



PO Box 523, Westcourt
Level 1 96-98 Lake St, Cairns
QLD 4870
ABN 44 369 362 831
ACN 1720
0409 155 207
ceo@olkola.com.au

Ms Jennifer Howard MP, Member for Ipswich
Chair of the Agriculture and Environment Committee
Parliament House, George Street
Brisbane Qld 4000

By email to: aec@parliament.qld.gov.au

Dear Minister

Re: *Nature Conservation and Other Legislation Amendment Bill 2015*

The Olkola Aboriginal Corporation represents the Olkola People and is the legal owner and manager of 4 protected areas in Cape York. We provide the following submissions to the proposed *Nature Conservation and Other Legislation Amendment Bill 2015* (the Bill).

Olkola generally supports the concept of reinstating 'conservation safeguards' into the *Nature Conservation Act 1992* (NCA), but not when this comes at the expense of Indigenous rights or involvement of Indigenous people in protected area management (such as proposed changes proposed in section 4 of the NCA). The stated policy objective of the Bill is '*to reverse changes made to the nature conservation and related legislation by the previous government*', namely under the *Nature Conservation and Other Legislation Amendment Act (No.2) 2013* (NCOLA No.2 2013). However the Bill concentrates only on reinstating 'conservation safeguards' removed by the previous government and does not address changes that have negatively impacted Indigenous management rights, particularly those relating to the Cape York specific tenure of *national park (Cape York Peninsula Aboriginal land) (NP (CYPAL))*.

We request that Government also look to reverse changes made in the NCOLA No.2 2013 that have negatively impacted 'Indigenous management rights', not just 'conservation safeguards'. Formal engagement with Indigenous groups involved in protected area management would provide government with a more rounded perspective on future development of policy and legislation for protected area management.

Aboriginal land trusts and corporations in Cape York are the legal owners of protected areas and need to have an interface with Government.

Olkola Aboriginal Corporation owns and manages protected areas on Olkola country, as do numerous other Traditional Owner groups under their land trusts and land owning corporations in Cape York through specific provisions in the NCA. It is these entities who are legally required to manage protected areas in accordance with the NCA, yet there has not been a consultation process with these landowners as part of legislative changes, or as a way to seek input into conservation policy development. (*note that Olkola was able to secure a briefing from Government officers in relation to the NCA changes only after hearing about proposed amendments from third party conservation groups*).

If government proposes to change legislation that will affect how a landowner is legally required to manage its protected area, it has a duty of care to ensure landowners are consulted and informed about proposed changes and we stress the need for this to happen in the future. Consultation with regional native title bodies is not sufficient in this regard as it is the individual land trusts and corporations who own and manage protected areas. We draw the attention of the Committee to the unfulfilled commitment under section 132A of the NCA to form a Regional Protected Areas Management Committee for Aboriginal landowners in Cape York for this specific purpose.

Reinstating the ‘*the conservation of nature*’ as the sole object of the NCA

A stated aim of this Bill is to ‘reinstating ‘*the conservation of nature*’ as the sole object of the NCA so that the preservation of the natural condition of national parks will take precedence over other objectives.’ As one of the existing objects in the Act is ‘*the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom*’, the Government, in its own words, is proposing to diminish the legal imperative to involve Indigenous people in management of their own traditional lands which are also protected areas.

We strongly oppose such an amendment, and request the retention of this in section 4. Removing this from the object of the Act is regressive and does not demonstrate a Government committed to protecting (let alone strengthening) the rights of Indigenous people to manage their own country.

Departmental staff at the Public Hearing on 11 November 2015 stated that:

“Removing the reference to involving Indigenous people in the management of protected areas from the object of the act does not detract from these existing provisions.”

However this is simply not the case. Interpreting certain provisions of the NCA will always involve consideration of the Act’s objects and purpose to provide context and legal meaning. For example the cardinal principle of national park management is to:

“provide, to the greatest possible extent, for the permanent preservation of the area’s natural condition and the protection of the area’s cultural resources and values.”

Read in context of the proposed new object of the Act, and indeed the stated intent (that ‘*the preservation of the natural condition of national parks will take precedence over other objectives*’) preservation of the area’s natural condition would be considered as taking precedence over *protection of the area’s cultural resources and values*, and indeed, diminishing the imperative to involve Indigenous people to do this.

