

29 April 2011

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

Dear Ms Dennett

Included in this letter are responses to question on notice arising from the Canberra hearing into the Wild Rivers (Environmental Management) Bill 2011 on 27 April 2011.

Response to Senator Xenophon

Senator Xenophon: *If it is not too difficult to do in the next week or so, could you provide details of the nature and extent of consultation? Finally, on the issue of consultations—and I appreciate that you will be sending me some more details on that—could you just provide details of the quality of those consultations? In other words, what was the nature and extent of it? Was it a case of saying, 'This is what we are planning' or, 'What do you think of this particular plan?' I guess that is one way of putting it in shorthand.*

Ms Best: *We will try and make sure we capture that as well. We could also indicate where some elements of the declaration changed as a result of consultation, when people provided feedback; some of the changes reflected what they were asking for.*

The Queensland Government provided details on the consultation process for the Archer Basin, Lockhart Basin and Stewart Basin wild river areas as part of its submission to the Inquiry in April 2010. However, the department welcomes the opportunity to again provide information on the extensive efforts of the department to inform the community of the Archer Basin, Lockhart Basin and Stewart Basin wild river declaration proposals. This includes providing an outline of the consultation process provided for under the *Wild Rivers Act 2005* and the consultation activities undertaken by the department in these three wild river areas.

Under the Wild Rivers Act, the following must occur:

1. A public notice of the Minister's intent to declare a part of the State a wild river area.
2. A declaration proposal notice must be published and the declaration proposal released for public comment and submissions (this is able to be published with the notice of intent to declare).
3. Community consultation is carried out.
4. The results of community consultation and properly made submissions on the declaration proposal are considered (as well as any relevant water resource plan or resource operations plan in place over all or part of the area).
5. A decision is made to declare that part of the State a wild river area or not to declare.

6. If the decision is made to declare a wild river area, the Minister must publish a consultation report. If the decision is made not to declare a wild river area, the Minister must publish a notice advising of the decision and the reasons for the decision.

In relation to the Archer, Lockhart and Stewart wild rivers declarations, three notices were published (a combined notice of intent to declare and declaration proposal notice) for the Archer, Lockhart and Stewart Basins respectively. These were published in the following newspapers:

- Western Cape Bulletin on 24 July 2008
- Cooktown Local News on 23 July 2008
- Courier Mail on 24 July 2008
- Cairns Post on 24 July 2008
- North Queensland Register on 24 July 2008

The declaration proposals for each basin were made publicly available at the same time the above notices were published, for people to comment on and make submissions within the submission period.

The formal submission period was from 23 July 2008 until 21 November 2008. (The statutory requirement is a minimum 20 business days.)

The consultation program involved a range of approaches, including:

- mail out of information kits with fact sheets on wild rivers to peak bodies and stakeholder groups in June 2008
- mail out of letters containing the declaration proposal and overview reports to all landholders within the basin, as well as to local governments, land trusts, mining tenement holders, industry representatives, community groups and peak body representatives
- on-ground face-to-face consultation meetings
- phone calls seeking feedback from key stakeholders who were unable to attend consultation meetings
- attendance at local government and community meetings
- attendance at meetings aligned with other state government agencies
- development of material for the Department of Environment and Resource Management website, which included fact sheets, electronic versions of the declaration proposal and overview report, submission forms and electronic submission lodgement through the website
- public airtime on Imparja TV of Wild Rivers DVD and Murri Minutes (produced by Bush TV), covering general information about wild rivers
- water report article on wild rivers published in the Rural Weekly, Torres News, Western Cape Bulletin and Cooktown Local News
- informal meetings
- responses to ongoing phone enquiries.

On-ground face-to-face consultation meetings with individuals and larger group meetings were held with a range of stakeholders. These included Indigenous and non-Indigenous local governments, land trusts representatives, Traditional Owners, graziers, mining companies, tourism operators, conservation and environmental groups, commercial and business operators, development and representative bodies, community organisations, recreational fishers and tourists.

