

# CARPENTARIA LAND COUNCIL ABORIGINAL CORPORATION

ABN 99 121 997 933 - ICN 268

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13 September 2013

Health and Community Services Committee  
Parliament House  
Brisbane Qld 4000

By email: [hcsc@parliament.qld.gov.au](mailto:hcsc@parliament.qld.gov.au)

Dear Health and Community Services Committee

**Submission to the Inquiry into the Nature Conservation and Other Legislation  
Amendment Bill (No.2) 2013: Health and Community Services Committee**

Please find enclosed the Carpentaria Land Council Aboriginal Corporation's submission in relation to the Inquiry into the Nature Conservation and Other Legislation Amendment Bill (No.2) 2013: Health and Community Services Committee.

Should you have any queries regarding this submission please contact Helen Tait on

Yours faithfully

**HELEN TAIT**  
Chief Executive Officer

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## Carpentaria Land Council Aboriginal Corporation

**Submission to the Inquiry into the *Nature Conservation and  
Other Legislation Amendment Bill (No.2) 2013*: Health and  
Community Services Committee**

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### Introduction

The Honorable Steven Dickson MP, Minister for National Parks, Recreation, Sport and Racing introduced the *Nature Conservation and Other Legislation Amendment Bill (No.2) 2013* ("the Bill") into the Legislative Assembly on 20 August 2013. The Bill has been referred to the Health and Community Services Committee for consideration and a report back to Parliament by 9 October 2013.

The Bill amends the *Nature Conservation Act 1992* and related legislation.

The Bill's stated objectives are to:

- a. increase access to national parks and other public lands;
- b. achieve red tape reduction, and
- c. streamline legislative processes.<sup>1</sup>

Carpentaria Land Council Aboriginal Corporation (CLCAC) welcomes the opportunity to comment on the Bill.

### Background - CLCAC

CLCAC was established in 1982 to represent the rights and interests of Traditional Owners in the southern Gulf of Carpentaria. CLCAC's members are drawn from the nine Aboriginal language groups whose traditional lands and waters are located in the Gulf.

On 30 June 1994, CLCAC was recognised as the native title representative body under the *Native Title Act* for the Gulf of Carpentaria Region. The area represented by CLCAC encompasses land and waters from the Northern Territory border to east of Normanton, and includes the Wellesley Islands. Today, CLCAC is the largest and most eminent corporate entity representing the rights and interests of traditional owner groups in the southern Gulf of Carpentaria.

The formal objectives of the CLCAC include facilitating the return of traditional lands and waters and obtaining secure title to those lands and waters. Significantly, our objectives also include developing commercial and other enterprises associated with the use and management of land and waters, and taking steps to achieve and promote economic development for Aboriginal people in the lower Gulf.

In 2007 CLCAC formally established a Land and Sea Management Unit as an extension of its role as a native title service body. Current and prospective Aboriginal ownership of significant areas of land in the Gulf region means that Traditional Owners now have both the opportunity and responsibility to manage and protect their traditional lands.

CLCAC's Land and Sea Unit undertakes land and sea management activities that enhance the protection and management of natural resources in the southern Gulf for the long-term benefit of Traditional Owners groups and communities. It also aims to build on these activities to establish and maintain fee-for-service initiatives that

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<sup>1</sup> *Nature Conservation and Other Legislation Amendment Bill (No.2) 2013* Explanatory Notes; available at: <http://www.parliament.qld.gov.au/work-of-committees/committees/HCSC/inquiries/current-inquiries/NatureCon2-2013>

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CARPENTARIA LAND COUNCIL ABORIGINAL CORPORATION

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generate sustainable employment and economic development opportunities for Indigenous communities and contribute to effective land and sea management.

**Protected areas in CLCAC's representative body area**

The following protected areas are located within CLCAC's representative body area:

- a. Boodjamulla (Lawn Hill) National Park – Boodjamilla (Lawn Hill) National Park lies within the Waanyi People's native title determination area. Non-exclusive native title rights and interests have been determined to exist over the Park.<sup>2</sup> The Waanyi native title holders and the State have entered into an Indigenous Land Use Agreement (ILUA). An Indigenous joint management plan was developed but has now expired.
- b. Finucane Island National Park – Finucane Island National Park lies within the area of land and waters currently claimed by the Gangalidda & Garawa Peoples. There exists an informal joint management plan between CLCAC and the Department of National Parks, Recreation, Sport and Racing, with CLCAC Rangers providing important land management assistance.
- c. Staaten River National Park – Staaten River National Park lies within the traditional land and waters of the Kurtijar People.
- d. Mutton Hole Wetland Conservation Park – Mutton Hole Wetland Conservation Park lies within the area of land and waters claimed by the Gkuthaarn & Kukatj Peoples and within the traditional land and waters of the Kurtijar People. Although no formal plan of management exists, CLCAC Rangers are heavily involved in informal management activities.

