Committee Secretary
Senate Legal and Constitutional Affairs Committee
Parliament House
Canberra ACT 2600

30 March 2010

Dear Secretary

Inquiry into the Wild Rivers (Environmental Management) Bill 2010 [No 2]

Thank you for the opportunity to make submission to the Committee's inquiry into the Wild Rivers (Environmental Management) Bill 2010 [No 2] ("the Bill") which seeks to over-ride the Queensland Government's Wild Rivers Act 2005.

It is now one year since the Queensland Government announced on 3 April 2009 that the Governor in Council had approved declarations of the Archer Basin Wild River Area, the Lockhart Basin Wild River Area and the Stewart Basin Wild River Area under the Wild Rivers Act.

These declarations were approved by the Governor in Council on 2 April 2009, only 12 days after the Queensland State election of 21 March 2009. The Minister who purportedly made the declarations, Stephen Robertson, had only been appointed as the responsible Minister 8 days before the declarations were made.

There is no evidence that 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.

The Queensland legislation provides for the following steps to be taken in making declarations of wild river areas:

> First step involves the Minister being required to publish a public notice of his intention to declare a wild river area (section 8).
>
> Second step involves the Minister being required to prepare a declaration proposal and publish a public notice of it and invite members of the public to make submissions (section 11).
>
> Third step involves the Minister being required to consider a range of matters including the results of community consultations and public submissions when making a declaration (section 13).
>
> Fourth steps involves the Minister declaring the wild river areas or deciding not to proceed with the declaration (section 15).

> Fifth step involves the Governor in Council approving the declaration and publication in the Government Gazette (section 17).

It is clear that the Minister who performs the function under section 15 must be the same person who has complied with section 13.

Prior to the 2009 Queensland Election the relevant Minister was Craig Wallace. From all of the information I have seen about the process leading up to the three Wild River declarations announced on 3 April 2009, it is clear that these declarations were prepared under the tenure of Minister Wallace. If the extremely important functions under section 13 – to consider the results of community consultations and public submissions – were ever performed, they could only have been performed by Minister Wallace prior to the election.

But the next step in the process, involving the decision to make the declaration under section 15, would also have to have been made by Minister Wallace. We do not know whether or not Minister Wallace executed the function under section 15.

The Queensland Government has since claimed that it was Minister Stephen Robertson who made the decision to declare under section 15 and he did this on 1 April 2009. As stated above, the Governor in Council approved the declarations under section 16 on 2 April 2009.

I believe that the Queensland Government's claim that the ministerial function under section 15 was exercised by Minister Robertson on 1 April 2009 is a post-facto fabrication of how the legislative steps were carried out. The Queensland Government's version of events is only credible if you reflect on the date they claim Minister Robertson made the declaration: April Fools Day.

It is clear from email correspondence obtained under Freedom of Information laws that the Archer, Lockhart and Stewart declarations were already proceeding to the Governor in Council on 30 March 2009, two days *before* they were supposedly declared by Minister Robertson on 1 April 2009.

Debbie Best, Deputy Director-General of the Water and Catchment Division, wrote to Tom Crothers and Scott Buchanan as follows:

> Can we have a Min brief re wild rivers decs – the three for Thursday just so Min and staff have an overview and can answer questions? Can we attach a draft media release plus Questions and answers to assist them?
> Thank you
> debbie

Scott Buchanan responded as follows:

> Debbie
> Can do. 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 CTS 01188/09, to approve the declarations proceeding to GIC.
> If this is the case, I propose that I will renew this CTS for the Minister's information and approval. Is that OK?
> Regards
> Scott

How does the Queensland Government expect indigenous peoples and the wider public to believe that Minister Robertson properly performed his functions under sections 13 and 15? How could the declarations be heading for the Governor in Council *before* the Minister had even made them? How could the Minister have properly performed his functions under section 13 and considered the submissions made by members of the public and the outcomes of community consultations in the short time he was Minister? The email from Debbie Best even indicates that as late as 30 March the Minister did not have a brief on these declarations in front of him.

Why is this important?

