



**LAMA LAMA
LAND TRUST**

C/O Gavin Bassani
Coen Post Office
Coen QLD 4871

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

31 March 2010

Dear Sir/Madam

RE:

Submission to the inquiry regarding the Wild River Environmental Management Bill 2010.

It is with great relief we the Lama Lama people, owners of much of the Stewart River basin, which was declared a Wild River area in 2009 without our consent, see leadership from the Federal Senate in line with the Commonwealth's constitutional responsibilities and internationally recognised standards. We are strongly in support of Commonwealth legislation which will prevent the arbitrary and unjust removal of the rights of indigenous people by State Governments under pressure from powerful interest groups.

In requiring the consent of traditional owners through enacting the Wild River, Environmental Management Bill, the Federal Government will address a gross injustice on indigenous people perpetrated by the declaration of the Stewart Basin Wild River Area.

The Queensland Government has over regulated our country against threats that do not exist, and in the process severely limited our ability to develop sustainable enterprises..

The Queensland Government has paid no regard to our ongoing environmental stewardship of these rivers. This is despite the clear evidence of our real commitment to conserving our country being shown only nine months earlier through the declaration of some 70% of our land as Nature Refuge and National Park.

It is most concerning that our issues which were raised with the Queensland Government through their public submission process prior to the Stewart River declaration, were almost entirely ignored (attached).

We believe that unless there is intervention from the Commonwealth on this matter, the rights of indigenous people will continue to be at the mercy of powerful lobby groups.

Yours sincerely

Gavin Bassani
Chair Lama Lama Land Trust

TRADITIONAL OWNER WILD RIVERS SUBMISSION – STEWART BASIN

To the Minister for Natural Resources and Water

We, as Traditional Owners of Country of the Stewart River basin hereby reject the Wild River nominations of our rivers.

We feel that Wild Rivers is wrong because it does not recognise that we have managed our rivers for thousands of years and will continue to manage our rivers. It does not recognise the connection between rivers and people.

We believe that we have recently given big outcomes for the Government and conservation. These outcomes include the Kulla National Park over the McIllwraith Range, the Lama Lama National Park and the Nature Refuge over Running Creek. We believe that it is unreasonable to expect us to give more land to conservation when our lands are not under threat from development and we can look after our country.

We believe that the Government has written the nomination of the Stewart River Basin without understanding our country, without visiting our country and without knowing the history of our country and therefore they have made many mistakes. We submit that the current nomination of the Stewart River Basin must be withdrawn as the documents have got too many things wrong.

We believe that the State has been biased in its presentation of the wild river nomination and fudged the information to force a wild rivers declaration over our lands. We don't believe that the State has justified its reasons for nominating our rivers as wild rivers.

We support the other indigenous people whose lands are affected by the proposed wild river nominations of the Archer and Lockhart River basins and submit that the general wild rivers issues set out in attachment B must be addressed. We believe that there are no imminent development threats to the nominated wild river basins and that there is no need to rush wild river declarations (also see [Http://wildrivers.org.au/rivers/cape/stewart_river](http://wildrivers.org.au/rivers/cape/stewart_river)). The State must put in place a suitable process to enable traditional owners and the State to resolve issues in relation to wild rivers. We submit that there must be no compulsory declarations of wild rivers and that any declarations of wild rivers must be with the support of traditional owners.

We have included with this submission a number of attachments which set out important issues relating to the wild rivers nominations and the overview report. These attachments include:

- Attachment A- General Issues in Relation to Wild Rivers
- Attachment B - Deficiencies in the nomination approach and documents
- Attachment C - Detailed Critique of the Stewart Basin Overview
- Attachment D – CYPLUS Maps & Vegetation photos (from Silver Plains)

Signed (attached)
Traditional Owners of the Stewart Basin
November 2008

STEWART BASIN - WILD RIVERS SUBMISSION

TRADITIONAL OWNER CONSENT

- Covering Stewart Basin Submission Letter
- Attachment A: General Issues in relation to Wild Rivers
- Attachment B: Deficiencies in the Nomination Approach and Documents
- Attachment C: Critique of the Stewart Basin Overview Report

Signature

Name:

JOSEPHINE KULLA KULLA

Clan:

Signature

Name:

YVONNE PORT

Clan:

Signature

Name:

Elaine Liddy

Clan:

Signature

Name:

Flornie Liddy

Clan:

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Name:

Clan:

KEITH LIDDY

Signature

Name:

Clan:

FLORE BISSANI

Signature

Name:

Clan:

MABEL LIDDY

Signature

Name:

Clan:

DAISY STEWART

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Name:

Clan:

Bobby Stewart

Signature

Name:

Clan:

ALISON FLODY

Signature

Name:

Clan:

BARBARA L. GIBSON

Signature

Name:

Clan:

KAREN LIDDY

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Name:

Clan:

CHRISTINE POET
LAMA LAMA.
HAZEL DANLO

Signature

Name:

Clan:

MI'GINTY SAKT
LAMA LAMA.

Signature

Name:

Clan:

Dennis SAKT
LAMA LAMA.