**Native title and joint management for protected areas – current arrangements**

The current arrangements for Indigenous joint management of protected and other conservation areas in Queensland are complex. This complexity is brought about by the existence of a range of tenures, a range of policy documents and the fact that more than one statute deals with Indigenous interests in the management of national parks. Provisions relating to the management of national parks have also been included in a number of ILUAs registered under the *Native Title Act 1993*. The *Native Title Act* provides a legislative framework for recognising native title rights and interests, with the courts having determined that parks and forest legislation in Australia does not generally manifest an intention to extinguish native title.

In Queensland, the *Nature Conservation Act 1992* recognises Indigenous interests in the management of national parks only in basic terms, with protected areas "to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area".<sup>3</sup> Part 4, Division 3 of the *Nature Conservation Act* allows for the dedication of a national park as National Park Aboriginal Land (NPAL). The Act does not provide for Indigenous joint management.

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<sup>2</sup> See *Aplin on behalf of the Waanyi Peoples v State of Queensland (No 3) [2010] FCA 1515*

<sup>3</sup> *Nature Conservation Act*; ss.16-21.

## CARPENTARIA LAND COUNCIL ABORIGINAL CORPORATION

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The *Aboriginal Land Act 1991* makes provision for land claims to national parks. Since December 2006, however, claimable land is no longer available as a method of land acquisition under the Act. The *Aboriginal Land Act* requires successful claimants to lease-back to the State in perpetuity, with arrangements for “joint management”. Traditional owners in the Gulf, however, have consistently expressed a number of objections to those provisions that relate to claims over national parks, including: the requirement to lease-back in perpetuity; the absence of rental payments; and the failure to provide for a Traditional Owner majority on boards of management. Traditional owners also oppose the appointment of board members by the Minister. The *Aboriginal Land Act* provides for some land to be transferred. In relation to national parks, however, this only includes national parks in the Cape York Peninsular region.

The *Aboriginal Land Act*, by failing to engage Traditional Owners in any real decision making process in relation to national parks, therefore also fails to provide for actual joint management.

In 2007 the previous State government introduced new legislation to provide for Indigenous joint management on Cape York Peninsula and North Stradbroke Island. In the Cape, the legislative changes provided for a new category of national park called National Park (Cape York Peninsula Aboriginal Land) and enabled the transfer of all existing national parks in the Cape York Peninsula region and any future parks into this new category.<sup>4</sup> The government pursued a Cape York tenure resolution program and joint management and tenure arrangements can now be established through an ILUA and an Indigenous Management Agreement, with land to be managed in perpetuity as national park. Management plans are jointly prepared by the Traditional Owners and the State and can include financial benefits and employment for Traditional Owners. Two advisory committees have also been established to advise the Minister on land use matters: a Regional Advisory Committee and a Scientific and Cultural Committee. Widely supported by Traditional Owners in the Cape, none of these measures have been made available to Traditional Owners in the Gulf of Carpentaria.

Throughout Queensland, native title claims resolution agreements have produced a number of other ILUAs that set out arrangements for Indigenous involvement in the management of national parks. Most of these arrangements, however, are not joint management and appear, if anything, to only establish advisory roles for native title holders. In CLCAC's region, the Waanyi People negotiated an ILUA in relation to Boodjamulla (Lawn Hill) National Park. This ILUA does not provide for any form of joint management over the park, however, a Waanyi Ministerial Advisory Committee has been established for the Park.

Government policy is set out in a number of documents, including the Master Plan for Queensland's Park System (principle 4)<sup>5</sup> and in the *DERM Operational Policy: Indigenous partnerships regarding protected area management*.<sup>6</sup> The Operational Policy is “designed to give guidance to QPWS operations in selecting the best form of partnership arrangements to meaningfully involve traditional owners in the management of national parks”. Notably, this policy does not provide for joint management – rather, it promotes “partnerships” delivered through the establishment of working groups to negotiate protocols for specific issues.

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<sup>4</sup> *Cape York Peninsula Heritage Act 2007* (Qld)

<sup>5</sup> See [http://www.nprsr.qld.gov.au/managing/plans-strategies/parks\\_master\\_plan.html](http://www.nprsr.qld.gov.au/managing/plans-strategies/parks_master_plan.html).

<sup>6</sup> Available at <http://www.nprsr.qld.gov.au/register/p02291aa.pdf>.

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CARPENTARIA LAND COUNCIL ABORIGINAL CORPORATION

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**The proposed amendments to the *Nature Conservation Act***

The Government states that this Bill “will result in the most significant changes to the way that Queensland national parks and other protected areas are managed since the Nature Conservation Act was introduced in 1992”.<sup>7</sup>

Further, it proposes that under this Bill the objects of the *Nature Conservation Act* will be “expanded to better provide for increased recreation and ecotourism opportunities in the protected area estate”, with the proposed reforms providing for “the involvement of Indigenous people in the management of protected areas” as a new object to the Act.<sup>8</sup>

CLCAC supports clause 24 of the Bill to amend section 4 of the *Nature Conservation Act* to expand the Act in accordance with the above.

CLCAC also supports the decision to retain ‘national park (Aboriginal Land)’, ‘national park (Torres Strait Islander Land)’, and ‘national park (Cape York Peninsula Aboriginal Land)’ tenures.

