Indigenous advancement; what are the component parts of that? Is it simply mining and agriculture? Is it tourism? Are there other components?

There is a massive industry building up around the country in Indigenous land and resource management and conservation. We need some sense of the type of economic future that is actually being envisaged, because without it you might as well just run with the system as it is. But there are ways in which this could be tested and I do think you need to look to the future. The development issues are long range. They are intergenerational. It is not about what somebody wants to do today or tomorrow or even in the last five years, although they are perfectly valid indicators that the scheme is not preventing development per se. It is incumbent to define an economy strategy that you could then test some of the components of, and an economic strategy that actually understands the environment and the ecology. The wild rivers scheme itself is an ecological model of land management conservation and, in our view, quite a light-touch regulation. It is quite a radical departure from what people historically understand as conservation and it is why people keep saying, 'These are de facto national parks', or anything else. It is nothing of the kind. It is a new model of conservation and it needs to be embedded with a new model of economic development for places like Cape York, because the economic opportunities are limited by geography and other factors.

Senator McLUCAS—Just moving to this map, particularly the green and the blue one, I am concerned that the committee might have a view that no economic activity can occur in any of that area, and this notion that 80 per cent of Cape York would therefore not be allowed to have any economic activity. Is there another map that you can point us to that would better define, in your view, the areas say that are the high preservation areas?

Mr Walker—The best documents to look at are the wild river declarations for the current rivers on the cape and there are some in the Gulf of Carpentaria as well. Those maps define within the blue areas—and it is a neat campaign tool, but it does not represent reality—the high preservation area. As I said before, these are the areas by the sensitive rivers and wetlands, which are of global significance, where major mines, irrigation and dams are kept away from. This is an example here.

It does not stop all development, particularly in the areas outside of those high preservation areas. It is a sensible regulatory system that prevents highly destructive development. It does not stop water extraction. For

every wild river declaration for the first time in Australia there is an Indigenous water reserve. This is specifically recognising the imperative for Indigenous social and economic advancement on Cape York, and that goes hand in hand with the special clause in the Cape York Peninsula Heritage Act which allows Indigenous communities special exemptions to clear land for economic purposes. We have been trying through a range of negotiation forums, through a range of agreements over a number of years with some of the groups presenting here to settle some of these disputes, but we keep hitting a wall of anti-conservation and propaganda, to be honest.

You need to be very clear that that map does not represent the reality. Development still occurs on Cape York and there is immense opportunity in areas like tourism, land management and the carbon economy that have not been explored and do not get the attention they deserve when we are talking about one of the most spectacular and important regions left on the planet. We need to do something special and different to look after it rather than replicate the same mistakes we have made everywhere else.

Senator IAN MACDONALD—Is that map the one in your submission?

Dr Seelig—That is an example of how a declaration area has a high—

Senator IAN MACDONALD—My question simply was: is that in your submission? If not, do you want to table it?

Dr Seelig—No, it is in the submission.

CHAIR—I thank you for your assistance today.

Proceedings suspended from 1.28 pm to 2.08 pm

BRADLEY, Mr John, Chief Executive Officer, Department of Environment and Resource Management, Queensland

BUCHANAN, Mr Scott, Project Director (Wild Rivers), Department of Environment and Resource Management, Queensland

LUTRELL, Mr Andrew, Director, Policy Indigenous Services, Department of Environment and Resource Management, Queensland

CHAIR—We formally reconvene this public hearing of the Senate's Legal and Constitutional Affairs Legislation Committee and our inquiry into the Wild Rivers (Environmental Management) Bill 2010 [No. 2]. We have representatives from the Queensland Department of Environment and Resource Management, but before I begin with our next witnesses I will remind senators that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and should be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policy or factual questions about how and when policies were adopted.

Officers of the department are also reminded that any claim that it would be contrary to the public interest to answer a question must be made by a minister and should be accompanied by statements setting out the basis for that claim.

With that reminder and introduction, I welcome representatives from the Queensland Department of Environment and Resource Management. Just to clarify, you do not have a submission to provide us. Our understanding is that the minister advised our secretariat that a submission would come by 21 April and it would include answers to questions that have been raised at the last hearing and at this hearing. Is that correct?

Mr Bradley—That is correct. There is a document which we received advice that the committee were keen to receive today and that was some advice around development applications or development approvals which have been submitted under the wild rivers legislation. We have a copy of that advice for you which we are happy to table with appropriate copies for the secretariat. We have an opening statement if you are happy to receive that?

CHAIR—Yes. I invite you to provide us with that now.

Mr Bradley—Thank you. Firstly, thank you for the opportunity to be with you today on this issue. By way of an opening statement, I would like to briefly comment on the Queensland government's position on the effect of the Wild Rivers Act 2005 on Indigenous economic aspirations and native title and key concerns in relation to the bill before the Senate committee, the Wild Rivers (Environmental Management) Bill 2010.

The Wild Rivers Act is a legislative framework for the protection of unique, high-value river systems. It protects systems that are rare and therefore valuable, and it recognises that protection is more effective than rehabilitation. The Wild Rivers Act includes mandatory provisions for consultation before any declaration is made, and this has been substantially resourced over extended timeframes.

It is a legislative framework which was established with bipartisan support and has been refined with bipartisan support since 2005 with close engagement with stakeholders to improve its effectiveness, including through legislative amendments, and to ensure that it remains progressive in supporting economic and social development, including Indigenous stakeholders. The government has continued to listen to and work with Indigenous stakeholders to identify where there are legitimate areas for improvement in the framework and we recognise in this regard that both Minister Robertson, the Minister for Natural Resources, Mines and Energy and Minister for Trade, responsible for that legislation, and myself have had numerous meetings with senior Indigenous representatives in the last 12 months. We continue to talk about this framework and are looking, where possible, to find legitimate areas for improvement.

There are many traditional owners who support the wild rivers program, recognising it provides an opportunity to highlight, internationally, the unique natural values in the wild river area. This has been the experience in other countries, such as the United States, Norway and Canada where similar frameworks for wild and scenic river systems exist, including Canada's heritage river system. The protective framework provides a significant economic opportunity, in itself, but the wild rivers framework does not result in the locking up of Cape York Peninsula, and that is not the government's vision for Cape York Peninsula.

Since wild rivers legislation has been in place, 113 development approvals have been given from mining and environmental authorities to vegetation clearing, to riverine protection permits, and the department has no record of a refusal at this time under the wild rivers legislation. Indeed, the greatest deterrent to development over the past year has been the concerted misinformation that has occurred which has promoted a view that wild rivers declarations stop all development. This is what has created the most uncertainty for Indigenous economic development on the cape. The truth is that the development can occur under that framework and that development is occurring in wild river areas.

The Queensland government is committed to increasing opportunities for Indigenous employment in remote communities and this has continued to be the case. The wild river rangers currently employ 27 rangers, with a commitment to expand this level to 100.

I conclude by making a short observation on the bill before the committee. The draft bill appears to seek to extend to a group of persons the right to veto the application of environmental protection legislation, the Wild Rivers Act 2005, which would otherwise apply uniformly. A key principle of the Wild Rivers Act is that it does not affect existing authorisations or rights, including the right to exercise or enjoy native title. Section 44 of the act explicitly excludes any ability for the act to impact on native title rights. While these rights are protected in the Queensland legislation, the bill before the committee does appear to seek to extend Indigenous rights beyond those embodied in the Native Title Act. Furthermore, the draft bill does appear to seek to extend the rights of native title holders in a wild river area above those afforded to native title holders outside of wild river areas. It would only be those in a wild river area whose agreement to the application of environmental protection legislation need be sought. If this is the intent, to provide an enhancement beyond existing native title rights, it would be more appropriately dealt with under the native title legislation, which is the responsibility of the Commonwealth, and more consistently in a national context. There are other operational concerns with the bill which, for instance, requires that a new declaration be made regardless of whether there is existing support from the native title holders. Thank you for the opportunity to make that opening comment.

CHAIR—Mr Lutrell and Mr Buchanan, do you have anything that you would like to add?

Mr Buchanan—No.

Mr Lutrell—No.

CHAIR—As the chair, I will take the liberty to start questioning this time. Can you explain to us the interaction between the preservation areas and the highly preserved areas, that is, the activity beyond the one kilometre, so the preserved versus highly preserved? How does that interact and what is the relationship with any development that is happening?

Mr Bradley—I will ask Mr Buchanan to give you an overview of both of those regimes.

Mr Buchanan—A wild river area essentially has two management areas. There is the high preservation area which is that which is closest to the wild rivers and special features and the high preservation area. The best way to look at it is similar to a planning development scheme, so you have different zones where things can occur and how they do occur. In the preservation area all development can continue except for a couple. They are the realignment of river streams and taking gravel directly out of those streams, unless for certain exemptions. Other than that, all development can occur in those areas. That development must comply with the existing Queensland legislation and there is also a wild rivers code that provides rules, as well, as to how they meet those.

Inside the high preservation area there are further restrictions. We heard before talk about in-stream dams. Again, the stream realignments and gravel extraction; there are exemptions for gravel extractions, depending on whether it is for essential town supplies, development of an outstation or homestead or for building roads, so there are exemptions throughout. We also have prohibitions on surface mining activities, agriculture and aquaculture activities in that area. Other activities within that area can continue as well. It is the same for the preservation area if they meet the requirements of the wild rivers code.

CHAIR—How does that interact with the applications and the sheet that you have given us today with respect to development approvals?

Mr Buchanan—That sheet shows the development applications that have been received and have been dealt with. Quite clearly, and as the director-general said in his opening statement, we are not aware of any refusals. We have searched high and low and have not come across any refusals. Those development applications are then dealt with and have been approved in most cases.

Senator FEENEY—We heard evidence earlier today from the land council, particularly about vegetation clearing. I was wondering what you might tell us about how the wild rivers regime operates with respect to land clearing, both in the preservation and the high preservation zones?

Mr Buchanan—In the preservation zone wild rivers has no impact on the vegetation management, so it has no interaction with the Vegetation Management Act. Inside the high preservation area the area is defined as an area of high conservation value under the Vegetation Management Act. That means that the activities that you can clear for are restricted, but not as was claimed that there was no clearing. You can actually clear for a few relevant activities, including fence lines and essential infrastructure.

Senator FEENEY—Are there any prohibitions above and beyond the ones that you have already described to us?

Mr Buchanan—As I said before, I will list what you can clear for. It includes control necessary for plants and declared pests; public safety, for firebreaks and that sort of thing, so establishing a necessary fence, firebreak or any infrastructure; clearing for encroachment, so that is where you have natural grasslands that have been encroached by woody weeds; and the clearing of regrowth on freehold land, Indigenous land and leasehold land, if it is defined as an agricultural area. That is an area that has existing agricultural activity there. They are the things that you can clear for.

Senator FEENEY—Obviously one of the great parts of this debate is the proposition that the legislation inhibits the capacity for Indigenous landowners to pursue commercial or economic opportunities. How does that land clearance regime operate in the face of a commercial or a business opportunity? How would it respond to an application for a lodge for tourism or something of that nature?

Mr Buchanan—That is necessary built infrastructure or infrastructure that you would have a development permit for. You would therefore be able to lodge the application. The application would be dealt with as with every other application and, if it met the requirements, could be approved.

Senator FEENEY—How is that regulatory barrier any different to anywhere else in Queensland?

Mr Buchanan—It is not.

Senator McLUCAS—That is one of the issues I wanted to canvass. I spoke with Mr Yarrow from the land council who was here earlier. I sought his permission to send you the transcript of the discussion we had at that time, which we will still do, to see if you have any further comments on his concerns.

I would like to go to the question of consultation that occurred in the lead-up for some years. You might want to do this in your submission. It would be useful for the committee to have an understanding of the nature of the consultation process that was undertaken and who was involved. You may have heard some criticism earlier about the quality of that consultation, especially in the early years, that you might want to respond to. Can you give me a feeling for the level of consultation that the state government has undertaken in the development of this legislation?

Mr Bradley—I will make some opening comments and then ask Mr Buchanan to augment as necessary. I think one of the important things to recognise in relation to the regime is that there is a statutory basis for consultation that does need to occur; that the notice of the intent to declare the wild river is a formal and publicised process; that the engagement with interested stakeholders, of all kinds, is required under legislation and there are explicit provisions within the Wild Rivers Act about the factors that the minister must consider prior to making the declaration of the wild river.

In terms of the engagement process that we have gone through, we recognise that finding the effective and culturally appropriate ways of engaging with Indigenous stakeholders is a challenge in an area like the Cape York Peninsula or in other areas that have significant Indigenous stakeholders. There has been a commitment from the government over a number of years to try to improve the way in which we do that, and one of the mechanisms used in the declaration of the Archer, Stewart and Lockhart Rivers was the engagement of Balkanu Development Corporation to undertake consultation on behalf of the state, at some significant expense, over an extended period of time. Consultation in relation to those wild river declarations extended to a period of four months and with the Wenlock declaration proposal, currently to be considered by the minister, the consultation process has extended to five months, so that goes far beyond the statutory requirement of 20 business days.

In terms of the consultation process, we feel that there has been an improvement over time in the three cape rivers that were declared last year. There were 100 face-to-face meetings and submissions or engagement with

300 stakeholders over that period of time. With that said, as I said in my opening statement, we do see that there is opportunity to continue to improve the way we engage with Indigenous stakeholders around wild river declarations, if not least to make sure that there is a clear understanding of the potential impact of wild river declarations and what they do continue to provide for, in terms of economic aspirations of Indigenous stakeholders, but also to make sure that there can be informed feedback in relation to the features of the wild river declaration.

We think that there has been some success in that regard in the past. There have been amendments made for proposed wild river declarations after receiving consultation in past declaration processes, so it is a process that we are committed to. Mr Buchanan, do you have anything to add to that?

Mr Buchanan—No.

Senator McLUCAS—The final issue that I would like to canvass is that this added layer of bureaucracy will prevent Indigenous people making development applications. What was required prior to the three rivers being declared, in terms of a development application? What is the extra layer of bureaucracy that is required and does the government have a view that, if it is the case, that is an obstacle for people to achieve their economic aspirations, what would the government do to mitigate against that?

Mr Bradley—I will start by saying that in terms of the deterrent effect of wild rivers to economic development, we do not see strong evidence of that, as per the information tabled with the committee this afternoon, in relation to the applications that have been approved and the failure to identify any development approvals at this stage that have been the subject of a rejection. We are not seeing an actual failure to achieve approvals under the wild rivers regime. In terms of a deterrent effect, I think the biggest risk is actually the general communication, the media reporting and the public discourse on this has actually led to a legitimate view in the community that they think that wild rivers does prevent all kinds of development approval and that it does prevent development across 80 per cent of Cape York Peninsula, so that is an enormous fear.

In terms of the issue about the mechanics of the development approval process, the wild rivers regime, as Mr Buchanan mentioned earlier, provides an overarching framework which calls up other pieces of legislation, so the approval is still provided under that legislation. Someone submitting a development approval would do so to the local government, most usually as the assessment manager, and the assessment manager would need to have regard to the wild rivers code. If there was an issue of a commercial fishery or a charter fishing operation then that decision would be made to issue a permit under the Fisheries Act by the chief executive, but the chief executive would have regard to the wild rivers code. Therefore what I am saying is that there is not so much a burden on applicants and participants in that process, in terms of bogging down of red tape, it is that the assessment process managed by assessment managers has regard to the natural values of these unique systems.

Senator McLUCAS—There is no other form that has to be filled in or another application process?

Mr Bradley—No.

Senator McLUCAS—It is an internal government use of the code that is applied?

Mr Bradley—That is the primary impact. The only area where there is scope to do something specific or different in relation to the wild rivers regime that is probably worth noting is the scope for a property development plan, which is a provision under the legislation which says that even where an activity would be banned within a high preservation area, such as some of those prohibited activities, there is the scope for an assessment manager to consider the development plan, the specific circumstances of that project and for there to be amendment provided for in terms of the wild river declaration. There is an explicit process to have a case-by-case approach.

One of the earlier people providing advice before the committee today referred to a cookie cutter approach and I think that there is certainly enough sophistication in the regime to allow for case-by-case assessment, even in those prohibited activities.

Senator BOSWELL—Chair, can I draw your attention to the clock?

CHAIR—You can. I have got the clock specifically in front of me.

Senator BOSWELL—You have had one half hour—

CHAIR—No, we did not. We started this presentation at 2.10 and we went to questions at 2.15. By my reckoning it is Senator Siewert's time.

Senator BOSWELL—That will leaves 10 minutes for—

CHAIR—No. That will leave 15 minutes for you. We will go to Senator Siewert.

Senator SIEWERT—With the 113 applications that you list in this document, in which zones or areas were those applications? Are you able to break that down as to how many were in the high preservation areas and how many were in preservation areas?

Mr Buchanan—I cannot for you today.

Senator SIEWERT—Could you take that on notice?

Mr Bradley—We possibly could have a look at that and see if we can track it back.

Senator SIEWERT—That would be appreciated. Thank you. Do you have a total on what percentage is a high preservation area and what percentage is a preservation area in those three areas that have already been declared?

Mr Bradley—We would broadly say that about 80 per cent is the preservation area and roughly 20 per cent, in broad terms, in those three wild river declaration areas. We would probably urge caution in relation to an interpretation of the maps in the way that it has been done earlier today by the Cape York Land Council. We certainly do not see that in those preservation areas all development is prohibited, or in high preservation areas either. If you look at the exemptions and the provisions that are provided for in the high preservation areas, in terms of those categories of works we mentioned before, they are the fundamental sort of activities that would need to be undertaken in many grazing activities, farm operations and pastoral activities which characterise those areas at the moment. There is also provision for alternative economic opportunity there as well.

Senator SIEWERT—Pardon a West Australian's ignorance. I understand how our vegetation acts operate in Western Australia, but not as clearly here in Queensland. If I am in an area that is declared—what was the term you used for high preservation under the vegetation act?

Mr Buchanan—Area of high conservation.

Senator SIEWERT—If any area can be declared an area of high conservation value, outside of the wild rivers legislation, then the application process applies regardless of where it is being applied. Is that a correct interpretation of your legislation?

Mr Buchanan—Yes.

Senator SIEWERT—Even without the wild rivers legislation, the Queensland government could have declared any of those areas that are declared high preservation areas as high conservation areas under the vegetation act. Is that a correct interpretation of the legislative process?

Mr Buchanan—There is a process to be followed and, again, I think we would take this question on notice if you wanted that process. It would be something that would have to follow criteria.

Senator SIEWERT—Due process?

Mr Buchanan—Yes.

Senator SIEWERT—As long as the due process was followed, outside of the wild rivers legislation those areas could still be declared high conservation value areas.

Mr Buchanan—Yes.

Senator SIEWERT—Thank you. I think you would have been here when I was asking the previous witnesses, both the land council and the Wilderness Society, about the issue around future acts and whether this constitutes a future act under the native title legislation. Could you briefly outline—and I am aware that it could take some time, so I will say briefly and I might get you to take it on notice if it is going to take too long—the issues around why you decided it was not a future act?

Mr Bradley—I will ask Mr Lutrell to answer that question and urge him to do it briefly.

Senator SIEWERT—I am not trying to be rude. I am just conscious that I am going to get pinged.

Mr Lutrell—I appreciate the operation of the Native Title Act is a very complex piece of legislation. It is the state government's view that the passage of the Wild Rivers Act in 2005 was not a future act for the purposes of the Commonwealth Native Title Act; that is, the passage of that legislation did not suppress or extinguish native title.

Mr Bradley—In making sure that is the case there is section 44 of the act that explicitly confirms that it cannot, so that is probably worth recognising.

Senator SIEWERT—You heard my discussions earlier with the Wilderness Society around the ability to negotiate and putting in place, for example, ILUAs. In your interpretation of the act is that still possible under the existing process?

Mr Bradley—I may not have heard the full testimony, but as I heard the advice from the Wilderness Society earlier they made the point that an ILUA is basically an agreement. It does serve a function under the native title legislation, but it is fundamentally an agreement between parties. Certainly an ILUA can be used for other purposes and, indeed, we have made extensive use of ILUAs through the Cape York tenure resolution program that has seen over half a million hectares provided to Aboriginal stakeholders through that program, but in relation to the wild rivers legislation the issue is that an ILUA, as a form of obtaining consent, is not part of the framework at the moment in the same way that consent or an ILUA is not provided before the application of the Nature Conservation Act, the Vegetation Management Act or the coastal protection legislation that applies in the state. That would be a fundamental change in the nature of environmental legislation and regulation anywhere in Australia.

CHAIR—Last question.

Senator SIEWERT—I just want to go to the issue of the consultation process—we have talked about the consultation process under the act—prior to the introduction of the act. Is that something that you are covering in your submission?

Mr Buchanan—Do you mean prior to the bill being introduced into parliament?

Senator SIEWERT—Yes.

Mr Buchanan—In 2004 the government of the day went to an election with the wild rivers policy, so that was their election commitment. In early 2005—I am sorry for not having the exact dates—a bill was introduced into the parliament. That bill was then consulted on widely with peak stakeholder groups, including the Aboriginal land councils, particular the North Queensland ones, so the Cape York Land Council, Carpentaria Land Council and Far North Queensland Land Council, as well as other stakeholders including the Queensland Resources Council, Local Government Association of Queensland, the Queensland Conservation Council, the Wilderness Society and other key stakeholders and groups who were interested at that time. The bill was developed in that frame. There was a draft bill out for discussion. That was discussed with key stakeholders, then introduced into parliament and then passed as an act in December 2005.

Senator SIEWERT—Perhaps you could take on notice a bit more of a thorough run-down in terms of the consultation process and how that consultation process was carried out.

Mr Buchanan—Sure.

Senator BARNETT—I just wanted to indicate how deeply disappointed I am and I think other members of the committee are that we do not have a submission from the Queensland government and, if it is an attempt to avoid scrutiny, that might be perhaps one angle or one observation. You obviously have presented a different view in your introductory statement. Two weeks ago we received evidence in Canberra from the Cape York Institute for Policy and Leadership making serious allegations about the inappropriateness of the legislation here in Queensland and, specifically, the Queensland declaration process and the breach of process where it was said that it was a post-facto fabrication; there was reckless maladministration; there was absence of transparency and integrity; there were secret deals on buffer zones; it was discriminatory, racist, consultation was a sham and it was a future shackling of community welfare dependents.

I would like to take you to the declaration process, specifically. I have a copy of the Queensland Wild Rivers Act 2005 in front of me, with which I am sure you are all very familiar. Sections 7 to 15 are the specific sections where a wild river is declared, and with respect to the three wild rivers, Lockhart, Stewart and the Archer River last year, when those declarations were made, could you please take us through exactly when that declaration was made, when was the consultation process, how long was it, and what instrument did the Queensland government use to make that declaration? We have from section 7, which is the minister may declare the wild rivers; you have a public notice of intention to declare the wild river under section 8. I would like to know when that was made. You then have section 11, the public notice about the declaration proposal. What date was that made? You then have sections 12, 13, 14, 15, 16 and 17. If you cannot answer all of this in the time available then I am happy to take that on notice. Perhaps you could address those questions.

Mr Bradley—With your agreement we would suggest that we take those requested dates and come back to you as part of the submission with the precise dates. I do not think we will have them in front of us today to be able to identify to you individual dates of notices and intention to declare. I can speak to some dates that go to that issue about the process generally and I would ask Mr Buchanan, in a moment, to talk through the consultation and engagement process.

I am well aware of the testimony that was provided in Canberra that referred to a breach of process. I can say unequivocally that the full statutory process that I emphasised in my opening statement is required was absolutely followed and that in that process, as I said, we exceeded the 20 business days provided for under legislation for consultation and instead had a consultation period of some four months. That was done through externally facilitated engagement by Balkanu Development Corporation, which is led by Gerhardt Pearson, who is the next party before the committee. Through that period of consultation we received over 3,000 responses and had over 100 face-to-face meetings, so there has been a very extensive process of consultation.

The finalisation of the declaration did occur shortly after the state government election and that seems to have unnecessarily caused concern.

Senator BARNETT—Do you have a date with you for that?

Mr Bradley—Yes, I do. In relation to the declaration, that was gazetted on 3 April following the 21 March state election.

Senator BARNETT—That was by the minister.

Mr Bradley—Minister Robertson, the Minister for Natural Resources, Mines and Energy and Minister for Trade. That was 3 April 2009.

Senator BARNETT—But all the consultation occurred under the previous minister?

Mr Bradley—Correct. Under the act the minister is required to have full regard to not only the submissions received but also the result of consultation. The act is explicit about the factors the minister must consider, as you have highlighted, and the minister did apply due process in coming to that decision, which was gazetted on 3 April 2009.

Senator BARNETT—What was the instrument that he used to make that declaration? Was it a letter, and do you have a copy of it?

Mr Bradley—The declaration was made by Governor in Council, as required under the legislation, and it was gazetted in the Queensland Government Gazette.

Senator BARNETT—When did they meet, the Governor in Council?

Mr Bradley—The Governor in Council met on 2 April.

Senator BARNETT—When was the advice given to the Governor in Council, and do you have a copy of the letter of that advice?