Communities visited across Cape York Peninsula during the consultation phase of the three declaration proposals included Aurukun, Lockhart River, Coen, Cooktown, Weipa, Napranum, Mapoon, Port Stewart and Portland Roads. In many cases consultation meetings required repeat visits to ensure the information disseminated was clear and stakeholders had an opportunity to seek further clarification on any issues. Meetings with stakeholders including Traditional Owners and Indigenous representative bodies were also held in Cairns. Throughout the declaration proposal process, over 100 meetings were held with

stakeholders. For further details of meetings held, please see Attachment A.

The Government recognises that the Indigenous population has an enduring relationship with the country of Cape York Peninsula and, for this reason, consultation is focussed on meeting on country with Indigenous communities to receive direct feedback on proposals.

As part of the consultation process, the department engaged Balkanu Cape York Development Corporation to assist with and facilitate consultation with Traditional Owners and Indigenous communities within the three proposed wild river areas between June 2008 and November 2008. The fee for the contract was \$68,500 (GST Inclusive).

The Terms of Reference for the contract between the State Government and Balkanu Cape York Development Corporation stipulated the following services requirements from Balkanu:

1. To develop a clear project plan to clarify tasks, milestones, reporting arrangements and objectives required for a Consultancy to facilitate Indigenous participation in the Wild River Consultation program process;
2. Identify those Indigenous groups that have connections with the lands covered by the three basin areas;
3. Identification of resources, mapping and information required to assist Indigenous peoples and their representatives to make informed submission;
4. Organise and facilitate meetings between key representatives of those identified Indigenous groups and departmental staff. The purpose of these meetings was for the department to disseminate information on the wild rivers initiative, that is inform Traditional Owners and the Indigenous community of the wild river proposal, and identify the area to be covered by the wild river area. The professional contract service was to identify the Traditional Owner groups of the area, and identify any concerns regarding the proposal. There was to be at least one meeting with the representatives of traditional owners in each of the following areas:
 - Archer River Basin proposed Wild River Area;
 - Stewart River Basin proposed Wild River Area;
 - Lockhart River Basin proposed Wild River Area.

The department received a total of 3618 submissions. These submissions as well as the results of community consultation were considered by the Minister in making the decision to declare the three wild river areas.

In May 2009, consultation reports for each of the three wild river declarations were published. The reports provide information about the consultation process and include a summary of the issues raised in during the consultation process and how those issues have been dealt with.

Copies of the consultation reports, which are publicly available, are provided as Attachments B, C and D.

Importantly, a number of changes were made to the declarations as a result of the consultation process. These include:

For the Archer Basin wild river area:

- Additional protection was afforded to the wetlands that link the Love, Archer and Kirke rivers during the wet season by including these in the high preservation area.
- Attack Creek - which was proposed as a nominated waterway – was included as a major tributary and has been included in the high preservation area.

For the Stewart Basin wild river area:

- Little Stewart River has been included as a major tributary in the high preservation area. This was proposed as a nominated waterway.
- After analysis of Breakfast Creek, it was determined to reduce the high preservation area width to 500m each side of Breakfast Creek. This decision reflects a risk-based

approach that acknowledges there is still a high chance of preserving the integrity of the natural values and the Government commitment to advance Indigenous economic development.

For the Lockhart Basin wild river area:

- No changes were made to the Lockhart Basin Wild River Area.

Legislative changes were also made as a result of this consultation process including:

- The Wild Rivers Regulation was amended to allow for private boat ramps and jetties to be constructed for access to Indigenous lands.
- The Wild Rivers Act was amended in late 2010 to make clear that a market garden up to four hectares could be constructed in a high preservation area, or anywhere in a wild river area.
- Also in late 2010 the Water Act was amended to allow for in-stream extraction activities to occur where there are no suitable off-stream alternatives. This was in response to concerns raised by local governments about accessing such materials in remote locations.