Signature

Name:

Clan:

GORDON PETER
LAMA LAMA

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Name:

Clan:

PADDY BASSANI

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Clan:

JAMES SPRATT

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Name:

Hlon CREEK

Clan:

Signature

Name:

Daniel Kyle

Clan:

Signature

Name:

MAURICE KYLE

Clan:

UMPILLAI

Signature

Name:

Clan:

UM PILLA

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Name:

Clan:

ABRAHAM UMEENO
UMALVA

Signature

Name: DAVID GEORGE "BEHALF OF PETER KYLO"

Clan: UROPINA

Signature

Name:

Clan:

Ayupathu

Signature

Name:

Clan:

G. Bassani
Lama Lama

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Signature KEVIN LIDDY

Name: _____

Clan: LAMALAMA

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Name:

Clan:

Signature _____

Name: DAVID PORT

Clan: lama lama

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Name:

Clan:

BARRY

LUMBA LUMBA.

Signature

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Clan:

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ATTACHMENT A:

GENERAL ISSUES IN RELATION TO WILD RIVERS.

- **The term "Wild" is offensive to many traditional owners.**

'Wild' is a term which has particular meanings in current debates around environmental management. It carries connotations of 'wilderness', a "desolate, uncultivated or uninhabited region" (Collins English Dictionary). With its connotations of uninhabited wilderness, the term "Wild" denies our continuing occupation and use of our traditional lands, landscapes which continue to be imbued with the cultural values of us as the traditional owners. We submit that the name of the Act must be changed.

- **The Wild Rivers Act and nominations fail to recognise the important cultural values that exist along rivers and how these cultural values are to be managed.**

The Wild Rivers Act is entirely skewed to values from an environmental perspective and fails to recognise the importance of our cultural values. For us, the values of our country and rivers, whether it is of an environmental, economic, social or cultural nature cannot be separated. -.

The State in the Wild Rivers Act and the nomination documents has failed to recognise the existence of the traditional owners our cultural values and our rights to make decisions about our lands and rivers. The nominated Wild Rivers areas of Cape York flow overwhelmingly across Aboriginal freehold land and lands where native title continues and yet the nomination material does not recognise our inherent role. We note that traditional owners and culture were at least recognised in the Gulf Wild River nomination material.

It distresses our people, particularly our elders, that cultural values and our rights to make decisions in relation to our land are not recognised.

- **The State has assessed natural values at the basin scale.**

The State has assessed natural values at the basin scale. The Wild Rivers Act applies to wild rivers and their catchments, it does not mention basins. We submit that the State must set out the reasons for the nomination of each wild river individually rather than set out the reasons for the nomination of the basin as a whole.

- **The nominations are based on scant information**

It is apparent that most of the nominations of the wild rivers are based on insufficient information and little or no field work. In particular the State has not consulted traditional owners in preparing the material on the natural values of the areas and has not taken advantage of the knowledge of the natural values of the rivers held by traditional owners. Also the State has not been rigorous in presenting the evidence for wild river nominations and therefore the evidence is flawed in many respects. Of particular importance the State has chosen to give little or no regard to several relevant studies. These studies include:

- the Wild and Undisturbed Rivers data and mapping of the Commonwealth Department of Environment and Heritage;
http://www.environment.gov.au/heritage/publications/anlr/idlists/gld_id_list.csv.
- The Catchment Disturbance Index work of Mackey, Nix and Hitchcock in The Natural Heritage Significance of Cape York Peninsula.
http://www.epa.qld.gov.au/publications/p00582aj.pdf/The_natural_heritage_significance_of_Cape_York_Peninsula.pdf

- The BRS catchment condition online mapping system
<http://www.brs.gov.au/mapserv/catchment/>

In all three proposal documents the natural values of the basin have been applied in a broad brush and very imprecise manner to all river systems within the basin rather than assessing each river and its catchment separately. For the current round, there have been thirteen wild rivers nominated across the three basins. The assessment and the evidence supporting the State's nomination is materially sparse. Little or no supporting scientific evidence in relation to the condition of their natural values has been put forward for the Kirke, Love, Chester, Rocky Rivers and Massy, Balclutha, Breakfast and Gorge Creeks.

- **Traditional Owners have already provided our green outcome**

The traditional owners of the Stewart and Lockhart River basins believe that we have already given a green outcome with the Macillwraith Range National Park, the nature refuge over Running (Gorge) Creek and Lama Lama National Park. There is a strong feeling that Wild Rivers moves well beyond the tenure partitioning deal that we signed up to.

The negotiation on the issue of land tenure was on the premise that Aboriginal Land would provide balance for both economic and conservation aspirations of our people. In introducing the legislation that paved the way for joint management conservation arrangements, the Cape York Peninsula Heritage Act (2007), the (then) premier, Peter Beattie said *"This bill provides for the identification of the significant natural and cultural values of Cape York Peninsula and cooperative and ecologically sustainable management of Cape York Peninsula. The Beattie government—my government—has demonstrated a strong commitment over several terms of government to managing economic, social and environmental issues on Cape York Peninsula. While finding a balance between these issues is a challenging task, I am pleased that some significant successes have been achieved in recent years."* It is essential that the Government continue this commitment to co-operation rather than compulsion and finding a balance between economic, social and environmental issues.

- **The application of the wild rivers zoning scheme to national parks is unnecessary and will complicate Joint Management arrangements;**

Joint management of National Parks has been a negotiated outcome between the State Government and the Traditional Owners. This partnership enables issues of environmental concern, from both the State and traditional owners perspective, to be addressed whilst also ensuring that our cultural values are recognised. The agreements in relation to the declaration of National Parks were made without reference to Wild Rivers. The additional requirements introduced, particularly the High Preservation Area (HPA) zoning did not feature as part of the negotiation.

