**Chuulangun Aboriginal Corporation**
PMB 30 | Cairns Mail Centre | Qld 4892 | Australia
**Email CEO**: chuula@bigpond.com | **Admin:** chuulangun@gmail.com
**Web:** www.kaanjungaachi.com.au | **YouTube:** ChuulaMedia
**Phone:** 07 4060 3240
**ABN:** 74 277 585 078 | ICN: 4024

20 March 2018

Committee Secretary
State Development, Natural Resources
and Agricultural Industry Development Committee
Parliament House
George Street
Brisbane Qld 4000

Email to: sdnraidc@parliament.qld.gov.au

Dear Committee Members,

Thank you for the opportunity make a submission to the *Vegetation Management and Other Legislation Amendment Bill 2018*.

Chuulangun Aboriginal Corporation (Chuulangun) is based on Aboriginal freehold lands on Kuuku I'yu Northern Kaanju clan estates within the Mangkuma Land Trust (MLT) on Cape York Peninsula. We represent the interests of particular Kuuku I'yu families within the Mangkuma lands as well as the wider Kuuku I'yu Northern Kaanju homelands. Our functions include management of the 197,500 ha Kuuku I'yu Northern Kaanju Ngaachi Wenlock and Pascoe Rivers Indigenous Protected Area (IPA) which is located on the MLT, and development of sustainable income opportunities on homelands. Our interests in terms of management and protection of biocultural and heritage values also extend across the wider Kuuku I'yu Ngaachi which underlays a number of properties including pastoral lease and national park.

The Mangkuma Land Trust is the official land-holding body for 425,000 ha of Aboriginal freehold land transferred in 2001 under the Aboriginal Land Act 1991 (ALA). It was formed for the purpose of providing a legal entity by which the members of the land trust may perform functions under the Act. Its objectives include to "Relieve the disadvantage, distress, dispossession, lack of housing and employment opportunities, poverty, ill health and suffering of the Traditional Owners of Mangkuma by pursuing all appropriate means including contributing to the cultural, social, and economic and environmental wellbeing and development of the Traditional Owners of Mangkuma".

Since its incorporation in 2002, Chuulangun Aboriginal Corporation has been a strong advocate for the recognition of the correct governance and decision-making processes for Cape York and we have made this stance clear in the many submissions made to Bills and inquiries of government over some 16 years.

## Background

In 1999, under the Beattie Government and subsequently under the Bligh Government, restrictions on vegetation clearing were progressively rolled out across Queensland. These laws became necessary in response to excessively high clearing rates of some 750,000 hectares per year and the public demanded that something be done to address such clearing. The legislative proposals were taken to elections, and endorsed by Queenslanders.

While forests and wildlife habitat are very important to most Queenslanders, appropriate management of the land and the biocultural values on that land is of particular significance to Aboriginal Traditional Custodians. Accordingly, many Traditional Custodians support the protection of our forests, which in turn protects our rivers, our wildlife and other cultural values, including sacred places and objects, and helps address the impacts of climate change. The laws, as they stood then, did allow for clearing for infrastructure, housing blocks, urban uses, market gardens and other routine land management activities, but the halting of broad-scale clearing through the previous legislation saw the rate of clearing decline from 750,000 hectares per year to less than 78,000 hectares.

The Liberal-National Party made an election commitment in 2012 that there would be no changes to the vegetation management laws, yet, less than a year into their term, the Newman Government announced they were 'taking the axe' to the tree clearing laws. It appears there was consultation with the agricultural sector and the development sector, but there was no appropriate consultation with Aboriginal people.

Since that time, clearing rates more than tripled in Queensland, and, of particular concern, some very large areas in Cape York were approved for clearing. This clearing was approved on land where native title continues to exist, yet there was no consultation with the Traditional Custodians about the clearing approvals or about the loss of biocultural values as a result of clearing and future aspirations for that land. This has amounted to environmental destruction on a massive scale, and a total disregard for the biocultural values that exist on that land.

We welcomed the introduction to Parliament of the *Vegetation Management (Reinstatement) and Other Legislation Amendment Bill 2016*, to which we made a submission, however these laws were defeated in 2016. We also welcome the current parliamentary committee inquiry.

## Consultation with Traditional Custodians

The reinstatement of the vegetation management laws is essential to ensure the protection of biocultural values, and it is also critical that Traditional Custodians who speak for country be consulted with respect to any applications made on land that concern them (applications lodged both pre and post the proposed legislative amendments). There should be a requirement in the Bill for free prior and informed consent, using traditional governance arrangements accepted by the Traditional Custodians of the subject land, to address consultation issues.

In terms of the Parliamentary Committee Inquiry currently reviewing the legislation, it is imperative that the voices of Traditional Custodians in Cape York, and other places, be heard about the impacts of clearing on country. It should be understood that certain umbrella organisations do not necessarily represent the views of all Indigenous people on Cape York, indeed there are a range of views on tree-clearing amongst the Aboriginal community, as there are amongst non-Aboriginal land owners.

Land clearing laws are an important topic amongst land owners and managers on Cape York, particularly pastoralists, who are concerned about what these laws could mean for the productivity of the land and their livelihoods. There is also a presumption made by some commentators that stricter land clearing laws would negatively impact on Aboriginal people's rights to development of their land. This uncertainty behind the laws has been fueled by misinformation and misinterpretation of what the Bill means to land holders 'on-the-ground', and also a lack of respect for Aboriginal people's perspectives and aspirations for their land.

As so often is the case laws are put in place with little or no consultation with those people who will be directly affected, and Aboriginal people in particular have often been excluded from consultations and negotiations which will affect the biocultural values of the land and their aspirations for the future.

