

Increased Powers for Aboriginal Rangers to Manage Traditional Lands

Summary of Consultation and Options



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Cover photo: Arnhem Land Fire Abatement NT (ALFA), pre-season fire planning meeting, Barrapunta Outstation, April 2018

Introduction

Protecting Country, Creating Jobs is the NT Government's policy initiative to recognise the role of, and support Aboriginal Rangers throughout the NT. This commitment includes amending, if necessary, the *Territory Parks and Wildlife Conservation Act* to enable enforcement powers to increase the ability of ranger groups to effectively manage traditional lands.

Aboriginal ranger work in compliance management is well developed, with Aboriginal rangers playing important roles in fisheries management, border security and quarantine protection, however it has not yet been extended to land-based programs.

Consultation with ranger groups, land councils, and other interested agencies commenced in November 2017 with the release of a Discussion Paper. Written submissions were received by the Northern Land Council, Charles Darwin University, the Aboriginal Areas Protection Authority (AAPA), the Thamurrurr Rangers of Wadeye, the Jawoyn Association Aboriginal Corporation (Katherine) and Dhimurru Aboriginal Corporation (Nhulunbuy).

Staff from the Parks, Wildlife and Heritage Division of the Department of Tourism and Culture also met with some 41 Aboriginal ranger groups through face to face meetings and by attending ranger camps between March and May 2018. This broad consultation enabled the thorough documentation of the issues, interests and requirements relating to enforcement powers for these groups.

The Discussion Paper asked ranger groups and sponsoring organisations to consider the following:

1. *What are the key compliance questions for your country?*
2. *Do you already undertake compliance?*
3. *What powers are currently used and under which legislative instrument?*
4. *What powers do you require to improve compliance on your country?*
5. *What compliance and enforcement training do you undertake? Is training accredited or non-accredited and is there a need to develop special training courses for Aboriginal rangers?*
6. *Who else should be consulted in this process?*

Response Summary

- The primary issue for Aboriginal rangers working on Aboriginal land is trespass; people on Aboriginal land without a permit carrying out illegal activities not authorised by the land owners. Unauthorised hunting (particularly feral animals) on country is the next major concern.
- Aboriginal rangers are well-placed to monitor and manage trespass if empowered. Both trespass and unauthorised hunting issues could be reduced significantly if rangers are able to legally gather evidence, request name and address and direct trespassers to leave an area.
- Other enforcement issues include trespass on or interference with culturally sensitive sacred sites, spreading weeds and lighting fires.
- Increasing unregulated movement of tourists into or through Aboriginal lands is of concern for about half of the groups.
- Only six of 41 groups consulted said they did not want increased powers at this time.
- In dealing with illegal activities without formal powers many of the groups said they pass on information to NLC and/or Police when they see people doing the wrong thing on country, sometimes without action.
- Ranger groups recognise that appropriate training and other forms of capacity development and support is critical if they are to have increased powers of enforcement.
- The vast majority indicated they understand potential risks and difficulties associated with compliance work and make clear they want to start slowly with training, building towards partial powers initially.
- Most groups said they would like to close working relationships with other agencies to build capacity over time and work together on enforcement activities.
- Groups indicated that undertaking enforcement for offences committed by Aboriginal people on Aboriginal land as an issue to navigate carefully. Most said that, where possible, they would prefer to deal with those issues through Aboriginal means of communication.
- Public education and clear signage is needed to assist with compliance and help rangers manage issues on country.
- Collaboration across agencies and stakeholders will be essential to progress this initiative. Consideration is being given to the formation of a Stakeholder and Agency working group.
- The Northern Land Council is developing a new permit system that will strengthen compliance. It includes new protocols for permit compliance and enforcement. Empowering Aboriginal rangers in relation to access on Aboriginal land is a key component of this initiative.
- While amendments to the *Territory Parks and Wildlife Conservation Act* may help Aboriginal rangers better manage their land, this Act may not be the single priority for change. Future amendments to the *Territory Parks and Wildlife Conservation Act*, should be considered together with other legislation to better manage trespass and natural resources management issues. Subject to legal advice, minor amendments to other NT Acts to may be necessary to authorise Aboriginal rangers to manage the variety of natural resource management and trespass issues. Further comments in this regard are detailed in the “Current Legal Setting” section of this report.

Input from Ranger Groups

The enforcement issues and interests described by ranger groups differ generally between northern / coastal groups and central / desert ranger groups. The Northern ranger groups included coastal groups and those in the savannah-gulf region, and despite the different landscape the groups manage, both described similar enforcement issues and management options.

41 Aboriginal ranger groups were directly consulted. 35 of these groups described illegal access to country / trespass on Aboriginal land without a permit as their key enforcement issue. Many of these groups also commented that they believed the effective administration and enforcement of the Aboriginal land permit system to better manage trespass, would be likely to deliver a variety of secondary benefits related to land conservation and wildlife protection.

33 groups said that hunting or poaching is a major concern. Other issues included access to, or interference with sacred sites, littering, weed dispersal and lighting of fires. Increasing unregulated movement of tourists into or through Aboriginal lands was of concern for 15 groups. Five groups specifically described interference with, taking or possession of wildlife as a problem.

Most groups were interested in some form of enforcement powers to manage these issues on lands they manage. Only six groups said they did not want enforcement powers at this time.

Half the Central Australian groups did not see the issues they face as needing enforcement powers. In contrast to Northern Australia, unpermitted access and hunting on Aboriginal land are not seen as major issues.

