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30 March 2010

Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Via email: legcon.sen@aph.gov.au

Dear Secretary,

Inquiry into the Wild Rivers (Environmental Management) Bill 2010 [No 2]

I make this submission on behalf of the Chuulangun Aboriginal Corporation and the descendants of George Moreton Snr, in relation to the Inquiry into the Wild Rivers (Environmental Management) Bill 2010 [No. 2].

The Chuulangun Aboriginal Corporation (Chuulangun AC) based on the upper Wenlock River represents the interests of the Traditional Owners for the Kuuku I'yu Northern Kaanju Ngaachi and has emerged as a leader in Cape York Peninsula in protection of the environment and sustainable homelands and economic development. Chuulangun AC is providing an effective model of independent Traditional Owner driven economic development within a land management framework and is supporting collaboration between Indigenous and non-Indigenous land owners and managers committed to living and working on country. The Wenlock and Pascoe Rivers are not only home for our families, other Traditional Owners and our neighbours, but are also integral to our economic, social, spiritual and cultural well-being.

The Wenlock Basin was nominated for wild river declaration on 10 December 2008 and the Pascoe River has also been targeted for nomination under the Wild Rivers Act. In May 2009 the Chuulangun AC presented a submission to the Queensland government supporting a Wenlock Basin declaration and we will also support a wild river declaration for the Pascoe River. As outlined in our submission to the Queensland government wild river areas on our homelands are consistent with our economic development, homelands development and land management aspirations. The Wild Rivers Act in no way diminishes our right or ability to live and work on, undertake sustainable economic development, and control the management of our traditional lands and waters.

Our submission to this particular Inquiry supports the Wild Rivers Act 2005 and opposes the Wild Rivers (Environmental Management) Bill 2010.

The contents of this submission are:

1. About Kuuku I'yu Northern Kaanju Ngaachi
2. Our views about Wild Rivers
3. Our views of the Wild Rivers (Environmental Management) Bill 2010

1. About Kuuku I'yu Northern Kaanju Ngaachi

Particular Northern Kaanju families, namely those people descended from George Moreton Snr, are Traditional Owners for a large part of the Wenlock and Pascoe River Basins. The traditional lands of these families encompasses 840,000 hectares covering much of the Pascoe, Wenlock, Archer and Olive River catchments – stretching through the Lockhart Valley, westward from the headwaters of the Wenlock and Pascoe Rivers, across the Peninsula to and including Embley Range and south to the Archer River. The Kuuku I'yu (Northern Kaanju) Ngaachi continues north along the Wenlock River to Schramm Creek then down to the southern bank of the upper Olive River.

In regard to the Wenlock Basin wild river declaration proposal the proposed wild river and major tributaries of relevance to the Northern Kaanju Traditional Owners are: Wenlock River, Nimrod Creek, Moonlight Creek, Cox Creek, Arthur Creek, Necktie Creek, Shramm Creek, Lydia Creek, Dry Creek, Rocky Creek, Capsize Creek, Heskett Creek and Sefton Creek. Relevant special features include the Embley Range Aggregation. Other waterways of significance to the Northern Kaanju Traditional Owners in the Wenlock and Pascoe Basins are: Weiss Creek, Nichel Creek, Pascoe River, Hann Creek, Garraway Creek, Nelson Creek, Canoe Creek and Brown Creek.

Cultural heritage significance

The Wenlock and Pascoe Basins hold significant natural and cultural value for their Traditional Owners. They feature many significant Story Places as well as sacred ceremonial grounds (*Ngaachi Kuu'ul Kincha*), totemic sites, and areas of rock carving and painting. The whole Wenlock River and Pascoe River and their tributaries have enormous cultural significance as the Creator of all of Kuuku I'yu Ngaachi under the umbrella of *Pianamu* (Rainbow Serpent). We are obliged under Kaanju law and custom to 'look after' our Ngaachi in a sustainable manner. In return our Stories, which are the land, will look after us physically, culturally and spiritually.

There are areas of historical significance to Northern Kaanju people in the Wenlock and Pascoe Basins. Last century during the protection era of government Aboriginal people were held by police 'protectors' at Moreton Telegraph Station on the Wenlock River. There are a number of birth and burial sites from that era in close vicinity of Moreton, which is in the proposed High Preservation Area. There are also several other sites along the Wenlock and Pascoe Rivers that have been identified as places of cultural heritage significance to Northern Kaanju people.