Apart from raising serious questions about the validity of the declarations that were announced by Premier Bligh in April 2009, the Wild Rivers Act and its implementation reeks of maladministration by those charged with legislative powers and responsibilities. The process of public consultation is exposed as a sham, the behaviour of public servants indistinguishable from that of political operatives in ministerial offices, and there is an absence of transparency and integrity in the way the way the legislation is administered.

It is not my intention is this submission to detail the history of maladministration of this legislation. I will only highlight two examples, which illustrate the injustice of the Wild Rivers Act and its implementation.

The first example is section 15 which reads as follows:

> **Deciding whether to make declaration**
> (1) After considering the matters mentioned in section 13 and any other matters the Minister considers appropriate, the Minister may—
> (a) declare the area to be a wild river area; or
> (b) decide not to proceed with declaration of the wild river area.
> (2) If the Minister decides not to proceed with the declaration, the Minister must publish a notice advising the decision and the reasons for the decision.

What this means is that the merits of a Minister's decision under section 15 is only reviewable if the Minister decides *not* to make a declaration. If he does decide to make a declaration the Minister does not have to provide any reasons for his decision.

This provision blatantly privileges the interests of those parties who want the Minister to make Wild River declarations in all circumstances, whilst leaving those parties that may have problems with proposed declarations – not the least the indigenous landowners whose lands are disproportionately affected by such declarations – with no ability to review the Minister's decision.

This effectively rules out judicial review of the Minister's decisions. In the usual course, environmental groups in particular, vigorously insist that such rights of review are available under legislation concerning land and resource management and development. However, the Wild Rivers Act provides a completely one-sided right of review which favours those environmental groups that desire declarations under the Act whilst disenfranchising the rest of the public that may wish to subject the Minister's decision to review.

The scales were already weighed against the interests of landowners and the wider public when the Wild Rivers Act was drafted in collusion between the Queensland Government, The Wilderness Society and certain other privileged environmental groups.

The second example concerns decisions about the width of buffer zones from river banks where activities are almost completely proscribed. Whilst the legislation contemplates that the width of buffer zones are to be determined by relevant scientific information pertaining to particular areas, and the views of members of the public elicited through community consultations and written submissions – there is reference in departmental documents obtained under Freedom of Information legislation that buffer zones relevant to mining and petroleum exploration activities were subject to an agreement struck between the Queensland Government, the Queensland Resources Council and The Wilderness Society.

The document, dated June 2008, outlines buffer zones between rivers and resource development activities and makes reference to an arrangement "as per original negotiated agreement between NRW, DPC, QRC and TWS".

No Aboriginal landowners or their organisations were aware of the existence of this agreement, and no-one knows the content of the agreement. To this day we have not seen a copy of this secret deal.

The 'no activity' buffer zones negotiated between the parties are far more lenient for miners than for indigenous interests – in some instances just 50 metres from a waterway in a preservation area.

How can landowners – not the least indigenous landowners – contribute fairly to a planning and community consultation process when key planning decisions such as the width of buffer zones are made through a separate process outside of the Act? The making of political deals between privileged stakeholder lobby groups – in this case the Queensland Resources Council and The Wilderness Society – subverts the entire planning process which is supposed to rely upon scientific information and is supposed to afford all members of the public an equal opportunity to put their case through submissions and consultations. The secret deal on buffer zones favouring the interests of the Queensland Resources Council makes a mockery of the planning and public consultation process.

The injustice of the Queensland Government's Wild Rivers legislation and the dishonourable treatment that it gives to the rights of indigenous landowners will not be rehearsed in my submission today. Cape York people and their organisations will provide details of this injustice and its effects on the rights of indigenous people when they have the opportunity to address the Committee at its hearing in Cairns on 13 April.

The truth of our contentions about the meaning of the Wild Rivers Act and its impact on the rights of indigenous people in Cape York Peninsula, and the immorality of it all, is best left to the more objective analysis that has been undertaken by Christian Church organisations that have conducted their own independent investigations. I am aware that the Queensland Government has been provided draft reports of this investigation, and they confirm the complaints of Cape York indigenous people. They put the lie to the spin and obfuscation of the Queensland Government and The

Wilderness Society that have sought to downplay the detriment to indigenous people and the injustice involved here.

There are three submissions that I wish to make the Committee in the limited time we have today.