Governments also tend to adopt blanket approaches to land management and planning issues which often result in damaging and unintended consequences, whereas 'case by case' or 'fit for purpose' approaches may be more appropriate, for different parts of the state, such as Cape York.

Typically, we would not approve of a proposed Bill breaching fundamental legislative principles (FLPs) as outlined in section 4 of the *Legislative Standards Act 1992*, as these principles were put in place in order to protect the rights and liberties of individuals and so that legislation not adversely affect rights and liberties, or impose obligations, retrospectively. However, in this case we agree with the government's justification that the inconsistency with FLPs is in the public interest as it will avoid possible pre-emptive clearing or submission of applications prior to Parliament enacting the amendments, which may "cause significant negative impacts on the environment, business and the community".

**Vegetation Management and Other Legislation Amendment Bill 2018**

The following provisions in the Bill are supported:

- Extending the protection of high value regrowth to align with High Conservation Values by increasing the land types to include freehold and Indigenous land (these land types were included in 2009 but removed as part of 2013 amendments).
- Guarding against excessive clearing of riparian vegetation, particularly in Great Barrier Reef catchments in Eastern Cape York.
- Reintroducing provisions in the *Water Act 2000* to require landholders to obtain riverine protection permits for clearing vegetation in a watercourse.
- Removing high value agriculture and irrigated high value agriculture as a relevant purpose.
- Providing enhanced compliance measures that will assist with enforcement of vegetation management laws consistent with other similar contemporary natural resource legislation.
- Further aligning high value regrowth with High Conservation Values by amending the definition of protected wildlife for the regulation of essential habitat to include habitat for near-threatened wildlife species, for both remnant and high value regrowth vegetation.

The Bill could go further in legislatively acknowledging the biocultural values in forests and in recognising the primary substantive rights of Aboriginal people to set and pursue their own priorities for development, including development of natural resources, as articulated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). An assessment process for the clearing of vegetation that incorporates the interests of Aboriginal people would

assure the protection of those values. Clan-based mapping, developed in consultation with Indigenous communities, should be incorporated into spatial mapping products to inform development proposals, appropriate consultation and assess impacts on land, resources and watercourses.

It is noted that certain activities are exempt clearing activities on freehold and Indigenous lands, including clearing for infrastructure, housing blocks, urban uses, market gardens and other routine land management activities such as reasonable clearing for fence lines, paddocks and remote airstrips. These purposes are essential to support the movement of Aboriginal people back to homelands and the development of viable and vibrant communities on Indigenous lands. The government also needs to support homelands development through other means including funding for housing and infrastructure and essential services, airstrips and access for health and education services, communications, land and resource management, support for the development of micro-enterprise on homelands and Indigenous initiatives including aspirations for world heritage nomination of parts of Cape York, and by increasing funding for the Indigenous rangers program.

We **do not** support the inclusion of 'Clearing for an extractive industry in a Key Resource Area' as an exempt clearing activity on freehold and Indigenous land. If anything, such purposes should require greater scrutiny and assessment. Laws need to go further to not only protect land from unsustainable land clearing, but also allow for Indigenous land owners to veto mining and refuse the granting of mining exploration permits on their land, without having to defer to the unsatisfactory native title processes. There should be mechanisms enshrined in State legislation, including the ALA and Cape York Peninsula Heritage Act (CYPHA), which legislate for Traditional Custodians having the right to veto mining and the granting of mining exploration permits.

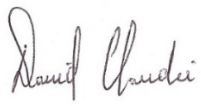
Importantly, managing healthy ecosystems underpins all economic activity including mineral, energy, agricultural, tourism and natural resource management, so the economic value of conservation and ecosystems services also needs to be included in the equation. The current Bill should go some way to restore this balance, but this action must coincide with the development of mechanisms which ensure proper consultation with stakeholders, particularly the relevant Traditional Custodians who speak for country, and the recognition and protection of biocultural values in the land. The benefit of healthy ecosystems to community health and well-being, and viable and vibrant communities, needs also to be acknowledged and measured.

**Recommendations**

- That the Bill legislatively acknowledge the biocultural values in forests and recognise the primary substantive rights of Aboriginal people to set and pursue their own priorities for development, including development of natural resources, as articulated in the UNDRIP.
- That Indigenous land owners be legislatively permitted, through amendments to the ALA, CYPHA and other relevant legislation, to veto mining and refuse the granting of mining exploration permits on their land.
- That 'Clearing for an extractive industry in a Key Resource Area' be removed as an exempt clearing activity on freehold and Indigenous land.
- That there be a requirement for free prior and informed consent in the Bill, using traditional governance arrangements accepted by the Traditional Custodians of the subject land, to address consultation and FLP issues.

- That Queensland's planning and environment legislative frameworks recognise the unique social and cultural values of Cape York and assess impacts on biocultural values on land, resources and watercourses; and that clan-based mapping, developed in consultation with Indigenous communities, be incorporated into spatial mapping products to inform development proposals and appropriate consultation.
- That Queensland's planning and environmental legislative frameworks adopt a 'fit for purpose' approach rather than blanket state wide approaches – the north is different to other parts of the state, and to date blanket approaches have resulted in often damaging and unintended consequences.
- That an economic valuation of ecosystem services be developed to support effective decision making with respect to planning and development.
- That the correct people to speak for country and those directly affected by the laws, including Traditional Custodians and land managers 'on the ground', be effectively consulted and their perspectives not be drowned out by vested interests.

Sincerely,



**David Claudie**
Kuuku I'yu Northern Kaanju Traditional Custodian
CEO/Chairman | Chuulangun Aboriginal Corporation
Chairman | Mangkuma Land Trust