Mr Bradley—I do not have a copy with me today. The Governor in Council process of the Queensland state government is a fairly prosaic process that occurs with other executive councils and other states and territories, and the wild river declaration is put forward to Governor in Council on the recommendation of the minister. That occurred with the Governor in Council considering it on 2 April and the gazettal of that Governor in Council decision on 3 April.

Senator BARNETT—Who considered the consultation and who made the recommendation? Was it Minister Robertson or the previous minister?

Mr Bradley—Minister Robertson was the decision maker in relation to those three declarations.

Senator BARNETT—Under whose responsibility did the consultation process occur?

Mr Bradley—The consultation program occurred under the Wild Rivers Act, in accordance with that legislation and fully satisfied the requirements of the act. As I said, there was an extended period of consultation far beyond that required. The preparatory material for consideration by the minister under the act was being prepared clearly through the period prior to the state election, but then on the reappointment of the government, the incoming minister, Minister Robertson, considered that decision as one of the first decisions in his role. As I said, that went through Governor in Council in a process which reflected the due requirements of Governor in Council.

Senator BARNETT—All I can say is that your evidence today appears to conflict, at least in part or substantially, with the evidence of the Cape York Institute for Policy and Leadership, and specifically I refer to pages 1, 2 and 3 of that submission. When you take that on notice and in your next submission could you please address those conflicts that appear?

Mr Bradley—Sure.

Senator BARNETT—You will note that that information has been obtained by freedom of information. It is referred to and quoted in that submission, so I would like you to address those particular allegations in that response. Can you do that?

Mr Bradley—I am happy to do as you ask. What has not been made clear in the question is in what aspects has my evidence today been in conflict with that provided in the submission from the Cape York institute?

Senator BARNETT—We unfortunately do not have time to go through that today, but once you read the submission again—I am sure you have read it once already or more—then it will become very clear.

CHAIR—Senator Macdonald.

Senator IAN MACDONALD—Were the 3,000 submissions all from Indigenous people? You mentioned a figure of 3,000.

Mr Bradley—No, they were from a variety of stakeholders. It is a consultation process that would have included environmental stakeholders.

Senator IAN MACDONALD—Can you tell me how much of the 3,000 came from Indigenous people, or people who are clearly identified as Indigenous people? I appreciate people do not say, 'I'm an Indigenous person', but you will have a good idea.

Mr Bradley—That is part of the practical issue. People will not actively self identify.

Senator IAN MACDONALD—Let me say to you, I would suggest that 95 per cent of the 3,000 submissions did not come from Indigenous people. You can, on notice, point out where I am wrong. Secondly, can you also tell me why respected elder of the Girringun people who gave evidence this morning has said that when you declared the Girringun lands as three new areas—I forget his exact words, but you will see it in the *Hansard*—he knew nothing about it. If your consultation process is so good, why would Mr Andy, who as I say is a very well respected elder of the Girringun people, not have known about this? You can take that on notice.

Mr Bradley—I would actually rather address it now and I am happy for Mr Buchanan to speak to that second item if he can. In relation to the consultation process, I think it is important to get on the record before the committee that our assessment of submissions received was not based on the identification of people on the basis of their heritage or race.

Senator IAN MACDONALD—No, but you would know if they are from locals rather than people from North America, which is where I understand most of the 33,000 of the recent petition on the Archer River stuff came from. You would know that.

Mr Bradley—I guess the point I was struggling to make was that we were assessing the submissions not on quantity or on the identity of the individual but on the quality of the issue raised and the factors that a minister could consider under the legislation, and that is the basis on which the decision has to be made.

Senator IAN MACDONALD—You raised the process as being 3,000 written submissions, the implication to us being that it was people directly involved, rather than probably 2,000 that came from the Wilderness Society in Tasmania and the other 1,000 probably came from North America. We want to know how is this process so good? You can take it on notice. You will be able to identify—and do not tell you me you cannot—which are coming from people that are directly involved because their submission relates to the cape, and those who are just giving you a scientific view and a latte society view on the world.

Mr Bradley—What I can say is that of the 100 face-to-face meetings that occurred the overwhelming majority of those occurred in Cape York communities. I can, again, iterate that it would be inappropriate for the state to be making an assessment in relation to the decision to declare a wild river proposal on the basis of anything other than the factors outlined in legislation. The state has not invested resources in trying to sieve out those issues that were raised from environmental stakeholders.

Senator IAN MACDONALD—You raised the 3,000 as being a big response.

Mr Bradley—And it has been.

Senator IAN MACDONALD—I am realistically wanting to know how many of them come from people directly involved and how many of them are from the café latte set?

Senator SIEWERT—Do you have a question about asking what you term lattes?

CHAIR—Senator Boswell has a question.

Senator BOSWELL—I have an email you obtained under the info line from Mr Buchanan dated 13 March 2009. It says:

What is the current state of play in terms of approval? Do we need to get an approval by the minister, as it appears the previous minister did not sign the CDS01188-09 to approve the declaration proceeding to the Governor in Council?

That is the email. The previous minister did not sign off on the declaration and the whole matter had to go through a ministerial sign-off and proceed to Governor in Council. How long did that take?

CHAIR—Are you happy to table that email?

Senator BOSWELL—Yes, I can table it. I have not got it with me, but I can certainly table it.

CHAIR—Thank you.

Senator BOSWELL—How long did that process take?

Senator BARNETT—That email is quoted in the submission and that is part of the evidence that I was presenting on page 2 of that submission.

Senator BOSWELL—I would like to know how long that process took.

Mr Buchanan—Are you asking about the process for the decision?

Senator BOSWELL—The previous minister did not sign off the declaration, so you had to get another minister to go through the ministerial sign-off before it proceeded to the Governor in Council. How long did that process take?

Mr Bradley—I think I answered that question earlier.

Senator BOSWELL—Could you answer it again?

Mr Bradley—Certainly. It was in relation to Senator Barnett's question. The state election was held on 21 March 2009 and Mr Robertson was appointed the Minister for Natural Resources, Mines and Energy and Minister for Trade. In taking up his role he then reconsidered the decision, or considered it afresh for the first time. No minister had undertaken a decision on this matter. Minister Robertson considered the declaration for those three wild river areas and it was considered by Governor in Council on 2 April 2009 and gazetted in the Queensland Government Gazette on 3 April.

Senator BOSWELL—How many days did the new minister have to assess the process?

Mr Bradley—I think that is evident in the answer I provided. With the state election on 21 March and the Governor in Council considering the issue on 2 April, during that period in between those dates the minister was sworn in and considered the briefing material in relation to those three wild river declarations, including the submissions and consultation results.

Senator BOSWELL—What I am saying is that no-one knew what was happening on 30 March and two days later on 2 April the Governor has signed off on it. That is a pretty smart process. I do not know how the Governor in Council works state wise, but if you turned up in the Commonwealth with the Governor-General and shoved something on his table two days before and you were one of the Executive Council people, he would tell you very certainly to get out of the place and do not ask him to make assessments in two days. I presume it is the same process. You are asking us to believe that on 30 March no-one knew what they were doing, including you, Mr Buchanan.

Mr Buchanan—No, that is not true. What I am talking about in that email is an administrative process. Obviously, as Mr Bradley has mentioned, the previous minister had already started on the process of considering.

Senator BOSWELL—Mr Bradley just said he did not.

CHAIR—Senator Boswell, Mr Buchanan is going to finish his explanation first.

Mr Buchanan—He was beginning the process. The new minister took over. He had all the material in front of him. What I was asking there was whether a decision had been made prior to the election and, if not, then

the new minister is making the decision and therefore that had to be finalised. The decision was being made. All I was asking for was the administrative process to get the sign-off on that decision.

Senator BOSWELL—When did it go to the Governor in Council?

Mr Buchanan—It went to the Governor in Council on 2 April.

Senator BOSWELL—When did she sign off on it?

Mr Buchanan—On 2 April.

Senator IAN MACDONALD—Mr Robertson is a very quick reader.

Senator BOSWELL—It went to the Governor in Council and she signed off on it on 2 April. Is that what you are saying?

Mr Buchanan—That is right.

CHAIR—Further questions, because time is almost up for the next witness.

Senator BARNETT—Sections 13 and 15 of your Wild Rivers Act could not have been complied with. It is impossible.

Mr Buchanan—I disagree.

Senator BOSWELL—Well—

Mr Buchanan—Can you just expand on that?

CHAIR—Senator Boswell, I do not think it is your turn for comment or questions now.

Senator BARNETT—Sections 13 and 15 of your act could not have been complied with.

Senator BOSWELL—You are getting yourself—

CHAIR—Senator Boswell!

Senator BOSWELL—I remind you what it is to mislead a Senate inquiry.

CHAIR—Order! Senator Boswell, if you want to ask another question this afternoon you will come to order when I call it. Senator Barnett.

Senator BARNETT—I am making the point that sections 13 and 15 of your Wild Rivers Act could not have been complied with within the time that you have specified. In the evidence that you have given that is an impossibility.

Mr Bradley—I take that as a comment. I can assure you that the minister had the full briefing information before him. It had clearly been the subject of extensive work, so the material was in a final form ready for the minister's consideration after taking up his position, and during that period of time the minister went through all of the appropriate material and satisfied himself against those sections of the legislation before making his recommendation to Governor in Council and it was gazetted.

Senator BARNETT—You will have to provide evidence to support that in your response because prima facie, based on those two sections which I have read and as a lawyer, prima facie, there is an impossibility that any minister in that position could satisfy that, particularly and specifically a new minister in the job.

Mr Bradley—With the discretion of the chair, one point I would make is that Minister Robertson obviously served in the cabinet that had considered the wild river declaration proposals. He was very much familiar with the wild rivers legislative framework and indeed the original proposals for those declarations, given he was the minister responsible at various times in an earlier role. He was not, as you would say, a newcomer to that ministry. It is also not clear from the question, and it would be useful if you could clarify, in what areas you think it is impossible that he could have considered those issues, given the question you are asking us to come back to you with on notice.

CHAIR—Mr Bradley, Mr Buchanan and Mr Lutrell, we thank you for your time this afternoon. We have had more than enough time for questioning and we need to move on to the next witness.

Senator BOSWELL—I would like to register my disappointment that there is no submission.

CHAIR—I think you have done that at the start of this presentation.

Senator BOSWELL—No, I want to put it on the record. I do not think that there has been sufficient time to investigate this due to the lack of submission by the Queensland government and I want to call for some more time to interview the Queensland representative.

Senator IAN MACDONALD—Now or at a future time?

Senator BOSWELL—At a future time.

CHAIR—The committee will consider that request when we next meet to further progress the consideration of this legislation.

Senator IAN MACDONALD—Also along the same line, could I ask that the committee might consider giving the Cape York Land Council, Balkanu and anyone else that has been interested, the chance to comment on the Queensland government's comment on their comment, because this is a most unusual practice.

CHAIR—You know that at any time witnesses, whether they appear before a committee or whether they have put in written submissions and do not appear before the committee, can put in further and supplementary comments and submissions right up to the reporting date. We have not heard from Balkanu yet. We have heard from the Cape York Land Council. Any of the other witnesses that we heard two weeks ago or those who are not even here who might read this transcript later are welcome to put in further supplementary submissions or other comments up to the tabling date. That is a matter of record and is the way in which all Senate committees operate. I just reiterate it, publicly, so that people know that is the process.

Senator IAN MACDONALD—I thank you for clarifying that. Can I just clarify that the Queensland government are going to put in their submission on 21 April?

CHAIR—By 21 April.

Senator IAN MACDONALD—Up until what time will the other groups have the ability to read, consider and respond to what the Queensland government has responded to them about?

CHAIR—At this stage we are due to table this report on the week of 10 May. The committee may well decide to extend.

Senator BARNETT—It is the seventh.

CHAIR—The committee may well decide to extend that reporting date. That will be a matter for the committee to decide at a future meeting.

Senator IAN MACDONALD—Will the Queensland government's response be on the website?

CHAIR—Of course it will. All of those are available on the website.

Senator BARNETT—I would just like to make a point of clarification. I understand the reporting date is 7 May and, if that is the case, it seems to me to be close to an impossibility to provide other key stakeholders, Cape York Institute for Policy and Leadership or whoever, with an opportunity to respond to the Queensland government submission, which we still have not seen and will not be here until 21 April at the earliest and no doubt will be very comprehensive and substantial. I think that is a very important issue for the committee in terms of the lack of time to properly interrogate, investigate and scrutinise the Queensland government's submission and respond to it.

CHAIR—It is a matter we will consider at a private meeting at some stage in the future. Mr Bradley and your colleagues, thank you once again for your time.

[2.58 pm]

PEARSON, Mr Gerhardt, Chief Executive Officer, Balkanu Cape York Development Corporation

PIPER, Mr Terry, Chief Operation Officer, Balkanu Cape York Development Corporation

CHAIR—Welcome. We have received a submission from you which we have numbered 18 for our purposes. Before I ask you to make an opening statement, do you have any amendments or corrections that you would like to make?

Mr Pearson—No.

CHAIR—Please make an opening statement and then we will go to questions.

Mr Pearson—Thank you for the opportunity to make a submission to this inquiry. Cape York regional organisations and our leaders have been consistently opposed to the wild rivers initiative, first proposed by the Beattie government in 2004. The issue has blown up on a number of occasions since that time and the Cape York organisations have not altered their position. For this reason wild river declarations proceeded in the gulf region, supported by Murrandoo Yanner of the Carpentaria Land Council, but not in Cape York, that is until after the elections in 2009.

The principle of traditional-owner consent is a fundamental land rights principle. Some people call this the right to self determination; others call it the right to sovereignty. It is this right that lies at the heart of all land right controversies from Noonkanbah to old Mapoon. It is the right of Indigenous people to have the say over what happens on their land. The struggle to defend this principle has always been a struggle against government trying to impose decisions on the traditional owners. It is this principle that is central to the international declaration of the Rights of Indigenous Peoples.

The wild rivers legislation and the declarations made by government under it are clearly imposed upon Indigenous landholders. The principle of consent has been completely flattened. This principle means that if traditional owner groups want to place their lands under conservation regimes like the wild rivers, then they should be able to give their free consent by agreement. There is a mechanism in Australian law for traditional owner consent to be obtained, and that is through Indigenous land use agreements. The Tony Abbott bill upholds the fundamental land rights principle, the principle of traditional owner consent.

We, in Cape York, are not against the conservation of our rivers and our lands. Indeed, our lands and our rivers of Cape York are in such pristine condition precisely because of the stewardship of Aboriginal people. Since 2001 Indigenous people have led policy and implementation towards the expansion of significant parcels of lands as national park in Cape York Peninsula. Some 500,000 hectares have already been declared. Traditional owners have negotiated, and continue to negotiate, and give their consent to the expansion of the national park estate and conservation management regimes right across Cape York Peninsula. This negotiated agreement-making respects our right to say yes or no. The Wild Rivers Act does not give any opportunity for agreement-making between the parties.

I would now like to address the question put by the chair of this committee, Senator Crossin, to Mr Noel Pearson at the hearings in Canberra in relation to $70,000 that was paid to my organisation. In making our statement, I would also like to alert the senators to the fact that Dr John Bradley has again misled this committee on two occasions today. I assume that Senator Crossin was put up to asking this question by either the Wilderness Society or the Queensland government, as this matter has been shamelessly used—

CHAIR—Mr Pearson, I do not think you can assume that at all.

Senator IAN MACDONALD—Chairman, you made Senator Boswell wait until he finished the statement before you allowed—

Mr Pearson—Can I finish my statement please?

CHAIR—First of all, it is an aspersion on me as chair and as a senator. I take offence at the fact that you would assume that I have been given questions from other organisations rather than do my own research and my own investigation when I investigated how the Queensland government had conducted its consultations and discovered they had provided Balkanu with money. I am entitled to ask about how that money was spent. Please continue.

Senator IAN MACDONALD—This is inappropriate. Chair, I am taking a point of order. When Senator Boswell wanted to challenge something done by a witness you insisted he wait until the witness finished and

then you gave him the right of reply, yet because you are chairman you seem to be able to interrupt a witness and respond immediately. I just think you need to be consistent.

CHAIR—It is not a point of order. I am not taking that as a point of order. The previous witness did not make a personal comment about Senator Boswell.

Senator IAN MACDONALD—Yes, they did.

CHAIR—There is no point of order. Mr Pearson, continue please.

Mr Pearson—This matter has been shamelessly used by the Wilderness Society, the Queensland premier and Minister Stephen Robertson to seek to undermine the integrity of my organisation. The submission to this inquiry from the Wilderness Society states:

Balkanu Development Corporation, headed by Gerhardt Pearson, took $70,000 of public funding to help run the first set of consultations.

Premier Bligh has made similar public claims. On ABC television *Q&A* the Premier said:

Balkanu was funded to undertake that consultation in partnership with the relevant department.

This is where I believe the committee has been misled. I wish to make this very clear, that Balkanu was not funded to undertake the consultations in relation to the wild rivers. The minister cannot, under the act—nor does our funding contract between the agency and our organisation—delegate the minister's responsibility to conduct consultations to Balkanu. Indeed, I quote from correspondence from Minister Robertson of 20 July 2009:

It is the government's responsibility to undertake consultation on the wild river declaration proposals. Part of Balkanu's role was to identify those Indigenous people who should be included in the consultation process.

The contract of works that we had undertaken with the activities funded by the Queensland government was to firstly:

- develop a work plan;
- identify the traditional owner groups;
- identify the range of land tenures;
- identify other resources and other scientific reports relevant to these proposed nomination areas;
- identification of other stakeholders; and
- arrange at least three meetings with relevant Indigenous groups by mid-July 2008.

Balkanu met our obligations in the four month period between July 2008 and November 2008. Balkanu was paid by the Queensland government $63,500.

In contrast to the Archer, Lockhart and Stewart River areas the state has expected traditional owners to engage in the Wenlock River consultation process with very little support or assistance to consider the issues and to prepare submissions. This is a serious failing on the part of the state government. I would like my chief operating officer to make a brief statement.

Mr Piper—I would like to address a couple of issues, firstly an issue raised by the Wilderness Society in their submission. The Wilderness Society state:

After it conducted extensive consultations for the first three wild river declarations on Cape York … meetings were cancelled by Balkanu that should have led to the addressing of traditional owners concerns.

Also Mr Seelig said in a previous media statement:

I believe there was a meeting scheduled in February in Coen where traditional owners were going to sit down with the government and that meeting got cancelled by Balkanu at short notice because they wanted to have a big fight over it.

Senator FEENEY—Where did the Wilderness Society make those assertions? Are they in the submission for us?

Mr Piper—In the Wilderness Society submissions.

Senator FEENEY—Can you direct us to a page?

Mr Piper—I will find it and let you know.

Senator FEENEY—Sorry to interrupt you.

Mr Piper—There is an email in relation to that meeting. We assert that that meeting was not a consultation meeting at all, it was a meeting that was to occur after the declarations were made as a damage control meeting. There is an email here from Tom Curruthers who is in charge of Mr Scott Buchanan.

Scott, I had a discussion with Debbie late yesterday and she is of the view that we should go back to Terry Piper and ascertain what days the Cape York Land Council and Balkanu board meetings are on and try to get front to back to them.

The email goes on:

I responded in my view that they would smell a rat and also indicated that the preferred location was not in Cairns.

That is not a way to respect Indigenous people on Cape York.

CHAIR—Is that a document that you need to table?

Mr Piper—I will table this document. I would also like to table documents that set out that the meeting was proposed for the week of 23 February. We did not cancel that meeting, but during the week prior to that—I will table these documents—the wild rivers declarations had gone to the executive council team, so the wild rivers declarations were very advanced, and that the government had prepared media statements and was seeking Mr Scott Buchanan's approval of these media statements before the 23rd and on the morning of 23 February. The media statements were for Minister Wallace to announce the declarations of the wild rivers.

The meeting about which the Wilderness Society is referring to and casting accusations against our organisation was a meeting that was actually to tell traditional owners how their issues had been dealt with after the declarations had actually been made. That is our view on that and I will table these documents.

Senator BARNETT—Post-facto.

Mr Piper—Post-facto. I would also like to table some other documents, firstly the Executive Council process for approval by Governor in Council. It is a two-stage process; it takes 10 days. If the Executive Council process is followed it is a 10-day process to go through to Governor in Council approval. An Executive Council minute is lodged with the secretariat on the Tuesday, then on the following Monday it goes to Cabinet and Executive Council members at cabinet endorse the Executive Council minute recommending that Governor in Council approve the Executive Council minute. On the Thursday it goes to Governor in Council for approval. There are normally 10 days for that process. Minister Robertson and the government were sworn in on 26 March, so to have that 10-day process the Executive Council minute would have had to have been lodged with the secretariat two days before. The Executive Council minute was either done in a rush after the government was sworn in—

Senator BOSWELL—Could you say that again?

Mr Piper—It was either lodged after 26 March when the government was appointed, or it was lodged before the election to give enough time for that to be approved. We received correspondence from Minister Robertson on 26 May, which I will table, where Minister Robertson denied the Cape York Land Council a right to get reasons for the declarations. Minister Robertson said:

Having regard to the results of community consultation and written submissions, as well as other matters, I decided to proceed to make the declarations, although with certain changes, in order to address the issues raised through consultation and in submissions. The declarations were therefore submitted to the Governor in Council for approval and subsequently approved.

Senator BARNETT—What date was that?

Mr Piper—This was on 26 May. I will table this. Minister Robertson was appointed on 26 March. We have been through the wild rivers declarations, the drafts and the material. We cannot see that Minister Robertson made any changes to the declarations between 26 March and 2 April.

The Senate has to be very clear that there is a process where the minister has to make a declaration and then that declaration is approved by Governor in Council. The minister does not just make a decision to make a declaration and forward it on to Governor in Council, the minister has to actually make a declaration, and it is those declarations that are approved by Governor in Council.

We know from the FOI material that Minister Robertson was appointed on the 26th. On the 30th there is an email which states:

Also Scott, Kerrie Waters has asked that I make sure that the minister's office has been made aware of the fact that they are proceeding to Governor in Council.

On 30 March, two days before the declarations were supposedly made, there is an email to let the minister's office know that they are proceeding to Governor in Council. Presumably the minister's office did not know at that stage.

Later there is the document which was quoted here about the CTS. We know that CTS was the result of public consultation and the public submissions. We know from the documents that Minister Wallace did not sign that briefing note, so we know that Minister Wallace may not have considered the results of public consultation or the submissions himself. We also know from Mr Buchanan's email and we know from the FOI material that that briefing was made up of 341 pages, so it was quite an extensive briefing.

Senator BARNETT—A very big document.

Mr Piper—Yes. If Minister Robertson had not seen that on 30 March then he did not have much time to consider it. The other issue is the final declarations for Governor in Council approval needed to be ready by late on 30 March or on the morning of 31 March. There are emails here to show that. If Minister Robertson did actually consider the public submissions it was something where he made no changes and it was too late to make any changes because the declarations were already on their way to Governor in Council. I will table these documents.

We have major concerns as set out in Mr Noel Pearson's submission, that these declarations have not been done properly or validly. We have asked the minister, written to the premier and written to the governor to seek a copy of the instrument by which the declarations were made. Nobody has provided a copy of that instrument. The declarations do not say who made them or when. That instrument should be something that is on the public record and we have constantly asked for it.

Senator TROOD—When did you ask for that?

Mr Piper—I can get you the dates of it. We have asked over the last five months in various correspondence.

Senator TROOD—You have asked more than once?

Mr Piper—More than once, yes.

Senator TROOD—You have asked numerous times?

Mr Piper—Yes.

Senator TROOD—And they have refused?

Mr Piper—They have not provided it.

Senator TROOD—Have you ever had a response to any of your requests?

Mr Piper—We have had a response to our request. The acting premier and Minister Robertson did not say that Minister Robertson made the declarations, they said that Minister Robertson made the decision about the declarations on 1 April.

Senator TROOD—They are avoiding the question.

Mr Piper—I believe they are.

CHAIR—Mr Piper, you made reference a minute ago to Mr Noel Pearson. Is that in relation to issues that are raised in the Cape York Institute's submission?

Mr Piper—Yes.

CHAIR—And his evidence before this committee in Canberra; is that correct?

Mr Piper—Yes.

CHAIR—I just wanted to clarify that in my mind. Senator Trood, do you have any questions?

Senator TROOD—I do. Gentlemen, there is a very disturbing claim in your submission about the origins of this wild river Queensland legislation about the relationship between the Wilderness Society and the Queensland government at the time. Can you put on record your concerns about that legislation?

Mr Piper—Yes. Our concerns come from case studies that were done from people who worked closely with the Wilderness Society at that time. There is a belief on Cape York that the Wild Rivers Act and the declarations came at a time when Cubbie station and dams in south-east Queensland were significant issues for the Queensland government and it was a way of taking the heat off the Queensland government by transferring that heat to remote Queensland.

Senator TROOD—Do you think this was a political stitch-up deal done between the Wilderness Society and the Queensland government for electoral advantage?

Mr Pearson—Yes.

Senator TROOD—For the Queensland government's electoral advantage; is that right?

Mr Pearson—Yes.