1. **This Bill enhances the land rights of the native titleholders of Cape York Peninsula and enables them to negotiate with the Queensland Government so that they provide free and informed consent to arrangements to protect the rivers of Cape York Peninsula – and is consistent with the Keating Labor Government's commitment to the Mabo decision**

I will not get into the detailed argument about how the Queensland Wild Rivers Act offends the Commonwealth's Native Title Act 1993-1998, enacted by the Keating Labor Government as an act of historic justice in 1993. Greg McIntyre SC addresses one line of argument in his submission to this Committee on behalf of the Law Council of Australia.

I will only make one point. For the Queensland Government and environmental groups such as The Wilderness Society to maintain that the Queensland legislation does not affect native title and allows native title to be fully enjoyed, they must believe that native title is restricted to so-called "traditional" activities, confined to hunting and gathering. But in many cases native title is a full property right – analogous to freehold and entails all of the incidents and rights that flow from a right to exclusive possession of land. How are such full rights of property – such as those that exist in the Aurukun region that is subject to a determination of native title in favour of the Wik Peoples and now subject to the Archer Basin Wild River declaration – to be reconciled with the limitations and prohibitions mandated by the Wild Rivers Act?

It is only through a discriminatory, indeed racist, conception of native title that the Queensland Government and The Wilderness Society are able to insist that their scheme does not conflict with native title. The native title they have in mind is completely antediluvian and, to use the words of then Justice Brennan in the Mabo Case "frozen in an age of racial discrimination".

It is of course remarkable that this Bill – which enhances native title – is proposed by the conservative side of the Federal Parliament. However I am not surprised by this conservative initiative in favour of the economic development rights of indigenous landowners. The resistance of the conservative side to native title in the past resulted in amendments in 1998 during the Howard Coalition Government, which reduced the rights of native titleholders. The weakening of the rights of native titleholders vis a vis external development has had the perverse consequence of weakening the rights of native titleholders to undertake their own economic development. The conservative side of politics has woken late to this effect. However their initiative to remedy the diminution of native title rights is to be welcomed, whatever its history.

For anyone concerned to honour indigenous rights, especially their land rights, it is not a matter of who is proposing to honour and enhance the relevant rights, but whether the proposal does indeed achieve the honourable result. This Bill achieves this result.

2. This Bill is consistent with the Commonwealth Government's commitments as a signatory to the International Declaration on the Rights of Indigenous Peoples

The Queensland Wild Rivers Act also strike at the heart of the Commonwealth Government's commitment to the United Nations Declaration on the Rights of Indigenous Peoples.

The Cape York Wild River declarations were announced on the same day that the Commonwealth Government adopted the Declaration: 3 April 2009.

Last April, Indigenous Affairs Minister Jenny Macklin told federal parliament Labor had signed up to the Declaration after the previous government's policy had meant that Australia had been only one of four nations to refuse to endorse it in 2007.

She told parliament the Rudd Labor government's commitment was another important step towards re-setting relations between Indigenous and non-Indigenous Australians.

The Greens, similarly, supported the Declaration, including in their indigenous affairs platform the commitment to "pursue the conclusion of a multilateral convention based on the draft United Nations Declaration on the Rights of Indigenous Peoples and enact its provisions into Australian law". Synopses of the Greens and Labor policy platforms are attached to this submission.

Article 19 of the Declaration on the Rights of Indigenous Peoples states:

> 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.

And Article 32 states**:**

> Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

The Wild River laws contravene both of these articles. Free, prior and informed consent was not obtained from indigenous Cape York communities before the imposition of the three Declarations of the Lockhart, Stewart and Archer Basins in April 2009.

There is in Australian law a well established mechanism for governments and other parties to obtain the free, prior and informed consent of indigenous peoples in relation to matters affecting their lands – and that is Indigenous Land Use Agreements (ILUAs) under the Native Title Act.

The Queensland Government should have negotiated and settled ILUAs with native titleholders as part of the process of putting in place environmental protection provisions for rivers.

The consultation process was a sham, government officials either deliberately or ignorantly misled indigenous communities, and the outcomes were pre-determined.

The submissions of environment groups such as The Wildlife Preservation Society were acceded to – in particular their submission that the draft wild river areas should be extended in the Aurukun region to include the Aurukun wetlands – whilst the submissions from Aboriginal people were completely ignored. Attempts to secure more consultation were rejected by the Queensland Government, which was entirely acting at the behest of The Wilderness Society.