We submit that HPAs be removed from the National Parks in Cape York on the basis that they unnecessarily complicate the process, were not part of the initial negotiations of Joint Managed National Parks and do not add any significant environmental protection.

- **The inference of the term "preservation"**

The vast majority of a wild rivers area is to be declared as a "preservation area". This word infers that the area is to remain unchanged, with no development, i.e. that it is to be preserved. We strongly object to this terminology and request that the government amend the Act and abolish the use of the term "preservation area".

- **Lack of consideration for vegetation changes as a result of the removal of traditional management practices**

We are concerned that vegetation in many areas of the Wild River areas is not in its natural state because of the removal of our traditional management practices. For example, an Elder from Rokeby in the Mungkan Kaanju National Park talks about how historically the vegetation was clear down to the river, traditional owners from Silver Plains recall changes to their vegetation, around Port Stewart and at Lockhart there is also significant change. Many traditional owners speak of the "feral forests" that are in areas close to the Archer River. The vegetation has changed as traditional management practices have been removed.

We as traditional owners are concerned that the Wild River Act will prohibit our traditional vegetation management practices, particularly within HPA's.

- **Unclear and convoluted restrictions within a HPA**

Even though NRW have actively consulted with us throughout the nomination period, the arrangements for clearing of vegetation within the HPA remains unclear and we believe may prevent or place onerous restrictions on clearing for such purposes as tourism infrastructure, cultural purposes, outstations and other buildings.

Whether we are establishing cattle properties on our land, setting up eco-tourism businesses, or simply living on Country at our outstations, the remoteness severely hampers our ability to access resources and expertise to work through a multitude of terms conditions and legislative requirements. The additional Wild Rivers requirements adds to our concerns. Traditional owners require an undertaking from government that the Wild Rivers Act will not unjustifiably impede our ability to utilise our country for economic or social advancement and will not add to the financial burden of crafting economically sustainable livings from our Country.

- **The construction of Private Jetties and Boat Ramps**

We oppose the prohibition on us building private jetties and boat ramps on our homelands, particularly those of us who are traditional owners for the nominated Wild Rivers around Aurukun where it is sometimes necessary to access our homeland by water. While we understand that the construction of a public jetty is permissible, this is an unacceptable solution as the public should not be able to visit homelands without Traditional Owner permission.

- **Market Gardens within High Preservation Areas**

Throughout the consultation period, we have been informed that the intention of Wild Rivers legislation is to protect the rivers from the adverse impacts of significant commercial ventures that may harm the inherent natural values. While we understand that it is permissible for us to grow agricultural products for our own consumption, we have also been told that the growing of agriculture products in a HPA for sale in the local communities or regional stores would constitute a breach of the legislation.

In terms of environmental impact, we maintain that whether the gardens in a HPA operate for domestic purposes or for small-scale commercial ventures are irrelevant. We submit that the State needs to specifically define terms such as commercial within the Act and ensure that the legislation does not impede small-scale economic outcomes for Indigenous families.

- **Commercial harvesting of vegetation in a HPA for the use in traditional Art and Craft Activities.**

We oppose unnecessary limitations on our harvesting of vegetation such as reeds from the rivers to be used in our traditional Art and Craft activities, irrespective of whether the harvest is used for personal use or is used to produce goods for sale. The use of reeds in our art and craft are traditional activities and are therefore part of our Native Title privilege. The end use of the good produced is irrelevant to us exercising our Native Title rights.

- **The prohibition of Aquaculture in High Preservation Areas.**

We require that the State reviews the total ban of Aquaculture within HPA's given that potential economic opportunities for Indigenous people may be severely hampered. Under the Queensland Fisheries Act 1994, aquaculture is defined as "the cultivation of live fisheries resources for sale other than in circumstances prescribed under a regulation." And crustaceans (S.5(a) prawns, crayfish, rock lobsters and others) and molluscs (S.5(b) scallops, oysters, pearl oysters and other molluscs) fit under the definition of fish and therefore would be prohibited within a HPA. This hinders the potential economic opportunity for traditional owners, particularly those whose country includes the mouth of rivers and estuaries such as in the Lockhart River where this issue was first raised..

In addition, the outright prohibition of Aquaculture within HPA's disregards the environmental improvements in the treatment of waste products from fish farming and the likely advances in the future of this ever-growing industry. Traditional owners will not agree to the automatic signing away of potential economic benefits of a product that may have no adverse environmental impact. We submit that the State needs to review the total prohibition of Aquaculture in HPA's as it may hamper a potential and viable economic benefit to Indigenous people of Cape York

- **The arbitrary application of HPA's.**

We object to the State's automatic application of the maximum level permissible of HPA's to our rivers. There has been no regard for the characteristics of particular rivers or any ecological reasoning used. Even with a cautionary approach, it is unreasonable to think that a small creek of some 20 metres wide would require a High Preservation Area 1km each side of the creek.

Throughout consultation, we have been told that if we had a legitimate reason for having the boundary of HPA's altered than we could have this considered by lodging submissions. We protest to the notion that the onus falls on the traditional owners to prove our case rather than the State providing a sound scientific rationale for the need and width of High Preservation Areas. If environmental protection is to be put in place we maintain that it must have a direct link to the nature of the area that it is protecting. A buffer of 1 kilometre along a small ephemeral creek is ridiculous and displays no regard for the underlying objective of the Wild Rivers Act.

