

KIMBERLEY LAND COUNCIL NEWSLETTER

FINAL QUARTER | DECEMBER 2021



MABU NGIMBI,

CELEBRATE OUR CULTURE, DON'T DESTROY IT.

Since 1978, the KLC has been a leading voice campaigning for land rights, and it has been no different this year.

As you may have seen in recent media coverage, the KLC was disappointed to see the introduction of the Aboriginal Cultural Heritage Bill to WA Parliament last month, despite widespread condemnation from Aboriginal people, investors and heritage experts across the state.

We felt disrespected when the amended Bill was released less than 24 hours before its introduction to Parliament, and dismayed to see normal parliamentary processes suspended to fast-track the Bill through the Legislative Assembly.

This year, much of my focus as Chair has been directed towards advocating against the new heritage laws. Fundamentally, this Bill will not protect Aboriginal cultural heritage and will continue a pattern of systematic structural racial discrimination against Aboriginal people. We've included an overview of our top concerns on the Bill on pages 4 & 5 of this newsletter.

The KLC has been working hard to ensure our concerns have been heard. This year, we marched with hundreds through the streets of Perth in protest, on two occasions. We performed our ancient dances on the steps of Parliament House calling on the Government to celebrate our culture, supported by elders who made the long journey from the Kimberley to be there. We handed a bark petition to the Minister for Indigenous Affairs, inviting him to begin a new era of relations with Aboriginal people.

We have reiterated our position, that Aboriginal people must have final say over matters concerning our heritage, in hundreds of media articles locally, nation-wide and around the world.

We have used our social media channels to generate awareness, with messages about the importance of protecting heritage reaching over 200,000 people in the last six-months alone.

After the McGowan Government refused to listen, and the Bill was introduced to Parliament, the KLC wrote to elected members of WA Parliament imploring them to 'vote no' on the Aboriginal Cultural Heritage Bill.



Leaving no stone unturned, we also elevated our concerns to the world stage. Late last month I wrote to the United Nations on behalf of the KLC to ask for an urgent investigation into the Aboriginal Cultural Heritage Bill on the grounds of racial discrimination. We maintain that the Bill exposes Aboriginal cultural heritage to continued damage and destruction, and that is in violation of international human rights.

The KLC has been clear and resolute in our message; legislation should be drafted that affirms and protects the rights of Aboriginal people. We should have final say, not the minister. Ignoring the wishes of Traditional Owners is a lost opportunity when commitment for change, and a better future for Aboriginal people, has never been more important.

Whilst we are disappointed our concerns have been ignored by a Government that sought to steamroll through new laws that favour industry, without the right consultation or engagement with Aboriginal people, our calls have not fallen on deaf ears.

The world is waking up to the importance of protecting heritage. Since the tragedy of Juukan Gorge last year, the eyes of the world have been on mining companies and the West Australian Government.

Whilst the Government has missed an opportunity to make proper change, the fight to ensure irreplaceable heritage is protected for future generations will not stop here.

Since 1978, the KLC has been a leading advocate for land rights, and as the Government passes a Bill that we warned against, we will continue to challenge the Government to do better. We will be watching, and we will let them know, the eyes of the world are on you.

The KLC has a vital role to play leading into the future, ensuring the Government is held accountable and our heritage is protected for future generations. It is work we do not take lightly, and I would like to take this moment to thank our Board, members and KLC staff for their dedication and commitment. It has been a challenging year, and to those people who continue to go above and beyond to ensure our living culture is protected, I want to say thank you and garlilya widiya liyarn, which is Nyikina for 'go with good spirit'.

Anthony Watson
Chairperson, Kimberley Land Council

ABORIGINAL CULTURAL HERITAGE BILL (2021) : THE FACTS

FAILURE TO EMBED FREE PRIOR AND INFORMED CONSENT

The proposed legislation does not meet the international standard of Free Prior and Informed Consent.

Free Prior and Informed Consent means that Traditional Owners can say 'no' and this will be respected. Under the proposed legislation, if Traditional Owners fail to reach agreement with a proponent then the Minister has final say. The Minister can override the wishes of Traditional Owners and impose the terms of an Aboriginal Cultural Heritage Management Plan over the concerns and objections of Traditional Owners.

NO RIGHT TO SAY NO

The Aboriginal Cultural Heritage Bill will give every other party, other than Traditional Owners, the control over decision making about Aboriginal cultural heritage. The Aboriginal Cultural Heritage Bill gives TOs the right to say "yes" to impacts on cultural heritage but no right to say "no".

- Proponents control decisions about cultural heritage if they assess their proposal as "exempt" or "tier 1".
- The ACH Council controls decisions about cultural heritage if proponents assess their proposal as "tier 2".
- The Minister ultimately controls decisions about cultural heritage if proponents assess their proposal as "tier 3".