The sidelining of indigenous communities in the farcical consultation process has formed the basis of submissions by Cape York organisations to Queensland's Integrity and Accountability Review and the Crime and Misconduct Commission.

The Wild Rivers Act strips indigenous people of the right to determine and develop priorities and strategies for the development of their lands.

Land and water and the right to "speak for country" and to make decisions about country is at the core of Aboriginal tradition. Wild River declarations substantially remove the rights of traditional owners to speak for their country and place this responsibility with government bureaucrats and lobby groups.

This removal of indigenous people's rights is unjust and unnecessary.

While some may argue a case for overriding indigenous peoples' rights where there is an imminent threat to the environment and indigenous people are unable to implement appropriate measures themselves, this has not been the case on Cape York.

Cape York is not under threat and Indigenous people have amply demonstrated their commitment to conservation and have for many years successfully negotiated conservation arrangements with Government.

3. The Queensland Wild Rivers Act has derailed the indigenous reform agenda in Cape York Peninsula and this Bill will put our work back on track

The Wild Rivers laws undermine the Commonwealth Parliament's legislated indigenous welfare reform agenda, which has broad support across the federal political spectrum.

The notion that after twenty years of land rights gains and government progress that Aboriginal communities in Cape York Peninsula should be forced by the actions of a state government to contemplate a restrictive economic future shackling us to continuing welfare dependence is an outrage.

When the Queensland Government declared its first three Wild River Basins on Cape York Peninsula in April 2009, indigenous organisations commissioned detailed economic analysis of its impact by respected think-tank ACIL Tasman. A synopsis of that analysis is attached to this submission.

The conclusion of ACIL's research is dramatic and clear.

While it found the Wild Rivers Act 2005 was designed to protect the Cape York environment, the way it did so had severe consequences for the Cape's economy and increased the risk of perverse consequences for the environment.

Specifically, ACIL found that the Act disassociated itself from the well-established principle of Ecologically Sustainable Development (ESD) built up through the institutions of the United Nations, the World Conservation Union and Council of Australian Governments. Whilst ESD is the paradigm that governs development and environmental management elsewhere in Australia, the Wild Rivers Act subjects vast tracts of Cape York Peninsula to a preservationist regime, rather than a conservationist regime. The former approach eschews ESD.

ACIL also found the Act to be inconsistent with formal commitments made by the Queensland Government through the Cape York Heads of Agreement.

Cape York is not in need of saving. The Queensland Government acknowledges as much in its Explanatory Notes to the Wild Rivers Act, noting that**:**

> pressure to develop Cape York is 'limited' and 'little' development has historically taken place... *the level of future development is not expected to be high. Wild rivers tend to be in regions of the State where little development has occurred and generally have limited development pressure*. (italics added)

The impact on the Cape York Reform Agenda, however, is significant, ACIL notes. Our reform agenda which focuses on rebuilding individual responsibility, reciprocity and incentives, is designed to break widespread passive welfare dependence and build economic independence. To this end, the Commonwealth governments allocated $48 million over four years with a complementary commitment from the Queensland Government, aimed at creating opportunities through small business opportunities, education and job creation.

Yet the highly restrictive nature of the Wild Rivers Act, which imposes layers of red tape on communities and individuals seeking to self-start small-scale enterprises, mocks that progress and significant investment. They hurtle our reform initiatives backwards.

The most perverse effect of Queensland's Wild Rivers scheme is that it will make smaller scale environmentally sustainable developments more difficult, whilst at the same time not prevent large-scale industrial developments, such as mining.

Even before the Archer, Lockhart and Stewart Basin declarations were made the Queensland Government had excluded the vast bauxite mining leases around Weipa. The Comalco mine currently operated by Rio Tinto and the mine that is proposed to be developed by the Chinese Government-owned company, Chalco, near Aurukun – were completely exempted from Wild River declarations.

The Queensland Government claims that Wild River areas can be consistent with mining developments. So why weren't the areas held by Rio Tinto and the areas proposed to be granted to Chalco included within the Wild River declarations? After all, the lands held by the Wik people outside of these bauxite areas were made completely subject to Wild River declarations.

