



**Cape York Land Council Aboriginal Corporation**  
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A/Committee Secretary  
Innovation, Tourism Development and Environment Committee  
Parliament House  
George Street  
Brisbane Qld 4000  
[itdec@parliament.qld.gov.au](mailto:itdec@parliament.qld.gov.au)

15 March 2019

**Re: Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Bill 2019**

Dear Innovation, Tourism Development and Environment Committee

Cape York Land Council (CYLC) is the Native Title Representative Body (NTRB) for the Cape York region. CYLC's representative area includes all land and sea country north of the Daintree River, including the Great Barrier Reef (GBR) catchment and lagoon. In our NTRB role we fulfil statutory functions under the *Native Title Act 1993* (Cth). In our broader Land Council role we support, protect and promote Cape York Aboriginal peoples' interests in land and sea to positively affect their social, economic, cultural and environmental circumstances. In this capacity we provide comments on the Environmental Protection (Great Barrier Reef Protection Measures) and Other Legislation Amendment Bill 2019 (the Bill).

The protection and management of the GBR is a high priority for Cape York east coast Aboriginal people because of the GBR's social, economic, cultural and environmental significance. Another high priority for Cape York Aboriginal people is their right to economic development and participation in mainstream economic activities through land uses such as agriculture. Importantly, most of Cape York's GBR catchment is Aboriginal freehold land owned by Aboriginal corporations, and they wish to manage this land to achieve economic and environmental outcomes. The Bill therefore is highly relevant to Cape York east coast Aboriginal people because of the significant effect its passing would have on their priorities.

CYLC cannot support the current version of the Bill and requests that it be withdrawn pending further discussion and negotiation with affected Aboriginal land owners. CYLC's concerns about the Bill include:

1. **Process** - The Bill was tabled in Parliament on 27 February 2018, referred to the ITDEC, and a two week period provided for stakeholders to consider the Bill and prepare a submission. No prior consultation about the Bill was undertaken with Cape York Aboriginal people despite the fact that approximately one third of the GBR is adjacent to Cape York, and Aboriginal people own and manage most of the GBR Cape York catchment area. As stakeholders significantly affected by the Bill it is unreasonable that Cape York east coast Aboriginal people have not been provided with sufficient time and opportunity to consider the Bill and prepare a considered response.

2. **Free, Prior and Informed Consent** – Further to point 1, CYLC maintains the principle that changes to the use and management of land where native title or Aboriginal tenure rights and interests exist may only be introduced with the free, prior and informed consent of the Aboriginal people affected by the proposed change. This applies to changing land use to allow development, as well as regulating land uses to restrict development. The Bill is an example of a regulation that restricts land use and development. However, the free, prior and informed consent of the Aboriginal people affected by this regulation has not been sought nor provided. The State must put more effort into informing Cape York east coast Aboriginal people about the Bill prior to it progressing any further, and receive consent for the Bill before it may be considered further by Parliament.
  3. **Policy inconsistency** – The Bill is inconsistent with policy initiatives that the Queensland Government is party to. For example, the Queensland Government, through COAG, is party to the Closing the Gap program, which includes targets for economic development and the use of land to achieve economic development. The Queensland Government is also party to the Developing Northern Australia program which includes objectives to utilise Aboriginal land for development, including agriculture. The Bill suppresses the achievement of these important programs because it suppresses the use of Aboriginal land for agriculture, aquaculture and emerging industries such as biofuels and alternative energy production. The Bill must be amended to remove unnecessary regulation of Cape York east coast land and a more realistic regulatory system introduced which enables agricultural and other development on Aboriginal land whilst also ensuring no net decline of water quality flows to the GBR.
  4. **Regulatory overreach** – The degradation of water quality flows by sediment is greatest in high risk areas such as steep slopes, gullies, stream banks, erodible/dispersible soils and on land in poor condition with little vegetative cover. Degradation of water quality by nutrient is at its highest risk if best practice management is not used. Agricultural activities on land in low risk areas and managed with best practices poses a highly reduced risk of net decline in water quality. Regulation of low risk areas is therefore unnecessary and should not be pursued. The Bill's proposed blanket application of the Agricultural ERA requirements over high and low risk areas is therefore unnecessary regulatory overreach. The Agricultural ERA should be restricted to areas at high risk of causing water quality degradation, and low risk areas should be voluntarily managed with best practice methods. The restriction of the application of the Agricultural ERA to high risk land would be beneficial to achieving economic development goals on Aboriginal land without compromising GBR water quality objectives.
  5. **Aboriginal land owner support** – Better land management and water quality outcomes would be best achieved on Aboriginal land by the provision of land owner support. The Queensland Government should support Aboriginal land owners to identify low risk land where agricultural and other activities could most safely occur, and the management practices that should be applied to minimise any risk of water quality decline. Ongoing Queensland Government extension services should be delivered to support Aboriginal land owners and land users to apply best management practices. Provisions exist in the *Cape York Peninsula Act 2007* (Qld) for the declaration of Indigenous Community Use Areas (ICUAs) that allow for more intensive uses of Aboriginal land and provide exemptions to regulations such as the *Vegetation Management Act 1999* (Qld). The ICUA provisions could be utilised to identify and declare low risk agricultural and other land use areas, and best practice management requirements for activities in ICUAs.
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Because of the significant and unnecessary negative impacts the passing of the Bill would have on the use of Cape York east coast Aboriginal land for agricultural and other economic activities, and the significant, negative and non-consensual impact this would have on the economic development rights and aspirations of Cape York east coast Aboriginal people, the Bill should be withdrawn.

A process should then commence to redraft the Bill in consultation with Aboriginal people to identify ways in which Aboriginal land may be used and managed for economic purposes, without unnecessary regulation, whilst still achieving GBR water quality outcomes. We believe that Aboriginal economic development based on land use and GBR water quality outcomes can be mutually inclusive on the east coast of Cape York and this should be the balanced objective of an amended draft of the Bill.

CYLC notes that public hearings for the Bill will be held over the week of 18 – 22 March 2019. CYLC requests that we be invited to address the ITDEC to further outline our concerns at a public hearing.

If you have any comments or would like to discuss the content of this submission please do not hesitate to contact me.

Yours sincerely

A handwritten signature in grey ink, appearing to be 'Richie Ah Mat', with a stylized, flowing script.

Richie Ah Mat  
Chair  
Cape York Land Council