REBRANDING SECTION 18

Under the current Aboriginal Heritage Act, Section 18 allows the Minister to approve damage or destruction to Aboriginal cultural heritage. The new Aboriginal Cultural Heritage Bill also includes the same mechanism, and expands on the ways that Aboriginal cultural heritage can be damaged or destroyed without the approval of Traditional Owners. If the Aboriginal Cultural Heritage Bill is made into law, entire categories of activities will be exempt from approval before damaging, destroying or impacting on cultural heritage. This is in fact a step backwards from the current law, which prohibits all impacts on cultural heritage without approval.

- The new 'section 18' process has been rebranded as an 'ACH Permit' and an 'ACH Management Plan'.
- Under the new law, proponents, the ACH Council, and the Minister make decisions on whether or not an activity can occur if it impacts Aboriginal cultural heritage. The only parties who are not afforded any role in decision making under the new law (other than the role of 'agreeing' to management plans) are Traditional Owners.



BURDENSOME AGREEMENT MAKING

The Bill mandates a process that forces Traditional Owners to engage with proponents and imposes an obligation on PBCs (if they are a Local Aboriginal Cultural Heritage Service) to use “best endeavours” to reach agreement, even if they do not want their cultural heritage impacted. This process is very similar to the right to negotiate process under the Native Title Act, and will compel Traditional Owners and their representative organisations to take part in forced negotiations for the benefit of a third party, without any clear commitment on how PBCs and LACHS will be funded. If agreement is not reached the Minister can impose an Aboriginal Cultural Heritage Management Plan over the concerns and objections of Traditional Owners.

INEFFECTIVE CONSULTATION

Throughout the consultation process, Traditional Owners have consistently stated that they do not want a new law that allows Government to make the final decision on whether or not cultural heritage is damaged or destroyed. Consultation should mean concerns are listened to, not ignored. Genuine engagement does not involve including people in a process only to exclude them from the outcome.

PROTECTED AREA LIMITATIONS

Protected Areas cannot be made over areas already covered by a Section 18 application, ACH Permit or ACH Management Plan. As a result, areas that are already impacted by proponents’ activities can’t be protected. For areas of unallocated Crown land that have recognised exclusive possession native title, the Minister for Lands has been given the same rights as a private landowner under the Aboriginal Cultural Heritage Bill. This diminishes and erodes the standing of native title holders, who are not given the same status as “landowners” under the Bill.

UNCLEAR REGULATION PROCESS

There is currently no detail as to what the ‘co-design’ process will look like or who it will involve. Given the flawed consultation process so far, we have zero confidence that any future consultation or ‘co-design’ will respect the views and concerns of Traditional Owners.

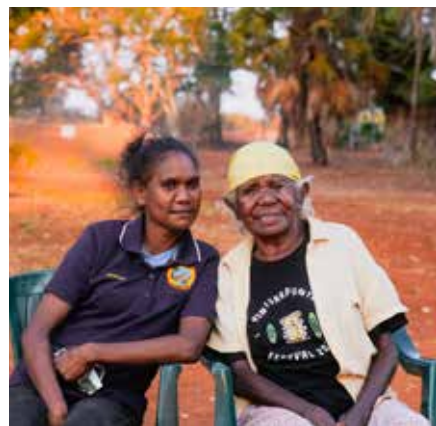
AGMS OF KLC, KALACC AND AARNJA: CULTURE IS NOW

KLC, KALACC and AARNJA were pleased to finally host their AGMs at Port Smith Bird Park as part of the 2021 Punturr Punturr festival on Karajarri country at the beginning of November.

It was a memorable few days filled with important discussions, meetings and celebrations of culture. Members also heard from guests like Senator Patrick Dodson, Member for Kimberley Divina D'Anna, Police Commissioner Chris Dawson and Minister for Indigenous Affairs, Stephen Dawson.

The organisations reaffirmed their opposition to the proposed Aboriginal Cultural Heritage Bill, calling on the Minister for Aboriginal Affairs to make the changes needed to ensure Aboriginal Cultural Heritage is protected for future generations. Read The Punturr Punturr Statement on Page 8.







A huge thank you to KLC staff for all their hard work ensuring the event ran smoothly!



PUNTURRPUNTURR STATEMENT

CULTURE IS NOW

12 November 2021

Statement to the Minister for Aboriginal Affairs the Hon. Stephen Dawson

At the 2021 Punturr Punturr Festival you stood before descendants of the original owners of this country who have, since settlement, seen unceasing and ongoing destruction of their country, culture and people.