Traditional Owners have a number of concerns about threats to the natural and cultural values of the Wenlock and Pascoe Rivers. We are particularly concerned about the deterioration of one of the core Kaanju Story Places on the Wenlock River, *Malandaji* – Lightning Thunder, Coming of Wet Season. During the dry season uncontrolled third party (visitor) use in the vicinity of this site results in severe erosion and land degradation and during the wet season flood waters exacerbates the erosion problems, and silt builds up at the site of *Malandaji*. This degradation has severe consequences for the ability of the Story to carry out its role in the Kaanju cosmology and, ultimately, for the sustainability of the land and waters. We are also concerned that people camping and fishing at *Malandaji* (many of whom would be unaware or ignorant of the site's Aboriginal significance) without consent from Traditional Owners will result in severe consequences for our own people under Indigenous law. *A Wenlock Basin wild river declaration will support and help resource our efforts to protect these culturally significant areas.*

Homelands development

The Chuulangun community of 15 permanent residents is situated on Aboriginal Freehold land on the upper Wenlock River within the proposed high preservation area. Northern Kaanju families reestablished this community in the late 1980s after some 50 years absence from our homelands due to the policies and practices of government which forced our ancestors to live in towns, missions and government settlements.

When our old people (a number of whom have now sadly passed away) reoccupied Chuulangun permanently around 20 years ago they had a vision for their homelands across the Wenlock and Pascoe Rivers to be occupied once again by Traditional Owners and for proper land management to be reestablished. Chuulangun Aboriginal Corporation was formed in 2002 to represent the interests of the Northern Kaanju families living at Chuulangun and to help facilitate the homelands development, economic development and land and resource management aspirations for this community and the wider Kuuku I'yu Northern Kaanju Ngaachi. Our corporation's further objective is to support other Traditional Owners to return to their particular homelands on a permanent basis. Chuulangun will act as the hub for homelands development on other northern Kaanju clan estates, which are located in the Wenlock and Pascoe Basins.

Chuulangun Aboriginal Corporation has undertaken considerable planning to ensure homelands development is sustainable and consistent with Kaanju land and resource management principles. In 2003 we prepared a comprehensive land management framework for the Northern Kaanju Ngaachi which formed the basis for our Kaanju Ngaachi Wenlock and Pascoe Rivers Indigenous Protected Area (IPA) Management Plan prepared in 2005. This plan was prepared with funding assistance from the Natural Heritage Trust and the Commonwealth Department of Environment and Heritage (now Department of Environment, Water, Heritage and the Arts). The first stage of the Kaanju Ngaachi Wenlock and Pascoe Rivers IPA was declared on 4 June 2008 at a ceremony at Chuulangun. Managed by the Chuulangun Aboriginal Corporation on behalf of Traditional Owners, our IPA is the first to be declared on Cape York Peninsula. It covers 197,500 hectares and includes a large part of the upper Wenlock and Pascoe Basins. Our management plan also considers the expansion of the IPA over a further 135,000 hectares of the northern Kaanju Ngaachi, which also falls in the proposed Wenlock Basin wild river area. *The Kaanju Ngaachi Wenlock and Pascoe Rivers IPA would work with and be supported by a Wenlock Basin wild river declaration and a Pascoe Basin wild river declaration.*

Our plans for homelands development include the upgrade of the Chuulangun airstrip to all-weather operations, improvement of road access in and around Chuulangun and to other northern Kaanju clan estates, construction of houses and associated water and plumbing infrastructure, expansion of our ranger office, upgrade of renewable energy system and municipal works.

There is a growing body of research which indicates that life at homelands is much better - in health outcomes, education, livelihood options, social cohesion, and housing conditions - than at larger townships, despite lack of government funding and policy. This research suggests that 'closing the gap' might be more likely at homelands than elsewhere. Homelands also provide greater opportunities for employment of Indigenous people in environmental services as well as opportunities for enterprise development. *The Wild Rivers Act is consistent with facilitating all of these important outcomes.*

Economic development

A key principle underlying economic development on the Kuuku I'yu Northern Kaanju Ngaachi is that *our business is sustainable land management*. Economic development should enhance sustainable land management and be consistent with the protection of the Indigenous and natural heritage values of Ngaachi. Northern Kaanju people see their land and resources and their knowledge, skills and experience as having great potential for the development of enterprises that will sustain our land and people into the future.

Importantly, our main objectives for economic development are to provide permanent full-time employment for local people and to generate income to support the permanent reoccupation of homelands and sustain our growing homelands community in terms of improved health, education, employment and capacity building outcomes for local people.