Senator TROOD—I see. In your submission you also raise questions about the nature of the policy development and you have been very eloquent about the issues that you have drawn attention to here. The point you have made consistently is the difference between rivers and basins, as I understand it. In fact there has been, on your view, a consistent deception on the part of the Queensland Labor government in relation to these matters; is that correct?

Mr Pearson—That is right.

Senator TROOD—Let me understand this perception as best I can. On occasions when there is an intention to declare a river—that is the statement—but in fact on all of those occasions far more than just a river is being declared. In fact, on each of these occasions when there has been a declaration, it relates to the river and a very large amount of land around the river, in other words, the basin. Is that right, Mr Pearson?

Mr Pearson—That is right. If you were to turn around and have a look at that map on the left-hand side of you, that is a pretty good depiction of a state government map that was around a few years ago that pointed out the extent of the reach of these wild river declarations. In 2004-05, when the legislation was being discussed and finalised in the community, Queenslanders, including ourselves here in Cape York, were told that this was just about river protection. There is no indication that the rivers would extend to basins, in fact, that they would take large tracts of land. Most of the lands in the three declarations so far are 99.9 per cent Aboriginal lands and more than 50 per cent Aboriginal freehold land. The three rivers, as a consequence, have now moved to 13 rivers in those three declarations.

Mr Piper—Somebody had the map for the Archer and Stewart River here earlier. If you look at the declaration for the Lockhart River, for example, it says the Lockhart River, but in fact that declaration also included the Nesbit River, the Chester River, Rocky Creek and Claudie River, which are separate rivers that flow separately into the sea. The election commitment in 2004 just identified the Lockhart River. The election commitment in 2004 identified the Stewart River, but the actual declarations include four other wild rivers flowing into the sea. So under the cover of the Stewart River also were declared the Massey River, Breakfast Creek, Balclutha Creek and Gorge Creek, some of them are only 20 metres wide. They flow separately into the sea. Because the election commitment has changed from rivers to basins it has meant that what were once 13 rivers are now about 60 separate rivers. So when the premier announced that she declared three wild rivers on 3 April last year she did not say that she had, in fact, declared 13 wild rivers in that bunch.

Senator TROOD—How many rivers do you now understand to have been declared under this deceptive activity?

Mr Piper—On Cape York, 13 wild rivers. There are 13 wild rivers that have been declared on Cape York.

Senator TROOD—That is not the number that was publicly announced.

Mr Piper—The public number is three.

CHAIR—Are they tributaries of the Lockhart?

Mr Piper—They are not. If you look at the maps you will see that they are quite separate rivers. They have nothing to do with each other.

Mr Pearson—They each have their own basin. So, using the basin concept, coming from the gully to the basin there is this river, this basin—captured the lot, from basin to basin and basin to basin. That is how the legislation has taken a broad-brush approach to the land. The top of the basin, at the ridge of the basin, is in some cases more than 20 kilometres from the nearest river.

Mr Piper—If you look at the maps you will see that.

CHAIR—Senator Barnett, do you have any questions?

Senator BARNETT—No.

CHAIR—Senator Boswell.

Senator BOSWELL—I am confused with the 13 rivers or 60 rivers. I have heard there are up to 70 rivers. Can you take on notice, Mr Piper, how many rivers and nominate the rivers?

Mr Piper—I can tell you right now the wild rivers that were declared on Cape York last year on 3 April. There were the Love River, Kirke River and Archer River—three separate rivers. There were the Claudie River, Lockhart River, Chester River, Nesbit River and Rocky River. There were Massey Creek, Breakfast Creek, Stewart River, Balclutha Creek and Gorge Creek—all declared as wild rivers, all separate wild rivers under the guise of three basins.

Senator BOSWELL—I would like to read a statement here. It is a letter from the Bligh government to the Wilderness Society which states:

A re-elected Bligh government will also complete the program of wild declarations on Cape York Peninsula as outlined in recent correspondence to your society. This will see a total of 19 wild rivers declared, including those rivers already declared in the Gulf of Carpentaria, Cape York, Hinchinbrook and Fraser Islands.

That statement went out on 13 March. My question is: was the Wilderness Society advised of that before the landholders?

Mr Piper—The election commitment said 19 wild rivers. It did not say 19 river basins. We were not aware of that letter before the election. That is a letter that was—

Senator BOSWELL—It was given to the Wilderness Society.

Mr Piper—Yes.

Senator BOSWELL—I have a copy of that letter. Were you advised before the Wilderness Society or did the Wilderness Society get the drop on you guys?

Mr Pearson—I met with senior members of Bligh's administration during the middle of the election. There were two weeks in the elections last year. Amongst other things we discussed wild rivers and our concerns about any impending declarations. At no stage were we alerted by Mike Kaiser, who was at that meeting and Ken Smith, the director general, that it was the government's intention after the elections to go ahead and declare not just the three rivers but the 13 rivers.

Senator BOSWELL—It seems to me that the Wilderness Society had a fair influence in this government. In fact, some of the ministerial decisions have hand-balled the decisions to the Wilderness Society. I particularly take from your submission that the landholders asked the government to extend a decision on a declaration and you were told, or the landholders were told, to go and apply to the Wilderness Society. A meeting was then arranged with the Wilderness Society in Cairns on 4 November. The Wilderness Society subsequently advised by letter dated 11 November from Mr Esposito:

We are sincerely of the view that to meet your concern it is best that the government maintain its current formal closing date for public submissions.

Mr Esposito went on to state:

We wish to see a meaningful dialogue and negotiation between traditional owners and the Queensland government regarding the declaration proposal for the Archer, Stewart and Lockhart River Basins.

What right has the Wilderness Society to tell you whether you are able to have an extension? I would have thought that was solely the role of the government, but it seems to me, by reading this, if your submission is accurate, that the government has abrogated its responsibilities and passed them on to the Wilderness Society. They tell the Wilderness Society before they tell the landholders what they are going to do, then they ask the Wilderness Society to arbitrate on whether you can have an extension or not. Am I reading that correctly?

Mr Pearson—I am not sure of the dates. Mr Piper will have those dates. I recall the meeting. It was at the twilight of the consultation period in 2008. On behalf of all of the traditional owners concerned with the three declarations, I had written to the government setting out their concerns, raised in the consultation report, about the impending declarations and seeking an opportunity to be able to have a process to negotiate with the government and the traditional owners their concerns to seek resolution of their concerns. A meeting was arranged when the community cabinet sat here in Cairns and with the permission of the department we brought down traditional owner representatives from the three rivers, a large contingent of representatives, and they met with Minister Wallace, the local member Jason O'Brien and departmental staff.

Senator BARNETT—I am not a Queenslander so can you tell me what Minister Wallace was responsible for?

Mr Pearson—He was the minister responsible for the wild rivers.

Senator BARNETT—Preceding?

Mr Piper—Minister Robertson.

Mr Pearson—That is right.

Senator BARNETT—Thank you.

Mr Pearson—I, of course, was not there, but my staff were. During the course of the meeting traditional owners had requested consideration of their concerns by the minister. Local member Jason O'Brien and the minister, Minister Wallace, had told these traditional owners who came from Coen, 600 kilometres away, and Aurukun which is even further, that 'if you were able to get the approval of the Wilderness Society then we will be able to take account of your concerns'.

Senator BOSWELL—And the Wilderness Society would not meet your request?

Mr Pearson—Yes.

Senator BOSWELL—We definitely have to revisit this, Chair, because this is outrageous. I think under any circumstances, any political party you are, when the government starts asking the Wilderness Society what they want to do—

Senator FEENEY—We are not having an inquiry into that.

CHAIR—I have mentioned before that will be a matter for the committee to determine at another date. We are currently inquiring into a piece of legislation before us, not the activities of organisations or the Queensland government in relation to the Queensland government's legislation. We are inquiring into your legislation, if I am correct, in respect of the impact it has on this area. If you have questions about this legislation and this organisation's view of that, please proceed, otherwise I think it is Senator Siewert's turn.

Senator BARNETT—Can I just follow up from Senator Boswell very briefly?

CHAIR—Yes.

Senator BARNETT—Mr Piper, you have tabled a lot of documents to support your argument. The import is that the Queensland government has breached its own laws. That is the first point. Do you believe that?

Mr Piper—We believe that is the case.

Senator BARNETT—The consequence of that is the validity of the declarations of those three rivers, as they say only three but we know it is many more, is now called into serious doubt. Do you agree with that?

Mr Pearson—Yes, we believe that.

Senator SIEWERT—I do not want to spend a lot of time on this because we have explored it quite a bit, but I would like to discuss the issue around the definition of rivers and basins. In looking at the response that you quote in your submission around what the Wilderness Society responded to you by letter regarding the declaration proposals for the Archer, Stewart and Lockhart River basins, they used the term 'basins' there in November 2008. When did your organisation realise that you were talking about basins, that there was one concept that you understood around rivers and there was the other concept around river basins? When did that become clear to you?

Mr Piper—We raised that with government about two years ago. It was raised with the premier at that stage by one of the organisations. The premier had said that his understanding was that it was rivers.

Senator SIEWERT—This was Premier Beattie?

Mr Piper—That is right. We can table the documentation of the various statements over the years by the government, the Wilderness Society and Greens that it was rivers.

Senator SIEWERT—That would be appreciated. That was two years ago, so around 2007.

Mr Piper—When it became very clear was when the declarations were released for comment. Until then there was no certainty about what the government was talking about, but it became absolutely clear that they were talking about basins in 2008 when the declarations were released.

Senator SIEWERT—The comments that your organisations and your community members were putting in were definitely around basins rather than rivers.

Mr Piper—Traditional owners, Balkanu and the Land Council raised the issue of basins in the submissions about those declarations.

Senator SIEWERT—I had taken from what you were saying earlier that you had only understood it was basins when the declarations were finalised and announced in April last year, but you did understand it in the consultation process.

Mr Piper—When they were released, yes.

Senator SIEWERT—I would like to leave that and go back to the consultation process that Balkanu undertook under the $70,000.

Mr Piper—Can I correct that? We did not undertake the consultation process; we assisted with facilitating and organising meetings.

Senator SIEWERT—Yes, I am sorry. That is where I want to get to. I get the sense that there is confusion around what your organisation had undertaken to provide in terms of your engagement with the process for the $70,000 and what some people in the community may have understood you undertook to provide. Would that be a fair comment?

Mr Pearson—No, I think it is mischief making.

Senator SIEWERT—I am not trying to mischief make, by the way. I understood that it was to undertake consultation.

Mr Pearson—Absolutely. The minister, the premier, the department and the Wilderness Society have been mischief making. The legislation prohibits delegating consultation outside of the minister and the agency. We were engaged to identify the correct individuals concerned with the country. We were engaged to organise camp sites, tucker and transportation.

Senator SIEWERT—Did you perform all those functions?

Mr Piper—That is right.

Senator SIEWERT—Were those meetings subsequently held?

Mr Piper—Yes. We accompanied Department of Natural Resources staff to most of the meetings that were held on Cape York. In relation to the consultation, I would like to table this document which is an earlier draft of the consultation report. In that draft the government was claiming:

The government has undertaken extensive consultation with effected Indigenous communities on Cape York Peninsula and is confident that it has addressed any concerns the Indigenous communities may have had. It was also noted from the consultation that there is significant support for the intent of the wild rivers program amongst Indigenous communities on Cape York.

That is the line that the government was going to put in the consultation report. The comment from the two key people who did the consultation for the government was:

Ross and I strongly disagree with this paragraph. It is open to interpretation whether we did consult widely and extensively. What is consultation to one may not be consultation to another. I am not confident we have addressed concerns as we would not be going back to Balkanu with the Director-General if this were the case.

There was not significant support for wild rivers. It was a mixed viewpoint, significant in differences. We conveyed that message several times to the premier between the close of the consultation period and right up to before the election, that there has not been sufficient consultation and you should not proceed with these declarations without the support of Indigenous people.

Senator SIEWERT—What were you just reading from with your second comment?

Mr Piper—I will table this.

Senator SIEWERT—Can you also say where that came from?

Mr Piper—This is from the FOI material. It is from a draft of the consultation report. It is the DERM records.

Senator SIEWERT—Thank you. We have been talking this morning about future acts and you have also raised this issue. Contrary to the government's position, is it your position that this does constitute a future act?

Mr Piper—Definitely.

Senator SIEWERT—Have you had legal advice on that?

Mr Piper—We have, yes.

Senator SIEWERT—Does your legal advice say that it is a future act?

Mr Piper—Our legal advice is that despite the Wild Rivers Act referring that other legislation does not affect native title, the Wild Rivers Act, itself, does effect native title. Our legal advice is that native title rights involve a right to make decisions about your country, and that the Wild Rivers Act infringes on that.

Senator SIEWERT—Isn't it a right to negotiate? I am not justifying the Native Title Act. I am asking for what actually exists, whether I support it or not.

Mr Piper—A consequence of it being a future act is a right to negotiate.

Senator SIEWERT—Which is where ILUAs come from et cetera. It does not go as far as the bill goes.

Mr Piper—That is right, the Commonwealth bill—

Senator SIEWERT—The bill that we are considering?

Mr Piper—Yes.

Senator SIEWERT—As I understand the Native Title Act, the bill that we are currently considering goes further than the Native Title Act. In fact, a number of submissions have made that same point and it was discussed in our previous hearing.

Mr Piper—Yes. In the Native Title Act you have a right to negotiate.

Mr Pearson—I have one more document that I would like to table.

CHAIR—Yes. What is it?

Mr Pearson—It is a set of minutes that relates to the Cape York Tenure Resolution Implementation Group. Craig Wallace and Andrew McNamara were the ministers at the time and there are representatives of the various Indigenous groups and the conservation groups. A couple of dot points here state that the chair noted that conservation groups have not yet received funding for participation in CYTRI processes and noted that funding has been approved and that the Department of Natural Resources and Water would ensure that processing was finalised as a priority. This is funding for the Wilderness Society. We do not know what amounts have been funded by the state to the conservation groups. The Cape York Tenure Resolution Implementation Group is an important group and it oversees tenure resolution in Cape York. It has also had discussions around wild rivers.

CHAIR—We will table that.

Senator IAN MACDONALD—I thought the Wilderness Society said this morning that they have not been funded by government.

CHAIR—Perhaps when they read this evidence and look at that tabling document they will care to respond to it.

Senator IAN MACDONALD—It could be a breach of Senate procedures in giving false information.

CHAIR—The committee may well put questions on notice on that. Mr Pearson, how many meetings did you help facilitate with the $70,000 that you were given?

Mr Piper—We had meetings in Coen and Aurukun. A lot of consultation with Indigenous people is not in big meetings.

CHAIR—You said you helped set up camps and provide tucker. Can you remember how many of those in total?

Mr Piper—I cannot off hand, but I would imagine that there would have been 20 or 30 meetings. Some of them were small meetings. In this funding we also paid for traditional owners to come down to meet with Minister Wallace. We paid for their travel and accommodation for that. We paid for the costs of the meeting with the Wilderness Society. We paid for the costs of traditional owners to come down for another meeting in October with the Department of Natural Resources and Water. Out of that money we also paid $7,000 for expert environmental advice to be able to assist traditional owners in their submissions. So it was not just meetings. There was a whole lot of costs that were made up out of that $63,000. One of the issues that we did have is that the government pretty well denied traditional owners the ability to get expert advice in being able to respond in their submissions. We had $7,000 that we spent on expert environmental advice about water quality, which we refer to in our submission.

CHAIR—Perhaps you could say my questions have helped clarify the mischief you believe that has been created around the $70,000.

Mr Piper—It is a mischief.

CHAIR—And my questions and your answers have now clarified that; would that be right?

Senator IAN MACDONALD—Good for you, Madam Chair.

CHAIR—You do not think my questions and your answers have helped clarify your position in respect of the use of that money?

Mr Pearson—We are happy for the senators to table the file. I think it is important for the public record that this information is actually on file. We will list the schedule of meetings. For example, witnesses this morning attended meetings out on country. That is important for them. They participated as part of decisions that gave their opinion or advice about the Wild Rivers Act. For the public record we will provide all of that information.

Senator McLUCAS—There is just one issue that I would like to canvass. I have said this earlier. We have an assertion from different sides in this argument that various economic uses will or will not be allowed under the Queensland legislation. We have a very limited way to test those assertions and I suppose as the Indigenous economic development organisation I am wondering what your role is in terms of assisting Indigenous people to be able to make applications through their local government authority by and large. What role do you have? To me, the only way that we are going to ascertain whether or not you can clear any trees in a high preservation area is if someone asks the question. What role does Balkanu have in that process?

Mr Pearson—For about 10 years we have been with the corporates and government in partnership—Westpac, Boston Consulting, Qantas, IBM and Telstra. We have been supporting economic development, mentoring, developing options, feasibility studies, business plans and so on. It is a process that was heavily supported by Premier Beattie and the Howard government in partnership, and obviously the corporates.

Our key argument in the early phases of the development of the wild rivers legislation was that Indigenous people needed support from the government to actually undertake their own analysis on the economic and other social impacts of this legislation. That was denied. Just after the state elections last year and the declarations when we went to the public about our concerns, the relevant agency, the state development agency at the time—the minister was Desley Boyle—had cut funding for economic support to our organisation. I am not quite sure of the amount, but it is over $400,000. That funding was a contribution towards the partnership arrangement with the Commonwealth, the corporates and ourselves to provide economic development support to Indigenous people in Cape York. They cut that because of our opposition to wild rivers.

This funding provided for a business hub located in Weipa where we had specialist business support people in the community assisting Indigenous enterprise, corporations and individuals. It also provided support to Aurukun, Mapoon, Lockhart and the Coen communities. These are the prime communities that are now being affected. The other business hubs affected were located in Cooktown to support the Hope Vale, Cooktown, Wujal Wujal and Laura communities.

The state of play as it stands now in relation to funding, the Commonwealth government has continued its economic development support in Cape York. The corporates that I have mentioned have grown in numbers in providing support through in-kind specialists in Cape York. We are still to see whether or not the Queensland government is prepared to accept that the provision of economic development opportunities for Indigenous people in Cape York is more important than a political fight that we are having in relation to a draconian piece of legislation.

Senator McLUCAS—You could put it this way. If an Aboriginal person from Cape York in one of the wild rivers regions who is a traditional owner wanted to undertake a tourism venture, would they come to Balkanu? Is that right?

Mr Piper—They would come to Balkanu and we would try to assist them, remembering that our funding to do that kind of thing was removed by the state government last year.

Senator McLUCAS—I understand from Mr Pearson that you have federal money.

Mr Piper—We have federal money and we have the corporate support. I would like to just clarify something from earlier. When the state says that there have been no applications knocked back for development, one of the issues in this is the state cannot actually accept applications for many activities, so they do not get to the point of having to knock it back because they could never accept the application in the first place. A person wanting to do something does not even get to put the application over the counter.

It is our advice that any commercial activity within a high preservation area that involves clearing of vegetation would not be approved. As the state said, there are criteria. Ultimately, you can clear for a fence or a firebreak, but there are other criteria that it has to be necessary infrastructure and there has to be no reasonable alternative location. What amounts to necessary infrastructure? It is our understanding that the decision makers do not include a tourism resort or even a private outstation as necessary infrastructure.

Senator McLUCAS—This is the point. You have followed the state government representatives who have said exactly the opposite. How do we, as a committee, have any ability to make a judgement about those two sets of assertions? It is almost impossible unless we have a test.

Mr Piper—I think you can have a hypothetical proposal and get your own advice.

Senator McLUCAS—Would Balkanu, as the Indigenous economic development organisation for Cape York Peninsular, be part of that? The point I am making is that you are running a campaign against a piece of legislation. It is your right to do that and I support your right to do that. I might not agree with you, but I would support your right. Yet you are also the organisation to whom an Indigenous person would come to actually achieve an economic outcome. There is a problem there. From my reading of this, the economic development opportunities are being delayed, and that is concerning to me.

Mr Pearson—It is concerning to us.

Senator McLUCAS—Good.

CHAIR—We have run out of time for your evidence and our questioning this afternoon. Thank you for appearing today.

[3.56 pm]

HOGNO, Mr Mark Wayne, Ranger Coordinator, Carpentaria Land Council

TAYLOR, Mr Terence Ronald, Wild Rivers Head Ranger, Carpentaria Land Council Aboriginal Corporation

YANNER, Mr Murrandoo,, Spokesman, Carpentaria land Council, and Traditional Owner

CHAIR—Welcome. You have provided us with a submission. We thank you for that and we have numbered it No. 27 in case people would like to go and look at it on the website. Do you need to make any changes to that?

Mr Yanner—No.

CHAIR—Would you like to make an opening statement or give us some comments and then we will go to questions.

Mr Yanner—Can we tender some other stuff?

CHAIR—Yes, you can.

Mr Yanner—This is obviously not to be discussed today, but for you to use as background material later.

CHAIR—It is a video.

Mr Yanner—It is a video produced by the wild river rangers. We produced it ourselves. There is a press release and a document on some scientific work on burnt colonies, a map of our region, a calendar we have produced with the wild river rangers and a letter from a manager of several pastoral leases in the lower gulf.

CHAIR—Thank you very much.

Senator BOSWELL—How long is it?

Mr Yanner—Only 15 minutes. It will keep you on the edge of your seat.

Senator BOSWELL—I know, but we have only got 15 minutes.

CHAIR—We are not going to watch it now. They are tabling it.

Mr Yanner—Keep it for midnight viewing.

CHAIR—An opening statement and then we will go to questions.

Mr Yanner—These two fellows will talk later about the ranger program itself. I think that is by far one of the better parts of the wild river legislation and often ignored at its own peril while people focus on the legislation. I have not heard anything bad spoken in all the hysteria or media stuff going on about wild rivers. I think the ranger program, itself, is universally supported so we would like to talk about that.

In general we in the lower gulf were the first four declared. That is the Gregory, the Staaten, the Morning Inlet and the Settlement. With the Staaten, of course, half of that goes into Cape York and half is in our area in the lower gulf, so I am just talking about our area. We are wild about wild rivers, in a good way. We love it. If we had our way the whole of the lower gulf would be covered in wild river declarations. I am on the public record in the last 20 years as not agreeing with a single piece of legislation pushed by the Queensland government so, in light of that, you should note my support for this is with that background in mind. I think Premier Bligh has had a bit of courage to do that. I think it is timely in that we know with the northern water task force set up by John Howard that the silly buggers down south have buggered up all their own rivers and waters and are greedily eyeing off northern Australia to exploit it for large agricultural purposes, and we will end up like all of those poor buggers down there. We think it is very timely and is something that we will use to preserve our country in coming years.

Also, although they have copped a bit of stick, we do not have any greenies in our region, because the blacks hold a green mandate. We are fairly solid, but we would like to give the Wilderness Society an acknowledgement and congratulations. They have been extremely supportive in the early days of the drafting of the legislation and ensuring our concerns, particularly with the wild river ranger program, were taken into account.

Today we want to focus on the ranger program, other than obviously any questions you have on our submission. We do not have a problem with it and we will be asking for more to be declared in our region. We think it is great.

I speak as both a traditional owner, under native title and all of that, but also, more importantly, in the last 15 years Aboriginal people in the lower gulf have become the largest pastoral lease owners in the lower gulf, outnumbering Colonial Mutual, AA Company or any other large company for that matter and my mob, the Gangalidda Garawa from Settlement Creek and Gregory declared areas, are the single largest pastoral lease owner in the lower gulf. We have six stations. I did not bring my cowboy hat—I left it outside—but I am here both as a pastoralist and as an Aboriginal traditional owner.

CHAIR—Thank you.

Senator IAN MACDONALD—Before you call on others I would like to apologise particularly to the witnesses and the subsequent witnesses. I am chairing a committee in Melbourne tomorrow and I have got to leave now to get there. My apologies.

Mr Yanner—I was not going to give you a hard time.

Senator IAN MACDONALD—I was wishing I could stay and have a little bit of interaction with you, but unfortunately the plane will not wait for me. I do apologise for not being here.

Mr Yanner—No worries.

CHAIR—Mr Hogno and Mr Taylor, do you have any comments?

Mr Yanner—I would like to introduce them properly. Mr Taylor is our head ranger with the wild rivers in the Burketown, Doomadgee to the territory border area and Mr Hogno is a former member of Australia's elite military unit, the SAS, is currently a resident in the lower gulf and is our coordinator of the wild river rangers in Normanton.

Mr Hogno—Basically, as Murrandoo said, I am the ranger coordinator in Normanton for wild rivers. I have three rangers that work under me. There is one from each of the different tribal groups in the region, that is Kukatj, Gkuthaarn and Kurtijar. They were selected from a steering committee put together by two prominent people from each group once they decided they were going to put wild rivers in that region. I have been going for about 20 months and the rangers have been a little bit shorter, so really 2009 was our first operational year. The first six months was basic training, getting equipment and things like that.

Probably what is unique in our area is that all the wild river declared area is currently on private pastoral lease; there is no country there that has been handed back to the Indigenous people. I was given the possibly difficult task of developing a relationship with landowners, if you consider that the initial wild rivers legislation in its original format was a bit annoying to them. We did that through basically approaching them with programs and activities that would mutually benefit each other and from that we now have access to basically all the pastoral country that has wild river declared area on it. We have access to that. There is only one I have not approached, but will probably do so this year. You are probably looking at an area of four-odd million acres.