In specific terms, however, the proposed amendments do not further Indigenous interests in protected areas and do not provide for joint management. “Involving” Aboriginal people in the management of protected areas simply does not go far enough.

It is imperative that the Government recognise that native title rights and interests in protected areas must be acknowledged and maintained and that native title claimants and native title holders must be adequately consulted and involved in the management of these areas. Legislation must ensure that where Indigenous people assert or hold native title interests in protected areas, they are not just “involved” in the management of these areas but are provided with the statutory responsibility of co-management.

Although, in CLCAC’s region, the Government has established the Waanyi Ministerial Advisory Committee, its role is only to provide “*advice* to the minister on the management of Boodjamulla (Lawn Hill) National Park, including the protection and preservation of cultural values”.<sup>9</sup>

CLCAC notes that whilst reform has occurred in Cape York, there has been no corresponding legislation or agreement in respect to the Gulf of Carpentaria. It is imperative that, in consultation with Gulf Aboriginal communities and native title holders/claimants, the Government now pursues a process of reform in the Gulf to provide for joint management through ILUAs and Indigenous Management Agreements.

CLCAC urges a suite of further amendments to the Bill that will strengthen the presence of indigenous management agreements and their resulting plans, support Indigenous rangers through government programs, and increase local Indigenous employment in land management.

In this regard, CLCAC’s Land and Sea Rangers already provide crucial management

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<sup>7</sup> See <http://www.npsr.qld.gov.au/about/legislation/nature-conservation-act-ammd.html>.

<sup>8</sup> See <http://www.npsr.qld.gov.au/about/legislation/nature-conservation-act-ammd.html>.

<sup>9</sup> [http://www.npsr.qld.gov.au/about/pdf/npsr-annual-report-2011-12\\_8.pdf](http://www.npsr.qld.gov.au/about/pdf/npsr-annual-report-2011-12_8.pdf)

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CARPENTARIA LAND COUNCIL ABORIGINAL CORPORATION

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services to protected areas by building the capacity of Gulf Aboriginal communities to manage community resources; strengthening the local economy through natural resource management; and preserving and promoting the natural values of these areas.

The Bill proposes a number of amendments to provide for the revision of management principles for protected areas consistent with the new tenure classes, and includes the expansion of these principles to "provide for educational, recreational and ecotourism opportunities".

CLCAC is keen to ensure that opportunities for educational, recreational and ecotourism are extended to Indigenous groups with an interest in a protected area. It is of utmost importance that the sustainable livelihoods of Traditional Owners be recognised within management principles to provide opportunities for Indigenous ecotourism in a way consistent with the area's cultural values.

The 2013-2020 Queensland Government Ecotourism Plan has recognised the growth of Indigenous opportunities as a strategic priority to facilitate best practice and innovation. Namely, to

- Identify and progress three new opportunities to expand Indigenous involvement in ecotourism, working with Traditional Owners to maximise Indigenous ecotourism opportunities, including but not limited to, national parks and jointly managed national parks;
- Create a program for the development of more Indigenous ecotourism guides;
- Develop a certification process with Traditional Owners for non-Indigenous and Indigenous guides to retell and share Indigenous stories with visitors;
- Participate in industry forums and reference groups to advance the development of best practice Indigenous ecotourism operations with a focus on improving skills and business performance.

CLCAC strongly recommends that the definition for 'ecotourism' be revised to mandate opportunities for Traditional Owners of protected areas in a way consistent with their sustainable livelihood.

In general, CLCAC supports amendments that promote and support sustainable plans for Indigenous cultural and commercial use of protected areas, provided that these plans also provide for the protection and conservation of biodiversity.

CLCAC supports the inclusion of section 113C in the Act to allow for the board of management for a national park (Aboriginal land) to give effect to a management statement.

However, CLCAC is of the view that a management plan is required where there is a native title determination or registered native title claim over the area. It is CLCAC's view that where native title has been determined or is asserted (and a prima facie case has been made out), then there is significant need for a comprehensive planning process which must include a requirement for consultation with native title holders or claimants. We note that the Bill retains existing provisions in this regard in respect to the processes for the preparation of any management plans for national

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**CARPENTARIA LAND COUNCIL ABORIGINAL CORPORATION**

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parks in the Cape York Peninsular. Similar rights must be afforded to Traditional Owners in the Gulf of Carpentaria.

Further, addressing Traditional Owner interests during the preparation of any management plan will help to support supplementary outcomes to involve indigenous people in the management of protected areas in which they have vested interest.

**Conclusion**

CLCAC urges the Government to consider area-specific legislation for protected areas in the Gulf of Carpentaria as it has done in the Cape in order to provide the building blocks for strong Indigenous co-management arrangements.

CLCAC would be pleased to discuss these issues further and to assist the Government to ensure that adequate community consultation is undertaken in relation to the key features of the proposed amendments.

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**HELEN TAIT**  
**CHIEF EXECUTIVE OFFICER**

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