Chuulangun Aboriginal Corporation recognise the importance of natural and cultural resource management as a key remote area industry with significant employment potential, particularly when linked to other established and emerging resource-base industries including tourism, and the application of Indigenous knowledge and culture to the commercial provision of environmental services. Investment from government and other sectors is needed to raise the importance of these industries and strengthen the employment and economic opportunities they can provide, particularly for Indigenous people living in remote areas. *Through the Wild River Rangers program the Queensland government has invested funds with Indigenous ranger groups in the wild river areas thereby providing full-time permanent employment for Indigenous people and protecting the environment.*

Chuulangun Aboriginal Corporation has a number of enterprise opportunities in development that are based on the principles of the conservation economy, including eco-tourism and campgrounds construction and sustainable harvest of plant products. Currently we have low-impact campgrounds that accommodate the increasing number of tourists and other visitors to our homelands. This venture will expand into spin-off products such as wet season and safari tourism. It is our aim that our enterprises will generate enough income into the future to support our growing community in terms of infrastructure and service needs and sustained employment.

Chuulangun Rangers looking after country

Our IPA management plan describes actions, projects and milestones for the management of our homelands including the establishment of a team of rangers to undertake the on ground work necessary for the protection of the rivers and catchments. Since 2005 we have established the Chuulangun Ranger Program and currently we have six full-time rangers employed – three under the Queensland government’s Wild River Rangers program and three under the Australian government’s Working on Country program. Bush Heritage Australia also supports the work of the Chuulangun Rangers. It is our goal is to have 20 Chuulangun Rangers working in full-time permanent positions across the Kaanju Ngaachi IPA and the wider Kuuku I’yu Northern Kaanju Ngaachi by 2015.

The work program of the Chuulangun Rangers includes fire management, rare and threatened species protection, flora and fauna surveys and monitoring, management of third parties, weed and feral animal control, rehabilitation and revegetation, protection of culturally significant sites and landscapes, and maintenance of plant, property and equipment. We are also working with relevant lease-holders on natural resource management for the vicinity of the Wenlock and Pascoe Rivers with the aim to achieve a greater sustainability with the pastoral industry towards the impacts on the rivers.

As well as on ground land management work, in 2010-11 the Chuulangun Rangers will complete their Certificate III in Conservation and Land Management. We are also investigating the feasibility of law enforcement training for our rangers so that they can appropriately deal with illicit activity such as poaching, illegal fishing, and unauthorised firearm use on the IPA and the wider Northern Kaanju Ngaachi.

Chuulangun Aboriginal Corporation has undertaken a number of other projects that are consistent with the objectives of wild river protection for the Wenlock and Pascoe Basins. These include: the development of a strategic approach to weed management on Kaanju Homelands (National Landcare Program), the development of campgrounds infrastructure (Department of State Development and Innovation), and water management and efficiency (Community Water Grants).

2. Our views about Wild Rivers

As Traditional Owners for the Kuuku I’yu Northern Kaanju Ngaachi which covers much of the Wenlock and Pascoe Basins we support Wild Rivers for various reasons. Foremost, the Wild Rivers Act recognises and supports Indigenous Traditional Owners both in terms of custodianship of country

and land management. The Act is also consistent with our homelands and economic development aspirations and in no way impedes our current or future plans for economic activities on our traditional lands. We say this with authority as we are one of the very few Traditional Owner groups and organisations that are actually living and working, and based on their traditional lands. We have a plan in place for the economic and homelands development of our homelands. Importantly our plan is for sustainable development. Large-scale developments such as mining, large-scale clearing, and construction of dams is clearly not sustainable and is definitely not consistent with our principles and protocols as Indigenous land managers. We have no plans for large-scale development – not because it would not be allowed by wild rivers – but because unsustainable practices are not allowed under the Indigenous governance and land management principles set down by our ancestors.

Chuulangun Aboriginal Corporation has been involved with the Wild Rivers initiative since 2006 and was instrumental in developing the Indigenous guide to Wild Rivers. From 2007-10 we have secured funding under the Wild Rivers initiative for funding to employ three full-time rangers as well as some capital and operating costs for the Chuulangun Ranger program. Funding from the Wild Rivers program has assisted in the establishment of the Chuulangun Ranger Office as well access to a ranger vehicle to help facilitate activities for the protection of the Wenlock and Pascoe Basins.