Through a number of our efforts and utilising the media we have stimulated some self action within a lot of the pastoral leases up there. Just in the last year, either through our own efforts or in conjunction with some of these major landowners, we have removed over 9,500 feral pigs. Remember our year is a short year. We usually have about a six-month working year due to the wet season. We have done many hectares of weeds of national significance. Public enemy number one is prickly acacia and also Parkinsonia. Looking at this year alone and at the cost to the pastoralists and us using our manpower we have removed 10,000 feral pigs alone from one property. Prior to this the local council had a baiting program. There was no data or planning. Through us sitting down with these pastoralists there is a more positive approach to the real threat of feral animals and weeds and what they do throughout the region.

What I did forget is that the two wild river declared areas that myself and the rangers are responsible for is the Morning Inlet area in the southern gulf up to the state and river which is the northern gulf, southern cape area.

A lot of these pastoralists, through these efforts, are very interested in our data collection with the items and technology that we use to collect data. They are very interested in purchasing it themselves, which will allow us to share data between the two organisations, that is the pastoralists and us, the Normanton rangers.

Another thing that has come about is the pest management plans. Now that we have access to country we are commencing pest management plans for individual properties. That is dependent on the proactiveness of the landowner and also the type and number of pest plants and pest animals. We currently have a contract with Northern Gulf Resource Management Group's Carpentaria ghost nets program. We do not make money, but

we recover operational costs. Prior to us there was no one actually doing ghost nets in that region from basically Kowanyama around to Burketown, so we have provided a very valuable link.

We have a contract with AQIS to do survey work. We do yearly migratory bird surveys. Last year was for nine individual colonies, and five of those were unknown to science. We have recently signed a contract to take over the initial stages of the Mutton Hole wetlands near Normanton from Queensland parks. Originally the council was looking at that, but they dragged their feet so it was offered to us. We are now looking at the first stage of it, which ends on 10 December this year. We are about to commence crocodile surveys with Queensland parks. The view to that is that we can develop the skills required. There would be a fee for service type of thing for crocodile surveys in our region.

The fellows carry out many school visits, but probably what is most important to all of this is the guys that actually do the work, the three rangers. They are Philip George, Lance Rapson and Paul Richardson. They are actually a fine example of a successful ranger program. They are highly regarded throughout wild rivers. Considering the quality of rangers within the wild river ranger program, that is no mean feat. They have a passion for the job. A lot of this country, up until now, has been closed off to everybody and through their work they get to go back on traditional country where otherwise they would not be able to, which is a very important thing for these Indigenous rangers.

There is a hell of a lot of respect from within the community, from all parts of the social sectors. You get people that normally would not care what ranger Paul was doing, but they are now coming up and asking about the things they do and are surprised by what they do. It is also the interaction with the kids. The week before last I was over here having a meeting with parks and wildlife, and the guys were scheduled to make a Powerpoint presentation to the Gulf Christian College. When I got back I asked, 'Did you have to field many questions?' They said, 'Yes, we had to field quite a few questions.' I said, 'What sort of questions?' He said, 'The best one was the last one from a nine-year-old kid in the audience who put his hand up and he said, "Do you fellows enjoy your job?" 'The head ranger turned around and said, 'Yes, I do enjoy my job. It's the best job I've ever had in my life.' It just goes to show the passion. It is a very real job, they get a lot of pride out of it, and they love working on the country.

You might say why the wild rivers program, why not just any other ranger program? The wild rivers is different. You would have heard the success that we have had with the highly commended Premier's award. What wild rivers has done is they have backed their money. They have put good people in the right place, people who know how to develop people and develop good training. It is not the qualification, it is the training that you get doing the qualification. For example, it would only take you half a day or a day to get a boat licence. The wild river ranger program's boat course is a minimum of five days and about four hours of night work thrown into that. There is no just ticking the box for just turning up, you have to perform, and this is what makes it different.

Wild rivers has developed a training approach that has never been utilised before and that is just fact. For instance, we have a thing which was developed between myself and the senior project officers. It is called a validation week. It has been run twice now. The first time was up in Pormpuraaw. Pormpuraaw has a very successful wild rivers ranger program up there in the cape. The following year four other ranger groups went to the Pormpuraaw region under validation training. It is quite an arduous week, but at the end of it, it is not all about developing their skills, it is about developing the person. I could go on all day about that.

To sum up, in our region it is very well thought of throughout the community. The elders are quite amazed when they see these rangers getting up and giving Powerpoint presentations to 150 people in a hall. They see the work that they are doing; they absolutely love the program and they fully support the wild rivers.

Before I hand you over to Terry I will give you an open invitation to come out to Normanton any time. It is hard to gauge what they actually do with the time they spend on country and how long and far it is. It is four or five hours from the ranger base, probably two hours from the nearest station house, and they might be there for two weeks doing weeds and things like that. You are more than welcome to come out and you will be impressed.

CHAIR—Thank you. I am from the Territory. I might have to come up and compare it to the great rangers that we have over there.

Mr Hogno—Territory rangers do. To sum up this validation, I was asked recently by Riki Gunn—I do not know whether you know Riki from Carpentaria Ghost Nets—if myself and probably one of the senior project

officers from wild rivers could give a bit of a presentation on this validation, because she feels that is something they have not approached before and it is something they might want to take on board.

CHAIR—Mr Taylor, you have a few words that you want to tell us. Can you be very quick because we have some questions for you?

Mr Taylor—Yes. I want to touch on the work programs that we have been doing in the lower gulf around the Burketown area settlement and Gregory. We have been doing fire management, weed eradication, feral animal control, fish surveying, turtle and dugong work, ghost net patrols, biodiversity surveys, bird colony surveying and also school education, which is very important. We take that very seriously. We have also been doing community awareness to let everyone know exactly what we are doing at all times. I think that it is important, that we do not hold things back from the community or anyone within the region. We try to be very approachable, so if anyone has any questions they can come up and see us on the street or wherever we are. They might find us out in the scrub doing our job when they are fishing or hunting. We also use them as eyes and ears. We are only eight people up there with eight pairs of eyes and ears, so you could have an extra 6,000 eyes and ears looking out for things out on the ground. That is something alone where everyone is involved. We do get great response back from people out hunting and fishing, whether they are dugong or turtles, if their numbers are dwindling or they think something is wrong. We try our best to get out there and look at these situations and problems.

We also have ranger exchange programs right across the whole of northern Australia. We have been to the territory and we are setting up soon, so we get a bit of Galkan and a few of the mob up there. We have been networking with them through I-tracker and other things like that.

Also, we do crocodile surveys. We work with AQIS. AQIS is doing a lot of things with pig autopsies, checking for exotic diseases and anything that might come in through the gulf. I think that is not only important just to our Indigenous people who live in that area, but also for the sustainability of the whole of Australia. If there is an epidemic there it will affect everyone. Exotic diseases like bird flu, equine flu and things like that could come through. We try to keep an eye on that.

We also do bat surveys with the deadly Hendra virus. We are hoping we do not find anything, but it is always good to be out there checking these things.

We have done quad bike training to operate them safely; also GPS and GIS systems training, map reading, uploading maps, feral animal trapping and biopsy training on all animals and that sort of thing with AQIS as part of the security of the top end. For those things we had to be certified; we just cannot go out and do it. Part of the certification that we have been doing is Certificate III in conservation land management, fire management I, team leadership, crew leaders, chainsaw tickets, advanced first aid, chemical application ticket, chemical handling, and DPI and Fisheries compliance training. Obviously there are only two in Karumba as we speak, so we are also the eyes and the ears up in the gulf because we are always out and about, and we also do a lot for DPI and Fisheries. We do our boat licence and how to operate a boats safely.

Those are just a couple of things that we have been going through and I would just like to say that our country and mother nature is something that is important. No matter what race, creed, colour you are or where you come from, on this planet without mother nature we will not survive, so I think we are going in the right direction in looking after it for our future generations.

CHAIR—Thank you. That is a pretty comprehensive overview. Senator Siewert has some questions for you.

Senator BOSWELL—I have some questions, too.

Senator SIEWERT—I have a number of questions. The rivers in your area were declared in 2007.

Mr Yanner—Yes.

Senator SIEWERT—We have heard a lot of evidence today and in submissions of development applications being rejected and that wild rivers legislation can depress economic activity. What experience have you had in terms of the application process for any development approvals? Have you had any development approvals knocked back? Are there developments that you thought you would like to put up, but you thought would not be approved so you have not put them up? One of the concerns that we have heard is that certain development proposals are not put up because they will not get approved.

Mr Yanner—I know several applications have been made in the lower gulf by pastoralists and some Indigenous groups. I am not aware of any of them being rejected. We have big plans for the future in different

developments. We are quite confident that the legislation will not impinge on that. We believe in long-term sustainability. We are all for getting off welfare and for economic development, but it must be done in a manner that is sustainable in the long term, not short-term sustainability for a quick buck where we are left living in a dust bowl while whoever has made the money can move on and pay for their tucker.

The one thing about the lower gulf with most Aboriginal communities is that you will find the highest unemployment rates in Australia. If you take away the work-for-the-dole program, you are looking at 90 per cent unemployment in most of these communities. The way people have survived the last couple of hundred years since white occupation, but particularly the last few decades, is living off the land and if you have a nice healthy river you can work for the dole on $430 a fortnight and after you pay your rent and electricity bill there is hardly any money left for food, for the kids, the school or at home. Really the rivers are what sustain us and keep us going. You can be a pauper, but live like a king. I eat stuff you mob would pay $50 or $80 for here in Cairns, like fresh mud crabs. They are half gammon; we have got the good stuff. We live like kings even when we are paupers.

I am not aware of any, and any that would be rejected I would think would be sound because you can do anything. You can have a mine in the wild river area providing it is done right. It must be done with science supporting the fact that it will not wreck the environment. For too long we have had miners out there in the lower gulf or pastoralists who are just dammed this and dammed that; wear this, wear that, without any real environmental or scientific evidence that it is not going to stuff the place up. In fact, the evidence shows otherwise, that it prevents animals travelling up and down the river—the barramundi spawning upstream and so on—through these silly things they build which are out of sight and out of mind in our region because Brisbane is a long way from us. So it is about time this sort of legislation was put in place because they have been getting away with a lot of rubbish over the years and we are on a threshold of the gulf rivers remaining pristine or going on a downward slide. They are not going to get any more pristine than they are; we are at the top and if the greedy developers have their way they will be buggered.

You can develop even a mine, but it has got to be done right. I agree with those things being put in place, ticking those boxes to ensure that there are no bad environmental outcomes when these developments happen.

Senator SIEWERT—I know I am going to get pinged in a minute because we are going to run out of time. The other issue I wanted to ask about is related to that. This morning we were also told that the wild rivers legislation has robbed people of their right to speak for country. Do you feel that you have been robbed of your right to speak for your country?

Mr Yanner—Not at all, but I think I have made it plain to the public in the past, I support the right of Cape York people to be consulted in the manner they see fit. I believe we were consulted appropriately. The Queensland government came out at first and did not consulted with us. They went around to the councils. We had a big row with them and they came back and consulted intensely and properly across the region with the native titleholders.

The lower gulf is a region the size of France of which we are 70 or 80 per cent of the population and there is only 12,000 people in that region the size of France. They consulted properly in the end and we were happy with it, but I believe things may have occurred differently in the cape, and I support the right of Cape York people, or Aboriginal people anywhere, to be consulted properly. All I can speak for is my area. The Queensland government started off wrong but then they corrected it and they should be applauded for that.

Senator SIEWERT—I just want to clarify. You feel you were not properly consulted in the original process, but you jumped up and down and got appropriate consultation. You are not saying that you think the overall consultation process has been adequate, that there could still be problems with it. Is that what you are saying?

Mr Yanner—No. From what I am aware of from my discussions with my comrades in the cape, I feel they were not consulted as adequately as we were or in the manner they preferred. I think a lot more work needs to be done there. Obviously they have made that clear. In my region we have no problem with the consultations now or the legislation.

Senator BOSWELL—You say in your submission that there is a legitimate concern about trying to get through red tape when submitting development applications in a wild river area. What do you propose a solution to that problem is?

Mr Yanner—What page are you on there?

Senator BOSWELL—I do not know. I do not have your submission in front of me. I have gone through it and pulled out representative pieces.

Mr Yanner—I have it. As it says in our submission, this is a legitimate concern because if Indigenous people want to start up a little business within the wild river area, unless you can afford a lawyer and a few different things, it could be quite complex and scary to some people. Our simple solution to that is that the government should provide funding and resources to any traditional owner or owner groups who, with the support of their community, want to propose a sustainable development on the wild river area and need help to make a proper application and get through the necessary red tape.

Senator BOSWELL—You focus a lot on the ranger programs and obviously you are doing a good job with them. How many Indigenous wild river rangers have been appointed in your area?

Mr Yanner—In our area?

Senator BOSWELL—Yes.

Mr Yanner—Ten. We certainly need a lot more. You have to put it in a historical perspective. The Queensland government has never, ever funded or resourced rangers outside of their own existing national park system. If you were a black fellow in the past and you wanted to be a ranger they would ship you half way across the state to work in some national park. They should be commended for the first time ever in agreeing to fund regional bodies or local Aboriginal groups in a ranger program directly. All other ranger programs in Australia are usually done from the Commonwealth government, so that has been something different by the Queensland government. There is a promise, I believe, of up to 100 throughout the gulf and cape, and we certainly want a lot more down in the lower gulf because the guys we do have are doing great work and the more we get the more great work we will do. These are real jobs, too. They are on three-year contracts; they are on a bloody good salary.

Senator BOSWELL—I am not suggesting that they are not. You have got 10 jobs and you probably have a couple of vehicles. How many vehicles do you have? Ten vehicles, I suppose.

Mr Yanner—No, that is a low blow. Why would you have 10 vehicles for 10 rangers?

Senator BOSWELL—I don't know. If you have got 10 rangers—

Mr Yanner—How many cars do you have?

Senator BOSWELL—I have one.

Mr Yanner—It is probably a Mercedes, though.

Senator BOSWELL—No, it is a Holden at the bottom of the range.

Mr Yanner—We are well resourced. The Queensland government has provided us with the appropriate amount of vehicles, boats and quad bikes. We have the odd use of a helicopter to get up and do our aerial stuff. The aerial shoots, for instance, that Mark spoke about. We can kill hundreds of pigs a day by helicopter rather than on foot. We are extremely well resourced.

Senator BOSWELL—Let me put it to you this way. You said you have the highest unemployment and you can live like a lord out of the rivers. You just made a statement then that if someone wanted to open a business you would have to get special permission to do it under the wild rivers or you would have to get legal advice to do it. I accept everything you say about the rangers. I accept that they do a great job with the ghost nets and so forth. It seems to me that you have got 10 jobs and the appropriate amount of cars, but what about the other 90 per cent of the people who might want to go and grow watermelons, run a cattle property or do something else?

Mr Hogno—They do run cattle properties.

Senator BOSWELL—I know they run cattle.

Mr Hogno—There are plenty of them.

Senator BOSWELL—I am talking about the people that want to access land. You and I have known each other for a while and I knew your father, but I am just concerned. I accept everything you say about the rangers, but you are sort of tying rangers to wild rivers. Rangers should be there anyhow, irrespective of the wild rivers. What you are saying is that this wild rivers has given us 10 rangers and they are doing a great job, but I am saying what happens to the other people that cannot get a job because they cannot go and do something? I know the land in the blue on the map was given under deed of grant.

Mr Yanner—That is out of my turf. I cannot talk about that. If you listen to what I originally said, I said the ranger program is an excellent thing. It is tied to legislation; we cannot help that. Everyone is going on about the legislation and they are forgetting about this. One hundred ranger jobs in the lower gulf and cape, when you know the numbers up there with 90 per cent unemployment, is not something to be baulked at; it is something to be taken into consideration.

More importantly, as we have shown with the Century Mine debacle, that mine alone in the lower gulf employs more Indigenous people than any mine in this country. You have only got to go there to see that. There are black fellows falling out of the woodwork left, right and centre.

Senator BOSWELL—Isn't that a good thing?

Mr Yanner—It is a good thing, but you can still have mining. They have just got to do the right thing by the legislation environmentally. There is no one stopping development. I do not believe this legislation stops it.

Senator BOSWELL—You can have mining because that comes under a different act. This has got to be determined. Most people say you cannot go and develop either side of a river. Other people say you can. That has got to be tested.

Mr Yanner—We are doing it. We are running cattle stations that comply with the legislation. For instance, we fenced off the water hole and we run a water pump up to a turkeys nest and we gravity feed to the troughs. All the cattle are fed back from the river, away from the 200 metres, so the riverbanks are protected and the biodiversity and the ecosystem, so the cattle do not trample it.

Senator BOSWELL—It is a kilometre, isn't it?

Mr Yanner—No, it is 200 metres from the high preservation area.

Senator BOSWELL—I think you might be in trouble.

Mr Yanner—In any case, the real point is that we in the lower gulf were doing this on our own stations before the legislation came in. The legislation simply complements what we know from our occupation, observation and 1,000 years in the lower gulf of what is best for our rivers.

Senator McLUCAS—Just on that point, Senator Boswell, I think the difference that we have in Carpentaria is that the land tenure in the area that the wild rivers have been declared is all Indigenous owned pastoral lease, so if someone wants to go and grow watermelons, you cannot go over to someone else's land and grow those watermelons. That is the issue. It is not whether or not an Indigenous person who lives in Normanton can do that, you cannot just walk onto someone else's country and run an economic activity. I think that is the key difference between Carpentaria and Cape York.

Mr Yanner—Absolutely. If the wild rivers were not declared then that place there, in my region, would not be starting to get cleaned up like it is in some regions. We have instigated a lot of stuff and we now have the action actually happening.

Senator BOSWELL—You are doing a great job and probably a very necessary job. I cannot see why you would have to put wild rivers legislation in to do that job. Your rangers' job should stand on its own feet.

Mr Yanner—We agree. They are two separate issues, in a sense, but the legislation firstly protects our rivers. We are totally in support of it for that alone without the ranger program, but the ranger program allows the ability and the resourcing to get out and look after your country. You cannot just put legislation down and say people should not be building weirs illegally and this and that. This was the whole argument in the first place. Who the hell in Brisbane is going to know what is going on out there? The rangers regulate and monitor illegal activities under the legislation.

Senator McLUCAS—I suppose the observation that I take home from your presentation today is that wild rivers was the catalyst. It was the entrée into being able to work on properties that previously your rangers or people who were working in a ranger type role would not have been able to do. That has given that partnership arrangement with the pastoralist and your rangers. Is that accurate?

Mr Yanner—Absolutely, and with further trickle-on effects. As they develop a relationship with the rangers and see the important work that they do and there is an economic benefit, as you are clearing pastures belonging to a pastoralist of weeds and so on, the economic wealth of that station grows. They obviously get a buck out of it, but the rangers with their families or traditional owner groups, get more access to the stations in general as that relationship is developed. It is not just the rangers, but there is a bit of reconciliation and practical stuff where the mob is allowed back to camp to hunt and fish on country and so on.

CHAIR—I do not think that we have any other questions.

Senator McLUCAS—Thank you for your submission.

Senator BOSWELL—I can ring Senator Heffernan up for you, if you want!

Mr Yanner—Get Wild Bill. I wanted to have a go at him. He is dodging me. Him and old Macdonald both took off.

Senator BOSWELL—I stayed here to take it up.

Mr Yanner—Good on you, brother!

CHAIR—I think Senator Heffernan is at the dentist getting his comeuppance this afternoon. Thank you very much for your submission and thank you for taking the trouble to travel down and present your evidence today. It was great.

Mr Yanner—We had to swim half way here!

CHAIR—You have an ex-SAS trooper with you so you will be right.

Mr Yanner—That is him. We will be right.

Proceedings suspended from 4.33 pm to 4.44 pm

MESSENGER, Dr Paul Robert, Managing Director, Cape Alumina Limited

CHAIR—Welcome. Dr Messenger, I understand that you were going to give us evidence in camera, but this is now public evidence.

Dr Messenger—Yes.

CHAIR—Your submission to us now will also become a public submission. We all have your submission. Do not panic; it has been printed on yellow paper, but it will become white soon. That is just an indication to us that it was going to be confidential. Would you like to make a short opening statement and then we will go to questions?

Dr Messenger—Cape Alumina is a bauxite exploration and development company. We are listed on the Australian Stock Exchange and we are focused on the western Cape York Weipa Bauxite Province, which is one of the world's premier bauxite provinces. It is our primary area of interest. We have 2,100 square kilometres of exploration tenure in western Cape York. We have seven priority exploration areas, of which we have as yet drilled only one—and that is the Pisolite Hills deposit. Pisolite Hills is one of the largest undeveloped bauxite resources in the country. Its current resource is 130 million-odd tonnes and we are planning to develop it at a rate of seven million tonnes per annum.

We are here today because we clearly have a vested interest in the wild rivers legislation. In particular, our premier project, Pisolite Hills, is at risk of being adversely impacted by the declaration of the Wenlock River as a wild river. In December 2008, the state government proposed that the Wenlock be declared a wild river. They have had 16 months to consider that nomination and have sought public submission on the proposal. We have provided two submissions to the state on that proposal. The proposal, in its form in December 2008, included a number of arbitrary boundaries around minor tributaries and a number of springs in the vicinity of Pisolite Hills; they were based upon an arbitrary buffer size without any environmental studies in support of that. Through our submissions, we have provided the government with detailed environmental reports and we have given them the science to justify appropriate buffers around those features.

Our position is that the state's proposal for the Wenlock is flawed and needs to be amended. If it is not amended, the impact will be adverse on the Pisolite Hills project, with a very real prospect that it will render that project unviable. So, although it has been claimed by the minister, Minister Robertson, that no-one has been able to point to a project or a development proposal that has been killed by 'wild rivers', we appear to be facing a very real prospect of that with Pisolite Hills. There are two reasons for that. One is that the current high-preservation areas around the minor tributaries and springs in the vicinity of Pisolite Hills, based on arbitrary boundaries without any scientific basis, will effectively render approximately 30 per cent of the resource sterilised, and that will jeopardise the project. The other aspect of the issue which poses a risk to the project is the delay. The Queensland government have been deliberating on this particular proposal for 16 months. They have had sufficient time and now have sufficient information to make a decision, yet it is still delayed. My concern with this inquiry is that it may cause further delays, which would be bad for our business and would risk that project. Today we released the findings of an economic impact assessment which has been done as part of the environmental impact study for the project. That report indicates that the boost to gross domestic product, in net present value terms, from the Pisolite Hills project is $1.2 billion—

Senator BOSWELL—Over, what, a year or—

Dr Messenger—Over the life of the operation, the 15-year life of the mine. In addition, over that life of mine, 1700 direct and indirect jobs will be generated; they will be created or sustained over the life of that operation. Our position is that that is at risk with further delays in the declaration proposal and it is at risk if the current proposal for the Wenlock is not amended.

Senator BOSWELL—Out of that 1,700, how many would be Indigenous jobs or Aboriginal people that you would employ?

Dr Messenger—The 1,700 are direct and indirect. That number includes the workforce of approximately 350 people and it includes indirect jobs. So it would be people running small business in support of the operation: people growing vegetables and providing food, including bread; and people providing goods and services, including laundry services. Much of that small business will be done in Mapoon; there are certainly opportunities for that. We also have a target in the workforce itself; we have an employment target which will be a new benchmark target for Indigenous participation in a mining project workforce. So the answer to your question is that there will be a lot.

Senator FEENEY—You have just said '350 jobs', but your letter says 250. Can you explain that?

Dr Messenger—I apologise. I may have got that wrong. I will take that 350 back and leave it at 250. I apologise for that.

CHAIR—I want to start with some questions. At this stage, does Cape Alumina have any mines operating or is it purely an exploration company?

Dr Messenger—We do not have any mines operating, no. We have an advance project at Pisolite Hills and, collectively, the management and board have approximately 300 years of relevant industry experience.

CHAIR—But this company itself does not have an operating mine or any mining experience?

Dr Messenger—The people have 300 years of industry experience. I am not sure what the relevance of your question is; but currently the company does not have any operating mines, no.

CHAIR—I am just trying to ascertain where in the development you are at. So it is an exploration company; is that right? Also, it is owned predominantly by the Chinese; is that correct?

Dr Messenger—No, that is not correct.

CHAIR—Who then are the predominant shareholders in Cape Alumina?

Dr Messenger—The largest shareholder is a Brisbane based company called Metallica Minerals; they have 30 per cent of the company. It is publicly listed. There are 450 shareholders and a third of those are in Far North Queensland. Resource Capital Fund is another major shareholder. There are two Chinese companies: one, which is called Xinfa, has 18.6 per cent; and a second company has 7.5 per cent, which is a Chinese company also.

CHAIR—How many square kilometres is the total area that you have exploration interests in?

Dr Messenger—It is 2,100 square kilometres of western Cape York.

CHAIR—How much of that area would be impacted by the wild rivers declaration?

