



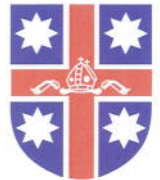
DIOCESE OF BRISBANE

(Anglican Church of Australia)

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DIOCESAN REGISTRY

ST MARTINS HOUSE, 373 ANN STREET, BRISBANE 4000



05 April 2011

Committee Secretary
Senate Legal and Constitutional Committees
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Re: Submission — Wild Rivers (Environmental Management) Bill 2011

Dear Madam/Sir,

I write in regard to the Wild Rivers (Environmental Management) Bill 2011 which was recently reintroduced into the Senate by Senator Scullion. My submission is made on behalf of the Social Responsibilities Committee [SRC] of the Anglican Church of Australia, Brisbane Diocese. As the current serving chairperson of the Committee I am authorised to make this submission and the statement contained therein.

Submission

The Social Responsibilities Committee has been engaged for over eighteen months in advocacy for change to the Queensland Government's Wild Rivers laws.

The essence of our advocacy is that Wild Rivers declarations made without the properly acquired informed consent of affected Indigenous traditional owners are an improper restriction on the property and economic rights of the affected communities. By placing significant limitation on the uses to which land can be put, the Wild Rivers laws, operating in concert with the range of land management law applicable to Cape York, are an effective brake on Indigenous economic development opportunities.

Where properly acquired informed traditional owner consent is achieved, we see no barriers to a Wild Rivers declaration proceeding. We assert, however, that respect for Indigenous decision making should also extend to a requirement not to proceed in circumstances when consent is not achieved.

Our position has been informed by both ethical considerations and rigorous research.

In our careful, independent consideration of ethical principles relevant to the Wild Rivers legislation, we have noted that our advocacy for implementation of Wild Rivers declarations on a consent-only basis is consistent with principles expressed by the United Nations in the *Declaration of the Rights of Indigenous Peoples*:

Government shall consult and co-operate in good faith with Indigenous peoples to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

We have also undertaken significant research to inform our position on this matter. We have compiled detailed reports on the likely impact of the current Wild Rivers laws on Indigenous well-being and opportunities for sustainable economic development, with the focus of our attention being the geographic area of Cape York Peninsula. Our research has shown us that the legislation is likely to inhibit opportunities for sustainable economic development for some Cape York Indigenous communities.

The Anglican Church of Australia – Diocese of Brisbane

(The Corporation of the Synod of the Diocese of Brisbane)

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I attach our research reports as Attachment A and Attachment B; together with a position statement that documents our suggestions on how implementation of the Wild Rivers laws could be enhanced through adoption of a consent-based approach (Attachment C).

- *Attachment A: Wild Rivers Policy – Likely Impact on Indigenous Well-Being [August 2009]*

This report presents the findings from a high level theoretical review of the likely impact of Wild Rivers laws on Indigenous well-being, part of which is based on planning analysis of three hypothetical development proposals. In compiling this analysis we have demonstrated the impact of the Wild Rivers laws as what is, in practical effect, a development planning instrument that operates in conjunction with a raft of other land management and planning laws. Our expert planning advisors concluded that two of the three hypothetical proposals would be likely to be denied development approval.

Our conclusion — that declaration of wild river areas without consent would have a negative impact on Indigenous well-being — was also informed by significant consultation with both Indigenous and environment groups.

- *Attachment B: Wild Rivers Policy – Likely Impact on Sustainable Development [September 2010]*

This document aimed to extend the depth of our understanding beyond the hypothetical level of our first report and to confirm that our conclusions remained valid and legitimate in a 'real world' context. The report considered in detail the likely impact of Wild Rivers declarations on sustainable development opportunities. The research clearly supported our earlier conclusions regarding the negative impact of the legislation on land use options for otherwise productive lands.

- *Attachment C: Position Statement – Advocacy for the Right to Free, Prior and Informed Consent – Wild Rivers Legislation on Cape York Peninsula*

This statement has been informed by the research outlined above, extensive consultation, and careful consideration over the past eighteen months. It documents our suggestions on how implementation of the Wild Rivers laws could be enhanced through adoption of a consent-based approach.

We are concerned that a deep injustice is perpetrated when economic opportunities are taken away from Indigenous people without consent. The Queensland Government submission to the House of Representatives enquiry¹ outlines a number of potential activities to provide economic development and employment for Indigenous people (Section 6). These lean overwhelmingly toward ecotourism, and are largely based around two initiatives still in the very early stages of scoping and planning (the Cape York Dreaming Track concept and World Heritage nomination).

We recognise that ecotourism is a valuable and legitimate stream of economic activity, and that some — but not all — Indigenous communities in Wild Rivers areas are likely to benefit from such opportunities. It is clearly inequitable that a wider range of economic opportunities, such as those outlined in Section 3.2 of the Queensland Government submission, will be either constrained or restricted entirely *without the consent of those most affected*.

We note with favour the consistency between the position outlined above and that proposed in the *Wild Rivers (Environmental Management) Bill 2010 [No 2]*.

We are aware of but unconvinced by the arguments for further enquiry into this matter. The Senate has previously enquired in detail into the Bill and, with the benefit of the data created in its own enquiry, decided that the Bill should pass. Nothing has changed since the Senate last enquired into this matter and so it remains right for the Bill to pass.

I commend this submission to the Enquiry for your detailed consideration.

Peace

Dean, The Very Reverend Dr Peter Catt
Chair, Anglican Social Responsibilities Committee
Anglican Diocese of Brisbane