Now, as discussions about Aboriginal cultural heritage reach a pivotal point, as Minister for Aboriginal Affairs, you have a once in a lifetime opportunity to change this story and protect our living, breathing culture. You have the opportunity to prove that you are on our side, fighting for us.

Your government's proposed new Aboriginal Cultural Heritage Bill will not make the changes needed to ensure Aboriginal Cultural Heritage is protected for future generations. The proposed laws will continue to enable the ongoing destruction of Aboriginal culture.

A tragedy the scale of Juukan Gorge can, and will, happen again under your proposed heritage laws.

Minister Dawson, over the course of 2021 KLC, KALACC and Aarnja members have consistently voiced their opposition to the Aboriginal Cultural Heritage Bill in its current form. Now, at the AGMs of our three organisations we reaffirm this opposition and urge you to work with us to find a way forward.

We call on you to:

- Ensure the proposed legislation is formed on the basis of free prior and informed consent. The final decision about impacts to Aboriginal culture and heritage must lie with Aboriginal people, not industry or government.
- Legislate an appeal process to the State Administrative Tribunal to ensure that, just as occurs in other areas of the justice system, wrong decisions can be reviewed. This is about the fundamental principle of access to justice which a Labor Government should stand strong on.
- Deliver adequate resourcing for PBCs and their representatives to properly engage with this new and complex legislation.
- Ensure the proposed new Aboriginal Cultural Heritage Council is 100 per cent Aboriginal represented, not just a majority.
- Create an Aboriginal Cultural Heritage Bill that strengthens industry's social license to operate.
- Accept that meaningful engagement has not occurred. Listen openly and implement our recommendations for improvement of this legislation so as to address our very significant concerns.

We acknowledge your commitment at the 2021 KLC AGM to provide a draft copy of the revised Aboriginal Cultural Heritage Bill before it is introduced to Parliament. We look forward to receiving this soon.

The theme for the 2021 Punturr Punturr Festival was Culture is Now. Minister Dawson, there is no better time than now to protect the oldest living heritage and culture in the world.



MAYALA TRADITIONAL OWNERS EMBARK ON LANDMARK TRIP BACK TO SEA COUNTRY

Fifteen Mayala Traditional Owners were able to enjoy a recent trip exploring hard-to-access islands in remote sea country, some for the very first time, thanks to the support of a grant from Parks Australia.





“Gorna, our Liyan. Being back out on country, it gives you a happy feeling, you feel like singing”

- Alma Ejai



Located in the Buccaneer Archipelago Marine Park in the north west of the Kimberley, Mayala country is an area of significant cultural value made up of thousands of islands fringed by coral reefs and sea grass beds and home to a rich abundance of species like turtle, dugong and humpback whales.

Mayala Traditional Owner, Rowena Mouda said trips like these are so important because nothing can compare to the feeling of being back out on country.

“Sea country is a fundamental part of our social, physical and spiritual existence,” she explained.

“Our people were forcibly removed from these islands to the mainland years ago, these trips give an opportunity for elders and young people to return to country more often to practice our cultural way of life; fish, explore the reefs, exchange knowledge and share stories between the old and the young.”

The grant which enabled the trip is part of a new partnership between Parks Australia and Traditional

Owners, and is part of co-design process for the new Buccaneer Archipelago Marine Park. For the first time in the state’s history, Indigenous knowledge is central to the design of a marine park.

The genuine two-way partnership results in the best protection for sea country as traditional Indigenous knowledge is combined with modern environmental management.

Senior Marine Parks Officer from Parks Australia, Michelle Glover, said it was a privilege to have been able to join the first of two planned Mayala on-country trips.

“Late last year, Mayala, supported by the Kimberley Land Council, received an Australian Government Marine Parks Grant. A major focus of this grant has been to enable Mayala reconnection to country in and adjacent to the Kimberley Marine Park, and importantly strengthen the Parks Australia Mayala relationship to support the management of sea country now and into the future”

“It’s been a long journey for the old people, now it’s the younger people’s turn to look after country, like the old people did. Learn and teach the country.”

- Tim Carter, Mayala Traditional Owner



NGARINYIN TRADITIONAL OWNERS SET THEIR SIGHTS ON THE TOURISM INDUSTRY

Kimberley Land Council staff worked alongside Wilinggin Aboriginal Corporation and North Regional TAFE in delivering a series of training events to develop tour guiding skills for Ngarinyin Traditional Owners who have aspirations to move into the tourism business.



Over 10 Traditional Owners worked on developing a tourism product across 3 weeks earlier this year. Throughout the course Traditional Owners practiced presentation skills at various community events such as the NAIDOC celebrations at Mount Barnett Gorge, the ranger forum and demo tours for tourists visiting the Gibb River Rd.

