



North Queensland Land Council

Native Title Representative Body Aboriginal Corporation

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2 July 2012

Agriculture, Resources and Environment Committee
Parliament House
George Street
BRISBANE QLD 4000

By email: arec@parliament.qld.gov.au

Attention: Mr Ian Rickuss MP, Chair of Agriculture, Resources and Environment Committee

CC Minister for Agriculture, Fisheries and Forestry
daff@ministerial.qld.gov.au

Robert Hansen, Research Director
Robert.Hansen@parliament.qld.gov.au

Dear Sirs,

Re: *Animal Care and Protection and Other Legislation Amendment Bill 2012*

We write in relation to the *Animal Care and Protection and Other Legislation Amendment Bill 2012*, tabled in Parliament on 19 June 2012.

We are a Native Title Representative Body in the North Queensland area. On Thursday 28 and Friday 29 June, we hosted the third annual Sea Country Management Forum, funded by the Commonwealth Government. Approximately 120 people, representing seven Indigenous groups in the North Queensland area, attended the forum, and raised significant concerns about the Bill. The groups represented were Wanyurr Majay, Djiru, Mandingalbay Yidinji, Gunggandji, Yirrigandji and Gimuy Malubarra Yidinji.

Request for further consultation with NQLC

We request, noting the short timeframe available before the Committee reports to the Assembly, that the Committee include in its report statements that the North Queensland Land Council (NQLC), on behalf of the groups represented at the Sea Country Management Forum:

1. has significant concerns with the Bill in its current form, in relation to both its premise and the specific language used;
2. seeks an opportunity to meet with the Minister and/or the Committee to discuss our concerns, and proposed amendments, before the Bill returns to the floor of the Assembly.
3. is disappointed that the Committee has not sought public submissions in the course of its inquiry into the Bill;
4. intends to provide a written submission, for the Minister's consideration, in the coming days, which details our concerns and the resolutions passed at the Sea Country Management Forum supporting amendments to the Bill.

Outline of substantive concerns

Noting that we seek the opportunity to make more complete submissions, we flag here some of our particular concerns with the Bill in its current form.

Generally, participants in the Forum believed that the Bill misunderstands and disrespects traditional laws and custom. It is the wrong means by which to prevent the rare cases of animal cruelty that have been reported (sometimes misleadingly) in the media in recent months, because it threatens the legality of all traditional hunting. The Forum resolved that an exemption in the *Animal Care and Protection Act 2001* for hunting conducted in accordance with traditional laws and customs should be preserved.

We are of the belief (which was shared by participants at the Forum) that the Bill significantly impairs native title hunting rights. Despite assurances that the Bill does not extinguish these rights, we submit that it may do so in substance. If native title holders cannot hunt in ways that accord with their traditional law and custom, their rights to hunt may be rendered meaningless.

Moreover, the language and standards applied in the Bill are very subjective, and therefore susceptible to misapplication. For example, Clause 10, regarding the proposed s 41A, includes the following words:

(2) it is an offence exemption for the offence if the act is done in a way that causes the animal as little pain as is reasonable.

Participants in the Forum doubted whether non-Indigenous people who lack knowledge and experience in hunting animals such as turtles or dugongs can have any appreciation of what levels of pain might be 'reasonable' under s 41A(2). It was also doubted whether there is any adequate method to determine how much pain an animal is suffering.

The Forum further said that it is inappropriate that a person charged with an offence should have the onus to prove that an animal has been killed in a way that causes as little pain as possible. It was resolved that the Bill should be amended to state that it is presumed that a person fishing in accordance with traditional law or custom falls within the scope of the exemption in s 41A(2). This would put the onus on the State of Queensland to prove that the hunting method was not reasonable.

We would appreciate if a representative of the Committee or the Minister could contact Cameron Winnett at NQLC on (07) 4042 7000 or CWinnett@nqlc.com.au to provide a copy of the Committee Report and to discuss our request for further consultation.

Yours faithfully,

Kym Elston
Director of Legal Service, Research & Policy
North Queensland Land Council