Dr Messenger—At the moment the main project, which is Pisolite Hills, is being impacted; however, we have seen preliminary maps for rivers to the north of Wenlock and they suggest that all of our project areas north of the Ducie River will be impacted by that.

CHAIR—What percentage of that 2,100 square kilometres is that, though? Are we talking about five per cent, 70 per cent?

Dr Messenger—It is the majority of it.

CHAIR—In terms of?

Dr Messenger—More than half of the areas north of the Wenlock and Ducie rivers—I cannot give you the exact breakdown—would be impacted by wild rivers legislation. Areas to the south I have not looked at, in terms of their being impacted by wild rivers, but certainly to the north it is almost all of the land tenure that is up there. But, more importantly, the Pisolite Hills project, which is our most advanced project and which we have spent well over $16 million of investors' money developing, risks being rendered unviable through the Wenlock proposal.

CHAIR—Let us just set aside the Pisolite Hills area. Excluding the north—because you are still only exploring up there, aren't you, and you do not have advanced projects in that area—

Dr Messenger—That is correct.

CHAIR—how much of your 2,100 square kilometres, as a percentage, is the Pisolite Hills area?

Dr Messenger—Pisolite Hills is approximately 20,000 hectares and that is the three main mining lease areas, so it is a relatively small part of that total area.

CHAIR—So, at this point in time, you have exploration in the north, but would the Pisolite Hills area be 10 per cent of your 2,100 square kilometres?

Dr Messenger—Look, I am not good at maths. So I am sorry, but I would have to look at the maps to give you a proper answer to that.

CHAIR—But is it a relatively small area in relation to the area you have for exploration?

Dr Messenger—It represents about four of our exploration tenements. We have about 18, I think, in total; they are all different sizes though.

CHAIR—So does the problem relate to the area that you would need to be clear of in order to mine? Is that your problem—that you would need to be the two kilometres or the 100 meters away from these waterways before you could establish your operation?

Dr Messenger—Let me just go back. The Wenlock is the first river that has been proposed that has an impact on our operations. Much of our tenement area is north of the Wenlock.

CHAIR—You say that it has an impact, and that is what I am trying to get at. What is the impact that you say it would have?

Dr Messenger—The direct impact on the Pisolite Hills project arises from the size of the high-preservation areas, which have been set in an arbitrary manner and without any reference to scientific data. Those high-preservation areas will preclude mining and their effect will sterilise approximately 30 per cent of our resource. Taking 30 per cent out of the resource of a mining project of this nature risks rendering the entire project unviable.

CHAIR—So what are you actually suggesting here: there should be an exemption for mining companies or they should be excluded or not have to comply with the conservation principles of the act?

Dr Messenger—Not at all. All I am suggesting is that the state government should make a decision on the nomination of the Wenlock River today, based on the information at hand and based on the science. If they do that, I think we can demonstrate that 'wild rivers' can achieve its objectives of protecting the rivers and at the same time not destroying jobs and economic development. My concern is that this inquiry may, in fact, cause further delays, and any further delays for our project are bad for our business.

CHAIR—So you do not have any demonstrable evidence per se that the Wild Rivers Act is holding up or delaying your production; you are waiting for the minister to make a decision under that act. Is that correct?

Dr Messenger—If the current proposal for the Wenlock is not amended, it will kill our project.

CHAIR—And there is capacity to actually amend that and to proceed under the Wild Rivers Act?

Dr Messenger—I believe so, yes.

CHAIR—We are looking at legislation that essentially would overturn the Wild Rivers Act. What situation does that then place your company in?

Senator BOSWELL—Full of joy.

CHAIR—Senator Boswell, I do not think you are employed by Alumina, so perhaps Dr Messenger could answer that for us.

Dr Messenger—There is no doubt that the rivers legislation has added substantial cost to our business or our operations; it has added substantial risk and uncertainty to our business. We have a neutral view on 'wild rivers' because we believe that we can work within its framework. But there is no question that it adds cost and uncertainty to our business, and that is bad for our business.

CHAIR—Conservationists would probably say that it adds certainty though to the environment and the outcomes of the environment. So isn't what we are trying to achieve here a balance—you are an exploration company at the moment and not a mining company—between your objectives and the objectives of environmental preservation?

Dr Messenger—I believe that balance can be found with or without wild rivers. There is abundant legislation in place to protect the environment. Wild rivers will not improve the regulation of our operation. Our project will be regulated and approved though the environmental impact statement process. That is a very robust process; it is very effective and very comprehensive, and we are committed to it. But I do not believe that wild rivers will add any additional protection to the environmental features, unless it kills the project.

Senator McLUCAS—Thank you, Dr Messenger. Unfortunately, I did not get to read your submission until right now, so I have not read it fully. I think it would be useful for the committee for you to explain how bauxite is mined. I have been to Weipa, but I do not know whether most of our committee has. Then perhaps you could also give me an explanation of why you say, I think, that a 100-metre setback from the river is all that is required in order to preserve the integrity of that river. Can you give me an understanding of how you come to that view; and can you also explain the melon holes, please?

Dr Messenger—Sure. Firstly, I will correct you: we are not proposing a reduction to 100 metres of any setback around the river.

Senator McLUCAS—Sorry.

Dr Messenger—Our operation is between 2.8 and 15 kilometres from the Wenlock River. We are well away from the Wenlock River. We are well outside the existing proposed high-preservation area, which extends a kilometre either side of the Wenlock River. We do not have a problem with that. The issue that we have concerns a number of minor tributaries and springs in the vicinity of Pisolite Hills around which there is an arbitrary buffer—a high-preservation area buffer. That buffer is effectively a buffer on a buffer. The minor tributaries are quite small and the width of the riparian zones around those average five to 10 meters. However, the features that have been defined have been defined on the basis of a central line down the creek, off a map, and a 50-metre buffer each side of that. So that gives you a 100-metre wide feature on a five- to 10-metre-wide creek, and then they put a 500-metre-wide buffer on the outside of that. So you have a very large buffer around a fairly small creek. I am not denying the importance of those features; we recognise that they warrant protection and we will protect them. However, we do not believe that it is appropriate to set those high-preservation areas in an arbitrary manner, using buffers on buffers, without any reference to environmental studies. We have provided those environmental studies and, on the basis of the science, we recommend a reduced size to those high-preservation areas around those particular features. If the Wenlock is proposed as a wild river with the recommended reductions in high-preservation areas around those features that we recommend, then we believe the project can proceed and we can still protect the environmental features that have been identified.

Senator McLUCAS—I look forward to giving your submission a better read. I apologise; I just did not get it until now.

Dr Messenger—I apologise for that and hope that explanation helps.

Senator McLUCAS—That helps.

Dr Messenger—As far as the mining goes, bauxite is a natural product of weathering and it occurs in the upper part of the regolith. It is quite thin. You have a thin soil horizon that is about 20 centimetres thick. You have an average of 80 centimetres of overburden beneath that. Then there is an average of 2.5 to three metres of bauxite. Under the bauxite is ironstone several metres thick and then a clay horizon, and under the clay is a sand-and-gravel aquifer. What we propose to do is to remove the top soil and stockpile that, then remove the overburden and then remove the bauxite. It is done with a front-end loader. It is all free digging; there is no drilling or blasting. The bauxite is then taken to a wash plant. It is washed with water, no chemicals, through a 1.2 millimetres screen. The coarse fraction is taken on a conveyor to a product stockpile and sold. The fine fraction is taken back into the pit and put as slurry onto the mined-out floor of the pit; it is dried out in a thin layer. When it is dried, it is ripped. The overburden is put back over the top and the top soil is put back over the top of that, and the whole area is reseeded and revegetated.

The area that we are proposing to mine is Darwin stringy bark country. It is open dry woodland. They are not springs that we are mining. There are no rainforests that we are mining. It is the most abundant vegetation type in northern Australia and it is amenable to successful rehabilitation. Our program will involve continuous mining and rehabilitation progressively throughout the life of the mine. We believe, based on the work that has been done in Gove, that the results will be very good. So that is how the bauxite will be mined.

Senator SIEWERT—I also have not had a chance to read the detail of your reports here, although I have just flicked through them. You have given some of the detail around a bit of the science. I am wondering about your claim regarding the 30 per cent loss. I have had a lot to do with the mining industry and I could not tell you how many times I have heard a mining company say, 'Unless you let us do this, we're going to have a significant loss.'

Dr Messenger—It is in the report.

Senator SIEWERT—It is in this report?

Dr Messenger—Yes.

Senator SIEWERT—So where does the 30 per cent come in?

Dr Messenger—It is the overlap between our mining resource and the proposed, arbitrary high-preservation area. Wherever those two lines intersect is sterilised bauxite.

Senator SIEWERT—In your letter you refer to 'independent government assessment'. Who has done that and is that in these reports?

Dr Messenger—The Department of Environment and Resource Management commissioned an independent hydrologist to assess all of the public submissions that were presented to the government. That report was delivered to the key stakeholders in December last year and that is the report I am referring to.

Senator SIEWERT—So, when you talk about the assessment of the economics, is that in these two reports?

Dr Messenger—I am sorry; the economic impact assessment I referred to earlier is not in those reports.

Senator SIEWERT—So where do I find those?

Dr Messenger—That will be released in full with the environmental impact study, which we expect to release in June. However, we have released the findings through a press release today and I can give you a copy of that.

Senator SIEWERT—It would be appreciated, if you could.

CHAIR—Could you table that and make that available to the committee?

Dr Messenger—I can.

CHAIR—Thank you.

Senator SIEWERT—So that is the findings but not the explanation.

Dr Messenger—That is correct.

Senator SIEWERT—And we have to wait until June to get the explanation.

Dr Messenger—That is correct.

Senator SIEWERT—So you are saying that 30 per cent of the resource is in that overlap.

Dr Messenger—I am sorry; there may be some confusion here. The 30 per cent is not in the economic impact assessment that I released today; the 30 per cent is detailed in the submissions that we have made to DERM on the Wenlock proposal. I apologise if there is confusion here, but the sterilisation is set out in that submission that you have in front of you.

Senator SIEWERT—I just want to check on the independent analysis. You have said that there is independent analysis; where can I find that report?

Dr Messenger—That is a report that the Queensland government has, which I understand they have not released to the public.

Senator SIEWERT—But you have seen it.

Dr Messenger—I have seen it, yes.

CHAIR—Senator Trood has a question and then we will go to Senator Boswell.

Senator TROOD—Dr Messenger, you say that it has been 16 months and you have been waiting for a response; is that right?

Dr Messenger—The process has been going for 16 months. In December 2008, the government proposed the declaration of the Wenlock and called for public submissions on 29 May. We complied with that and we have been waiting since then for a resolution.

Senator TROOD—You say that you think you could work in with the general design of the Queensland Wild Rivers legislation; but the reality is that the declaration of the Wenlock, under this piece of legislation, is impeding your commercial activity. Is that right?

Dr Messenger—Look, there is no question that extra legislation creates an extra burden on a company such as ours in trying to establish a resource project; however, the main issue here is the uncertainty around the fact that the decision has not been made.

Senator TROOD—I understand that. But I also understand that, were this piece of legislation not in existence and there being no declaration of the Wenlock under it, you would not have this problem.

Dr Messenger—Of course.

Senator TROOD—You would have to meet all sorts of environmental criteria et cetera, but you would not have this problem, would you?

Dr Messenger—No. That is correct.

Senator TROOD—Do I also understand that, in fact, if the decision of the Queensland government goes against you, you have no capacity to appeal it?

Dr Messenger—I do not know. We have not investigated what our options may be in that eventuality. We are relying on good sense—that the government will follow the science and the recommendations of their expert—and we are expecting a favourable decision.

Senator TROOD—I am not sure that is good sense; nevertheless. The problem that you have, as I understand it—you allude to this in your letter at the bottom of what I guess to be page 3; the pages are not numbered—is that there is no attempt to quantify these values. So you do not know what criteria are being used to judge your application, do you?

Dr Messenger—I think the reference is to the fact that the wild rivers nominations are being made without any cost benefit analysis.

Senator TROOD—But there are a couple of issues, aren't there? One is that they are general declarations in relation to any particular river, so they are all the same; in other words, there is no discretion or no discrete decisions are being made about particular rivers and the particular geographic circumstances that apply to them. Is that right?

Dr Messenger—That appears to be the case, that—

Senator TROOD—That is right. So they are just clamping a system on top of all of these rivers—which is the same, no matter where these rivers happen to be—and you are caught up in relation to that, as I understand it. But you also have a problem, do you not—I am just trying to understand how this legislation works—that you are not clear about what criteria is being used to judge your application. You hope, I gather, that sensible decisions are being made in relation to environmental questions, but can you be confident about that?

Dr Messenger—The criteria that we understand—

Senator TROOD—No; hang on. You understand their criteria, but is it clear that there are criteria in the legislation against which your application is being judged?

Dr Messenger—There is no application in this particular case; it is a submission that we have made to amend the proposal. In that regard, there are criteria that we understand are relevant. Our understanding of that is that the position of the government is that those features and the criteria that have been proposed must have the effect that there is no impact on those criteria. So, in terms of a cost benefit analysis, there is none. We are assuming that those features must be protected at all costs. We have set out to demonstrate that, with our recommended setbacks, we can meet the criteria that we understand are relevant.

Senator TROOD—These are the criteria—

CHAIR—You might make this the final question, Senator Trood.

Senator TROOD—that you think are relevant. Can I just go to this point, Chair? Dr Messenger, you say:

The Minister's task in comparing positive and negative impacts without quantification must be highly subjective.

Your saying that suggests that there are not any objective criteria against which judgements are being made. Is that an accurate statement of your understanding?

Dr Messenger—I believe it to be, yes.

Senator BOSWELL—When I looked at your proposals originally, I thought they would not make much difference either way. But I think your submission is the key to this Senate inquiry. What you are offering is work to Indigenous people which is within a reasonable distance of—is it Mapoon?

Dr Messenger—That is right.

Senator BOSWELL—The question comes down to this: if the Queensland government blocks the legislation or the federal government does not assist with this bill, we are consigning those Aboriginal people to welfare for the rest of their lives. It is decisions like yours that are going to get them out of that welfare. That is what this committee is all about; it is whether you want jobs for these Indigenous people or whether you leave them six families to a house and on welfare for the rest of their lives. So I think your coming here has really highlighted what is important in this committee. Some people just want to say, 'Well, we've got 10 rangers; we're right, mate.' Others want to say, 'Well, yeah, you've got 10 rangers, but there are 300 or 400 people that don't have a job.' I do not suggest that you are going to offer 300 or 400 people a job, but you may be able to offer 30 or 40 Aboriginal people a job.

Dr Messenger—It will be more than that, yes.

Senator BOSWELL—It will be more than that, and I think this is exactly what this project comes down to. So I believe that it deserves support. It is very simple; it is as simple as black and white: you either have jobs and get out of poverty or out of welfare and live a decent life, or we just continue to ramble on in the way that we have done for the last 50 or 60 years, pouring money into an ever-increasing hole and not achieving anything. I would say that any government—whether Labor, National, or Liberal—have tried to buy their way out of this problem. But there is not enough money in this world to get Aboriginal people off welfare and into a meaningful job, and you are offering that. So I certainly support what you are doing. I think it is absolutely courageous and I wish you all the best.

Dr Messenger—Thank you. I might just add that I do agree with those sentiments. My view is that there is a very simple solution that we can have; you just need to find the balance. We are very confident that, through the EIS process, we will find the balance between having responsible and sustainable economic development that will deliver for the people of Mapoon and western Cape York real jobs—sustainable jobs, long-term jobs—that will create opportunities for those people and at the same time protecting the environmental values of western Cape York.

CHAIR—Just before I pass to Senator McLucas for a final question, I have a last matter to put to you. Dr Messenger, I am not sure whether you heard evidence earlier today from Balkanu, which—as I summed it up and they agreed with—was that the Queensland government stands in breach of their own legislation and the declarations that were made last year with respect to the three rivers are now, in terms of their validity, in doubt. Were you aware of that advice or that information and that legal opinion; and do you have a view with respect to the proposed declaration before you in terms of the Wenlock River and its validity?

Dr Messenger—I was not aware of that and I think all I can say is that we are working within the legislative framework that we have been presented with. We are jumping through every hoop that is put in front of us and all we want is to have this issue resolved one way or the other. We believe that we can work within the wild rivers legislation. We do not believe that it is necessarily required to protect the features that we will be operating in the vicinity of; however, we do believe that we can work within it. We simply want to get certainty around our project so that we can get on with the job and deliver jobs and economic prosperity to the people of western Cape York.

CHAIR—In terms of Senator Boswell's questions, have you consulted and liaised with your local Indigenous community and, if you have, what is their response to your project and the likelihood of jobs and growth and development?

Dr Messenger—We have had a very comprehensive and long-running consultation process with the local community, particularly the people of Mapoon but also the surrounding communities in western Cape York. This has been going on for over five years. We have had literally hundreds of meetings. We have overwhelming support from the local community. Through the social impact assessment, which is currently underway, the preliminary results suggest that over 80 per cent of the local people of Mapoon see the project as delivering positive benefits and are supportive of the project. That consultation process continues. We do have the support of the locals; they can see the benefits. We simply want the opportunity to get on with the job and get this project delivered.

CHAIR—Just reading from your submission—and this is my final question—in terms of the number of jobs, if the project is killed off, you are talking about 500 jobs during construction and another 250 permanent full-time jobs during the 15-year life of the mine. Are they the numbers that we are talking about?

Dr Messenger—That is correct.

Senator McLUCAS—Dr Messenger, our task in this committee is to make a recommendation to the parliament—the Senate, in fact—about whether to recommend that they approve or not the piece of legislation that is in the front of us. I do take your point about certainty and the need to get on with the job. I put to you that, if this legislation were to pass the federal parliament, maybe your need for certainty would be tested yet further because the legislation, in fact, then requires that consent be provided to the declaration of a wild river and an agreement be made. We have had evidence today that says that they are very vague terms and that 'agreement' and 'by whom' is not clear in the legislation. You might want to take this question on notice, but I wonder whether you would like to think about whether the passing of this legislation in the federal parliament would, in fact, add further to your uncertainty.

Dr Messenger—Without having studied the legislation in detail, it would appear to me that it does risk further delays and uncertainty for our project.

Senator McLUCAS—I think you are right.

CHAIR—Thank you very much, Dr Messenger. We will finish it there. We need to move to the next witnesses. Thank you very much for your evidence today.

Dr Messenger—Thank you.

[5.21 pm]

BUTLER, Mrs Patricia, Chief Executive Officer, Cape York Sustainable Futures

ELU, Mr Joseph, Secretary, Cape York Sustainable Futures

ACTING CHAIR (Senator Barnett)—I welcome representatives of the Cape York Sustainable Futures. Do you have any comments to make on the capacity in which you appear?

Mr Elu—I am also Mayor of Northern Peninsula Area Regional Council.

ACTING CHAIR—Thank you very much for that. The Cape York Sustainable Futures lodged submission No. 19 with the committee. Do you wish to make any amendments or alterations to that submission?

Mrs Butler—Only that we received some information late yesterday that may be of assistance. It is some old information that we would like to table.

ACTING CHAIR—That is fine. You are happy to table that?

Mrs Butler—Yes.

ACTING CHAIR—The committee accepts that and the secretariat will obtain that; thank you. I now invite you to make a short opening statement, after which we will have questions from the senators.

Mr Elu—The Cape York Sustainable Futures represents people on the cape: businesspeople, pastoralists and other people besides traditional owners and Indigenous people—but, of course, Indigenous people are part of CYSF. I think, Senators, there is a point that we keep missing. I have been here only a couple of times and I think I have broken the record: I fronted your other Senate committee in Bamaga this morning and then flew down to front this one.

ACTING CHAIR—Well done; two in one day. Congratulations—or commiserations.

Senator TROOD—You have our sympathy.

Mr Elu—After Senator What's-his-name up there from the Northern Territory—

ACTING CHAIR—Scullion?

Mr Elu—Scullion and Senator Boswell, I think I will have a beer tonight, which I have not had for a while. Anyway, what I was about to say is that this is another risk on top of risks that are already apparent on Cape York and for Indigenous communities. For example, among some of the rivers that are going to come up for declarations, they are talking about Jacky Jacky Creek up our way and the Jardine River. We also have other legislation. I think the Mayor of Hope Vale has said that already there are 17 pieces of legislation impacting on Indigenous councils and communities on the cape; this is going to be another one, if rivers are declared in the area. We also have DOGIT and other environmental acts that impact on what we do. I think the point that is being missed here is that this is an impediment to the flow of capital into these communities; that is a major problem we find. The only capital we seem to attract is government capital. Indigenous communities and other members of ours come up with either 70 per cent or 60 per cent before going to the banks. On the cape, we have people who run roadhouses and, if they want to further develop one of those roadhouses, they have to come up with 60 or 70 per cent of the money before asking for a loan from financial institutions.

Another thing I would like to put to this committee is that, over the years, we have found that consultation has come after major or crucial decisions have been made already. So, with this legislation, the decision was made for the act to pass through parliament even before the rivers were declared; the act itself went through before consultations were even had. Then they come here afterwards and say, 'This act has already been through parliament; we're going to declare X, Y and Z rivers.' When we say, 'But let's talk about what this is going to mean,' they say, 'Sorry, the act is already there and this is what it will mean. We just want the river declared.' From the Great Barrier Reef Marine Park Authority Act, we found that they declared certain things up front. In the Great Barrier Reef Marine Park, there were spaces that we as Indigenous people could use for our own use and there were parts of the coast that we could still utilise. But, once the act was passed, they did not need to come back and consult when they changed the tenure of those areas. So, in the past, they consulted on where we could go; but, once the act was in place, the regulations gave them the authority to come and change the tenure of those spaces without consulting. We are now shy of any act that goes through, because it is not the act that really controls these things afterwards; it is what they can do through regulations and other means of parliamentary processes to change certain aspects of land tenure, about which we were told differently when the act was being pushed through.

CHAIR—Thank you, Mr Elu. Ms Butler, do you have anything to add to that?

Mrs Butler—I would just like to read a little bit here. Any consultation that did take place was rushed, the legislation was poorly drafted—I am talking back in time to 2006—and communication was non-existent. As Mr Elu says, we were just told that this was going to happen as a result of what the legislation was. At no time did any government official take any notice of any objection that was put forward. The aspirations of traditional owners, pastoralists, local governments and the community have been generally ignored right throughout time. That is about it.

Senator BOSWELL—Mr Elu, another hat that you wear or you used to wear—I do not know whether you still wear it—is that of chairman of the Aboriginal business—what is the term?

Mr Elu—I resigned from that. It is Indigenous Business Australia.

Senator BOSWELL—But you would have some idea of the business—

Mr Elu—That is why my first point was that the flow of capital is being stymied by things like this.

Senator BOSWELL—I had a list of questions—which I think Senator Siewert has stolen, because I cannot find them.

Senator SIEWERT—I would like to deny that on the record.

CHAIR—That is all right, Senator Siewert. You would devise your own questions.

Senator BOSWELL—Can you tell us about the Archer River Roadhouse? You say that the roadhouse will be put on hold or will not be able to survive.

Mr Elu—I have alleged, I think, that it is the northern-most freehold property on the cape and, when the Archer River is declared—

Mrs Butler—It has been declared.

Mr Elu—It has been declared?

Mrs Butler—Yes.

Mr Elu—They cannot ever hope, like I said, to get capital to do anything there, like extensions. But the only thing is that, if they come up with their own capital, that place will not appreciate now. Australia is a capitalist country. We put money into things that we hope will appreciate. People buy houses hoping that those properties will appreciate. On the cape, that is stymied. So, in the future, whatever money they put in they might as well put a light under and burn it, because it will not appreciate that property.

Senator BOSWELL—We have heard a lot about Aboriginals; you are probably the people to ask about the cattle industry and you would speak for them. What is their view on this wild river legislation?

Mr Elu—As I say, we have cattlemen as members of CYSF and most of them, as Trish said, were not consulted.

Senator BOSWELL—What about the white cattle-guys?

Mr Elu—The white cattle-guys and the black cattle-guys were not consulted properly. I do not know why this consultation really only went to traditional owners. Other Indigenous people and non-Indigenous people on the cape were seen as 'not to be consulted'.

Senator SIEWERT—Can I just clarify here? Are we talking about the original legislation?

Mr Elu—Yes.

Mrs Butler—Yes.

Mr Elu—Even now, the consultation process seems to be going to traditional owner organisations only and not to all traditional owners.

Mrs Butler—Currently the Wenlock declaration is up in front of them.

Senator SIEWERT—That is why I was trying to clarify.

Mrs Butler—It has been the same all the way through.

Senator SIEWERT—The government earlier this afternoon said that they had been consulting a whole range of stakeholders around the original legislation.

Mrs Butler—That is news to us.

Mr Elu—Our members say that they have not been.

Senator SIEWERT—I just wanted to check that because that is what the government representatives told us.