Instead of removing *reference to involving Indigenous people in the management of protected areas* in the legislation’s objective, the Government should instead be looking at ways it can improve the existing joint management regimes and also ways it can increase the involvement of Indigenous people in management of their own land which comes under the NCA in a general sense. We would be happy to provide the Department with ideas on how this could occur.

Amendments to Special Management Area provisions

Part of the Bill looks to reinstate national park (scientific) as a protected area tenure, which is currently part of the Special Management Area (SMA) provisions introduced under the NCOLA No.2 2013.

SMA provisions introduced under the NCOLA No.2 2013 provide the Chief Executive with the unrestricted power to declare special management areas over NP (CYPAL) without application of the NP (CYPAL) management principles and without any requirement for consent or consultation with the registered legal owner of the land. Olkola does not oppose the reinstatement of national park (scientific) but seeks a commitment from the current government to either:

- make consent of the landowner of NP (CYPAL) a requirement for the declaration of a Special Management Area (controlled action); or
- remove NP (CYPAL) from the definition of a *prescribed national park* over which a Special Management Area (controlled action) can be declared.

Reinstating consultation requirements on amendments to management plans

This Bill proposes to increase transparency and proper consultation by removing the exemption from undertaking public consultation on amendments to management plans under the NCA, if the amendments are being made to provide consistency with government policy.

Olkola is not opposed to this amendment, but again we request that Government also look at reversing NCOLA No.2 2013 changes in relation to management plans that have negatively impacted Indigenous landowners of NP (CYPAL).

- The NCOLA No.2 2013 removed the legislated requirement to prepare management plans for NP (CYPAL) even though the Queensland Government is contractually required to do so under numerous Indigenous Management Agreements (IMAs) in Cape York, including with Olkola over Alwal NP (CYPAL). Olkola seeks clarification from the current Government if it intends to honour this contractual commitment or not.
- The NCOLA No.2 2013 also introduced provisions providing the Minister with the unilateral power to decide whether a NP (CYPAL) will have a management plan or not. We request that this be amended (section 112A) to reflect the nature of joint management, to ensure this decision is made *jointly* with the landowner and the Minister.
- The NCOLA No.2 2013 also introduced provisions allowing the Minister to amend a management plan for a NP (CYPAL) without the requirement of consent or even consultation with the landowner, despite the fact it is a requirement that they are prepared jointly. We request that section 120A be amended to reinstate the requirement for any amendments to a management plan over NP (CYPAL) to be prepared and decided upon *jointly* with the landowner and the Minister.

Reinstating management principles of particular protected areas

Due to concerns of environmental groups that the NCOLA No.2 2013 watered down the level of protection given to particular protected areas, this Bill will see the reinstatement of management principles for:

- a) national park (scientific)
- b) resource reserves; and
- c) conservation parks.

Olkola does not object to these changes, but again requests that Government also look at reversing changes to management principles that have negatively impacted Indigenous management rights.

The NCOLA No.2 2013 saw the ‘downgrading’ of the legal requirement to manage NP (CYPAL) in accordance with Aboriginal Tradition, in favour of additional considerations of ‘recreation’ and ‘tourism’. We request that this Bill be amended to also reverse these changes, and reinstate the previous hierarchy of management principles for NP (CYPAL) (under section 17 and 20 of the NCA).

Streamlining the process to convert regional parks to jointly managed national park (Cape York Peninsula Aboriginal land (CYPAL)).

A second objective of the Bill is to make it easier for regional parks to become transferable and be able to be converted to NP (CYPAL) in Cape York.

Olkola supports these amendments, noting that they will allow the regional parks on Olkola Country to become NP (CYPAL) (an existing contractual obligation of the State Government) in an easier and less resource intensive manner.

Amendment to the *Mineral Resources Act 1989* (MRA), Schedule 2 – definition of protected area

This has been amended to include conservation parks in the definition of ‘protected areas’ to ensure it is clear the MRA does not allow mining related activities to occur on the reinstated tenure of conservation parks. This definition should also be amended to include NP (CYPAL).

By excluding NP (CYPAL) under the current definition of a ‘protected area’ in the MRA, it arguably allows mineral resource extraction provisions to apply, which is inconsistent with section 27 of the NCA prohibiting mining on NP (CYPAL). We again request that NP (CYPAL) be considered and that the current Bill be amended to include NP (CYPAL) in this definition.

Please contact Philip Duffey at [REDACTED] or [REDACTED] if you have any enquiries about the contents of these submissions.

Amanda Hogbin



Chief Executive Officer
Olkola Aboriginal Corporation