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The Committee Secretary
Agriculture and Environment Committee
 Committee Office, Queensland Parliamentary Service
 Parliament House, Cnr George & Alice Streets, Brisbane Qld 4000
Via Email: aec@parliament.qld.gov.au

**RESPONSE TO THE NATURE CONSERVATION AND OTHER LEGISLATION
 AMENDMENT BILL 2015**

Cape York Natural Resource Management Ltd. (Cape York NRM) welcomes the opportunity to provide a response on *The Nature Conservation and Other Legislation Amendment Bill 2015* that was referred to the Agriculture and Environment Committee on Tuesday 27th October 2015 by the Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef (Hon Steven Miles).

Who we are:

Cape York NRM is the not-for-profit, community owned natural resource management body for the Cape York NRM Region. In addition to our conservation and sustainable land use work, we also partner with Cape York's traditional landholders and Indigenous Land and Sea Ranger groups to conduct cultural heritage management activities.

Community engagement and education (including distribution of information about legislation) is also an important part of our role on the Cape. In that regard, Cape York NRM works to ensure that land management complies with the principles of ecological sustainability. This includes the management of the protected estate, including national parks, as they often are protecting both significant ecological values and indigenous heritage values.

Cape York:

In terms of demographics, the latest census indicates that almost 60 per cent of Cape York's population is Indigenous. The total area of land transferred to Aboriginal ownership as Aboriginal freehold tenure is currently 3,225,486ha which includes a total area of 1,933,958 under National Park (CYPAL) and a total area of 259,758 ha under nature refuge/coordinated conservation agreement area.

We ask that you consider the following comments and suggestions on *The Nature Conservation and Other Legislation Amendment Bill 2015*.

- 1. Clause 5 –** We support 'the conservation of nature' as the primary object of the Act so that the preservation of the natural condition of national parks will take precedence over other objectives. However, we have serious concerns about the exclusion of the involvement of Traditional Custodians and their values as well as their proven land management practices in the management of national parks. Our reasoning is as follows.

The present Object of the Act is:

Section 4 - Object of Act

The object of this Act is the conservation of nature while allowing for the following-

- (a) the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or island custom;*
- (b) the use and enjoyment of protected areas by the community;*
- (c) the social, cultural and commercial use of protected areas in a way consistent with the natural and cultural and other values of the areas.*

As indicated above, Cape York NRM supports the intention to refocus the Act on the conservation of nature generally, and has no objection to subsection (b) being removed as an objective, and for subsection (c) being amended as indicated below. However, we have concerns about the removal of any specific reference to the role of indigenous peoples in pursuing this goal in the objects by the deletion of subsection (a). The High Court decisions in the Mabo and Wik cases made it clear that the sovereignty of Australia's indigenous people had never been extinguished. They'd never ceded it by treaty, or in any other way, nor were they recognized as citizens in the Constitution at Federation.

This means that Aboriginal or Torres Strait Island people may still retain the right to manage and control their country regardless of any subsequent Australian law, and should have the right to decide any management plans for National Parks on their country.

This is consistent with the United Nations Declaration on the Rights of Indigenous People, as adopted by the Australian government in 2009. Cape York NRM has adopted the principles underlying this Declaration in a policy which informs all of its work with the Traditional Custodians of Cape York's land and sea country.

We offer the following suggestions for changes to the Act to better reinforce the essential indigenous role in managing National Parks:

Either:

Proposed Amendment to Section 4 - Object of Act

The object of this Act is the conservation of nature and indigenous cultural heritage within protected areas in accordance with traditional indigenous cultural and land management practices for those areas.

or,

Section 4 - Object of the Act

The object of this Act is the conservation of nature.