Senator BOSWELL—The wild river ranger program: we have had witnesses coming forward and saying that it is terrific and I have no doubt that they do a great job. How do you react to the wild river ranger program? Wild rivers provides legislation and I believe that, in a letter to the Wilderness Society, there was the promise of 100 rangers for wild rivers. We have heard that 10 people got a job in the Doomadgee area, but from the previous witnesses we heard that probably 40 to 50 jobs could be provided to Indigenous people near where they live. I suppose I am saying that it is nice to have 10 rangers, but it would be nice to provide 50 or 60 meaningful jobs close to home that would get people off welfare. So I am suggesting that the ranger program should be able to stand on its own feet without having to rely on wild rivers to prop it up. Is the ranger program some sort of a sop to encourage the Aboriginal people to back the wild rivers program?

Mrs Butler—We believe that is the case, but we also do support the ranger program provided by wild rivers for the very reason that you have just stated: it has the potential to give, I would say, up to 100 people a real job over time. The work that they are carrying out is vital to land management right across Cape York. Without them, I do not know who would do it. It is beyond means of the landholders because it is a huge task.

Senator BOSWELL—But my point is: why do we need an obligation in order to support the wild rivers to get 100 rangers? If the rangers are doing a good job, why don't we just have 100 of them? Certainly I would support them in that on the ghost nets; that is something that I know something about.

Mr Elu—I think the difference here is protection and lockup. We should still have this protection of rangers being on the ground. Whether they are wild rivers, quiet rivers, tame rivers or whatever, they still need protection. Wild rivers legislation is a lockup. Like I said here before, it puts another layer of risk on top of these communities on the cape where these rivers are going to be declared. It stymies investment; only government will invest. That is why I say that, in a capitalist country, we are a controlled economy with these pieces of legislation coming over the top.

Senator HEFFERNAN—You are right about that, brother.

Senator BOSWELL—Thank you, Joseph.

CHAIR—Senator Heffernan, we thought you had gone to the dentist and were in pain.

Senator HEFFERNAN—No.

CHAIR—Senator Heffernan, do you have any questions?

Senator HEFFERNAN—I have been trying to ask all day—

Senator SIEWERT—You have not been there all day.

CHAIR—You have not been here all day. We thought you had gone to the dentist.

Senator HEFFERNAN—I know. The average annual wildfire is five million hectares; this is uncontrolled wildfire. The big fire that they have had was 11 million hectares. I mean: goodo for the wild rivers legislation, but that is not going to be good for or help both whitefella and blackfella pastoral areas with such serious things as wildfire. Would I like to hear some commentary on what people think about some of the wildfires they have up there.

CHAIR—I think he is asking you about wildfires.

Mr Elu—There are fires on the cape and we deliberately light them every year. So there has never been a loss of life on the cape because of fires, as there has been down in New South Wales and Victoria.

Senator HEFFERNAN—But my point is that a lot of these fires are not controlled. According to the authorities up there, the annual average wildfire amounts to five million hectares. At certain times of the year it is the right thing to do, but at other times of the year it is the wrong thing to do. I just wonder, under the wild rivers legislation of the Queensland government, what they are doing to improve the control of controlled burns. It is all very well to say that we want to preserve the environment and keep things pristine and not produce any commercial food—because Woolies and Coles will provide the tucker, but God knows where they will get it from—but, under the wild rivers legislation, what are we doing to preserve the landscape with such things as the control of wildfires?

Mrs Butler—Senator Heffernan, I do not believe that there is anything in the wild rivers legislation that will control wildfires on Cape York. Wildfires on Cape York are an integral part of the landscape and they are very much misunderstood by a lot of people in the south.

Senator HEFFERNAN—No. I appreciate that they are a requirement and a very good thing for the environment at the right time of the year, but at the wrong time of the year they do a lot of harm to pastoral stations.

Mrs Butler—Cape York Sustainable Futures is currently undertaking a fire management program on Cape York and we are currently in discussion with both the state government and the Australian government on a future program to get exactly what you are just suggesting. Wildfires at the wrong time of the year are very destructive, as we saw late last year—

Senator HEFFERNAN—That is right.

Mrs Butler—and I think we can safely say that far more than five million hectares are being burned; I think it is something like 7.5 or up around seven anyhow.

Senator HEFFERNAN—I think the fire that we have had is 11 million hectares.

Mrs Butler—Yes, okay.

Senator HEFFERNAN—Could I also address the problem—under what we are saying is being done to protect the environment and the path towards World Heritage, despite the global food task—of the feral pig population? There are an estimated 800,000 feral pigs as well as an estimated 20,000 untagged feral cattle, which is a soft entry point into Australia for foot-and-mouth disease. What is proposed to be done about that?

Mrs Butler—I actually think that is outside of this inquiry. Certainly we are very concerned about your concerns as well and that is certainly something that we are working on as an organisation on the ground.

Senator HEFFERNAN—But my concern is that, if we are going to have this so-called lockup of wild rivers to protect the environment and we are going to do nothing about feral pigs, feral cattle et cetera because it is locked up and it is World Heritage and, like down south, your country becomes full of noxious weeds et cetera, are we thinking about how up there—and I am sure that the Indigenous people who want economic opportunity are thinking this—we protect the environment from those sorts of invasive species?

Mr Elu—My comment is that the government has to invest in the eradication of those feral animals; nobody else will.

Senator HEFFERNAN—I am sure that the wild rivers legislation will not do that for them, which is sort of allegedly the magic formula. Anyhow, Madam Chair, thank you very much; it is lovely to be back and I will just listen.

CHAIR—Ms Butler, did you have anything you wanted to add there?

Mrs Butler—I actually think the ranger program that is currently in place under the wild rivers legislation could take some of that on board.

CHAIR—We did hear from rangers of the Carpentaria Land Council Aboriginal Corporation how they had culled 9,000 feral pigs last year, so obviously some action appears to be taking place under that program.

Senator HEFFERNAN—Certainly 10,000 are estimated to go. I have to say that I have had some experience in this area with helicopter shoots and 1080 baiting—and I am sure that would probably put dents in what is up there—but you have 790,000 to go

CHAIR—Senator Heffernan, I think we have some witnesses that actually want to talk to us rather than hear your views.

Mrs Butler—Cape York Sustainable Futures actually does have a feral pig control program under a turtle conservation project that we are doing through the Australian government and I believe that, over the last four years, about 18,000 pigs have been destroyed in Cape York—and I am talking not about Carpentaria now but about in Cape York. That program is continuing. Aerial 1080 baiting just started this current financial year and that will be continuing. So I do think that some of Senator Heffernan's concerns will be addressed.

Senator McLUCAS—Ms Butler and Mr Elu, today we have heard very different points of view about what the impact of this legislation will be on the economic development of the cape, whether it be for Indigenous people or non-Indigenous people. It is hard for our committee—it is certainly hard for me—to come down on one side or the other because there is no evidence that supports either position; they are simply assertions. In

terms of actual applications in declared areas, we have some evidence from the state government that various applications have been approved; by and large, they seem to be from local government authorities. Are you aware of applications that are in the offing—please do not identify the applicant or the place—and can you give us any understanding of why those applications are being delayed or what is happening?

Mrs Butler—There is one application that we can speak of and we are led to believe that it is not wild rivers legislation that is holding it up but the regrowth vegetation moratorium. We are not aware of any proposals or applications that have been put forward. However, we are aware that people wish to put them forward but are hesitant to do so because of the cost that goes with doing it. They see their going ahead with any investment as not being a viable proposition down the track, because of the added expense that the wild rivers legislation imposes.

Senator McLUCAS—What are those expenses? We heard very clearly from the state government this morning that there is no additional application process. It is simply that the assessing entity, which will be a local government in the first instance, has to be mindful of the regulations under wild rivers.

Mrs Butler—I am aware of one, but I would like to get some more information before I answer that question.

Senator McLUCAS—Yes. I understand that there are commercial sensitivities that you would want to respect.

Mrs Butler—Certainly we have been told that it is something that they do not wish to pursue at this point in time, because they have legal advice that the actual building that they wish to put up will cost three, four or five times the price that it would have without wild rivers legislation. But I would like to get some more information and come back to you on that one.

Senator McLUCAS—Mr Elu, you mentioned Archer River Roadhouse earlier in answer to Senator Boswell's questions. You might want to have a look at what the state government said about development within the highly protected areas, because the state government was not indicating that development of that type would be stopped from proceeding. I suppose that we are working amongst a lot of rumour up on the cape, and I think it is troubling that people are making decisions that potentially will affect their livelihood on the basis of rumour rather than fact. This must concern your organisation as well.

Mr Elu—That is right. As I said here before, the thing is: in a capitalist country you invest money hoping that, when you sell that property in the future, it will have appreciated.

Senator HEFFERNAN—That is right.

Mr Elu—Those properties on the cape have not appreciated because of other legislation, and this wild rivers legislation is now another layer. I am referring to the perception of banks and financial institutions. If I were to go to a bank down here and say, 'I'm from Bamaga'—or Seisia—and I want to build a motel at the airport there,' firstly, there is DOGIT; secondly, there is native title involvement; thirdly, there is vegetation that has to be cleared; and, fourthly, it is going to be under the catchment of the Jacky Jacky River, which is going to be declared wild rivers, which is another layer. But those first three layers will probably knock me out.

Senator McLUCAS—Mr Elu, if you were to put a motel on the Jacky Jacky River, the people who would come and stay there would be wanting to look at the environment; don't you agree?

Mr Elu—Yes. But there is the cost of my doing that in the first instance and then all people could come and stay there.

Senator McLUCAS—Yes. You would do a business plan; I know you would.

Mr Elu—That is right.

Senator BOSWELL—Put a mine there!

CHAIR—Senator Trood has a question, then Senator Feeney and then Senator Siewert has a question.

Senator TROOD—First of all, how many members do you represent or have?

Mrs Butler—About 130 and growing. That includes Indigenous, non-Indigenous, pastoralists, local governments.

Senator TROOD—So you have 130 members and you are growing. How would you characterise their response or attitude to this wild rivers legislation?

Mr Elu—Some hate it and some say, 'Let's have a look at it.' But most of them are saying, like I say, 'It's just another layer of protection that we don't really need.'

Senator BARNETT—Are you speaking of the Queensland legislation, Senator Trood?

Senator TROOD—Yes, the Queensland legislation.

Mr Elu—It is something that we do not really need on the cape right now. In my area we have the Jardine River declared as a national park, and I do not know what this will do.

Senator TROOD—Do I understand your evidence essentially to be that the Queensland legislation sets up a framework of legislation with a series of complex legislative requirements that businesses would have to go through if they chose to try to undertake development—

Mr Elu—That is right.

Senator TROOD—and that the costs of doing so commercially are greater than elsewhere because of the uncertainties—

Mr Elu—Yes.

Senator TROOD—and that all of this creates a level of deterrence; in other words, essentially it deters entrepreneurial activity in the region. Is that right?

Mr Elu—That is right. You can convince us and the people of the cape. But I hope this committee then goes and talks to the bankers and the financial institutions about this and convinces them that it is all right to do business on the cape, because we cannot convince them—and that is the problem.

Senator TROOD—No. But the sum total of the legislation and the requirements is that it creates a measure of commercial uncertainty so that no-one is prepared to undertake the risks involved in development. Is that right?

Mr Elu—What I am saying is that probably we will take a punt, but I think the bankers will have another view on this. Like I say, if we go there with 60 or 70 per cent of the money already in our pocket, they might have a look at it.

Senator TROOD—Yes, I see. Good; thank you.

Senator BARNETT—Firstly, Mr Elu, I want to congratulate you in terms of your pro-business approach. You make a lot of common sense and, with that small business background, it is fantastic. Well done for your advocacy of that.

Senator BOSWELL—He has a very successful caravan park.

Senator BARNETT—I am sure he has and I have stayed at quite a few, particularly in the last few days on the national pollie pedal with Mr Abbott. I just have some questions about the declarations for the Archer, Stewart and Lockhart rivers. You have mentioned this in your submission in terms of concerns about the roadhouse, which is a business proposition; But, from your position, was the consultation in terms of the declarations last year of those three rivers—I just want it on the record—adequate or proper?

Mr Elu—I can only talk about where I come from, and we had no consultation. It was only late last year that they started wanting to consult with us because they had the plans for the Jacky Jacky and the Jardine. But, from talking to the Lockhart people—I think you are to hear from them later today—I think they were targeted for consultation. People went and talked to people that they already knew. As I said before, it was aimed at traditional owner organisations and sometimes other traditional owners were not involved. So I think we are saying that the consultation process has been targeted at certain people, knowing the outcomes, because we seem to find that people who are against legislation—

Senator Heffernan interjecting—

CHAIR—Senator Heffernan, it is really difficult to give the witnesses a fair go if you keep talking over the top of them. Thank you, Mr Elu.

Mr Elu—We have found that people who are against wild rivers and who argue against wild rivers are not consulted—or they are not consulted a second time, if there is a second round of consultation. That is what we have been told.

Senator BARNETT—That is very helpful; thank you.

Senator FEENEY—You have given some reasonably dramatic evidence, I suppose, about the fragile investment climate in the cape.

Mr Elu—It is not fragile; there is none.

Senator FEENEY—Yes. I guess I would be interested—please take this on notice—in any evidence you can give us to sustain that. A few moments ago you said that we should talk to the banking sector, but I wonder whether you might have some materials to hand. Please take that on notice, because it is obviously difficult for us to quantify the nature of that problem based simply on your evidence.

Mrs Butler—At the moment, Cape York Sustainable Futures is undertaking a project called the Cape York investment prospectus, funded by the state government. We are about halfway along in the progress of that and expect a document to be on hand by late June, and I think that will clearly show what issues there are on Cape York.

Senator FEENEY—The problem there, of course, is that the parliament may have dealt with this issue by that time.

Mrs Butler—We can give you what working document we have at this point in time.

Senator FEENEY—That would assist us. Another part of your evidence, I suppose, left me with the impression that you are working through so many regulatory barriers that collectively they are smothering entrepreneurialism in the cape and what we are offering is, to use your language, a fourth level of protection that you do not really need. It occurs to me that the bill we are considering here today does not offer you much salvation. It seems to me that you either have to live with the Queensland legislation, the existing legislation, and the declarations that flow from it or with a federal regime, which is still about wild rivers, declarations and agreement making processes. So I am interested in what comment you might have about the fact that, as it seems to me, this fourth level of protection—which you don't really need, to use your phraseology—is coming, whether you like it or not.

Mr Elu—I think our main argument has been that there should be local solutions for local rivers, instead of somebody in Brisbane making decisions or, if this bill comes through, Canberra making decisions on which rivers are declared. We want the consultation process to occur before these rivers are declared. For instance, I have mentioned the Jardine River in our part of the world. The Jardine River is sort of split in half. The top half, if you like—the head waters—is national park; nobody goes there anyway and it is protected by national park legislation. The southern bit is so far from anywhere that nobody goes there any way, except that we do to go fishing and hunting and whatever. It is one of the most pristine rivers you will ever find on Cape York and does not need protection—unless somebody finds a mine there, I suppose. But, right now, it does not need protection; so we could let that river sit as it is now, currently protected by other regulatory processes of the state government. But, if Murrandoo Yanner down at the bottom end of the gulf wants some rivers to be declared wild rivers, that is up to him; they could be declared wild rivers, if the people there agree to it. That is the thing with the Lockhart; they are going to come here and talk later. But it all seems to be happening, as I think Senator Boswell said, with letters between the Wilderness Society and government. We believe I think that—

Senator HEFFERNAN—I think that is the World Heritage proposition.

CHAIR—Just keep going, Mr Elu.

Senator FEENEY—And strange voices from behind!

Mr Elu—Anna Bligh has declared that locking up Cape York was an election promise to the Greens.

CHAIR—Mr Elu and Ms Butler, thank you for your submission and for your time this afternoon. We certainly appreciate it, with it being particularly late. Thank you for being here.

Senator HEFFERNAN—Can I ask a question?

CHAIR—No. We are just going to press on. Senator Heffernan has had his time.

Senator HEFFERNAN—I will ring you later, Joseph.

Mr Elu—Okay, mate.

[5.56 pm]

MOSLEY, Dr John Geoffrey, Private capacity

Evidence was taken via teleconference—

CHAIR—Welcome, Dr Mosley, and thank you very much. You have sent us a submission, which we have numbered 2 for our purposes. I assume that there are no changes or alterations to that.

Dr Mosley—I sent in two submissions: a preliminary submission and a supplementary one—

CHAIR—Two; that is right.

Dr Mosley—and there were various attachments to them.

CHAIR—Would you like to make an opening statement before we go to questions?

Dr Mosley—Yes, certainly. I have been involved with protected areas in Australia for 50 years now, so I thought it might be helpful if I provided some information about river conservation from a national perspective—its history and the different approaches that the states and territories have taken. If you have read my submission, you will have seen that across Australia the main approach that has been used to protect rivers is through national parks. That is reflected in the names of many of the national parks in the different states, such as the Fitzgerald River National Park and the Jardine River National Park—which has been mentioned—and the Staaten River National Park also in Cape York Peninsula. But three states—obviously, Queensland; and Victoria and New South Wales—have passed special legislation for river protection. So I thought I could perhaps help provide some information about that history, which goes back quite a long way.

But my other reason for getting involved was in hoping that the committee might recommend some further action by the Commonwealth. As you can see from the points that I have made in my submission, the Commonwealth has done an awful lot of work on river inventories and that has been very useful; but I believe that it could do much more by encouraging a national approach. As I see it, there is a lot of unfinished work across Australia in this particular field of river conservation. We could, for instance, start by accepting wild or unimpacted rivers as a type in the Commonwealth National Reserve System; that is not even there.

I suppose the other reason for trying to help, apart from my involvement in this for many years, is my view that, since most Australian rivers have been significantly altered, the ones that survive in a relatively natural state are particularly important to us. I think this is a very important aspect of protected area conservation.

CHAIR—Thank you.

Senator HEFFERNAN—Dr Mosley—

CHAIR—Excuse me, Senator Heffernan. Just wait until you get the call; thank you. Dr Mosley, thank you very much for that opening statement.

Dr Mosley—It is a pleasure.

CHAIR—Senator Siewert, do you have questions?

Senator SIEWERT—I am happy for Senator Heffernan to go first.

CHAIR—Senator Heffernan, Senator Siewert has agreed to defer to you.

Senator HEFFERNAN—Dr Mosley, I think every Australian would agree with the sentiments that you have expressed—and, obviously, where there is human endeavour, there is human failure. But there is also an obligation to the balance between protecting the environment with the latest of science and meeting the global food task. By 2050, with nine billion people on the planet, 50 per cent of the world's population poor for water, 30 per cent of the productive land of Asia going out of production, the food task doubling and up to 1.6 billion people on the planet displaced, isn't there room in any sensible development to say that we do have an obligation to produce food?

Dr Mosley—I think the right balance is to recognise that we have done an enormous amount of damage to the environment and the remnants of the natural environment are far more important kept in that state than turned over to things like food production.

Senator HEFFERNAN—But, Dr Mosley, isn't there a balance? If you are an Indigenous person with 50,000 acres of beautiful river-frontage land, surely a couple of thousand acres could be a commercial farm for food production. I give you the instance—I am sure you are familiar with it—of the situation over in Carnarvon. There, with 8½ gigalitres of water, they produce $70 million worth of food. They are 40 times

more efficient than the Ord and 20 times more efficient than the average across the Murray-Darling Basin. They use Israeli and Spanish technology out of the Gascoyne River and they do not interfere with the river. So it is possible with the latest science that, instead of having an obligatory, mandatory lockup, you can use this sort of land sensibly—and, as I say, 40 times more efficiently than the Ord—to produce food. Surely there is a possibility in all the science, in all the academia and in all the politics for the people on the Cape York Peninsula—which is the size of Victoria and, if you take off the coastal areas, has 14,000 people, with 800,000 feral pigs and 20,000 feral cattle behind them—to develop such land sensibly.

Dr Mosley—No. I think that is a failure to recognise the role of protected areas in a sustainable economy. Take Victoria, for instance: we have 25,000 kilometres of protected river frontages; that is, they are in the public domain. Would you be arguing that having these river frontages in the public—

Senator HEFFERNAN—No, not at all. I would be arguing that you can protect the river frontage with the setback that is used agriculturally—they do it at Wantabadgery, between Wagga and Gundagai, where they are now fencing off the Murrumbidgee River—and still have sensible development, and that is within the first kilometre.

Dr Mosley—Well, of Victoria's 18 heritage rivers, just take the Yarra, for instance. The heritage river between Warburton and the City of Doncaster it is about 103 kilometres long and you have agricultural activity—grazing and various other things, like vineyards—on either side of the protected area. I think the things sit very well together. The protected area makes a contribution in many different ways in terms of providing for recreation—fishing and so on—and wildlife conservation. For instance, the Macquarie perch contributes to science and the preservation of cultural values. I think that is the right mix. A proper approach to balance, I think, means that we retain the last remnants of natural areas, and we make the most of them and see a place for them in our approach to a sustainable economy.

Senator HEFFERNAN—But, with great respect, within the first kilometre of some of these rivers, there would be the opportunity for Indigenous communities to have economic opportunity and advantage without interfering with the pristine nature of the flow of the river or the surrounding flora and fauna. However, I have to say that the wild rivers legislation does not allow that to happen, unless you have a train full of lawyers and people who are able to go to a lot of expense; for the average person, it is an impossible barrier to climb. With the latest science—as I say, the science is proven in that, over in Carnarvon out of the Gascoyne River, they can extract 8½ gigalitres of water, which is not much water and would produce $3 million worth of cotton, if the crop were cotton, and it produces $70 million worth of food—isn't it possible to set up an argument that, sensibly, we could, within the first kilometre of some of these rivers, have a local commercial advantage for food production within these communities without destroying the environment and all the precious things that you talk about?

Dr Mosley—That is not my understanding of the land use provisions of the declarations. My thinking is that the traditional uses can continue.

CHAIR—Senator Heffernan, we need to go to Senator McLucas now. Thank you.

Senator McLUCAS—Dr Mosley, Jan McLucas; I am a senator based in Cairns. In your submission you said, 'As a result there is more fiction than fact in the claims of the wild river opponents.' Do you want to expand on that?

Dr Mosley—No. I am just basing that on the politicisation of the issue, and it appears that the issue has gone well beyond the actual provisions of the legislation. That is what I was referring to there.

Senator McLUCAS—Today during this hearing we have heard from the various sides of this discussion about what they think will be the impact of the current regime in Queensland. The difficulty that we have as a committee is trying to come to a view about which position can be supported. The Queensland government, as you probably would be aware, is saying that very few proposed activities are banned outright—they include in-river mining, large-scale irrigation et cetera—and that any other application can be received and assessed on its merits, so to speak. Alternatively, others are saying that no application, in fact, can be received by the state government in certain circumstances, particularly around land clearing, even small-scale land clearing.

Dr Mosley—Correct.

Senator McLUCAS—Can you assist the committee in some way to find a way through that?

Dr Mosley—No, I do not think I can assist you there, because I do not have a detailed knowledge of the Queensland situation, particularly the declarations on Cape York Peninsula. My more detailed knowledge is to

do with Victoria, New South Wales and Tasmania. I am not thoroughly enough acquainted with the situation on the ground in Cape York Peninsula with regard to these declarations to be able to answer that question.

Senator McLUCAS—Thank you.

Senator HEFFERNAN—Could I ask another question?

CHAIR—No, you cannot, Senator Heffernan. Senator Barnett is going to ask a question—we are running very short of time—and then we are going to finish.

Senator BARNETT—Dr Mosley, very briefly: I note that, just responding to Senator McLucas there, you have made it very clear that you are not entirely familiar or even broadly familiar with the Queensland Wild Rivers Act—

Dr Mosley—I know something about—

Senator BARNETT—Let me finish, please—and, indeed, you are not familiar with the declaration process, which has been a key feature of this Senate inquiry at least today and, indeed, at the Canberra hearings, in terms of its validity or otherwise, with at least one witness here saying that the Queensland government is acting in breach of its own law; yet you are quite happy to criticise at some length Tony Abbott, saying that he is motivated purely by politics rather than considering the merit of the bill. I just find that somewhat hypocritical. Would you like to respond to that?

Dr Mosley—Yes, I would. What I said was that Tony Abbott appears to be motivated by trying to win the federal seat of Leichhardt for a Liberal Party member, Warren Entsch. That is what I said in my submission—

Senator HEFFERNAN—That is—

Dr Mosley—I am sorry?

Senator HEFFERNAN—That is garbage!

CHAIR—Senator Heffernan, just let Dr Mosley respond, please.

Dr Mosley—You can say whatever you would like to about it. That is my view.

Senator BARNETT—Dr Mosley, with your years and decades of experience, we would be interested in hearing your views on the bill and the merit of the bill rather than your views on the political motivation, which you indicate you have no evidence to support other than your opinion that you think Tony Abbott is politically motivated, which I just do not think is going to assist the committee or the committee members. We are interested in your views regarding the merit or otherwise of the bill before us, and that is why we have a Senate committee process. Perhaps you might like to respond to that question—

Dr Mosley—Certainly I would, yes.

Senator BARNETT—and then we can move on.

