



Hon Stephen Robertson MP
Member for Stretton



**Queensland
Government**

**Minister for Natural Resources,
Mines and Energy and
Minister for Trade**

Ref CTS 06227/10

23 APR 2010

Ms Julie Dennett
Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Ms Dennett

I refer to the request for responses to further questions on notice arising from the Cairns hearing on 13 April 2010 and from Senator Barnett's consideration of my earlier submission.

Response to additional question on notice from Senator Barnett:

"In your submission, Attachment F, the Executive Council Minute No. 130 refers to documents marked 'A' and 'B' to 'D'. Documents 'B' to 'D' have been provided by you to the Committee while document 'A' referred to in the Executive Council Minute No. 130 as the 'Wild River Declaration Notice' has not been provided. Would you please provide the Committee with a copy of the missing document 'A'?"

The document 'A' is a version of the gazettal notice which accompanies the material being approved by Governor-in-Council. Attachment A is a copy of the gazettal notice.

Response to Senator Siewert: question during the hearing in Cairns :

When discussing the introduction of the Wild Rivers Bill Senator Siewert stated:

"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. "

The consultation process was summarised in Mr Buchanan's subsequent response to Senator Siewert's question at the Cairns hearing, as below. If the Committee would like a specific issue addressed in more detail, we would be happy to assist.

"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.

I believe that the information supplied during the hearing is sufficiently detailed as to the extensive nature of consultation on the Bill.

***Response to question on notice from Senator Barnett during the hearing:
[at page 37]***

"Qld DERM (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."

These issues have been addressed in response to the additional question on notice from Senator Barnett. Under the Wild Rivers Act the Governor in Council approves a decision to declare a wild river. A copy of all the attachments provided to the Governor in Council has now been supplied to the Committee.

Response to question on notice from Senator Barnett during the hearing:
[at page 38]

“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.”

I refer to the information contained in my earlier submission in response to Senator Barnett's questions on notice numbered 1 to 8 which provides an outline of the decision making process for the Archer, Lockhart and Stewart wild river areas.

The Wild Rivers Act does not require any decision on a declaration to progress to Cabinet. Accordingly, this is why there is *'no evidence these declarations were put to the Queensland Cabinet in the 8 days between the swearing in of the new Ministry and their presentation to the Governor in Council for approval'* as referred to in page 1 of the submission from the Cape York Institute for Policy and Leadership (CYIPL). The cabinet process simply does not apply.

At page 2 of the submission from CYIPL, it is asserted that *'it is clear that the Minister who performs the function under section 15 [of the Wild Rivers Act] must be the same person who has complied with section 13 [of the act]'*.

In relation to the Archer, Lockhart and Stewart wild river declarations and as evidenced in my earlier submission under the response to Senator Barnett's questions 1 to 8, I was the Minister who made the decision under section 15 and complied with section 13 of the Wild Rivers Act.

I would add however, that in accordance with the *Acts Interpretation Act 1954*, this need not be the case as the authority to make the decision resides with the position and not the person themselves.

It appears that a further allegation is made at page 3 of the CYIPL submission, *'if he [being the Minister] does decide to make a declaration, the Minister does not have to provide any reasons for his decision'*. I suggest this is not accurate in that under the Wild Rivers Act, section 38, on deciding whether to declare, revoke or amend a wild river area, the relevant Minister must prepare a consultation report. The Consultation Report *must* include a summary of issues raised during consultation and how the issues have been dealt with.

Unfortunately, I cannot provide any further assistance without the benefit of Senator Barnett highlighting the conflicting information clarification is sought on.

I'd like to again thank the Senate Committee for the opportunity to comment on the proposed Commonwealth Bill and provide clarification on how the Queensland wild river act operates.

Should you have any further enquiries, please do not hesitate to contact
Policy Advisor of my office on telephone

Yours sincerely

STEPHEN ROBERTSON MP
Accompanying supporting documents