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18 February 2011

Via E-Mail: economics.reps@aph.gov.au

Committee Secretary
Standing Committee on Economics
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Dear Committee Secretary

**RE: INQUIRY INTO INDIGENOUS ECONOMIC DEVELOPMENT IN
QUEENSLAND AND REVIEW OF THE WILD RIVERS (ENVIRONMENTAL
MANAGEMENT) BILL 2010**

SUMMARY

The substance of Bana Yarralji's submission, should the Committee find opportunity to look through some of the detail of Marilyn Wallace and Bana Yarralji Bubu's experience, is that:

1. there have been many environmental and other administrative regulations imposed upon Nyungkalwarra going back to 1989 with the World Heritage listing, through to transfer of tenure to Queensland Parks and Wildlife Service, through local government planning laws, vegetation management laws .. ALL imposed without the agreement and informed consent of Nyungkalwarra

2. all of the environmental and other administrative regulations are having the effect of preventing Bana Yarralji Bubu Inc and the Nyungkalwarra families having an active presence on country, even to the extent of preventing Bana Yarralji from putting in basic infrastructure (toilet facilities) and actively 'Caring for Country' (ie Working on Country project)
3. none of the above needed to have been a constraint and burden upon Nyungkalwarra natural and cultural resource related economic development and enterprise, if the State (and the local government) had been willing to release some level of control over the lands and waters involved, and if it had been necessary for the State and others to first obtain the informed consent of people like Marilyn Wallace, her families, and the Nyungkalwarra .. prior to placing such complex, poorly and perhaps unfairly implemented web of regulation and administrative control over those lands (perhaps as a necessary condition to native title Indigenous Land Use Agreements being negotiated over those lands)
4. while the *Wild Rivers (Environmental Management) Bill 2010*, if implemented, is not likely to have any direct effect for Bana Yarralji and the Nyungkalwarra (on the already World Heritage listed Annan River catchment), the principle of prior informed consent contained within is likely to have driven Indigenous Land Use Agreement negotiators to have resolved many of the obstacles and regulatory difficulties experienced by Bana Yarralji and currently likely to prevent any effective Nyungkalwarra sustainable economic development on Aboriginal freehold lands being transferred to them (and their land trust – ie Jabalbina Yalanji Aboriginal Corporation)

PURPOSE

As a small Aboriginal community organisation:

- i. seeking to transform a Commonwealth funded Working on Country 'ranger' program into a viable, self-sustaining natural and cultural resource business on country
- ii. seeking to obtain all the approvals necessary to construct an Aboriginal ranger base / caravan park on Aboriginal freehold land along the Annan River (south of Cooktown)

Bana Yarralji Bubu Inc's executive officer wished to make her (and her corporations) particular experiences available to the Standing Committee on Economics:

- i. inquiry into Indigenous Economic Development in Queensland;

- ii. review of the Wild Rivers (Environmental Management) Bill 2010

BACKGROUND

Marilyn Wallace, the executive officer of Bana Yarralji Bubu Inc is a Nyungkalwarra woman holding primary native title rights to Nyungkalwarra lands in the northern most portion of the Eastern Yalanji native title determination area, Far North Queensland

(see Eastern Yalanji native title determination area here:
<http://www.jabalbina.com.au/YELLOW/ILUA%20map.pdf>)

Approximately 8 years ago, with the endorsement, encouragement and support of her family, armed only with a vision plus some "as yet to be determined" native title rights, Marilyn and her husband identified suitably flat, suitably cleared lands along the Annan River (an old cattle yard) onto which to move and subsequently build a home (now Lot 7, 873 Shiptons Flat Road, Helenvale)

The majority of the Nyungkalwarra lands from which Marilyn had to choose, to re-establish herself on country, are old tin mining areas, grazing areas, and forestry lands that were World Heritage listed as part of the north-east Queensland's wet tropical forests back in 1989, and are now mostly managed by Queensland's Department of Environment and Resource Management

Together with her husband (Peter Wallace), Marilyn Wallace formed Bana Yarralji Bubu Inc (an unfamiliar corporate structure) to formally obtain and hold the kinds of resources necessary to provide for Nyungkalwarra families, and restore Nyungkalwarra people to country.