Dr Mosley—Yes. I believe that action in this matter is constitutionally a matter for the states and territories and that Queensland has acted properly in that regard with its plans to establish across that state 19 wild rivers. In my submission I have tried to say that there is also a role for the Commonwealth and that the Commonwealth has done an enormous amount of good work in inventorying Australia's rivers. It is now a time for it to step up and do something more. I hope that my recommendation that this committee do something about that will be accepted.

Senator HEFFERNAN—Should that be seen against the background of the global food task?

Dr Mosley—You obviously want me to comment on that. I think the situation that we have is one of global overpopulation, and things like the Green Revolution and what you are recommending now do not provide a proper solution to that situation; they, in fact, encourage further overpopulation. A proper approach to that would see every part of the world achieve sustainability and an approach to living within the means provided by the local environment and its resources.

Senator HEFFERNAN—Look, I do not doubt did your sincerity and passion in that regard. But, if you were in Bangladesh, where they are going to lose their peak water supply because of interception at the top of the Ganges and lose their ground through being inundated by the sea because of rising sea levels—

CHAIR—Senator Heffernan, we are running short of time and we are going to finish now. We have one question from Senator Barnett.

Senator BARNETT—Dr Mosley, I have one very quick question: do you support World Heritage nomination and listing of Cape York?

Dr Mosley—Yes. I have been involved with that since the 1970s—since approximately 1977.

Senator BARNETT—I thought that might be the case. Thank you.

CHAIR—Dr Mosley, thank you for your submission—

Dr Mosley—It is a pleasure.

CHAIR—and thank you for your time this evening.

Dr Mosley—Thank you very much.

[6.14 pm]

KYLE, Mr Peter, Umpila Traditional Owner and Member, Umpila, Nesbit, Rocky, Massey, Chester Rivers Advisory Committee

WOOSUP, Mr Larry, Traditional Owner and key spokesperson, Ankamuthi

YUNKAPORTA, Ms Phyllis, Director, Ngan Aak Kunch Aboriginal Corporation

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Mr Woosup—I am from a community called Ankamuthi and that is in the jurisdiction of Mayor Joseph Elu, who was sitting here. I am from the Ankamuthi Seven River Tribe. My clan group is just north of Port Musgrave. We have seven consecutive rivers that are going to be affected by this legislation. Thank you.

Mr Kyle—The Umpila Traditional Owners that I represent are located from Princess Charlotte Bay right up to near the other side of Lockhart River.

Ms Yunkaporta—I am from Aurukun, I am a Wik person and my second language is English.

CHAIR—Thank you. Perhaps I can just clarify what we have. We have a letter from you, Ms Yunkaporta. I also have a piece of paper in front of me that is not signed. I just wonder whether we can clarify who that is from. It has 13 signatories; are these people some of those signatories? We do have your letter though, Ms Yunkaporta; it was given to us today. Would you all like to start by saying something to us? Who is going to start?

Mr Woosup—Yes, I will. First of all, I would like to acknowledge the traditional owners of where we actually congregate today to speak our thoughts and minds about this wild rivers legislation. What is being said today is really open and transparent and is being supported with the helpful guidance of the likes of the Balkanu Cape York Land Council, which is our representative body for our region. Thanks to those people.

I am speaking from my heart. I am speaking from a grassroots level, from a traditional owners' perspective, and as a person who has had lots and lots of my 45 years of experience in Cape York. The rivers themselves: as I mentioned earlier, we have seven rivers in the western part of Cape York that also sort of go over to the Jacky Jacky estuary. I am part of the Injinoo Land Trust. We have 330,000 freehold title under the ALA Act—Senator McLucas was at that ceremony in Injinoo—and that was given to us to manage our country. Ever since that time the river has been in pristine order, as it is today.

About this legislation and the way it has sort of impacted on us, I am very supportive of Tony Abbott's bill because it gives us some leverage, a door, into a stage of being recognised. It also gives us an opportunity to maybe look at ways of getting us to negotiate. I have heard other witnesses talk about not being consulted and all that, and that is true. In fact, in my part of the country, that is one of the major concerns that I face and raise. The Queensland government's bill virtually takes our independent rights, our future rights, our economic rights and our children's rights. With the gazetting of all these high-preservation areas and areas that we cannot develop, we are talking about a long-term vision here.

Look at the population growth of Australia now. We are looking at the impact of a high water level on the Torres Strait of. Where are these people going to come to? Are some of them going to migrate and reside in Cape York? Are these sorts of unseen factors being considered in this and needing to be raised? If you lock up the cape, where do people turn? Obviously they cannot go to the moon; you need big finance to go and live up there. So these are the sorts of issues that I see as being very important.

Also, how can we put a submission in? It is a really hard call. I know from previous government that, once you put a submission in, you always get knocked back. I have learned just from listening to these government people and the wild river supporters. They have said that a submission has to go to a different part of government for doors to open and to get a tick on it. But the very first door that is going to be open will probably get shut immediately because, firstly, it will be from an Indigenous background and, secondly, they do not want to see us prosper in the future. So these are some hidden issues that need to be aired and talked about hypothetically in your Senate inquiry. Thank you.

CHAIR—Thank you, Mr Woosup.

Senator HEFFERNAN—Right on the money, brother!

CHAIR—Just before I go to Mr Kyle, I can inform you that the Northern Peninsula Area Traditional Owners have given us a submission and we have lodged that as No. 13, for Hansard's purposes. Also, Ms

Yunkaporta, your letter has been treated as a submission and we have numbered it 9 on the website. Mr Kyle, do you want to say some opening words?

Mr Kyle—I thank the committee for taking the time to hear some of our arguments that we would like to put towards people that would like to listen. I have had in-depth consultation with Balkanu Cape York Land Council, asking them to raise questions about how we were consulted. To my knowledge, when the government consults, it appears to be about what they want. There is no working together to deliver any decent sustainable outcome for people like me and a few of these others. As far as wild rivers itself is concerned, I have produced there a map and small photographs that you can see. Grab your pencil or pen and put it against the red line. That is a boundary where we went into partnership with national parks, thinking, 'We know what we have to preserve and protect.' We have spoken in-depth to scientists and everyone else, and we are still in partnership with the scientists and everyone else who comes up there. We take them out and ask them to show us different things and tell us what the names of these specific things are; and then we will tell them what they are called by our people.

We have never refused national parks, but I held them off for a long time to sign up on the ILUA for one specific reason: I wanted to know. I was not going to sign off on an ILUA if I did not understand it and I did not know what was going to be left for future generations; I did not want that. I wanted to know every detail of that ILUA and I have maintained that and I have succeeded in doing that. We are in a really good relationship with national parks and have created a national park but, in signing the agreement, we have given away 50 per cent of our land. I hope that this Senate committee here, now, which is listening, realises how much 50 per cent of everything represents. If I had a dollar, I would probably still give 50c away. But there is a massive amount of land and when we went into negotiations and worked it all out. We are in a partnership. We know what to protect. We also get advice about the land from scientists. But, if you drop your pencil just past the red line, you will see that that is how much land we will have—because, by the time the beach protection plan comes into play here, what have we got left? We have wild rivers running straight through there.

Now, when is a creek a river? We do not have rivers there. The nearest river to me is the Stewart River. The Massey is Massy Creek. It is a narrow, little creek running down through there and flowing directly out into the ocean. That is only about four or five kilometres of river, but they call it the Massey River. It is not a river but a creek and yet it is still declared. When we first heard about this, what was said to us was: 'Oh, okay, wild rivers is going to come in.' We had never heard about any wild river basin or anything else. I have had five people come to my house. You do not conduct meetings at houses, but this is the way that the NR&W—if they were the people who were doing this—conducts their business: by sneaking around people's houses, especially Indigenous people, and filling them full of rubbish so that they will agree with whatever the Wilderness Society tells them to do. There was no proper consultation at all. Every time we had meetings up in Coen, a representative from wild rivers turned up all right, but there was only one fellow who had a talk one on one to somebody and that was that. There was no in-depth consultation. All we knew was that wild rivers were going to be declared on us.

Madam Chair, I might add another little thing about a Noel Pearson episode. Noel Pearson did not make these statements on his own; Noel Pearson, to my knowledge—and I am being honest with you—was way up near Port Douglas when I got Balkanu to call him and ask him to come back and represent us and be our voice, because Balkanu is our voice. You might say a lot of things here to us that we cannot comprehend; we will not understand what you are saying. But, with assistance and help from Balkanu, we will achieve something—not by coming into people's houses, like members of the wild river group or the Wilderness Society were doing, asking us to get in and sign these documents to be part of wild rivers.

Ms Yunkaporta—I would like to acknowledge the place where we sit now and I would like to acknowledge my people behind me for their support in having to encounter something as complicated as the wild rivers legislation.

CHAIR—Senator Boswell, do you have any questions?

Senator BOSWELL—Yes, I do. I am asking a question on the statement that you have just made: did the Wilderness Society approach you and ask you to sign up?

Mr Kyle—No. It was DNR&W at that time, which I think is now DERM; I am not quite sure.

Senator BOSWELL—So they have come around to see you?

Mr Kyle—Yes. Five of them came around to my house while I was repairing my vehicle.

Senator BOSWELL—What about the Wilderness Society? Where do they fit into this?

Mr Kyle—No. We had a meeting with the Wilderness Society, on notice that day from the minister. What's his damn name? It was the one before Stephen Robertson. Anyway, he told us that, if we wanted to have extra time, we would have to go and meet with the Wilderness Society.

Senator BOSWELL—Yes. I have brought that up actually and I have asked—

Mr Kyle—Okay. That was actually told to me at a meeting. Craig Wallace—

Senator BOSWELL—Craig Wallace told you to see the Wilderness Society to ask for an extension of time.

Mr Kyle—Correct.

Senator BOSWELL—For the life of me, I cannot see what this has to do with the Wilderness Society. They are not an elected body and they do not represent a government, but they seem to have a great influence with the state government. For them to just hand their responsibility to an unelected body is wrong. But I have looked at your submission and am going to ask you some questions—and Ms Yunkaporta may wish you to answer for her. This question is to you, but I have some for her too. Why do you think the Queensland government would declare wild rivers on your land without your consent?

Mr Kyle—Simply because they have the support of people like those of the Wilderness Society who want to declare everything green. Why declare a creek under wild rivers? I would like to know that myself. Why declare a creek that is not running right throughout the season a wild river? To me, wild rivers is like when my ancestors were here. Prior to the invasion, my ancestors stood up there with the loin cloth on one leg and spear in hand, looking across through the inlet. That is what 'wild' actually means to me.

Senator BOSWELL—Do you find it insulting to have the stewardship of your rivers taken away from you after the 40,000 years that you have been looking after them and for someone now to come and tell you, 'Well, you haven't done it properly'?

Mr Kyle—If the Senate committee had the time and I had the resources to get you up there, I would like each and every one of you to have a look at the country and see how much land I have for a sustainable future for my grandchildren and their grandchildren—and it is protected; it is not rubbished. We clean up at our own expense after anyone comes in there, anyway.

Senator BOSWELL—Are you on DOGIT land or station land?

Mr Kyle—We have freehold title to the land of Silver Plains and Massey River.

Senator BOSWELL—Okay; I know where it is. Under your customs, how important is it if your decision-making and responsibility for the country are taken away from you?

Mr Kyle—How important would dethroning the Queen be to the British Empire?

Senator BOSWELL—To some of these Labor people, it would be great but I am a monarchist.

Mr Kyle—I am being direct to you, Senator.

Senator BOSWELL—How many traditional owners want the Queensland wild rivers legislation?

Mr Kyle—How many?

Senator BOSWELL—Traditional owners. You are representing traditional owners.

Mr Kyle—That is right. In my area alone, there are four clan groups. Under the Umpila banner, there are four traditional-owner clan groups and we each nominate our boundaries by rivers and creeks. So I am talking about the Nesbit, the Chester, the Rocky and the Massey. The Rocky and the Massey: for goodness sake, they are little creeks; they are not rivers. I wish something would have been done years ago to—

Senator BOSWELL—This is important: you are here representing traditional owners.

Mr Kyle—Yes, I am.

Senator BOSWELL—I am asking you: how much support is there for the Queensland wild rivers legislation? How many clan groups want it and how many do not want it?

Mr Kyle—To my knowledge, none of my clan group that I can actually speak on behalf of want it.

Senator BOSWELL—You might want to answer this for Ms Yunkaporta, or she may want to answer it herself. In your submission, you say that the Archer wild river area was declared without proper consultation with the traditional owners and council and without the consent of traditional owners. Can you take us through

what occurred and what consultation should have happened? This might be hard if your second language is English. Do you understand the question?

Ms Yunkaporta—Yes. I want you to be patient, as English is my second language.

Senator BOSWELL—Yes.

Ms Yunkaporta—With the legislation being put in without consultation on the ground itself and especially with non-English speaking people, to declare a wild river over Archer and most of the rivers to the south of the Archer River, it really would be wise for politicians such as you to come to country and have a look at how vast the area really is and to whom it belongs and is known and has belonged and has been known. Our ancestors passed it on to our forefathers and now we want to pass it on to our younger generation. We are a conservative group, you have to remember. Our ancestors have looked after the land for 40,000 years now and we have given approval and the go-ahead to mining companies to work on country, but what about our livelihood? We want to better ourselves for the future, really. We want to start thinking about putting up micro-enterprises, in order to make some sort of income to have our younger generation educated in a way that makes them able to compete with the outside world in your Western culture.

Senator BOSWELL—You want to see them off welfare.

Ms Yunkaporta—We would like them to be wealthy in order to have a better education for the future, as it is very competitive in this world today.

Senator SIEWERT—In terms of the consultation process, I want to talk about two areas. First off, when the original Wild Rivers Act was introduced, what was the level of consultation?

Mr Woosup—I can answer that. I go back to when we had negotiations with the gas pipeline project from Papua New Guinea up at Cape York. At that time, at Palm Cove, we noticed that greenies—those people who were here—and government officials in DNR—were sifting through a lot of the traditional owners. Now, remember, we were there negotiating this pipeline process.

Senator BOSWELL—And the Wilderness Society was there?

Mr Woosup—Yes, the Wilderness Society—and the Environmental Protection Agency, I guess. I noticed that they were coming in and asking questions, and it was not relevant to the actual project. But—this is going back to 2004-05 now—I noticed that these people were talking to maybe one or two people and, on that assumption, on that base, they went back to their superior in Brisbane and said, 'Look, I've had a talk with Massey people.' Just because he was at our gathering at Palm Cove does not mean that he got the tick that everybody was agreed. This is how government bureaucrats operate in Cape York. They seem to pick the right time, when we have big meetings in place. They come, like a thief in the night, and swivel themselves around, talking to people and confusing them. This is a legality about which you, the Senate committee, must question the government department. It is a practice that has been happening for years; I am aware of it and a lot of our people are aware of it. This thing goes way back to those days, and I can recall it.

Senator SIEWERT—For the act, was that the only consultation that you were involved with?

Mr Woosup—A thief comes to your house and has a chat with your granddad: do you call that consultation, taking ideas? Then he goes back and speaks to his superiors, saying, 'Look, I've got consent from an individual.' That was not proper consultation that occurred on that day. It was only prior to the election that we noticed that legislation had been passed. It was in the paper and everything and it was a surprise: 'From now on'—you know. Basically, with where the Queensland government has put the likes of the Greens and the wild river mob, the bloody horse has bolted before the cart, sort of thing. This is where the legality is: first, engaging with the grassroots level. This is problematic with bureaucrats when they come to a community, especially in the Cape York, and they are good at doing it: they are good at confusing blackfellas.

Senator SIEWERT—Thank you. In terms of the most recent declarations, were you involved in the meetings? I am being careful about how I say this because Balkanu gave evidence this morning that they were responsible not for carrying out the consultation but for setting up the consultation process. Were you involved in that consultation process? They said that they organised up to 30 or 40 various meetings.

Mr Woosup—We had one river camp group that would go up to Cape York, and people like Tracey Ludwick and others. Balkanu supported us on that aspect. We used to go up to the communities. We had to give up our own daily life, I guess, to go up and speak the word of the wild rivers stuff, how it was going to affect us, and to look at the pros and cons. From our gatherings, we covered the whole cape from Aurukun, Pormpuraaw and up the tip of Cape York. We also shared some ideas with the Torres Strait people, who are

leaders in Cape York, because a lot of these people use a lot of our rivers. So we had to do that with the support of our people at that level, but nothing was coming from the Wilderness Society or the Queensland government.

Senator SIEWERT—Was the process that you undertook—I am trying to come up with a phrase other than 'consultation process', because Balkanu are very clear that they did not undertake the consultation process; they facilitated a process—funded by Balkanu out of the money that they were given to organise the consultation process?

Mr Woosup—It may well have been, but I don't know. I guess, with the consultation and things, what Balkanu did at the end of the day was to coordinate and get people together. As for the survival of the Greens or the government at the end of the day, they have to go up there; it is their legislation. It is not ours; it is not Balkanu's legislation. We did not put this act together. It has to pass through the Senate and the parliament, so they have a responsibility to go up there and talk about the documentation. That did not happen in that case. We had to go up there, looking at information about how it would affect us. One other thing I would like to know is: who were these 3,000 applicants? I want to know that.

Senator BOSWELL—Who were the 3,000 people who put submissions in.

Mr Woosup—Three thousand people put submissions in. How many of those submissions were from Cape York Aboriginal people who are being affected by this wild river legislation?

Mr Kyle—I would like to know that as well.

Mr Woosup—We would like to know numbers and not just guessing about it and looking into a crystal ball. These are facts that even a lot of us are seeking, particularly from the wild rivers mob and the government.

Senator SIEWERT—Thank you.

Senator BARNETT—You have covered a lot of ground in terms of the consultation process. Let me just say up-front: thank you very much for being here. You have made a big effort. It would be good if we could perhaps visit you up in your country, but thank you for being here today; it is appreciated. In terms of the consultation process, earlier during the inquiry we heard of the importance of getting informed consent from Aboriginal communities and traditional owners. The Australian government, on behalf of the Australian people, has signed an international declaration. It is the UN Declaration on the Rights of Indigenous Peoples; you have probably heard about it. Article 19 of that declaration says:

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

So you would say that the Queensland government has breached that article.

Mr Kyle—I would strongly suggest that the government is in breach of that. Going on from there, if I may:

… indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands …

This comes from the UN Declaration on the Rights of Indigenous Peoples.

Senator BARNETT—It is the same declaration. Thank you very much.

Mr Kyle—Thank you, Senator.

Senator BARNETT—No problem at all. My final question relates to the bill that is before the Senate committee, which was put forward by Mr Abbott. I just want to read clause 5 to you, as it is a key feature of the bill; it is just one sentence. It states:

The development or use of native title land in a wild river area cannot be regulated under the relevant Queensland legislation unless the Aboriginal traditional owners of the land agree.

Do you support that proposition?

Mr Kyle—That is my understanding of the Native Title Act anyway. I am not by any means a lawyer or whatever it might be, but my skills and my way of talking to the senators here today is from life skills. I have lived long enough. I am nearly 70 and, if I have lived this long and my part of the country is still protected, don't you think that is what it is all about: preserving and looking after what you have for the generation that is coming after you?

Senator BARNETT—That is fantastic—wonderful.

CHAIR—On the basis of that though, you would not need this legislation. If you believed that the Native Title Act provides that protection, you would not need this proposed legislation, would you?

Mr Kyle—We do not want wild rivers and I have stressed that enough to ministers or any people that will listen to me. Look, we went into a partnership with national parks and we have that. As soon as we started getting on really good terms with the EPA and national parks, what comes along? A declaration on wild rivers. I do not know what these people want to do to us, whether they want to put stumbling blocks in our way. How many people can obtain funding from the bank when their land is tied up? Our land is tied up. Do you know how long my family and I have lived down on Silver Plains Homestead for? Five years. And do you know how? My pension and their little bit of CDEP money. If I were to go to the bank and ask for a loan, the first thing they would ask me is, 'What sort of collateral have you got behind you there to support this?'

Senator BOSWELL—What sort of title is—

CHAIR—Senator Barnett, have you finished?

Senator BARNETT—No. I have had a question and I would like—

CHAIR—Yes, that is what I am saying. Would you like to finish?

Mr Woosup—Can I raise something about you have just said, Senator?

Senator BARNETT—Yes, of course.

Mr Woosup—Getting to the point on the Native Title Act and the legislation, the Abbott plan is a fixed solution for us Indigenous people because it gives us an opportunity to go in and voice our concern under the Native Title Act regime. To me, the Commonwealth should override state law on anything, because the Native Title Act protects our interests.

Senator BARNETT—The point is that you want to have your say in how your land is developed and what you do with your land, and this is the key feature of the bill before us. You have looked after your land, as have your generations before you, and you want to pass it on to your kids and grandkids for generations to come.

Mr Kyle—Yes.

Senator BARNETT—You want to look after it. If I am correct, the point I see you expressing is that you do not want the government to come in over the top of you, without consultation and without any consent from you, and just slam the legislation or regulation on you. The bill before us says: that cannot happen. That is what I am asking: do you support that approach?

Mr Woosup—Yes, we do.

Mr Kyle—I do and, I think, very strongly because, when they talk about preservation and conservation, who are we? What have we been doing? We never smashed the country up. I hear referred to a lot the big mistakes that Europeans have made over the centuries. Okay, they compare us with the Murray-Darling Basin, the great South East. We are not that stupid. No great big buildings are going to be constructed there for tourists to come and stay in, like the one we are in now. No. When we talk about tourism, we talk about ecotourism. That is the sort of tourism venture we talk about. No-one is going to go on my country, unless one of our traditional owners are with them, if they want to see what is on our country and if they want to know or learn. Even the scientists take us or a member of our clan group along with them. In that way we know that things are protected.

Senator McLUCAS—Thank you for travelling so far to come and talk before us today. I hear really strongly that you have been great custodians of your land for 40,000 years. The bit that I am trying to get my head around is: what is it that the Queensland legislation stops you from doing; what does it stop you from doing in terms of your aspirations?

Mr Woosup—Basically, it stops our future economic prosperity with that asset. It stops us being self-sufficient. It stops us—

Senator McLUCAS—How does it do that? This is the bit where there are different opinions.

Mr Woosup—This legislation stops us getting at our natural resource. We are entitled to pick up materials that belong to us and produce them into the market and get a revenue based system there. We are looking at the establishment of capital effort in the cape. This legislation is going to stop that. It is a disaster.

Senator McLUCAS—There are two sets of opposing views. Some people say that it will stop everything and that it is a lockup and no economic activity can occur; on the other hand, others say that basically everything, except strip mining down the middle of the river or large-scale irrigation areas, is allowed and it is just a matter of making an application and going through the process of approval. What I am trying to get from the three of you is an understanding about the sort of economic development you would like to undertake in your respective areas and whether you think the Queensland legislation stops you from doing that.

Mr Kyle—If I may, I am talking about declaring wild rivers on people like us. I cannot speak for anybody else's country, but I can speak for my country. I have given you a map and directions on how much land I can utilise for a sustainable future. How much is that from here to the middle of the road out the front here? Is that very much land? You would kick up a stink—anybody would—but this is what is going to take place. I cannot draw water out of the river. That is what I was told by Ross Brown, one of these people who came around to my house to consult with me about wild rivers. What consulting? I was repairing a vehicle when he called around there with his cronies. So they do these backdoor deals.

Senator McLUCAS—So you have been told that you cannot extract water?

Mr Kyle—Yes. You can do it, but how many Indigenous people that you know can sit down and fill out a 20-page application to do something on their own country—

Senator McLUCAS—I understand.

Mr Kyle—that was given back to them on a freehold basis? How many people that you know on Cape York are able to do that? Not very many.

Senator McLUCAS—But that is why we have organisations to assist people.

Mr Kyle—That is why we are utilising Balkanu.

Senator McLUCAS—Sure, yes.

Mr Kyle—We cannot do that. It is totally impossible for a lot of us to do that.

Senator McLUCAS—Mr Kyle, you were talking to one of the department people about water extraction. What did you want to do with the water?

Mr Kyle—That is our main source of life form. We get fish from the water, we drink water and we have our bath and stuff like that in the creek water.

Senator McLUCAS—So it would be for domestic use; you would use it to run your house.

Mr Kyle—Exactly. We are not going to use it to irrigate thousands and thousands of hectares of cotton, like the great Darling Basin. No, we are not that stupid. We have seen the downfall of what a white person can do to country. We know what they can do, and that is why we are glad we got our country back. But, with these pieces of legislation being thrown on us, they are putting in front of us other stumbling blocks to make it harder for us, especially for older people like me.

Senator McLUCAS—I suppose I am trying to get a practical example of what people want to do with their country that this legislation stops.

Mr Kyle—We have not spoken about that in much depth after hearing that wild rivers was going to be declared for all the creeks as well as the rivers; so that put us on hold. We cannot go ahead and do the things that we want to do. I would like to have a small cattle industry—and I am not talking about on a large scale; I am talking about something on four legs that I could use for collateral if my little ecotourism venture breaks down. When people go there, how am I going to pump water for their survival from the creek a kilometre up land? They want drinking water, of course, and they want to have a shower.

Senator BOSWELL—So you are saying that you cannot develop an ecotourism system on the bank of the creek and you cannot clear it.