Perversely it will be large-scale external developers, able to pay their way through the heavy transaction costs imposed by the layers of red tape – and able to lobby their way around George Street, Brisbane – that will be able to operate in the future. Small-scale, environmentally sustainable development proposals by indigenous landowners will be too hard to even contemplate obtaining the countless approvals.

In conclusion, I urge the members of this Committee to see that this Bill is just and deserves the support of the Commonwealth Parliament. Requiring the Queensland Government to negotiate the consent of Aboriginal landowners in Cape York Peninsula – through ILUAs – will have the following results:

1. It will enable the good intentions of the Queensland legislation to ensure the protection and good management of the rivers of Cape York Peninsula – to be achieved. I agree with this outcome. All indigenous people in Cape York Peninsula that I know agree with this outcome.
2. It will enable Aboriginal landowners in Cape York Peninsula to negotiate appropriate terms with the Queensland Government to ensure that opportunities for economic development are not lost and that landowners are properly supported for their stewardship of the environment.

Why would Australians want to achieve via coercion and dishonourable means what can be achieved through honour and consent?

Noel Pearson
Director
Cape York Institute for Policy and Leadership

ATTACHMENT ONE

EXTRACTS FROM RESEARCH ON THE QUEENSLAND GOVERNMENT'S 2005 WILD RIVERS LEGISLATION

REPORT PREPARED BY ACIL TASMAN for BALKANU CAPE YORK DEVELOPMENT CORPORATION

The Wild Rivers Act 2005 (the Act) is designed to protect the Cape York environment. The way it does so has severe consequences for the Cape York economy and as a result increases the risk of perverse consequences for the environment. Specifically, the Act invokes the precautionary principle. In doing
so the Act disassociates itself from the well established practice of Ecologically Sustainable Development (ESD) built up through the institutions of the United Nations (UN), World Conservation Union (IUCN), and Council of Australian Governments (COAG). The Act is also inconsistent with formal commitments made by the Queensland Government through the Cape York Heads of Agreement. (page vi)

Wild Rivers Act is tougher than ecologically sustainable development
• Wild Rivers Act is injurious to property rights
• Wild Rivers Act unnecessarily restricts future development options
• Wild Rivers Act does not allow for assessments of non environmental values or the
cost of options foregone

• Wild Rivers Act increases the risk of poor conservation outcomes. (page vi)

- The strategy of the Queensland Government and some conservation groups

for handling the future of Cape York is profoundly pessimistic and risky. The strategy is to lock away much of the land by means of various legislation, in particular Wild Rivers legislation, with its connotations of land being devoid of human activity. This strategy assumes that the future of Cape York will be based on limited types of tourism and government transfers (green welfare) and that future residents will be unable to manage and develop land both to create wealth and preserve or indeed enhance the environment of Cape York.(page 7)

- Indigenous people have intimate connections with their land. They have both a

desire and an obligation to protect cultural and natural values. But the people of Cape York also wish to utilise their land for economic purposes. They believe that this can be compatible with protecting other values of the land. Multiple use land management is also consistent with the principles of ecologically sustainable development adopted by the wider community and governments. (page 8)

- Conservation has long been an objective of Indigenous land owners in Cape

York. More than a third of the total Cape York Indigenous estate is designated for conservation purposes.(page 8)

Precautionary Principle

Precaution is a natural response to uncertainty, particularly in light of dangerous and irreversible impacts of decision-making. A precautionary approach actively seeks to displace

uncertainty as a justification to deferring action that avoids harmful and irreversible consequences of decisions. (page 11)

- The Wild Rivers Act is clearly precautionary. Section three invokes precaution

as a primary concept within the Act itself: ... having a precautionary approach to minimise adverse effects on known natural values and reduce the possibility of adversely affecting poorly understood ecological functions ... (s3, 3, (b)) (page 19)

- The Wild Rivers Act specifically disassociates itself from ESD with the

Explanatory Notes to the Act stating:

The level of preservation sought for wild rivers, which have all or almost all of their natural

values intact, is higher than for ESD but below that generally provided in a national park. (Wild

Rivers Bill 2005: Explanatory Notes) (page 19)

- The Notes go on to establish the absolute importance of preservation:

*Hence it is necessary to clearly specify limits on resource allocations and activities **for***

the purpose of preserving the natural values of wild river systems. (page 20)

- This effectively unbundles the three equally important core principles of the

National Strategy for Ecologically Sustainable Development, of economic development, intergenerational equity and biological diversity. This is in violation of the Queensland Government's COAG commitments.