Over some years, together with her husband (Peter Wallace), Marilyn Wallace successfully

- i. obtained Tropical and Far North Queensland TAFE support to provide Nyungkalwarra family Conservation and Land Management Training (CALM) on country

(approx. 15 Nyungkalwarra completed Certificate IV training by the end of 2008)
- ii. secured necessary funding, resources and assistance to build an ablutions block and put in basic infrastructure necessary to transform their flat piece of land (and home) into a ranger base and potential caravan park (auspiced by the Centre for Appropriate Technology)
- iii. applied for Working on Country project (commencing September 2009) taking long term unemployed

Nyungkalwarra families from Wujal Wujal CDEP, now employing approximately 10 Aboriginal rangers for up to four years delivering traditional knowledge based natural and cultural resource management services on country (auspiced by Balkanu Cape York Development Corporation)

(see copy of the application, plus summary of Bana Yarralji aspirations here:

<http://www.essolutions.com.au/Nyungkal/Features/Feature.aspx?FID=197>)

Since moving onto the land (Lot 7, , the block of land Bana Yarralji Bubu Inc is seeking to develop as a ranger base/ caravan park has been formally transferred to Aboriginal ownership, as inalienable Aboriginal freehold held by an Aboriginal land trust based some distance away (Jabalbina Yalanji Aboriginal Corporation) – as part of Indigenous Land Use Agreements constituting the Eastern Yalanji native title determination

Also, since moving onto the land, in seeking to provide for Nyungkalwarra families, and restore Nyungkalwarra to country, Marilyn Wallace, her husband (Peter Wallace), and Bana Yarralji Bubu Inc:

- a) have created a significant record of continuing, persistent effort and struggle to establish themselves and Nyungkalwarra families on country:
 - exploring the feasibility of cultural tourism,
 - searching to promote Aboriginal lore and on-country healing services,
 - striving to facilitate collaborative on country biocultural research; and
 - striving to secure whole range of other potential natural and cultural resource type contracts

- b) have gained much experience, encountered many obstacles, and have had to find their way through a considerable complex range of Commonwealth and State conservation and land use related legislation and regulations – including a continuing, extended multi-year effort to put toilets on the block on which they are living involving:
 - extensive, almost 4 years of ongoing assistance and project management from the Centre for Appropriate Technology;
 - extensive ongoing assistance and support from the Engineers without Borders

- extensive, ongoing, and very specialist pro-bono assistance (including specialist ecological assistance to deal with conservation zoning, conservation regulations, vegetation management legislation etc) from Aurecon
- ongoing pro-bono legal assistance and advice from Norton Rose

Also, over the time Marilyn Wallace, Peter Wallace and Bana Yarralji Bubu Inc have been struggling against considerable administrative hurdles and environmental obstacles to building a home, building a toilet block, securing formal tenure, and establishing a ranger base/caravan park to care for country:

- i. the ex-forestry timber reserves constituting the most of the Nyungalwarra lands around them have been transferred to Queensland Parks and Wildlife Service responsibility and control in anticipation of their becoming National Park in the future (without any genuine improvement in their actual natural and cultural resource management);
- ii. <http://www.essolutions.com.au/Nyungkal/Features/Feature.aspx?FID=197>the Queensland Government has successfully pushed to see the majority of Nyungalwarra lands around them (already World Heritage areas) formally gazetted as National Park and/or Nature Refuge - the push to obtain native title holder consent for which was a key impetus for the Eastern Yalanji native title determination

(the State positively insisting the new National Parks were NOT to be transferred to future Aboriginal ownership, and were to be exempted from provisions of the Cape York Heritage Act)
- iii. key natural and cultural assets within Nyungalwarra country, including some of the Nyungalwarra peoples most sacred waterfalls and waterholes are being progressively transferred to Queensland Parks and Wildlife Service management and/or Cook Shire Council management and control, establish a ranger base/caravan park, against the wishes of (and without the consent of) Nyungalwarra people;
- iv. the construction of a Bluestone Collingwood tin mining tailings dam was approved up the road from Marilyn and Peter Wallace's block, resulting in the building of a large, toxic tailings dam that is believed to have the bones of buried Nyungalwarra people within it's walls; annually releases tailings into the river from which Marilyn and Nyungalwarra families pump water, and has overflowed into the Annan River at least once since it's construction in 2004