Mr Kyle—No, you cannot clear it.

Senator BOSWELL—That is what we have been told: you cannot clear it. You can pump water, I would imagine, for yourselves—

Mr Kyle—For domestic use.

Senator BOSWELL—for domestic use. But you are talking about wanting to pump water for an ecotourism area.

Mr Kyle—That is right.

Senator McLUCAS—I thought Mr Kyle was saying that it would be for grazing.

Mr Kyle—And how far is that going to get me? Where am I going to get the funding to purchase all the equipment? It is hard for people like me.

Mr Woosup—One of the things that I see especially as being a real advantage to our people up in the cape is small garden enterprise that we could send to the local market. Can you imagine how much it would cost for a cabbage or a tomato up on Cape York?

Senator McLUCAS—I know.

Mr Woosup—That then brings in some sort of freezing stage, as it would only take about a day or two to get really rotten and soft. These are the sorts of factors that make our people sick; they are diabetic, you know. The health issues start to come in and the social impacts start to happen. This is where country and the river is part of us; it is part of our healing sources.

Senator McLUCAS—I understand that totally. The thing that I am having difficulty with is that, on one hand, people are saying that those sorts of activities are, in fact, allowed and then you are saying that you believe they are not allowed.

Mr Woosup—Yes, because—

Senator McLUCAS—How do we know what is true?

Mr Woosup—Excuse me, Senator. We have had a meeting with one of the government people. They said that whatever products or things we can grow, or whatever, can be only for personal use; they cannot be used for marketing.

Senator HEFFERNAN—Can I assist the committee with this?

Senator BOSWELL—You cannot put a market—

Mr Woosup—So this is part of the legislation; it is a factor that has been built into it. These are the sorts of hidden factors that need to be exposed.

Senator McLUCAS—Can we ask the state department to respond to that, Mr Woosup?

Mr Woosup—Yes, sure.

Senator McLUCAS—Thank you.

Senator HEFFERNAN—Can I ask a question?

CHAIR—Senator Heffernan, it is seven o'clock and we have another witness to go.

Senator HEFFERNAN—I will just ask a quick question.

CHAIR—Senator Heffernan, just a moment. Ms Yunkaporta has something that she wants to say.

Ms Yunkaporta—The legislation is so very complicated. We have to get our head around it to absorb what is in it. Having to do that as an Aboriginal person—like I have already stated, English is my second language—how complicated and complex can you make a situation for the future of our younger generation? We put up a good fight for them today for them to carry this forward, but how long are we going to be fighting for a cause that we know is truly ours? The land is ours and we know it is ours.

There is the flora and fauna that is there on the land and in the rivers. To us, as Aboriginal people, the flora and fauna are totemic symbols. In the river itself, there are totems. On the land itself, too, there are totems that we believe we are connected to. We consider them in language as Puulway. Consideration needs to be given to a full extent to someone who is a non-English speaking person. I have to make space to be able to grapple with your Western society and I have to live in both worlds. I am doing the best I can to live in both worlds and to have an understanding of what I have to provide for you today, in order to better the world for tomorrow for the younger generation and for my people behind me.

CHAIR—Mr Kyle, did you want to say something in finishing?

Mr Kyle—I heard a little earlier on here remarks about bushfires and the massive burning that took place on Cape York. I wonder whether the guy who was on the phone realises that a lot of tourists go up to Cape York. Maybe he can hear me.

CHAIR—I hope he can. Senator Heffernan, can you hear this?

Senator HEFFERNAN—I am listening, buddy.

Mr Kyle—My comment for you, mate, is that a lot of bloody tourists go up to Cape York. Because you are not from up there and you have not been on that country—

Senator HEFFERNAN—I have—

Mr Kyle—how do you know that tourists are not throwing matches along the side of the road, as that was what created the last bushfire?

Senator HEFFERNAN—Yes, mate—

Mr Kyle—For myself, I have had some pretty good comments from the CSIRO re the burning regime used by me, mate, and I got a pat on the back for that.

Senator HEFFERNAN—Yeah, mate. I've been burnt out by people chucking a cigarette out of a car.

Mr Kyle—You're probably one of them!

CHAIR—Senator Heffernan, we are getting a bit burnt out too. It is time to finish up.

Senator HEFFERNAN—I wanted to ask a question relevant to the whole issue of bankability of economic opportunity for the Indigenous people. I would like to congratulate these witnesses; theirs has been fantastic evidence.

CHAIR—Thank you, Senator Heffernan. We are moving on to the next lot now.

CHAIR—Mr Woosup, Mr Kyle and Ms Yunkaporta, thank you very much for your time this evening.

[7.00 pm]

ACCOOM, Mr Rodney, Mayor, Lockhart River Aboriginal Shire Council

ACTING CHAIR (Senator Barnett)—Mr Accoom, welcome. It is nice to meet you.

Mr Accoom—I would like to apologise for being late. I had to deal with some business about a 40-year lease.

ACTING CHAIR—Thank you. Lockhart River Aboriginal Shire has lodged submission No. 6 with the committee. I am going to invite you to make a short opening statement, but do you have any changes to your submission?

Mr Accoom—No.

ACTING CHAIR—Please go ahead and make your opening statement or submission and then we will have questions from the senators.

Mr Accoom—Our submission is from the Lockhart River Aboriginal Shire Council and the traditional owners. It states:

Please find following a copy of the Lockhart River Aboriginal Shire Council's submission to the Committee's inquiry into Wild Rivers (Environmental Management) Bill (No. 2) (The Bill). We make this in our capacity as the authority entrusted with the management of the Shire as well as on behalf of the Traditional Owners who have been affected by the imposition of the Wild Rivers Act in Queensland. In addition also find a copy of a letter from the Traditional Owners in Lockhart River Community expressing their total disappointment and disgust at the imposition of the Wild Rivers Act on their Natural Resource.

CHAIR—Thank you very much for that.

Senator BOSWELL—Yes, I have some questions. I understand that you wrote to your local member, Mr Turner, pleading with him to oppose the wild rivers. You said in that letter:

… we are conservationists but we also want to get off welfare. We want a river protection system built as an Indigenous driven system.

What sort of a response to that letter did you get from your local member?

Mr Accoom—Nothing.

Senator BOSWELL—He did not reply?

Mr Accoom—No reply.

Senator BOSWELL—Do you get the feeling that the state government just does not trust you to conserve your own lands?

Mr Accoom—I think the state government should just back off and leave the land to my people so that they can get on with their lives.

Senator BOSWELL—The Queensland government has a policy framework called Looking After Country Together. How much confidence do you have in that, given the way in which they have handled the wild rivers fiasco?

Mr Accoom—How long had my people been looking after the country when the government Queensland came in? When my ancestors were there—which was before the white people came into Australia—they had looked after the country far longer than anybody else ever had.

Senator BOSWELL—How much land did you get under DOGIT? Are you from Aurukun?

Mr Accoom—No; Lockhart.

Senator BOSWELL—Lockhart. Looking at the map, you got a fair bit of land.

Mr Accoom—Yes.

Senator BOSWELL—Was that land given to the communities for self-development? In other words, if someone wanted to grow watermelons or tomatoes or run cattle or whatever, they would apply to the council and it would be given to the council in trust for the people of Lockhart.

Mr Accoom—Yes.

Senator BOSWELL—How much of that land on that blue map is impacted by wild rivers?

Mr Accoom—The Lockhart is affected by the wild rivers because the biodiesel bloke who was going to—

Senator BOSWELL—I was going to ask you about that.

Mr Accoom—Yes. He got knocked back. There are people who want to come and do something for the community and get people off the social or whatever they call it and they get knocked back.

Senator BOSWELL—Tell me about this diesel tree. Did you plant that or were you going to plant it?

Mr Accoom—We were going to plant it.

Senator BOSWELL—It is a pity that Senator McLucas is not here, because she has been asking continually what has been knocked back; and here is an example of an Aboriginal community trying to develop a project that was knocked back. Who knocked it back?

Mr Accoom—The government.

Senator BOSWELL—So you made an application and the government said, 'No, you can't do it.'

Mr Accoom—That bloke was going to do biodiesel. There were that many meetings. He flew to Brisbane, had meetings and came back, and now he is starting to give up.

Senator BOSWELL—We have been told by the government that you can do this; you can develop it. Here is a case in point where the Queensland government will have to say that you can do it or you cannot do it. They have virtually said that small horticulture, small growth areas or small farms are allowed, but you are saying that you have been knocked back.

Mr Accoom—You are saying that the government says that we can do it. If they give that to us in writing, then we will do it.

Senator BOSWELL—That is a challenge to the state government. How many acres were you trying to use?

Mr Accoom—There is a lot of acres everywhere.

Senator BOSWELL—Were you trying to get water out of the river to irrigate it?

Mr Accoom—You cannot get water out of the river. You have to go a kilometre from the river bank before you can start planting.

Senator BOSWELL—A kilometre from the river bank?

Mr Accoom—From the river bank.

Senator BOSWELL—What if you were trying to develop, say, a market garden? Instead of flying your vegetables in, you were going to grow those and sell them in the local store; would you be able to do that?

Mr Accoom—Yes.

Senator BOSWELL—You could?

Mr Accoom—Yes.

Senator BOSWELL—But not if it is done commercially.

Mr Accoom—No.

Senator BOSWELL—You cannot do it commercially?

Mr Accoom—No.

Senator BOSWELL—So if the community wanted to grow 20 acres of vegetables to supply the store and to sell that into the store, that would be commercial and you would not be able to do it.

Mr Accoom—That is right.

Senator BOSWELL—What if you wanted to put ecotourism on the river?

Mr Accoom—We cannot.

Senator BOSWELL—Can you clear any land on the river?

Mr Accoom—No, we cannot; we cannot even clear our land. You cannot even go onto your traditional land and cut down one tree.

Senator BOSWELL—We have been given a list of projects that have been undertaken. The state government gave us that list and I have it here. They say that 'Lockhart River Shire'—of which you are the

chairman, I take it—'passed an application'. Then it asks for the application's purpose: 'not available'; number of applications: 'nil'; any refusers: 'not available' or 'not appropriate'; and outcomes: 'NA'. What happened in Lockhart River that you got a tick for? It says here, 'The Lockhart River Aboriginal Shire Council gave permission for this to take place.' Do you know what they are referring to?

Mr Accoom—No.

Senator BOSWELL—Well, you would know. It says here, 'Location: Lockhart River Aboriginal Shire.' Then it says, 'Organisation responsible for assessing the application: Lockhart River Aboriginal Shire Council.' So there must have been some application made that was passed by your shire council.

Mr Accoom—Yes. That is about the quarry. That got closed down by government officers when they came up to Lockhart.

Senator BOSWELL—So they closed the quarry down?

Mr Accoom—Yes.

Senator BOSWELL—They have said here in this that applications have been made and gone ahead, and they have given us a list of them. But you are saying—unless we are at cross-purposes here—that the application closed the quarry down; it did not open anything but closed it down. Are you sure that there is nothing else in Lockhart River that—

Mr Accoom—Nothing else.

Senator BOSWELL—This will have to be developed further. We should be asking about this of the Aurukun Shire Council, the Doomadgee Aboriginal Shire and the Burke Shire. What are all these processes that they have passed? We were talking to the mayor here and he said that the shire council has never passed any application. Is that correct?

Mr Accoom—That is correct.

Senator BOSWELL—All right. I know you are talking from the shire council's point of view. Let's talk about shire councils, since you are here. How many shire councils or communities support wild rivers? Does Doomadgee support wild rivers?

Mr Accoom—I cannot speak for them; I just speak for my community.

Senator BOSWELL—Yes. So you are not aware of any of the others that support it or do not support it.

Mr Accoom—No.

Senator BOSWELL—What about traditional owners?

Mr Accoom—Traditional owners?

Senator BOSWELL—Not supporting it?

Mr Accoom—No.

Senator BOSWELL—I think this needs further development, Mr Acting Chair. We have been given a list of eight applications and my understanding is that they went through with the support of the shire councils. But, when we have asked a direct question of the mayor, he has said that he has never passed any.

CHAIR—Senator Boswell, do you want to identify the document you have?

Senator BOSWELL—It is a document that has been given to us by the Queensland state government. It says, 'Location: Cape York Gulf.' Then it says, 'Applications were processed by DERM.'

CHAIR—Would you be happy to table that, Senator Boswell?

Senator SIEWERT—It has been tabled already.

CHAIR—Thank you. The one that you are referring to was tabled earlier.

Senator BOSWELL—Yes.

CHAIR—Very good. Thank you very much, Senator Boswell. Do you have anything further, Senator Boswell?

Senator BOSWELL—I could go on forever, but—

CHAIR—No, that is fine; we will not. We will go to Senator Siewert.

Senator SIEWERT—Thank you. I was slightly confused by that last series of questions around the quarry. The quarry was not what was applied for—is that correct—and the quarry has been closed down?

Mr Accoom—Yes.

Senator SIEWERT—Why was the quarry closed down?

Mr Accoom—Because there is a little creek running into the Lockhart River and—

Senator BOSWELL—Now we are hitting a bit of pay dirt here.

Mr Accoom—the government officers that work here with wild rivers had a meeting with the traditional owners up in Lockhart; everyone got wild about it. Council was always getting gravel out of that quarry—and, as soon as they heard about it, they closed it down.

Senator SIEWERT—Did they do that in writing?

Mr Accoom—No, not in writing; but they told us that, if they catch anyone driving through that road with gravel on the back, they will get fired.

Senator SIEWERT—Was the quarry an official or unofficial one?

Mr Accoom—Council has been using that quarry for the last 20 to 30 years.

Senator SIEWERT—You said before that you were not allowed to put in ecotourism or clear vegetation et cetera. The Queensland government sat where you are sitting four or five hours ago and said that you can clear vegetation for necessary infrastructure and you could put in ecotourism and a range of other things.

Mr Accoom—Is it in writing?

Senator SIEWERT—It is on *Hansard*.

Senator FEENEY—Effectively.

Senator SIEWERT—The issue here is that we have been told two completely different things, something by the government and then something different by other witnesses. You have been told that you cannot do things; have you tested that with government?

Mr Accoom—Like you said, the government official was sitting here saying that we can do this and that on our land. If they give it to us in writing, I will show that to our people and we can go out and do something on our land. At the moment we cannot even cut down a tree.

Senator SIEWERT—Is that your belief because you have been told it or because you have had it in writing? How do you come by that understanding?

Mr Accoom—As for that understanding, if you are working with the main roads and the EPA mob comes in and catches you dropping trees down or pushing gravel, you will cop it. That is how I learned.

Senator SIEWERT—Was that prior to the wild rivers legislation?

Mr Accoom—Yes.

Senator SIEWERT—So that was the Vegetation Management Act that you were talking about?

Mr Accoom—Yes.

Senator SIEWERT—So it is not necessarily the Wild Rivers Act.

Mr Accoom—No. It is in with the Wild Rivers Act.

Senator SIEWERT—Yes, because they work in tandem.

Mr Accoom—Yes.

Senator SIEWERT—I am trying to develop an understanding of how the legislation interacts and how people have been informed about it. Has there been wide spread notification of, say, local councils? Is there documentation that the government sends out saying, 'You can and cannot do this; this is how you make an application'? How do they develop a relationship with the community in terms of implementing the act?

Mr Accoom—A lot of letters were sent to the council telling council that this is what we can do and we cannot do, and we explained that to our public at our public meeting. That is it.

Senator SIEWERT—Was that at the very beginning, when the legislation first came in?

Mr Accoom—Yes.

Senator SIEWERT—My final question is around the biodiesel proposal. How long ago was that?

Mr Accoom—I think the bloke came into Lockhart in 2006 and started talking with the traditional owners about getting something done up in Lockhart, saying there would be jobs for—

Senator HEFFERNAN—I know all about that.

Mr Accoom—men and women in Lockhart and saying that they could leave—

Senator SIEWERT—I was not asking you.

Mr Accoom—working for the dole, and everyone was happy about it. Then, as soon as wild rivers and they heard about it, bang, straight into Lockhart. They put that bloke on hold. He has been flying to Brisbane a few times and has got nowhere.

Senator SIEWERT—How long ago did it fall over?

Mr Accoom—About three years?

Senator HEFFERNAN—That was a fantastic economic opportunity.

Senator BARNETT—Thank you. Mr Accoom, thank you very much for your evidence today; it is much appreciated. Business, small business, small ventures that create jobs growth and development in your community are obviously very important to your community. I want to get a little more clarity about those two projects. Firstly, the quarry that was closed down because of this Wild Rivers Act: can you just describe in your own words the business proposal in terms of the quarry. What was planned?

Mr Accoom—With the quarry, that is where council used the gravel to build houses, to do cement. Now that the quarry has closed, our trucks have to go about 130 kilometres out from Lockhart to bring gravel in—and that is when the road is open. At the moment we cannot even bring it in; the road is closed.

Senator BARNETT—Because of the wet season?

Mr Accoom—The wet season.

Senator BARNETT—Just before we get on to the consequences: in terms of the quarry, how many trucks were you using there? How many people worked at the quarry, roughly?

Mr Accoom—We had about five blokes.

Senator BARNETT—And five trucks?

Mr Accoom—No.

Senator BARNETT—How many trucks?

Mr Accoom—Two trucks. We had two blokes on each truck and one on the loader.

Senator BARNETT—So you would have a loader and a couple of trucks. They would go in and get the gravel and then take it to where it needed to go.

Mr Accoom—They would just bring it back into town, Lockhart.

Senator BARNETT—How far away was that, roughly?

Mr Accoom—They would have to travel about 16 kilometres.

Senator BARNETT—So they had to travel 16 kilometres. How long was this quarry going for?

Mr Accoom—Like I said, it has been going for the last 20 to 30 years and, just a few years ago, it stopped.

Senator BARNETT—How close is it to the river?

Mr Accoom—About six kilometres from the river.

Senator BARNETT—You are saying that the government's legislation or regulations have made it impossible for it to keep going. Is that right?

Mr Accoom—Yes.

Senator BARNETT—What did they say to you?

Mr Accoom—They said that we cannot get gravel out of the quarry any more; it has to be closed down.

Senator BARNETT—Because?

Mr Accoom—Because of the wild rivers.

Senator BARNETT—So now you have to go—and whether you can go depends on whether it is a wet or dry season—what did you say, 140 kilometres?

Mr Accoom—No; 130.

Senator BARNETT—So are you using the same vehicles, or do you have other vehicles?

Mr Accoom—We have the same vehicles; they are starting to get crippled up though.

Senator BARNETT—It is costing the council more money, so it is costing more to build homes and it is making it harder. In addition, in the wet season it is impossible to get your gravel.

Mr Accoom—Yes.

Senator BARNETT—Just going back to your other business with the diesel, can you describe for us in a little more detail what was involved in that?

Mr Accoom—The diesel was going to bring more jobs into the community for the people and A lot of my people would have benefited from it. At the moment there is—

Senator BARNETT—There is nothing.

Mr Accoom—nothing.

Senator BARNETT—Can you remember how many jobs, roughly, they were going to have?

Mr Accoom—First of all, he was going to start with 200 people and later the trees would have built up. Also, wild trees are growing there with the same seed that he was going to make the diesel out of. The bloke saw those trees with those seeds and said, 'Look, people can start carting these seeds here while the other ones are growing up.' Everyone was happy about that. As soon as wild rivers heard about it, bang.

Senator BOSWELL—With wild rivers, did the state government say, 'You will not be able to do that project'? Did they close the project down?

Mr Accoom—It is not closed; it's—

Senator BOSWELL—They just told you, 'You can't pump water out of the river'?

Mr Accoom—Yes, you just cannot pump water. So the blokes that were doing it said, 'Oh well, if we can't pump water, we can't go out and plant the trees.'

Senator BARNETT—How many people do you think would have been working on that, once it got going?

Mr Accoom—The bloke was saying it would be 400 to 600 people once it got going. There would be a job for everyone, including the young ones leaving school.

Senator BARNETT—A lot of jobs.

Mr Accoom—A lot of jobs.

Senator BARNETT—And it would go on for a long time, would it, because they would keep growing the trees?

Mr Accoom—Yes. Even my kids would have been in there, and their kids after them.

Senator BARNETT—So you would be feeling pretty disappointed and upset by that.

Mr Accoom—Yes.

Senator BARNETT—Thank you very much for that. That is appreciated.

Mr Accoom—Can I go back to some things said here this morning that I was not really happy about? They were about Mr David Claudie.

Senator BARNETT—You fire away. Away you go. What would you like to say?

Mr Accoom—He was talking about the land that he is living and working on and got funding for. That is not right. That is not his land; that is my mother's land. He was saying that he is from the top end and he is not; he is from the bottom end. I would like to get this straight out. He never works in with the elders. He never even went around and said, 'Oh, we're having a Wenlock meeting to talk about the wild rivers'—nothing. So I would like to get this clear that something has to get to this bloke for him to come out and tell you people the truth about where he is from. It is no good telling you people lies. I was going to stand up when he was talking to a senator, but I said to myself, 'No, I'd better not.'

CHAIR—You have put your views to us now, so that is useful. Can I ask you a question about your submission? You put to us that the lack of resourcing associated with the additional obligations is not consistent with Looking After Country Together strategic policy. I guess the Looking After Country Together policy is a Queensland government policy. Is that right?

Mr Accoom—Yes.

CHAIR—So are you putting to us that what is missing here is a lack of information and a lack of resources to operate under the Wild Rivers Act?

Mr Accoom—Yes.

CHAIR—So that is part of the problem: there has not been enough information—

Mr Accoom—No.

CHAIR—from the Queensland government about how this act operates and what you can and cannot do under it; and there has been a lack of resources given to traditional owners or organisations to exist under this legislation.

Mr Accoom—All these government officers have been coming into Lockhart and talking about wild rivers, telling the people what they cannot do on the land; they did not tell the people what they can do.

CHAIR—So it is difficult.

Mr Accoom—Yes.

CHAIR—Senator McLucas, do you have a question?

Senator McLUCAS—No, I do not. But thank you, Mr Accoom, for coming down and thanks for your submission.

Senator HEFFERNAN—I have a question.

CHAIR—Senator Heffernan, how could I forget you? Off you go, Senator Heffernan.

Senator HEFFERNAN—Just for the Senate's information, the tragic Lockhart River plane accident: on that plane were people who were up there looking at the soft entry point into Australia for foot-and-mouth disease—part of which is the Cape York Peninsula and the unoccupied nature of a lot of it. Are the current witness and the Lockhart Aboriginal Shire aware of the dangers that an incursion—through a soft entry point—of foot-and-mouth disease poses for the entire Australian beef industry?

CHAIR—Mr Accoom, could you hear that?

Mr Accoom—No.

CHAIR—Have another go, Senator Heffernan. It is a bit unclear down here.

Senator HEFFERNAN—Sorry. Is the witness who represents the Lockhart River Aboriginal Shire aware of the dangers posed to the entire Australian cattle industry by an intrusion, through what is known as a soft entry point—which, as I say, some of those tragically killed in the Lockhart River plane accident were up there investigating—of foot-and-mouth disease? I am saying that the country is locked up and left to be by World Heritage. I understand that in World Heritage country you cannot go in and have 1080 poisoning of feral pigs for a start, but I am speaking of the dangers to Australia's cattle industry posed by an incursion of foot-and-mouth disease.

CHAIR—I do not think we understand what you are asking, Senator Heffernan.

Senator HEFFERNAN—What I am asking is: under the wild rivers legislation, there are serious restrictions to what can happen in country that is involved in that legislation, and one of the things—

Senator McLUCAS—That is an assertion.

Senator HEFFERNAN—that will be prevented will be the 1080 poisoning of feral pigs, as I understand it. Given that the Cape York Peninsula, as well as some other country in the north, is a soft entry point for foot-and-mouth disease into Australia, is the witness aware of the dangers that represents to the entire Australian cattle industry? I mean, if he is not, he can just say no.

Senator FEENEY—The witness is indicating no.

Senator McLUCAS—Can I assist with that?

CHAIR—If you want to, but Mr Accoom is shaking his head no—and I do not think we can work out the connection, Senator Heffernan. Perhaps I can make a suggestion. Why don't you put your question in writing and through the secretariat, and we could send it to Mr Accoom.

Senator HEFFERNAN—As Senator Ian Macdonald would understand—who in a former life was Chairman of the Northern Development Taskforce—certain issues have not been addressed and are being

ignored through things like the wild rivers legislation. So, yes, I will deal with that later when the committee's actually—

CHAIR—That would be useful. Mr Accoom, I thank you very much for your submission and for appearing before the committee. I do appreciate that it is very late and I thank you for staying so late this evening to be with us.

Mr Accoom—Thank you. Once again, I apologise for being late.

CHAIR—That was fine. We just swapped witnesses around, so it was okay. I think the people before you were happy to go and get away early. I know that it has been a very long day, probably one of the longest days I have had with Senate committee hearings. I want to thank all of the witnesses who have given evidence today. All of the people who have come to listen and provide support or comment and who have shown interest in the Senate committee hearing: thank you for being here today. Also, thank you very much to DPS and Hansard—this would test your skills immensely, no doubt—and to all of my colleagues.

Committee adjourned at 7.33 pm