Addition to Section 5 of the ACT - How object is to be achieved

The conservation of nature is to be achieved by an integrated and comprehensive conservation strategy for protected areas within the State that involves, among other things, the following—

- (f) adoption of traditional indigenous cultural and land management practices, as defined by the Traditional Owners or Native Title holders for a protected area in accordance with Aboriginal tradition and aspirations or Island custom and aspirations.*

(g) the social and cultural use of protected areas in a way consistent with the natural and cultural and other values of the areas

2. Section 11 of Act – Meaning of ecologically sustainable use –

We believe that this section should also be amended to better reflect the principles of ecologically sustainable development, as enshrined in the Commonwealth Government's National Strategy for Ecologically Sustainable Development (1992), rather than the very abbreviated version currently in the Act.

3. Clauses 6, 7, 8 and 9 of the Bill –

We support the proposed amendment to s14 of the Act and the reinstatement of the former national park (scientific), conservation park and resources reserve classes of protected area. We also support the associated management principles that restore the higher level of protection afforded to national parks (scientific) and clarify the management intent and uses that are appropriate for the other classes of protected areas. However, we are concerned that certain classes of protected area, in particular *nature refuges* and *coordinated conservation areas*, on which many landholders on Cape York rely for the conservation of areas of their country, have no specific protection under the proposed amendments.

The Ministers Second Reading speech stated "*Reinstating these classes of protected area will also provide better consistency with the International Union for Conservation of Nature categories of protected area*".

However, the classes of protected area could be better aligned with a number of the IUCN Protected Areas Categories. These categories are recognised by international bodies such as the United Nations and by many national governments as the global standard for defining and recording protected areas and as such are increasingly being incorporated into legislation elsewhere.

- Ia Strict Nature Reserve
- Ib Wilderness Area
- II National Park
- III Natural Monument or Feature
- IV Habitat/Species Management Area
- V Protected Landscape/seascape
- VI Protected area with sustainable use of natural resources

In particular Class IV Habitat/Species Management Area could be applied to some areas of the Cape York for better protection of iconic species.

4. Ecotourism facilities - Section 35 of the Act: We believe that wherever possible, ecotourism facilities should be located on some form of alternative tenure excised from the national park to avoid compromising the management principles of the park. Where this is not possible we believe that there should be a clear set of guidelines, a robust site specific assessment processes and the facility should be included in the Park's management plan.

5. Clause 29 of the Bill – We support the removal of Section 173S of the Act which allowed the chief executive to grant stock grazing permits for emergency drought relief in certain national parks. We do also recognise the animal welfare and economic imperatives which led to the inclusion of this provision in the Act.

In recent decades a significant number of Cape York grazing properties have been included in the National Estate as National Parks. We understand that in some cases purchases were made to create corridors, however landholders on Cape York question the logic behind the transfer in other cases of entire grazing leases

to National Park where only a portion of the area contains the high value ecosystems which are to be protected. This has a negative flow on economic and social impact. This is evident in terms of the loss of critical mass in the grazing industry on Cape York, reduced employment opportunities, a reduced rate base for local government, and significant reductions in population. There is also the issue of the cost to government of managing Cape York's National Parks.

It is our suggestion that the ecological assessment of the property on which the transfer of the land to the national estate was based could be revisited, and where appropriate, consideration could be given to excising portions of the area and their transfer back to grazing leases. Where the areas were not viable for grazing they could be offered for sale to neighbouring leaseholders.

6. Schedule 1 of Bill - Minor and consequential amendments – Mineral Resources Act 1989 (page 35) – the definition of “protected area” should also include national parks held under Cape York Peninsula Aboriginal land (CYPAL) tenure.

In conclusion, Cape York NRM and its members appreciate the opportunity to provide comment on this Bill. It has such the potential to have a significant impact on the large portion of Cape York which has been included in the protected area estate.

Our main concerns with the proposed amendments are:

- their potential to impact negatively on the State government's relationships with Cape York's Traditional Owners. To that effect we believe that the Act should include explicit recognition of their rights to determine what happens on their country, and
- that they are consistent with the principles of ecologically sustainable development.

If you have any queries relating to this submission or would like us to provide further information, please feel free to contact me on [REDACTED] or by email at [REDACTED]

Yours sincerely



Bob Frazer
CEO