While the Act states that it will be precautionary in affording protection to the natural values of a wild river, the level of protection is inconsistent with the approach of other Queensland legislation on watercourse management. For example, in the Regional Vegetation Management Code (Western Bioregions) Performance Requirement PR Xb.4 maps out the minimum barriers on clearing and it is relative to the width of a watercourse. The most stringent is for watercourses that are greater than 30 metres wide (stream order 5) – the clearing restriction for these is 200 metres from the high bank; 100 metres for watercourses 5 – 30 metres wide (stream order 3 or 4) and 50 metres for watercourses less than 5 metres wide.

The State must recognise that unnecessary and unjustified regulation increases costs for traditional owners and must provide justification and correlate the High Preservation Zone appropriately to each waterway.

- **Catchment condition**

The Wild Rivers Act at s. 3.3(c) states that the purpose of the Act is to be achieved by among other things "treating a wild river and its catchment as a single entity, linking the condition of the river to the health of the catchment". The State has not considered the health of the catchments of each of the proposed wild rivers in assessing the condition of the rivers. The State should have included catchment condition as one of the relevant natural values along with riparian function, wildlife corridor function etc.

- **Managing our Rivers.**

Irrespective of the declaration of areas as Wild Rivers and irrespective of the natural values of a river, environments don't manage themselves. Invasive weeds are continually spreading and threatening flora and fauna, significant erosion, water quality issues and vegetation damage is caused by feral animals (horses, pigs and cattle) and by roaming cattle.

There has been continual discussions regarding Wild River rangers but no ranger has been appointed to a Cape York river that is currently under nomination.

If the government is serious in achieving environmental outcomes in Cape York then we require that they enter into discussions on management plans including the commitment to infrastructure, resources, Indigenous employment and incorporating the use of traditional management practices. Without practical measures, the theory of protection outlined in an Act will remain just that – a theory and not reality.

We also request that the government provide resources for the preparation of Property Development Plans.

Additionally we seek that Government work with traditional owners and communities to address the issues of commercial fishing in rivers such as the Archer River

Therefore, we will not consent to any Wild River declaration without the government entering into negotiations on practical measures for the management of our waterways.

ATTACHMENT B:

DEFICIENCIES IN THE NOMINATION APPROACH AND DOCUMENTS.

1. The nomination documents are inherently flawed and misleading.

The assessment of Natural Values within the overview report is inherently flawed and misleading and is unacceptable. A more comprehensive critique is provided in the table at attachment C. The following table sets out some specific issues:

<p>Example 1 The State has apparently not considered the Wild and Undisturbed Rivers data and mapping of the Commonwealth Department of Environment and Heritage which indicates that some of the proposed wild rivers (eg Stewart River and Massy Creek) are disturbed for much of their length. See the following websites: http://www.environment.gov.au/heritage/publications/anlr/idlists/qld_id_list.csv. http://www.environment.gov.au/heritage/publications/anlr/maps-rdi/qldrdrdi.html http://www.environment.gov.au/heritage/publications/anlr/maps-id/qld-ins1-anno.html</p>
<p>Example 2. In the Archer River Overview Report the State refers to Abrahams et al and states that “the area has been assessed as of very high wilderness quality and is recognised for its near-natural condition and high conservation values”. On the other hand the State ignores the assessment of Abrahams et al that much of the Stewart River basin has moderate to low bio-physical naturalness, low wilderness value and is not of conservation significance. See Attachment 2 – CYPLUS conservation of significance maps with proposed Wild River area superimposed</p>
<p>Example 3. The State refers to Abrahams et al 1995 in relation to the importance of the riparian forests on the Archer River but fails to mention in the Stewart River nomination that there were no fish habitats of special interest or riparian environments of high conservation value identified by Abrahams et.</p>
<p>Example 4: On p 14 in relation to Water Quality there is the statement “Water Quality in the estuaries and creeks of the area was found to be excellent (NLWRA 2002: Herbert et al 1995) and this is recognized in the designation of the coastal areas as fish habitat reserve”. This statement is incorrect; the declaration of the fish habitat reserves was not related to the water quality in the proposed wild rivers.</p>

2. Assessment of values at the basin scale rather than the scale of each river and its catchment

The State has assessed natural values at the basin scale. The Wild Rivers Act applies to wild rivers and their catchments, it does not mention basins. We submit that the State must set out the reasons for the nomination of each wild river individually rather than set out the reasons for the nomination of the basin as a whole. Issues resulting from the basin wide assessment include:

- (a) It has incorrectly implied that values that relate to some rivers apply to all rivers across the basin.

Example:

The statement that "The proposed wild river area supports some of the greatest bird and mammal diversity in Cape York, providing further evidence of healthy wildlife corridor function (Abraham et al 1995)" The reference in Abraham was to the Mcillwraith Range area and is not relevant to those proposed wild rivers which do not have their headwater in the Mcillwraith Range. Abraham made no reference to the healthy wildlife corridor function and there is no scientific data to support the assertion that the high diversity of bird and mammal species in the Mcillwraith range area is as a result of healthy wildlife corridor function.

- (b) It glosses over issues which are significant to particular rivers

Example

P. 15 of the overview report states "Although clearing has occurred in the past, mainly in the Silver Plains area, mapping in 2001 indicated that approximately 99% of native vegetation cover remained (Accad et al 2003). This approach fails to recognize that vegetation disturbance and clearing may have significantly impacted on the natural values of the nominated rivers on Silver Plains such as Massy Creek and Breakfast Creek.

