

Submission 029

25 June 2014

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**CAPE YORK LAND COUNCIL  
ABORIGINAL CORPORATION**

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25 June 2014

The Research Director  
State Development, Infrastructure and Industry Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

BY EMAIL: [sdiic@parliament.qld.gov.au](mailto:sdiic@parliament.qld.gov.au)

**RE: State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation  
Amendment Bill 2014 inquiry**

Cape York Land Council (CYLC) is unable to carry out a full assessment and provide detailed submissions in relation to this Bill within the timeframe available.

However, we note that the Explanatory Memorandum says that the policy objectives of the Wild Rivers Act are able to be more effectively implemented through Queensland's existing land use planning and development assessment framework and the new Regional Planning Interests Act 2014 (RPI Act). There is reference to amendments proposed to the Regional Planning Interests Act 2014 (RPI Act) to provide transitional provisions "to assist in carrying forward the land use policy outcomes of the Wild Rivers Act".

In light of the Federal Court's recent decision that the wild rivers declarations for the Archer Basin, Lockhart Basin and Stewart Basin were invalid, we stress (as noted in our submissions in relation to the Bill which preceded the RPI Act) that the assessment framework will only be as good as the identification of the relevant areas. We have not been able to identify the relevant areas as maps have not been made available.

We also reiterate (as set out in our submissions in relation to the RPI Bill) that the State must engage more closely with traditional owner groups and Indigenous land holding entities in Cape York to identify relevant areas, and must include them in the administrative processes involved.

We **attach** a copy of our submissions of 17 January 2014 in relation to the RPI Bill, as many of the comments made there remain relevant.

Yours faithfully,  
**Cape York Land Council**

A handwritten signature in black ink, appearing to read 'P. Callaghan', with a stylized flourish at the end.

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Chief Executive Officer



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17<sup>th</sup> January 2014

The Research Director  
State Development, Infrastructure and Industry Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Research Director

#### **CYLC comments on Regional Planning Interests Bill**

Cape York Land Council (CYLC) supports the intent of the Regional Planning Interests Bill (the Bill) since it provides greater opportunity for social, economic and environmental values to be better managed during resource development activities, and it provides greater opportunity for local stakeholders to participate in decision making processes about resource projects that affect them. If passed, the Bill will provide greater statutory effect for the Cape York Regional Plan (CYRP) and allow for the appropriate conditioning of resource projects in areas where other values exist and should be managed and protected.

CYLC supports managing development on Cape York through the preparation of well-informed plans that identify all forms of values in land and the participation of local Aboriginal people in decision making processes. Unlike other areas of the State where land use conflicts are often between resource companies and agricultural interests, in Cape York conflicts about land use will often be between resource companies, conservation groups and native title holders with considerable collateral impacts on Aboriginal land owners (as well as agricultural interests). The Bill must ensure Aboriginal native title and land holding interests are recognised and addressed.

If the CYRP and Bill are well prepared and implemented they will provide good mechanisms for managing development associated with resource projects in high value areas of Cape York. However, the CYRP and Bill are not yet perfected, and the capacity of Aboriginal people and organisations to participate in planning and decision making processes is not always adequate, so the Queensland Government needs to take a strategic and integrated approach to development to ensure that all elements of the development assessment system, including human capacity, are sufficiently functional to enable the Regional Planning Interests processes to work as intended.

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**kicking  
the dust**  
*for 20 years*  
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CYLC makes the following comments about ways in which the Bill, and the Cape York development assessment system more generally, could be improved:

1. The assessment framework for the grant of a Regional Interests Authority (RIA) can only be as good as the identification of priority agricultural areas, priority living areas, and strategic environmental areas in the CYRP and other regional plans. In its current draft the CYRP does not adequately identify these areas so, consequently, the RIA assessment process would also be flawed. CYLC is preparing separate comments about the CYRP but the State Development, Industry and Infrastructure Committee (SDIIC) should also be liaising with the part of the Department of State Development, Infrastructure and Planning that is preparing the CYRP to ensure it adequately identifies these high value areas.
2. To ensure Aboriginal native title and land holding interests are recognised and addressed in the CYRP CYLC advises that the State must engage more closely with traditional owner groups and land holding bodies to understand their issues and the values they recognise in land. For an important planning mechanism such as the CYRP this information must be developed through on the ground consultation with Aboriginal people since much of this information is not documented in the information sources that have been used to prepare the plan. Aboriginal people form the majority of the population on Cape York and therefore will be the people most affected by the planning decisions influenced by the CYRP and RPIB.
3. The Bill does not require that the assessment for the grant of a RIA take into consideration the restrictions identified in the relevant regional plan. For example, the draft CYRP identifies that open cut or strip mining is an unacceptable land uses within strategic environmental areas. However, the Bill does not require that the chief executive must refuse the grant of a RIA for open cut or strip mining if it is proposed for a strategic environmental area. The Bill does not achieve its stated aims of aligning resource activities with regional land use policies because of the lack of requirement for the chief executive to be bound by the land use policies outlined in regional plans.
4. The resource activities affected by the Bill should also be extended to include mining and other resource activities provided for by the Special Agreement Acts.
5. In addition to protecting regionally significant economic, social and environmental values through protecting priority agricultural areas, priority living areas, and strategic environmental areas, the Bill should also provide for the protection of areas of regionally significant cultural heritage. The *Aboriginal Cultural Heritage Act 2003* does not adequately provide for the protection of regionally significant areas of cultural heritage but these areas could be identified in the CYRP and the Bill could require that development proposed for these areas should also go through the regional interests assessment process. For example, the Cape York Quinkan rock art area could be identified in the CYRP as a “priority cultural heritage area” and resource development projects required to go through an assessment process prior to a decision being made about the grant of a RIA in this area.

6. Clause 68 of the Bill identifies the parties who may appeal a decision made about an assessment application. CYLC maintains that a traditional owner Prescribed Body Corporate or a Registered Native Title Representative Body should also have standing as a party who may appeal an assessment application decision, and clause 68 should be amended to reflect this. This amendment is necessary since native title parties have rights and interests in land that may be affected by the resource activity, so the native title party should have a right of appeal if impacts to their rights and interests have not been adequately considered or addressed in the assessment application decision.
7. The Bill provides that the owner of the land proposed to be developed, or an affected land owner, may appeal the RIA decision. (As identified above native title parties should also have standing to lodge an appeal.) Because a large proportion of land on Cape York is Aboriginal owned, or will be Aboriginal owned in the foreseeable future following the transfer of land under the *Aboriginal Land Act 1991* and *Cape York Peninsula Heritage Act 2007*, it is highly likely that Aboriginal organisations will be a land owner or affected land owner who may wish to appeal a RIA decision. In addition, the Bill provides for an exemption from the need for a RIA if the land owner has consented to the resource activity. To ensure these provisions can be utilised by Aboriginal organisations so that they can meaningfully exercise their right to participate in decision making processes the Queensland Government must ensure that Land Trusts, Registered Native Title Bodies Corporate and other Aboriginal land holding entities have sufficient capacity and support to engage in these processes. This is a strategic issue that must be addressed by the Queensland Government since the capacity of Aboriginal land owning organisations to engage in land management, land use, land use planning and other land related processes is frequently less than required to enable meaningful participation in these processes.

Thank you for the opportunity to provide comments on the Regional Planning Interests Bill. Representatives from the CYLC will also be available to participate in a regional public hearing if held in Cairns in late January.

If you wish to discuss any aspect of this submission please do not hesitate to contact me.

Regards



Peter Callaghan  
CEO  
Cape York Land Council