The Act is precautionary in its approach and it specifically disassociates itself from the well founded principles of ESD in a number of ways.(page 20)

- The Explanatory Notes recognise that pressure to develop Cape York is

'limited' and 'little' development has historically taken place:

... the level of future development is not expected to be high. Wild rivers tend to be in

regions of the State where little development has occurred and generally have limited development pressure. (Wild Rivers Bill 2005: Explanatory Notes)

- Further the Notes go on to acknowledge that these modest development

pressures are 'further limited' by existing vegetation clearing laws.
...Also future development in such areas is further limited by existing restrictions on vegetation clearing... (Wild Rivers Bill 2005: Explanatory Notes) (page 20)

- The Act fails to acknowledge the significant impact that Welfare Reform will

have on Cape York. Welfare Reform's focus on individual responsibility, reciprocity and incentives is designed to break widespread passive welfare dependence and boost individual economic independence. In support of this major reform, the Queensland and Australian Governments have contributed $100 million over four years. This commitment includes specific encouragement to communities and individuals to develop businesses that will broaden the Cape's economic base, in line with the consistent ESD principles detailed in the Cape York Heads of Agreement.
On this test the Wild Rivers Act is highly prescriptive. (pages 20/21)

- A proponent of a prohibited development in a HPA can seek to have the prohibited development assessed by lodging a Property Development Plan (PDP). Approval of the Plan **does** not result in approval to proceed. Rather the approved PDP forms the basis for a change to the initial Wild River Declaration.

Property Development Plan approval process

1. Property Development Plan (PDP) created
2. PDP assessed (including scientific review by independent board)
3. PDP approved
4. Proposal for change in Wild Rivers declaration
5. Public consultation
6. Assessment of the public consultation and decision to proceed or not
7. Change in Wild Rivers declaration
8. THEN, application for development can now be accepted (and will then need to

be assessed to ensure it meets any requirements under the relevant legislation).

- A proposal under a Plan must be assessed with reference to:

... the nature and extent of any other thing proposed to be done in addition to the activities, or the taking, that would result in a beneficial impact on the natural values of the relevant wild river ... (s31D, 1, (j)) (page 22)

- "A proposed plan would have to be submitted with a fee and assessed by an

independent panel of scientists who are expert in hydrology, geomorphology, water
quality, riparian function and wildlife movement. If I approve the plan, with or without conditions, I can then seek to amend the declaration through the current formal process, including public consultation and submission. Based on submissions,
I will then make a decision whether to amend the declaration. If the declaration is

amended the landholder will then have to submit applications for each development
and go through the normal assessment process under the Integrated Planning Act or
other relevant act. This means that the developments will have to meet the wild rivers
requirements. Also, all developments on the property over the next 10 years have to
be in accordance with the plan. This is to prevent the landholder later choosing to
capitalise on the amended declaration and apply to do something else". (The minister, Weekly
Hansard, 2007) (page 23)

- The singular focus on future enjoyment of the environment, at the expense of
future economic and social welfare, makes the Act heavily restrictive. (page 24)

- What the Act does is prohibit and regulate a wide range of lower level activities. The Act seems disproportionate in its response to the actual threats posed to Cape York as opposed to distant and uncertain threats. This necessarily imposes costs. (page 25)

- One particular matter is that many Indigenous people point out that they do
not know the aspirations of their children or grand children. If there is actually no current or foreseeable threat to the environment which makes the Wild Rivers Act necessary why limit options? (page 28)

- Injury to the rights of property owners is particularly relevant under Wild Rivers. Declaration of Wild Rivers and the high preservation zone is made regardless of the property type. Future options available to affected owners are potentially severely curtailed, yet the State makes no offer of restitution for these lost options. This is particularly significant as options are being restricted while tenure resolution is underway through State Land Dealings. (page 29)

- The Wild Rivers Act fails to recognise that Property owners have 'standing'
and are not simply unrelated third parties to the legislation and its direct impacts. Third party voices are given equal treatment and the Act has no basis to establish or differentiate the voices. These two points have particular resonance when considering the practical impact of a well funded, highly mobilised and vocal green constituency resident in southern Australia (i.e. Brisbane), that are granted equal standing to poorly resourced Indigenous land owners resident in remote Cape York.
(page 30).