- (c) It has resulted in inaccuracies in the boundaries of the proposed wild river area. For example, the full stretch of coastal area within the Stewart River basin has been included in the Wild River area. Many of the smaller creeks should be excluded from the Wild River boundary as they do not contribute to the catchment of any of the nominated Wild Rivers flowing directly into the sea.

3. Catchment condition

The Wild Rivers Act at s. 3.3(c) states that the purpose of the Act is to be achieved by among other things "treating a wild river and its catchment as a single entity, linking the condition of the river to the health of the catchment"

The State has not considered the health of the catchments of each of the proposed wild rivers in assessing the condition of the rivers. The State should have included catchment condition as one of the relevant natural values along with riparian function, wildlife corridor function etc. In particular in relation to the Stewart River basin the State has ignored the following materials relevant to catchment condition:

The work of Mackey, Nix and Hitchcock in The Natural Heritage Significance of Cape York Peninsula re Catchment Disturbance Index for Cape York Peninsula (refer figure 6.5 on page 134) which indicates that most of the Stewart Basin has between moderate and higher potential disturbance.	http://www.epa.qld.gov.au/publications/p00582aj.pdf/The_natural_heritage_significance_of_Cape_York_Peninsula.pdf
The assessment of Abrahams et al 1995 that much of the Stewart River basin has moderate to low biophysical naturalness, low wilderness value and is not of conservation significance.	
BRS Catchment Condition online mapping system which shows the Stewart Basin as not having "better" catchment condition.	http://www.brs.gov.au/mapserv/catchment/

Particular issues in relation to catchment condition include:

- Clearing and grazing on Silver Plains. There has been significant clearing on Silver plains (attached photos), and large scale land clearing on Massy Creek (Herbert et al 1995 p.98). Anecdotal evidence is that there has also been heavy grazing pressure in this area;
- Feral animals (Erosion due to feral animal damage throughout the basin (Herbert et al 1995 – Massy Creek (p98), Terrible Creek, Stewart River (p107)
- Weeds (see weed density www.brs.gov.au)
- Removal of traditional fire management practices on the condition of the catchments of the nominated wild rivers.

4. Insufficient credible evidence and supporting material in substantiating the natural values of the basin's nominated Wild Rivers.

The nomination of the Stewart River basin is based on little or no field work and the supporting published material is sparse and ill-used. There is insufficient evidence in the documentation that the rivers are in fact "pristine" or "near pristine" and that they have "all or almost all of their natural values intact". This is particularly the case if one were to disregard those statements within the overview report which are misquotes, unsubstantiated or do not validly apply to the Stewart basin.

The nomination in the main relies on assumptions that natural values which apply to one or more proposed wild river will apply to all. Although there are some references to material which applies to the Stewart River, there is little or no referenced material which applies specifically to Massy Creek, Breakfast Creek, Balclutha Creek and Gorge Creeks.

Example 1. Hydrologic Processes

Other than the data from the Stewart River Gauging Station (which is not without issue) there are no supporting references. For example;

- “The natural cycles of low and high flows during the year are important to the health of the coastal wetlands, maintaining unique plant and animal communities”. This statement should have been referenced. What are the unique plant and animal communities? Are the coastal wetlands relevant to all of the proposed wild rivers or some?

Example 2. Geomorphic processes

There is only one supporting reference- this is to a very broad statement by the CRC Reef Research Centre 2003. There is no mention of the possible impacts of clearing and heavy grazing on Silver Plains on sediment deposition and erosion processes on some of the proposed wild rivers (eg Breakfast and Massy Creeks). Also the impacts of feral pigs are limited to “localised impacts”-

Mackey and Nix 2001 state that “Pigs cause high impacts on stream and flood environments and are highly disruptive to those environments” (Mackey and Nix et al p.169)

The statement that one of the two main land use practices has been conservation management is misleading. Timber Reserves are normally not regarded as “conservation management” and there has in fact been little conservation management of these areas.

Example 3. Water Quality

There are two supporting references in relation to water quality- NLWRA 2002 and Herbert et al 1995. The statement that water quality in the estuaries and creeks of the area was found to be excellent is misleading as there has in fact been little work done on water quality. Also the statement that the water quality is recognised in the designation of the coastal areas as fish habitat areas is incorrect.

1. It is noted that the BRS online mapping of catchment condition shows “moderate to poorer” suspended sediment ratio for the northern area of the basin which includes the Breakfast and Massy Creeks.
2. On behalf of the Traditional Owners, Balkanu requested that an independent assessment be completed to advise on the validity of the statement in the overview report that “*Water quality in the estuaries and creeks of the area was found to be excellent (NLWRA 2002; Herbert et al 1995) and this is recognized in*

the designation of the coastal areas as fish habitat areas". Natural Resource Assessment (NRA) undertook a desktop review of the Overview Report and associated water quality references, as well as additional desktop research. In part NRA considered data sourced from Herbert et al 1995 for the Stewart Basin. This data was collected in April 1993 at five sampling locations along the Stewart River and Station Creek (excluding Rocky River, Massy Creek, Breakfast Creek, Balclutha Creek and Gorge Creek). Three of the five sampling sites were located along the Port Stewart Road.