The training was a great opportunity to share stories about Ngarinyin cultural beliefs, plant and bush tucker knowledge and the local pastoral history.



KLC staff reported seeing great dedication and motivation of Traditional Owners throughout the tourism training. The KLC looks forward to seeing the development of different Indigenous owned tourism businesses on Ngarinyin country.

Thanks to Woodside Energy and Browse Joint Venture for their support of this project.

INDIGENOUS-LED TURTLE AND DUGONG CONSERVATION PROJECT LAUNCHED

Earlier this month the Indigenous Salt Water Advisory Group (ISWAG) launched a 10 year plan for turtle and dugong conservation, designed and led by Indigenous saltwater managers across the Kimberley.

Sea turtle and dugong are of high cultural and conservation significance in the Kimberley, and both species face significant threats and pressures to their habitats here and around the world.

By combining western science and Indigenous knowledge, the long-term collaborative management approach seeks to maintain healthy and sustainable populations of sea turtle and dugong in Kimberley waters to ensure Indigenous livelihoods, culture and customary practices are supported.

The Kimberley region has one of the last near-pristine coastal environments in the world, and the initiative is important for developing foundational ecological and biological knowledge, building Indigenous science capacity and two-way knowledge systems.

Developed by ISWAG, the project is based on the collective vision of the nine established Kimberley saltwater Native Title groups, with support and endorsement from Western science partners. The groups involved represent Traditional Owner groups for 90% of the Kimberley coastline; Balanggarra, Wunambal Gaambera, Dambimangari, Mayala, Bardi Jawi, Nyul Nyul, Yawuru, Karajarri and Nyangumarta.

The initiative will act as a coordinated regional approach to species and habitat conservation enabling researchers to develop consistent data and overcome management challenges and improve efficiencies.



WOMEN RANGER EXCHANGE



BARDI TO KARAJARRI COUNTRY

Written by Bardi Jawi Oorany Ranger, Chenielle George.

"On the 6th of September the Bardi Jawi Oorany Rangers left One Arm Point to go on an exchange to Yilpi (Edgar Ranges) on Karajarri country.

It was a long trip, nearly a 6 hour drive, and once there we met up with Karajarri and Nyangumarta Women Rangers as well as staff from Bush Heritage and Environs Kimberley. Soon after Karajarri elders welcomed us to their country.

On the exchange we did a lot of animal trapping and vegetation surveys to see what kinds of animals and plants are around that area, and whether it was the same or different kinds of plants and animals to Bardi Jawi country.

The girls took us on a long walk which led to a water hole, the water was icy cold and beautiful we took heaps of photos and videos. The elder Karajarri women cooked us a lovely stew and a big damper to go with it.

I would love to thank the Karajarri Rangers for having us and showing us their beautiful country, it was a great experience for us all."



KARAJARRI TO BARDI COUNTRY

Written by Karajarri Ranger Coordinator, Courtney

"We had a fantastic time going on exchange to Bardi Country, spending time being strong women on country, exactly what we talk about during Women Ranger's strategy meetings.

The Bardi Jawi women taught us about their seed bank and nursery, and we visited their fish traps and Monsoon Vine Thickets. There was plenty of spare time for fishing, storytelling and getting bogged but then helping each other get out again."



Getting vaccinated against COVID-19 helps keep Kimberley communities safe.

KLC staff members Albert and Nikki took part in the Kununurra vaxathon in September, saying they got their jabs to keep themselves and their communities safe.

COVID-19 vaccines protect us as individuals, and can protect our families, our communities and our region.

“I got vaccinated to keep myself protected and to help keep my family, friends and the rest of the mob safe.”
- Albert Cox

Meeting with Minister Wyatt

The KLC was fortunate to have the opportunity to meet with the Minister for Indigenous Australians in September.

Minister Ken Wyatt and his team met KLC Chair Anthony Watson, KLC CEO Tyronne Garstone and KLC Deputy CEOs Sarah Parriman and Douglas D’Antoine to discuss nation-building, economic development, land tenure and the continuation of ranger funding.

At the end of the meeting, Chair Anthony Watson presented Minister Wyatt with a framed boomerang as a gift from the KLC thanking the minister for his ongoing support of the Indigenous ranger program in the Kimberley.

The KLC looks forward to working with Minister Wyatt to continue pushing for better outcomes and opportunities for Kimberley Aboriginal



Archive transfer from Derby to Broome

Recently the KLC has successfully moved over 40 years of archives from the Derby office to Broome. Our archival material is a vital documentation and history of our journey as an organisation, and our staff work hard to ensure our records are stored safely and can be accessed well into the future.

KIMBERLEY LAND COUNCIL

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The Kimberley Land Council welcomes donations to support our activities. Donations of \$2 or more are tax deductible.

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