We support the declaration of the Wenlock and Pascoe Basins as wild river areas. Wild Rivers offers another layer of security that helps to ensure the natural and Indigenous values of our homelands are protected for the benefit of present and future generations and for the sustainability of the land and resources. Upon reading the Wild Rivers Act, codes and guides we are of the opinion that wild river declarations would not impede our aspirations for homelands and economic development at Chuulangun or on other northern Kaanju can estates across the Wenlock and Pascoe Rivers catchments. *Wild Rivers is consistent with our IPA management plan and Investment Strategy for our homelands. Further as made clear in the relevant guides, codes and publications the Wild Rivers legislation does not affect native title.*

The Wild Rivers Act clearly allows for many forms of development to occur in the wild river areas, only with sensible guidelines as to how this can be done to best protect the river system. The idea that economic development cannot occur alongside the protection of an entire river basin (with differing degrees of management across the area) is an extremely outdated view, particularly in view of the parlous state of many rivers around Australia and the economic and social costs of degradation.

Some opponents of the wild rivers legislation have suggested that the Wenlock River does not meet the requirement of a ‘wild river’. This is completely indefensible. The river is free-flowing and a very high portion of the basin has not been cleared. The conservation and cultural values are very high. The Government has assessed the river basin using a wide range of parameters (see page.46 of http://www.nrw.qld.gov.au/wildrivers/pdf/stewart_consult_report.pdf). One need only compare the Wenlock with the Murray or Fitzroy Rivers to fully grasp how intact it truly is. While there is some damage from feral animals, weeds and past mining practices, the aim of the declaration is to ensure no further damage occurs, and in the case of the Indigenous Wild River Rangers, reverse some of these degradation issues.

Clearly the content and operation of the Act does not deny the ‘continuing occupation and use of Indigenous people’s lands’ as suggested by some opponents of the Wild Rivers legislation. The Act supports ongoing development in the region, only at a sustainable level. The Indigenous Wild River Ranger program also ensures more people are on country looking after the rivers – quite the opposite to dispossession as claimed by some opponents.

Improvements to the Wild Rivers initiative

There are improvements that could be made to the wild rivers legislation. For instance, there has been some discussion about the use of the term ‘wild’ in relation to the wild rivers legislation. ‘Wild’ is

clearly a contested term. Some people believe it means uninhabited wilderness, to others it is merely a surrogate for healthy country and refers to lack of industrial development in the region. What is most important here is firstly the definition of a 'wild river' in the *Wild Rivers Act 2005*, and secondly also what it actually does. According to the Act, 'wild rivers' are rivers that 'all, or almost of all, of their natural values intact'. There is no suggestion here at all that this means a 'desolate, uncultivated or uninhabited region'. In fact one interpretation is that 'natural' state of the rivers is tightly linked with ongoing custodianship of Indigenous people. The Act does however need to be seriously strengthened to better reflect this relationship and the recognition of cultural values.

In regard to consultation, the Queensland government has greatly improved their consultation methods, but could also do much better, including providing materials in local languages. Changes to the High Preservation Areas in response to submissions should also be closely consulted with relevant Traditional Owners.

In regard to Special Agreement Acts the water rights of mining companies, namely Rio Tinto Alcan at Weipa, are inconsistent with the Wenlock declaration, and should be rescinded.

3. Our views of the Wild Rivers (Environmental Management) Bill

We are opposed to the Wild Rivers (Environmental Management) Bill.

Section 4 (2) It is the intention of the Parliament that this Act be a special measure for the advancement and protection of Australia's indigenous people.

The basis for the Wild Rivers (Environmental Management) Bill is seriously flawed. It is clear that the motivation behind the Bill is political and in no way reflects Mr Abbott's purpose for the 'advancement and protection of Australia's indigenous people'. Instead the Bill reflects the views and agenda of one group which opposes the Wild Rivers legislation and has been spreading a misinformation campaign across Cape York's Indigenous communities. The result of this campaign is confusion amongst some Indigenous people about what Wild Rivers is all about.

The reality is that there are a range of views of the wild rivers legislation. Some people support wild rivers while some people do not.

Section 4 (3) In particular, it is the intention of the Parliament that this Act protect the rights of traditional owners of native title land within wild river areas to own, use, develop and control that land.