In particular NRA pointed out that :

- Results of samples collected in 1993 recorded electrical conductivity below guideline levels at all sites sampled;
- Total phosphorous was above guideline levels at all sites sampled in 1993;
- Total oxygen was recorded below the guideline range in two sites sampled in 1993, the sites were described as having low flow. Dissolved oxygen is sensitive to stagnation, and low dissolved oxygen results and low concentrations can indicate excessive organic loads in the system. Stagnant pools in intermittent streams naturally experience values of dissolved oxygen below 50% saturation (EPA 2006);
- pH was recorded below guideline values in a wetland site in 1993. EPA (2006) states that pH can be variable, and that values above 5 are not unexpected in stagnant pools;
- Data for Stewart River provided by the surface water data archive: WaterShed (DNRW) shows exceedances of guideline values in terms of pH, electrical conductivity, total phosphorus, dissolved oxygen, turbidity, soluble copper and soluble zinc.

NRA pointed out that the Stewart River is a seasonal stream with only a few permanent waterholes in the dry season (Herbert et al 1995). Water quality in seasonal streams is highly variable and guidelines are commonly exceeded in stagnant pools that remain during the dry season (EPA, 2006).

NRA conclusions included that

- This data alone does not allow a judgement to be made about the water quality in the Stewart River being "near natural" or "excellent" although the data may reflect near natural conditions".
- The data on the natural values in the Stewart Basin in the Overview Report is limited. To provide greater transparency in the assessment of the natural values of the Stewart Basin for the Wild River nomination, NRA suggests that a greater level of detail about the data and information behind the assessment should be made publicly available, prior to a decision being made on the declaration for the Stewart Basin under the Wild Rivers Act 2005"

Example 4. Riparian function

While analysis of aerial photos is important, there is only one supporting reference in relation to riparian function- Herbert et al 1995 and this reference is misleadingly misquoted.

Example 4 Wildlife Corridor Function

Wildlife corridor function is supported by four references:

- Accad et al 2003- The use of this is questionable as it brushes over the clearing on Silver Plains;
- Abraham et al 1995- This is a reference to the McIlwraith Range and does not apply to the whole wild river area.
- Herbert et al 1995- The overview document should have included more information, for example on which rivers did Herbert undertake the fish surveys, at what times and to what extent.
- Winter and Lethbridge 1994- The statement relating to movement between the east and west coasts applied to the Archer/Coen and Wenlock Rivers and not the rivers in the Stewart basin.

In addition to the above, there are incorrect statements such as “continuous dense streamside and basin-wide vegetation”.

5. State has applied the Act to the maximum without regard for the specific conditions of each nominated Wild River within the basin

The State has identified a high preservation zone of 1km either side of proposed wild rivers regardless of the natural values of the particular river. Of the five nominated waterways within the basin, four are creeks whose average width would range from 20 – 30 metres. The State has nominated a one kilometre High Preservation Area either side of these four minor waterways, 30 to 50 times their width. In nominating the maximum permissible under the legislation, the State has shown no regard for the specific natural values of these individual environments, no ecological or environmental reasoning is provided. This proposes conditions and restrictions on Aboriginal freehold land that are unnecessary and heavy handed.

6. The threats to the rivers in the Stewart River Basin

The overview report does not consider the threats to the Stewart River Basin and therefore has not properly set out the reasons for the proposed Wild River declaration. It is clear that there is currently little development threat to the Stewart River Basin. The Wilderness Society point out that major threats to the wild river values of this area include “encroaching invasive weeds such as Gamba Grass, growing number of feral pigs, and under-resourcing of protected areas. Cattle in the area can cause major soil erosion, trample vegetation and pollute river system”

[Http://wildrivers.org.au/rivers/cape/stewart_river](http://wildrivers.org.au/rivers/cape/stewart_river). These are all threats that the regulatory measures in the declaration of a wild river will have little impact but they are also threats that the statement of natural values in the overview report has paid little attention.

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Issue

Other information

P2	<p>Executive Summary – repeated use of the word “relative”</p> <p>Use of the term relatively, for example “relatively undisturbed ecosystems along the waterways and in the wider basin”. Riparian and wildlife corridor function is relatively intact p.2. Water quality is “relatively” natural p.2.</p>	<ul style="list-style-type: none"> • Relatively is an imprecise term. Relative to what? • The use of the word implies that the natural values referred to are not intact. 	<ul style="list-style-type: none"> • Webster’s Revised Unabridged dictionary defines relatively as “in relation or respect to something else” or “not absolutely”.
P13	<p>Hydrologic Processes</p>	<ul style="list-style-type: none"> • No supporting evidence provided in the report substantiating this natural value is intact 	<ul style="list-style-type: none"> •
P13	<p>Hydrologic Processes - Reference to the DNRW water gauging station recording little flow in the river from June through to September and higher flows occur from December to March.</p>	<ul style="list-style-type: none"> • The Stewart River is ephemeral. 	<ul style="list-style-type: none"> • Although the water recording station on the Stewart River does record little flow from June to September, traditional owners point out that the river does not flow at all for much of the year., is it possible that the “little flow” is below the surface ?
P13	<p>Hydrologic Processes - “The natural cycles of low and high flows during the year are important to the health of the coastal wetlands, maintaining unique plant and animal communities”</p>	<ul style="list-style-type: none"> • Sweeping statement as it is not referenced • Vague in its support of a natural value 	<ul style="list-style-type: none"> • What unique plant and animal communities and where do they occur ?
	<p>Hydrologic Processes – “Flow variability is important for many animals including fish species that require natural flood cycles to trigger breeding and reach particular habitats”</p>	<ul style="list-style-type: none"> • Generalised comment and not necessarily linked to the Stewart basin rivers. 	<ul style="list-style-type: none"> • Whilst not disputing that floods are important in triggering breeding and to reach particular habitats, there has been little work done on this for the Stewart River for example, which is dry much of the time. • State commissioned evaluation of CYPLUS reports and data (Chapter 3, The Natural Heritage Significance of Cape York Peninsula – Mackey, Nix and Hitchcock 2001) – a limitation highlighted in reference to the Herbert report is that “no ecological studies of freshwater fish fauna have been undertaken in Cape York Peninsula”
P14	<p>Geomorphic processes – “the delivery of sediment to the Great Barrier Reef resulting from current land use in the basin is “of minimal concern or low risk” to health of the reef” (CRC Reef Research Centre 2003)</p>	<ul style="list-style-type: none"> • Peninsula quote applied to a specific basin without reference 	<ul style="list-style-type: none"> • Evidence reported is a Cape York Peninsula rating not the Stewart River basin