- There is an ever expanding set of possible future limitations to ESD options in

Cape York. The Wild Rivers Act sets a dangerous precedent by radically departing from the well established and widely understood Australian commitment to the principles of ESD and their equally important foundational concepts. (page 31)

- The Wild Rivers Act is too narrowly focused. It assumes that the only potential

risks are environmental. Welfare Reform has demonstrated the risks associated with a lack of development and social engagement. These risks have also been shown to be intergenerational. (page 34)

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Full report available through Balkanu Cape York Development Corporation, 242 Sheridan Street, Cairns, Qld, 4870. Tel (07) 4019 6200; or ring Kerie Hull, 0417 073659

ATTACHMENT TWO

The Greens' policy on Indigenous Affairs - Extracts

Principles

The Australian Greens believe that:

2: Aboriginal and Torres Strait Islander people have a strong cultural and spiritual connection with the land, and their rights and obligations as owners and custodians must be respected.
3: Australia must comply with international agreements that recognise the rights of indigenous peoples.
4: Aboriginal and Torres Strait Islander people have a right to self determination and political representation, and must be partners in the development and implementation of public policies, programs and services that affect them.
6: Where Aboriginal and Torres Strait Islander Peoples have been dispossessed from their lands and waters, they have a right to redress through measures that assist them to acquire, own and/or manage their land and waters in a way that enhances their social, cultural, spiritual, economic and environmental wellbeing.
9: Governments must recognise the continuing effect of past treatment of Aboriginal and Torres Strait Islander people.

Goals

The Australian Greens want:

12: Equality of access to essential services and development opportunities within a decade.
14: Increased representation of Aboriginal and Torres Strait Islander people in all levels of government and other decision making roles.

Measures

The Australian Greens will:

36: Pursue the conclusion of a multilateral convention based on the draft United Nations Declaration on the Rights of Indigenous Peoples and enact its provisions into Australian law.

ATTACHMENT THREE

Federal Labor Party policy on Indigenous Affairs - Extracts

ALP Platform	
35:	Labor will work with state, territory and local governments to ensure that Indigenous Australians enjoy equitable access to essential services, amenities and infrastructure, including quality education. Labor will work through the COAG process to implement national strategies in the areas of Indigenous health, remote Indigenous housing, Indigenous early childhood development, Indigenous economic participation and remote service delivery. Labor supports a strong focus on better Indigenous outcomes being incorporated into mainstream funding and service delivery.
44:	Labor is committed to improving employment opportunities and the job readiness of Indigenous Australians. Labor has reformed the Community Development Employment Projects program and the Indigenous Employment Program to ensure more Indigenous Australians have the skills needed to gain employment. Labor will support government programs that enable more economic development opportunities for Indigenous Australians, including through public procurement.
47:	Central to our approach is building a more trusting and respectful relationship between Aboriginal and Torres Strait Islander people and other Australians. This relationship is crucial to our capacity to face the world as a united, peaceful and just nation.
52:	Labor has indicated formal support for the UN Declaration on the Rights of Indigenous Peoples. The Declaration affirms the entitlement of Indigenous peoples to all human rights and fundamental freedoms as recognised in international law. It also provides an aspirational and respectful framework for future dialogue. Australia's formal support was welcomed by the United Nations High Commissioner for Human Rights, key Indigenous UN experts and the Aboriginal and Torres Strait Islander Social Justice Commissioner. This support underlines Labor's desire to work in good faith with Indigenous peoples, acknowledging that our relationship will be tested and evolve over time.
53:	Labor is committed to compliance with the Racial Discrimination Act in the development of policies relating to Indigenous Australians.
56:	Labor understands that land and water are the basis of Indigenous spirituality, law, culture, economy and well-being. Native title and land rights are both symbols of social justice and valuable economic resources to Indigenous Australians.