Indigenous people do not 'control' the land – 'control' of land is a Western concept synonymous with the objects of 'progress and 'development' that fueled the colonization of the Indigenous people and exploration and settlement of Australia. Indigenous people have been controlled by government through various legislations since the colonization of Australia. The land has also been controlled by government and developers. The opponents of the Wild Rivers Act that claim to represent Cape York Traditional Owners are city-based development organisations with no particular connection to country.

The Wild Rivers Act attempts to manage the control and development of the land and rivers to ensure the river systems are protected for the benefit of current and future generations.

Section 5 Agreement of traditional owners required

The development or use of native title land in a wild river area cannot be regulated under the relevant Queensland legislation unless the Aboriginal traditional owners of the land agree.

We do not agree with the Bill particularly where it refers to consent or ‘Agreement’ of traditional owners. Section 5 does not consider the fact that a wild river area might have a number of Traditional Owner groups and tribes that might have different perspectives and aspirations for land management and development of their homelands. The risk of this is that effectively Traditional Owners upstream might be able to allow a large scale development regardless of the management, perspectives and decisions of Traditional Owners or other land managers downstream. It is not right that one group of Traditional Owners should have the right to veto protection of rivers.

Instead of ‘consent’ approval should be sought by ‘consensus’ from the proper Traditional Owners according to Indigenous governance, bloodline and decision-making structures for a wild river area on their traditional land.

General misrepresentation of Traditional Owners

In 1997 the Northern Kaanju people registered a native title claim to some 235,000 ha of their homelands on the Wenlock River, over the area known as Batavia Downs Station. The claim is currently undergoing State Land Dealings towards an Indigenous Land Use Agreement. In 2008 the regional organisation that has been contracted by the State government to undertake the land dealings on behalf of Traditional Owners, presented a submission to the Wenlock Basin Wild River declaration proposal ‘on behalf of Traditional Owners’. This submission is an inaccurate representation of the direction of the Traditional Owners of Batavia. At the Batavia State Land Dealing meeting held at Weipa 26-27/5/09 the ‘Traditional Owners of Batavia’ did not authorise the regional organisation to prepare and present a submission on their behalf without any input or agreement from Traditional Owners and based entirely on that organisation’s own submission which is anti-wild rivers.

This misrepresentation of Traditional Owners is one example of the overall agenda of particular regional organisations which has been to misrepresent and misinform Traditional Owners of Cape York on land management and other issues such as wild rivers.

Further, it is highly hypocritical of this particular regional organisation to criticize the consultation process given their very high level of manipulation of information to Traditional Owners and the blocking of several meetings with Traditional Owners to negotiate around the declarations.

Impacts on economic activity

Most of the points raised by the opponents of the Wild Rivers Act in relation to restricted economic activity are purely semantic and ideological and have no basis in reality. For instance tourism ventures are enhanced by wild river protection, not hindered, and the approval process is made through the normal local Government development process. No actual examples of an Indigenous development that will be hindered by the declaration have been named.

In regard to the Wenlock Basin the 1km protection zone around the river is a sound approach to river protection, particularly given the location of many waterholes within this zone, and the tight association of groundwater/surface water interactions in this area. In reality, only high impact developments are affected in this area, including strip mining, intensive agriculture (e.g. Feedlotting), and building dams. Homelands development and building infrastructure need only meet simple criteria to happen in this area and existing developments are not affected.

The enormous economic cost of restoring a river system once it has been severely altered (for example by extensive land clearing and dams) must also be remembered.

As for the issue of aquaculture, the opponents of the Wild Rivers Act provide no example of an aquaculture development that will be affected by the declaration.

Again, some opponents of the Wild Rivers Act have adopted an extremely outdated view that economic development is only achievable via land clearing and industrial development. The homelands development model adopted at Chuulangun belittles this idea that conservation and development cannot go hand in hand. The greatest opportunities on Batavia Downs will be through land management, sustainable enterprises such as tourism, and capturing opportunities in the emerging carbon economy. This will only be enhanced through a wild river declaration, and the protection and management (Rangers) that accompany it.

On behalf of the Chuulangun Aboriginal Corporation and the Traditional Owners for the Kuuku I'yu Northern Kaanju Ngaachi I invite the Senate Committee to visit Chuulangun to conduct a hearing on Country and speak in person with people living and working on their homelands on these rivers affected by wild rivers. It would be of huge benefit for the Inquiry if the Committee were to see first-hand how our economic development, homelands development and land management activities are not hindered by the Wild Rivers Act.

Yours faithfully,

Chuulangun Aboriginal Corporation

David Claudie
CEO/Chairman