ATTACHMENT C Stewart River Proposed Wild River Overview Report Reference	Issue	Other information
<p>P14</p> <p>Geomorphic processes -- "Relatively small amounts of quarry material extraction occurs in one area of the Stewart River. Also, road borrow pits, small abandoned mines, vehicle crossings and the activities of feral animals may have localised impacts on geomorphic processes"</p>	<ul style="list-style-type: none"> Inference is that erosion is localised within the Stewart River Fails to mention erosion issues for the other nominated rivers in the Stewart basin 	<ul style="list-style-type: none"> Reference is not acknowledged but most likely from Herbert et al No evidence provided to support the geomorphic processes for the other wild rivers (Massy Creek, Breakfast Creek, Balcutha Creek, Gorge Creek) is provided. Widely acknowledged by Traditional Owners and other authorities that feral animals and the related erosion impact is widespread in the Stewart River basin and for all of Cape York. Herbert et al 1995 also reported disturbance (due to pig digging) along Massy Creek in the surrounding gallery forest floors – this was not reported in the Overview report NLWRA 2008 – Cape York has the highest known abundance of feral pigs in Australia. Official estimates place the population at between 1 million and two million.
<p>P14</p> <p>Geomorphic processes - " however the main land-use practices of low intensity grazing and conservation management have resulted in little significant change to these processes"</p>	<ul style="list-style-type: none"> Misleading statement 	<ul style="list-style-type: none"> Anecdotal evidence is that the grazing on Silver Plains has not been low intensity and also Timber Reserves are not normally regarded as conservation management and there has been little conservation management of these areas.
<p>P14</p> <p>Water Quality – "Water Quality in the estuaries and creeks of the area was found to be excellent (NLWRA 2002; Herbert et al 1995) and this recognised in the designation of the coastal areas as fish habitat areas"</p>	<ul style="list-style-type: none"> One Specific area of study applied to the entire basin Inference that water quality is the only reason for fish habitat Cherry-picking of data - overlooking non supporting evidence within the same study. 	<ul style="list-style-type: none"> Fish habitats were declared long before the quoted studies / reports Fish habitats also exist in areas of Queensland where quality of the water is not so pristine (eg. Cairns/ Barron River basin) No evidence provided to support Water Quality natural values for the other nominated wild rivers (Massy Creek, Breakfast Creek, Balcutha Creek, Gorge Creek) BRS online mapping of catchment condition shows "moderate to poor" suspended sediment ratio for the northern area of the basin which includes the Breakfast and Massy Creeks. Source: <i>Dept of Agriculture, Fisheries, and Forestry (Bureau of Rural Science) http://www/brs.gov.au/cgi-bin/mapserv/</i>

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Issue

Other information

<p>P14</p>	<p>Water Quality – "Water Quality in the estuaries and creeks of the area was found to be excellent (MLWRA, 2002; Herbert et al 1995) and this recognised in the designation of the coastal areas as fish habitat areas"</p>	<ul style="list-style-type: none"> Balkanu requested an analysis of the water quality being "excellent" to be undertaken by Natural Resources Assessment (NRA) 	<ul style="list-style-type: none"> NRA undertook desktop review of the Overview Report and associated water quality references, as well as additional desktop research. From the Herbert study water testing results for Stewart basin, NRA pointed out <ul style="list-style-type: none"> Results of samples collected in 1993 recorded electrical conductivity below guideline levels at all sites sampled; Total phosphorous was above guideline levels at all sites sampled in 1993; Total oxygen was recorded below the guideline range in two sites sampled in 1993, the sites were described as having low flow. Dissolved oxygen is sensitive to stagnation, and low dissolved oxygen results and low concentrations can indicate excessive organic loads in the system. Stagnant pools in intermittent streams naturally experience values of dissolved oxygen below 50% saturation (EPA 2006); pH was recorded below guideline values in a wetland site in 1993. EPA (2006) states that pH can be variable, and that values above 5 are not unexpected in stagnant pools; <p>More detail on NRA's analysis is included in the Attachment B: Deficiencies in the Nomination Approach and Documents, of the Traditional Owner Stewart Basin Wild Rivers Submission</p>
<p>P2 P14</p>	<p>Water Quality Executive Summary (P2) "Water quality is relatively natural" Water Quality (P14) "Water quality in the estuaries and creeks of the area was found to be excellent"</p>	<ul style="list-style-type: none"> Inconsistent statements 	<ul style="list-style-type: none"> Inconsistency between "relatively natural and excellent. Which is it ?"
<p>P15</p>	<p>Riparian Function – "Thick rainforest and in the drier areas, woodland species, paperbarks and bottlebrushes extend down to the bed for much of the Stewart River"</p>	<ul style="list-style-type: none"> No mention of the riparian function for the other 4 wild rivers within the basin Misquoting source and over exaggerating the riparian forest for the Stewart River 	<ul style="list-style-type: none"> Quotes used from Herbert only apply to the Stewart River Herbert's study re Stewart <ul style="list-style-type: none"> No mention of Rainforest along Stewart River Woodland, paperbark trees and bottlebrushes – streams in the upper reaches of the McIlwraith range Bottlebrush – "only along flow channel" Gallery forest – "probably only near permanent accessible ground water" Drier areas – "consisted entirely of scrub or woodland"