As part of the wild river declaration proposal process, the department has undertaken, and continues to undertake, a comprehensive consultation program with all key stakeholders, particularly engaging with Traditional Owners and the Indigenous community. Consultation about wild rivers has been occurring with all stakeholders, particularly Traditional Owners and Indigenous communities on Cape York Peninsula, since 2006 and this continues to occur.

Additional amendments to the Wild Rivers Act are being progressed to establish Indigenous Reference Groups in response to issues raised by Indigenous communities and to ensure legitimate and representative advice is provided to the Minister on matters related to wild river areas and proposed wild river areas. For more detail, see Attachment E.

Response to Senator Furner

Senator Furner: *Have you got any statistics as a result of those development approvals? Has there been an increase in those 546-odd jobs since 2010? Do you have any figures in that respect at all?*

As indicated at the hearing, the Department of Environment and Resource Management has not undertaken such an analysis. The relevant department, being the Department of Employment, Economic Development and Innovation, was contacted and they advised that they do not routinely collect jobs data associated with development approvals.

However, there is information available in the public domain for two mining projects listed in those development approvals, the Lady Annie Mine and the mine of Legend International Holdings.

The Lady Annie Copper Mine, approved in the Gregory Wild River Area, is wholly owned by the Hong Kong based CST Mining Group Limited. It is their only Australian operation. The company's interim financial report indicated that to 30 September 2010, 174 staff were employed in Australia.

Legend International Holdings recently had a second mine lease approved by the Queensland Government (in April 2011). Information from the company's website estimates that this is likely to create over 1300 direct and indirect jobs throughout the initial construction phase.

Whilst there is no specific jobs data available for individual development approvals, the nature and extent of approvals is largely demonstrative of the continued broad-based economic activity in the Cape.

There have however, been an additional five Wild River Ranger positions contracted, bringing the total number of positions to 40.

Response to Senator Barnett

Senator Barnett: *Will you forward to the committee everything that is attached to that ministerial briefing note that you have in your possession?*

The Queensland Government provided a copy of briefing note CTS 02637/09 and attachments as part of its submission to the Inquiry in April 2010 and has resubmitted this information in Attachment F to this letter:

- A copy of the signed briefing note
- Attachment A to the briefing note - a discussion paper
- Attachment B to the briefing note - Table of Issues raised during consultation
- Attachment C to the briefing note - Media release
- Attachment D to the briefing note - Question and Answer sheet

The only Attachment to the briefing note not provided are the 3,618 individual stakeholder submissions. Issues raised are summarised in Attachment B to the briefing note.

The Archer Basin, Lockhart Basin and Stewart Basin wild river declarations were attached to the documents provided to the Governor-in-Council as part of that approval process. Accordingly, the original documents provided to the Governor-in-Council have not been provided to the Senate as these are Executive Council in confidence documents. However, the covers to the declarations with the Executive Council stamp indicating approval are provided as Attachment G. Copies of the declarations as approved by the Governor-in-Council and posted on the Department of Environment and Resource Management website are provided as Attachments H, I and J.

I would like to again thank the Senate Committee for the opportunity to comment on the proposed Commonwealth Bill.

Should you have any further queries please do not hesitate to contact me on telephone 07 3330 6303.

Yours sincerely

Debbie Best
Deputy Director-General
Water and Ecosystem Outcomes

Enc:	
Attachment A	List of consultation meetings
Attachment B	Archer Consultation Report
Attachment C	Lockhart Consultation Report
Attachment D	Stewart Consultation Report
Attachment E	Information on the Sustainable Cape Communities Initiative
Attachment F	CTS 02637/09 and attachments
Attachment G	Covers to the declarations with the Executive Council stamp
Attachment H	Archer Basin Wild River Declaration 2009
Attachment I	Lockhart Basin Wild River Declaration 2009
Attachment J	Stewart Basin Wild River Declaration 2009