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Ms Jennifer Howard MP,  
Chair of the Agriculture & Environment Committee  
Parliament House,  
George St, Brisbane  
Qld 4000

30 November 2015

[aec@parliament.qld.gov.au](mailto:aec@parliament.qld.gov.au)

Dear Committee

## Submission to the Queensland Parliament:

**Agriculture and Environment Committee's Inquiry into the *Nature Conservation and Other Legislation Amendment Bill 2015***

### Background

The Australian Conservation Foundation (ACF) welcomes the opportunity to make a submission to the Agriculture and Environment Committee regarding the proposed amendments to Queensland's *Nature Conservation Act 1992* (NCA).

ACF is a not-for-profit community organisation committed to inspiring people to achieve a healthy environment for all Australians. For 50 years we have been a strong voice for the environment, promoting solutions through research, consultation, education and partnerships. We work with the community, business and government to protect, restore and sustain our environment. In northern Australia, ACF works in partnership with Traditional Owners to deliver conservation outcomes and to support the development of culturally and ecologically sustainable economic opportunities.

ACF has a long and close history in the growth of Queensland's protected area estate. Together with many other individuals and organisations, we have championed the expansion of protected areas throughout Queensland. For the last ten years we have also worked closely with both Traditional Owners and the Queensland Government under the Cape York Peninsula Tenure Resolution Process to help deliver new national parks that are Aboriginal owned and jointly managed.

This submission largely follows the order and arrangement of proposed amendments as they are outlined in the Explanatory Notes for the aforementioned Bill.

### Summary of recommendations:

**Recommendation 1:** Retain as an objective of the NCA the allowance of '*the involvement of Indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom;*' as it reads under Part 2 Section 4(a).

**Recommendation 2:** For any national park in which the Queensland Government has entered into a joint management arrangement, particularly national park (Cape York Peninsula Aboriginal Land (CYPAL)), ensure that any amendments to management plans are jointly considered by State

and Traditional Owner parties consistent with the Indigenous Management Agreements that are already in place.

**Recommendation 3:** Include ‘national park (Cape York Peninsula Aboriginal Land)’ in the list of protected areas in schedule 2 of the Mineral Resources Act 1989 (MRA).

## Objects

ACF welcomes the reiteration that national parks are for the conservation of nature. The legislative framework provided by the NCA is Queensland’s premier piece of environmental legislation that underpins the protected area estate and commitment to protect biodiversity<sup>1</sup>. Strengthening the NCA’s intent and purpose is largely welcomed by ACF but we have concerns regarding the rights and interests of Traditional Owners.

As identified in Clause 4 of the Bill, proposed amendments to the Object of the NCA is the removal of subsection 4(a), (b) and (c). While ACF supports the removal of subsection (b) and (c), we believe that subsection 4 (a) should be retained as follows:

### 4 Object of Act

*The Object of this Act is the conservation of nature while allowing for -*

- (a) *the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom.*

The retention of subsection 4(a) in the NCA’s objectives has important symbolic meaning and practical application. For example, current commitments to expand the protected area estate are more likely to be supported by Traditional Owners while their interests are recognised within the Objects of the NCA. This is particularly important where there are Native Title interests in areas where the State is seeking an expansion in the national park estate.

Further, in 2009 the Australian Government adopted the United Nations Declaration on the Rights of Indigenous People. It is ACF policy<sup>2</sup> that the declaration of protected areas requires the informed consent of Traditional Owners. Expansion of the national park estate will become increasingly hard to justify without an explicit recognition that such expansions will not diminish the role of Traditional Owners in determining what happens on their country in newly protected areas.

**Recommendation 1:** Retain as an objective of the Nature Conservation Act the allowance of ‘*the involvement of Indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom;*’ as it reads under Part 2 Section 4(a).

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<sup>1</sup> Building Nature’s Resilience: a biodiversity strategy for Queensland, DERM, 2011.

<sup>2</sup> ACF Policy Statement 75: Free Prior & Informed Consent

[http://www.acfonline.org.au/sites/default/files/resources/75%20Free%20Prior%20and%20Informed%20Consent\\_Jul%2011.pdf](http://www.acfonline.org.au/sites/default/files/resources/75%20Free%20Prior%20and%20Informed%20Consent_Jul%2011.pdf)

## **Classes of Protected Area**

ACF is generally supportive of the proposed amendments that reintroduce the tenures outlined in Clause 6 of the Bill. However, it is ACF's view that the term 'resource reserve' is an inappropriate (and archaic) name for state-held land with conservation values. We welcome the introduction of conservation parks as an alternative to the above where applicable.

## **Management**

ACF welcomes the proposed changes to the NCA and other relevant legislation that require greater transparency and public consultation in amending management plans. However, we feel that this does not go far enough to restore the rights of Traditional Owners as they were prior to NCA amendments in 2013.

While the legal requirement to manage national park (CYPAL) in accordance with Aboriginal Tradition remains, its prominence was eroded as a result of the 2013 amendments to the NCA that favoured other uses.

Both the prioritisation of Traditional Owner rights over commercial interests and the importance of restoring consultation and transparency in the spirit of joint management, particularly national park (CYPAL), are areas for improvement in the current round of amendments or for Stage 2 of the amendments.

**Recommendation 2:** For any national park in which the Queensland Government has entered into a joint management arrangement, particularly national park (CYPAL), ensure that any amendments to management plans are jointly considered by State and Traditional Owner parties consistent with the Indigenous Management Agreements that are already in place.

## **Grazing**

ACF welcomes the removal of provisions that allowed the granting of stock grazing permits and the removal of rolling term lease provisions in specified national parks.

## **Related amendments to the Aboriginal Land Act 1991**

ACF is supportive of the changes proposed to the *Aboriginal Land Act 1991* (ALA) which are intended to streamline the process to return land to Traditional Owners on Cape York under the region's tenure resolution program.

## **Mineral Resources Act 1989**

In relation to the existing legislation and the currently proposed amendments to the MRA, it is important to include in this round of amendments the insertion of national park (CYPAL) as a definition of protected area.

**Recommendation 3:** Include 'national park (Cape York Peninsula Aboriginal Land)' in the list of protected areas in schedule 2 of the MRA.



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## **Other considerations**

ACF is concerned that this round of amendments did not address any of the previous government's amendments that diminished the rights and interests of Traditional Owners in relation to Queensland's protected area estate. It is imperative that the ongoing management and continued expansion of protected areas throughout Queensland is achieved in the most equitable way and does not come at the expense of Indigenous peoples' customary relationship with the land.

We hope that Stage 2 of amendments to the NCA will address a number of issues relating to Traditional Owner rights and interests, particularly on Cape York Peninsula, which we believe were eroded under the previous government.

Sincerely,



Andrew Picone,  
Northern Australia Program Officer  
ACF, Cairns

### **For more information:**

Andrew Picone | 

*The ACF community speaks out for a healthy environment, Australia's special places, climate action and for lasting social and economic change.*

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