(see video here to see Marilyn discussing this dam)

ADDRESSING INQUIRY'S TERMS OF REFERENCE

A. MATTERS REQUIRING ATTENTION

From the background above it is noted that while Bana Yarralji wishes to construct a base from which to heal people and care for country on a sustainable basis (including building a toilet):

i. it should be noted the overlays of Queensland vegetation mapping, local government conservation zoning (to match World Heritage listing), and the absolute administrative burden of obtaining all necessary approvals are well beyond the resources and capacity of all Nyungkalwarra

(and Bana Yarralji has only been able to get to put in rezoning applications, plus re-map vegetation etc, with the considerable pro-bono support .. worth well in excess of \$50 000 ..of Engineers without Borders, Aurecon, and Norton Rose)

ii. it should be noted that under current regulatory arrangements it is extremely unlikely that any other Nyungkalwarra will be able to meet all the requirements and establish their own cultural tourism or other infrastructure related enterprises on country (the regulatory burden and costs are complex, unfamiliar and prohibitive)

iii. it is also evident that while there are increasing levels of environmental regulation and law through which Bana Yarralji must negotiate it's way to building a toilet block etc, there is a clear perception and concern that these regulations are not well implemented on the ground, and, particularly in relation to Collinwood Tailings dam , they do not appear to apply equally, and with equal effect to all land users

(ie a mining company can obtain approval to build a tailings dam and release toxic waste into the Annan river – a world heritage listed river catchment – yet a small Aboriginal family organisation can not readily build a toilet block for a caring for country facility)

iv. it is also evident that there is some significant competition with both the State Department of Environment and Resource Management plus the Cook Shire over future access and use of key cultural assets (and significant story places ie Nyungkalwarra Yrrmbal – including particularly a number of waterfalls in the area), to the extent that Nyungkalwarra are effectively being robbed of long term sustainable benefit and use of these key 'assets'

B MATTERS TO REPORT UPON

The substance of Bana Yarralji's submission, should the Committee find opportunity to look through some of the detail of Marilyn Wallace and Bana Yarralji Bubu's experience, is that:

5. there have been many environmental and other administrative regulations imposed upon Nyungkalwarra going back to 1989 with the World Heritage listing, through to transfer of tenure to Queensland Parks and Wildlife Service, local government planning laws, vegetation management laws .. ALL imposed without the agreement and informed consent of Nyungkalwarra, very little of which was negotiable within Eastern Yalanji indigenous land use agreement discussions
6. all of the environmental and other administrative regulations are having the effect of preventing Bana Yarralji Bubu Inc and the Nyungkalwarra families having an active presence on country, even to the extent of preventing Bana Yarralji from putting in basic infrastructure (toilet facilities) and actively 'Caring for Country' (ie Working on Country project)
7. none of the above needed to have been a constraint and burden upon Nyungkalwarra natural and cultural resource related economic development and enterprise, if the State (and the local government) had been willing to release some level of control over the lands and waters involved, and if it had been necessary for the State and others to first obtain the informed consent of people like Marilyn Wallace, her families, and the Nyungkalwarra .. prior to placing such complex, poorly and perhaps unfairly implemented web of regulation and administrative control over those lands (perhaps as a necessary condition to native title Indigenous Land Use Agreements being negotiated over those lands)
8. while the Wild Rivers (Environmental Management) Bill 2010, if implemented, is not likely to have any direct effect for Bana Yarralji and the Nyungkalwarra (on the already World Heritage listed Annan River catchment), the principle of prior informed consent contained within is likely to have driven Indigenous Land Use Agreement negotiators to have resolved many of the obstacles and regulatory difficulties experienced by Bana Yarralji and currently likely to prevent any effective Nyungkalwarra sustainable economic development on Aboriginal freehold lands being transferred to them (and their land trust - ie Jabalbina Yalanji Aboriginal Corporation)

CONCLUSION

Marilyn Wallace and Bana Yarralji Bubu Inc feel they have had a lot of experience within the general field into which the committee is

inquiring, and, under the circumstances, Marilyn and Bana Yarralji are in a position to further and better assemble the material into a bit of a case study, if it would assist the committee with it's inquiry and the committee were interested in receiving such material

With kind regards and thanks for the opportunity to make this submission

Marilyn Wallace

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