



Kokoberrin Tribal Aboriginal Corporation

30th March 2010
Committee Secretary
Senate Legal and Constitutional Affairs Committee
Parliament House
Canberra ACT 2600
via email legcon.sen@aph.gov.au

Dear Secretary,

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

We are of the Kokoberrin of the Inkerman Station (Pinnarinch) area, east to the Staaten River national Park and north to adjoin the Nassau River and welcome the opportunity to make a submission to the Committee's inquiry into the Wild Rivers (Environmental Management) Bill 2010 (No2). We make this submission in our capacity as traditional owners of the Staaten River area. We are solely responsible for its contents.

In making a submission in support of the Bill, which seeks to override the Queensland government's Wild River laws, we have foremost in our minds an aspiration to break the welfare cycle and pave a future of opportunity and self-determination for our children and theirs.

Many of our senior people reside in Kowanyama and Normanton and have been the backbone to the customary lore and decision making of our religion. Our continued contribution to the arts and other cultural industries in Queensland rely on sustainable access to land and cultural practice, management of country and development of policy and implementation. The Wild Rivers Act has removed our native title right to negotiate land use and determine our future and that of our homelands.

In this submission we outline the paternalistic and without-aboriginal-consent approach taken by the Queensland Government.

In December 2005, a notice of intent to declare the Staaten Wild River Area was published in newspapers. The notice also advertised the availability of the Staaten Wild River Declaration Proposal for public comment and formal submissions. The submission period closed on 24 April 2006.

Throughout 2006, Government undertook negotiations with some stakeholders, but not traditional owners of the Staaten River, to resolve issues about the Act and the proposed declarations, resulting in Act amendments which received assent on 7 December 2006.

In response to a letter from the Kokoberrin Tribal Aboriginal Corporation to Premier Peter Beattie 8 August 2006 raising concern with the consultation process, Premier Beattie wrote to the Corporation on 26 September 2006 stating.

“As I stated publicly before the recent State election, the Staaten River will be declared along with the other five river systems currently nominated. The hold on future wild river nominations in Cape York applies to the other 13 potential wild rivers identified in the Australian Labor Party’s 2004 State election commitment.”

In this statement, the Premier made it clear that the election commitment was paramount and that neither the Minister nor Governor in Council were to exercise a discretion in relation to the Staaten River and that its declaration as a Wild River was a forgone conclusion due to an election commitment.

The 'notice of intention to declare' was subject of an application for review in the Supreme Court in November 2006 by one of the non-Indigenous landholding families on the Staaten River. The family claimed to have made solid efforts to negotiate with the Government on the declaration of the Staaten, but that it was ultimately ignored and consequently advanced to legal action in the Supreme court.

It is understood that one of the issues in the action was the failure of the Notice of Intent to state "the reasons for the proposed declaration" as required under s,8(2) (a) of the Wild Rivers Act. The Minister withdrew the 'notice of intent' and in December 2006 and a fresh notice of intent to declare the Staaten Wild River Area was published in newspapers. The notice advertised the availability of an updated Staaten Wild River Declaration Proposal for public comment and formal submissions with a closing date of 28 February 2007. When new legal action was flagged by the non-indigenous landholder the State promptly legislated to validate the declarations. This legislation removed the need to complete the second consultation process and removed the requirement for the Minister to table the wild river declaration documents in the Legislative Assembly or to prepare consultation reports. The Minister for Natural Resources and Water declared the Staaten Wild River area on the 30 January 2007, four weeks before public submissions closed, with the declaration taking effect on the 28 February 2007.

There was little scientific analysis and no social or economic analysis to support the declaration of the Staaten River as a wild river. There was virtually no consultation with traditional owners. We were denied the opportunity to seek Judicial Review of the declarations and were denied the opportunity to obtain information through the consultation report. We sought to understand which of our concerns (of traditional owners) had been considered and how they had been addressed. It is apparent from the process that the Minister was more concerned about meeting election commitments promised to conservation groups than considering the concerns of indigenous people.

On ABC television's "Cry Me A River" on Australian Story on the 28 May 2007- as young indigenous leaders from Cape York, we made the following statements about the declaration of the Staaten River:

"The fact is the Staaten River is on the traditional boundary between the Gulf and the Cape, and our people – the Kokoberrin of Cape York – are the traditional owners. There was no negotiation with the traditional owners, my family" (Shaun Edwards Kalk).

"To turn around and include it as a Gulf River and not consult the true traditional owners and not even doing research around seeing who are the Traditional Owners of the area, it's pathetic" Tania Major, Young Australian of the Year..

"I mean with all the evidence we have today, it's just really, it's really, it's amateur hour on behalf of the Government" Shaun Edwards Kalk.

"Me and my cousin Tania Major wrote a letter to the Premier Peter Beattie last year, expressing our concerns as traditional owners. In February the river was declared a Wild River, even before submissions had closed". Shaun Edwards Kalk

The Wilderness Society, on the 22nd February 2007 welcomed the announcement of the declarations of the Wild Rivers despite the process being contrary to their stated indigenous policies. The conservation sector, whose lifeblood rests with appeal rights had knowingly discarded these rights as they applied to indigenous people. This hypocrisy was not lost on Cape York people.

In conclusion, we believe the Wild Rivers is a legislative injustice which has serious implications for the Commonwealth's welfare reform agenda, and its relationship with all indigenous Australians. It was imposed after only token consultations - and without negotiations with indigenous people, in contravention of the spirit and intent of the Keating Labor Government's Native Title Act.

In her April 3 speech to Parliament in support of the Declaration, your Indigenous Affairs Minister, Jenny Macklin, stated: "We support indigenous peoples' aspiration to develop a level of economic independence so they can manage their own affairs, and maintain their strong culture and identity".

The Wild Rivers declarations on Cape York, including the Staaten grossly undermine those powerful aspirations of the Rudd government.

Unnecessary restrictions on the use of land under the Wild Rivers declarations help condemn our people to a continuing life of welfare; strip us of our hard-won right to speak and make decisions for our own country; and make a mockery of state and federal commitments to important welfare reform agendas.

We are conservators and want to be part of a river protection system, not locked out of a politically motivated regime with little scientific rigour, social or cultural consideration.

Yours sincerely,

Shaun Edwards
Director
Kokoberrin Tribal Aboriginal Corporation