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P15	Wildlife Corridor function – "continuous dense streamside and basin-wide vegetation"	<ul style="list-style-type: none"> Satellite images show that the streamside vegetation could not be considered dense in most areas 	<ul style="list-style-type: none"> Objection to the connotation that vegetation along the wild rivers in the basin is dense and basin wide. Clearing has been conducted particularly around the Silver plains area. Herbert et al 1995 refers to large scale clearing around Massy Creek. Traditional Owners also talk of the clearing around Port Stewart (the old Silver plains)
P15	Wildlife Corridor function – "supports some of the greatest bird and mammal diversity in Cape York, providing further evidence of healthy wildlife corridor function (Abraham et al 1995)"	<ul style="list-style-type: none"> Misquoting source Applying values of one area to entire basin No mention of evidence that may support another view 	<ul style="list-style-type: none"> Quotes apply to McIlwraith range and not entire Stewart River basin Two values from Abraham's CYPLUS report have been added together, inferring one value gives rise to the other which has not been reported in the Abraham's study. Abraham also quotes other values that may explain the diversity that does not point to migratory fauna (eg. endemic species, rainforest refugium, southern hot and dry plains major obstacle to rainforest biota) which overview report has failed to mention
P15	Wildlife Corridor function – although clearing has occurred in the past, mainly in the Silver Plains area, mapping in 2001 indicated that approximately 99% of native vegetation cover remained (Accad et al 2003)	<ul style="list-style-type: none"> Misleading information – does not assess the individually nominated wild rivers Implies that 99% of the vegetation at Silver plains remains Omission of information from a source that has been used to support other natural values / areas 	<ul style="list-style-type: none"> Fails to recognise that vegetation disturbance and clearing may have significantly impacted on the natural values of the nominated rivers on Silver Plains such as Massy Creek and Breakfast Creek Herbert et al 1995 (P.98) reports "large scale clearing has occurred east of Massy Creek but maintains the gallery forest" Photos taken around Silver Plains and satellite imagery indicate large scale clearing around the Silver Plains area.
P15	Wildlife Corridor function – "abundant wildlife corridors promote the free movement of species throughout the basin"	<ul style="list-style-type: none"> Applying the values of one area to the entire basin Fails to mention less supporting evidence of basin wide free movement of species such as natural barriers in southern area of Stewart basin 	<ul style="list-style-type: none"> Supporting evidence comes from Winter and Leihbridge (1994) and Abraham et al (1995) – only mention of Wildlife corridors within the Stewart basin is for the McIlwraith range. "south of McIlwraith Range are large dry and hot plains which have been a major obstacle to the spread of rainforest biota. Thus many species, particularly those of a New Guinea origin, reach their southern distribution limit in the area including at least thirteen bird species (19.2.18 McIlwraith – Lockhart area Abraham et al 1995)
P15	Wildlife Corridor function – "fish fauna surveys also indicate that in-stream corridors are functioning, and have no artificial barriers to fish passage" (Herbert et al 2005)	<ul style="list-style-type: none"> Inference that there has been studies of the in-stream functions Failure to acknowledge limitations of information and data gaps 	<ul style="list-style-type: none"> State evaluation of CYPLUS reports and data (Chapter 3, The Natural Heritage Significance of Cape York Peninsula – Mackey, Nix and Hitchcock 2001) – a limitation highlighted in reference to the Herbert report is that "no ecological studies of freshwater fish fauna have been undertaken in Cape York Peninsula" Herbert et al 1995 (P.19.2.5 – Data Gaps) – "predictions of possible effects on fish faunas and aquatic habitats cannot be made if the fundamental factors that affect breeding, distribution, inter and intra specific interaction, etc are not known. Likewise it is impossible to judge the apparent health of sections of aquatic ecosystems from a

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<p>P15</p>	<p>Wildlife Corridor function – "many of these areas act as an important refuge during the dry season and in times of flood. They also act as regional corridors, allowing movement between the east and west coast across Cape York" (Winter and Lethbridge 1994)</p>	<ul style="list-style-type: none"> • Quote is not applicable to any area of Stewart River basin 	<p>few visits"</p> <ul style="list-style-type: none"> • Winter and Lethbridge report do not mention Stewart river area as an area of wildlife corridor function significance (quote used was in relation to Wenlock and Coen-Archer corridor function) • Only attributable wildlife corridor function value to the references used is Abraham et al 1995 which mentions a north south wildlife corridor in the McIlwraith – Lockhart area (i.e. the north south running Lockhart River)
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