Many groups highlighted issues such as littering and illegal alcohol use as community issues, which were felt best managed through community education and local governance arrangements. Land-based or non-fishery wildlife offences such as taking or killing protected wildlife are relatively minor concerns.

Many groups recommended that the Weeds Branch and Bushfires NT should be included in discussions for potential application of the *Weeds Management Act* and *Bushfires Management Act*. Knowingly transporting or introducing a declared weed and lighting fires without authorisation is a common problem described by many Ranger groups.

Many groups said they pass on information to the relevant Land Council and / or Police when they see people doing the wrong thing on country, but commented that they however they were sometimes frustrated by the lack of follow up. The groups did however acknowledge legitimate reasons for inconsistent follow up such as inadequate staffing resources, a lack of clarity and understanding about the enforcement responsibilities in relation to Aboriginal land permits.

All groups interested in gaining enforcement powers noted the need for considerable training and ongoing capacity development. Formal enforcement powers will require significant investment in both accredited and non-accredited training, with consideration to delivery being tailored for individual groups. Training rangers on country through short, intensive training courses with on-the-job assessment is regarded as an effective approach.

Most groups indicated that a majority of their staff need to begin with Certificate II Level training. The Fisheries compliance model employed under the Indigenous Community Marine Ranger Program was cited by many as an effective and suitable model from which to develop the land-based compliance initiative. The program is seen to have had a wide-reaching and positive impact. Many commented that this model was the first time Aboriginal rangers were taken seriously.

Most groups said they would like to see a cooperative model with close working relationships with other agencies, such as the Parks, Wildlife and Heritage Division and NT Police, to build capacity over time and help each other deal with compliance issues. Most groups also identified risks and

difficulties with compliance work and made clear they want to start slowly with training and start with basic powers.

The importance of public education and clear signage to assist with compliance and help rangers manage issues on country was described by many groups as a foundational priority for better managing country. The groups thought that education was a key ingredient in the compliance story and, if done properly, would help them avoid enforcement action.

Current Legal Setting

The *Territory Parks and Wildlife Conservation Act* (TPWCA) is the principal legislative mechanism for governing the management of Northern Territory parks. Section 92(2) of TPWCA allows the Director of Parks and Wildlife to appoint employees of an Authority of Australia as an honorary conservation officer, with powers according to the terms of their appointment. A similar approach could be taken to grant of powers to Aboriginal rangers, or Aboriginal ranger groups, over land under the control or management of the Parks and Wildlife Commission of the Northern Territory. The Commission is the legal entity responsible for care and control of parks and reserves, but not elsewhere, unless a management agreement applies.

Under section 73 of the TPWCA, a management agreement may be made between the Commission and a Land Council or other organisation with control over land, and the Aboriginal people occupying or exercising traditional hunting rights for that land, with the aim of protection and conservation of wildlife and natural features. An agreement under section 73 provides for the TPWC By-laws to apply to and in relation to that land, and Aboriginal rangers authorised under the TPWCA would be empowered to enforce those by-laws.

The major limitation of authorising Aboriginal rangers under the TPWCA is that they would not be authorised beyond the parks estate and areas under sections 73 management agreements. Clearly, the enforcement reforms under consideration must extend to granting powers to Aboriginal rangers, to other land (predominantly Aboriginal land), for similar purposes, if it is to be effective.

A mechanism to achieve this may be to enable Conservation Officers and authorised Aboriginal rangers appointed under the TPWCA to apply select provisions of other associated legislation, such as:

- *Aboriginal Land Act*
- *Nitmiluk (Katherine Gorge) National Park Act*
- *Aboriginal Sacred Sites Act*
- *Northern Territory Aboriginal Sacred Sites Act*
- *Bushfires Management Act*
- *Pastoral Land Act*
- *Cobourg Peninsular Aboriginal Land, Sanctuary and Marine Act*
- *Special Purpose Leases Act*
- *Lands and Mining Tribunal Act*
- *Weeds Management Act*
- *Mining Act*

Subject to pending legal advice around mechanisms to achieve authorisation across different Acts, this general approach has merit in that it could enable individual Aboriginal rangers to be authorised under legislation that manages specific enforcement priorities relevant to their groups or their country. This would avoid granting extensive powers to manage a variety of issues and would enable targeted training and support programs for Aboriginal rangers to be developed.

A key related regulatory mechanism in the management of Aboriginal land permits. The Northern Land Council are currently reforming their permit system with a view to providing improved online

access and permit processing, and view these Aboriginal ranger enforcement reforms as a key component in administering that system in the future.

Next Steps

As previously discussed, legal advice is being sought on the legislative amendment options to progress this initiative. The general question is; what legislation changes can be made that may provide for Aboriginal rangers to be appointed as authorised officers to enforce laws under different Acts and jurisdictions, or different areas.

The options will be provided for consideration the Minister for Tourism and Culture prior to further consultation with other agencies and stakeholders, including NT Fisheries, NT Police and the Land Councils. Before the end of 2018, the DTC will report back to ranger groups, check on our findings and the proposed directions before working on the details for legislation change. Regional ranger group meetings held later in the year will be the best opportunity for this next round of consultation.

Legislation change is one part of empowering rangers. Education programs, training and developing ranger group capacity and partnership arrangements between ranger groups and agencies are essential parts of the picture that will also be worked through and options discussed in upcoming consultation.