



• GETTING BACK COUNTRY • CARING FOR COUNTRY • SECURING THE FUTURE

PO Box 2145 Broome WA 6725 Ph: (08) 9194 0100 Fax: (08) 9193 6279 www.klc.org.au



5 KIMBERLEY SUICIDE 10 JARU NATIVE TITLE DETERMINATION 12 LANDMARK COMPENSATION CLAIM

Jaru Native Title Determined

The Federal Court of Australia travelled to Mary Pool to officially recognise the Jaru native title holders as the Traditional Owners of 23,591 square kilometres of country late last year.

Delivered by Justice Mortimer, the native title determination recognised both exclusive and non-exclusive native title rights and interests based on the Jaru native title holders continuing connection to country and in line with their traditional laws and customs, which have continued unbroken since before the British declared sovereignty across Western Australia in 1829.

Aboriginal people are warned that this newsletter may contain images of deceased people.



Looking back
on the KLC



1994 - 25 years ago Native Title Act arrives

The Commonwealth Native Title Act, the Federal Government's response to the Mabo High Court decision, came into effect on 1 January 1994.

The KLC played an important role in the negotiations over the Act and a Kimberley delegation spent two weeks in Canberra before Christmas lobbying for amendments to get the Act passed.



Paul Keting: Instrumental in passing the Native Title Act in 1993. (AAP)



2004 - 15 years ago Healthy Country Meeting

More than 200 people from all across the Kimberley attended a meeting at Bungarun to talk about Healthy Country.

Aboriginal people came together to talk about what's important for looking after land and sea country and to work out the best way to speak up for country.

Patrick Dodson, John Watson and Peter Yu with 'Peace painting'.



Message from the Chairman



Marboo Ngimbi,

Welcome to 2019 everyone. I hope you all had a relaxing holiday period with family and friends. Even though it's the wet season there has still been a lot going on across the region.

Since the last KLC newsletter there have been another four native title determinations – Jaru, Giniyjawarni Yoowaniya Riwi, Goorring and Bindunbur no 2.

These Federal Court decisions mean the Kimberley is now approximately 87.5 per cent native title determined. I would like to send my congratulations to all the Traditional Owners for achieving these outcomes for your people.

In 2019, I will have a big focus on visiting communities and talking with KLC members. It is my job to hear from you, our members, about what your needs are and what role you want the land council to play.

I know there are many issues affecting Kimberley people right now and we want to make sure we are helping in whatever way we can – whether it is about fishing, hunting, health services or something else. If you want to speak to me, call the KLC office with your name, place and contact so I can organise a time to visit.

In 2019, the land council will continue to progress a significant amount of native title claim work, as well as providing assistance with the set-up of new PBCs.

We also expect a number of consent determinations to occur later this year, as well as one matter which will go to litigation.

As leaders we must not forget that when we hold a legal court proceedings like native title claim meetings on country why are we doing this. We do this so we can create pillars within our community, create vision and a foundation for our young people and the future generation. Getting native title determined is

important and would be sad for people to miss out on this opportunity to have your rights as native title holders recognised by the Federal Court of Australia.

There is also a lot happening in the land and sea area, with big events coming up, including the Desert Festival which will be held for the first time in Mulan. We will also be bringing our rangers together for a Healthy Country Forum later in the year, as well as many different training events.

Funding for KLC operations remains tight, which means we will have to prioritise carefully the workload of the organisation to get the best outcomes for members. The KLC will continue to look at new opportunities to source funding.

We have a Federal election coming up soon and the KLC travelled to Canberra to make sure that our voice is heard on national issues affecting our people. The election is an opportunity for all you mob to have a say on key issues, such as the proposal for an Indigenous Voice in the Constitution. We'll be keeping you updated with important information in the lead up to the election so keep an eye out for our newsletters and our social media pages like Facebook.

I hope you enjoy this first update for the year. Please always let us know what you think about the newsletter and what you would like to see more of.

Have a great year everyone!

Anthony Watson
Chairperson





Nolan back at the helm

2019 sees a return to the Kimberley Land Council's previous executive structure, with Nolan Hunter coming back into the role of Chief Executive Officer.

Nolan is fresh from a stint at Westpac in Sydney, which was facilitated through a Jawun reverse secondment.

The secondment saw him take on various roles within the Westpac business, with a particular focus on agribusiness, northern Australia development and Indigenous economic development.

The aim of the secondment was to provide Nolan with insider experience in the business sector to gain skills and knowledge that could be brought back to the Kimberley to assist Traditional Owners to drive their own economic agenda.

"If the highest purpose for me is about changing the social and economic circumstances of my people, particularly in the Kimberleys and Northern Australia, then I need to find out as much as I can about how business operates," Nolan said.

In his role at Westpac, Nolan gained a number of technical skills but the biggest

learning came from the opportunity to understand the elements underpinning the success of the organisation, including the culture of Westpac, the behaviours, the operating rhythm, and consistent internal messaging.

"It was a great learning insight for me because I could then understand what some of the challenges of the KLC are, and how to fix these by understanding what those guys were doing at Westpac," he said.

With the return of Nolan to the position of CEO, Tyronne Garstone will once again take on the position of Deputy CEO and Sarah Parriman will return to the role of Corporate Services Manager.

Both Ty and Sarah relished the opportunity of stepping up into higher roles and leading the organisation in its 40th anniversary year.



Kimberley suicide not just a health issue

In February 2019, The WA State Coroner Ros Fogliani released her findings, as well as 42 recommendations, in relation to the deaths of 13 Kimberley young people.

Kimberley Land Council CEO Nolan Hunter said he welcomed the Coroner's recommendations in support of cultural healing, connection to country, and culturally centered and regionally-led solutions.

"Programs, such as the Yiriman Project (Kimberley Aboriginal Law and Culture Centre), as well as the Indigenous ranger program, are proven in their ability to transform young people's internal wellbeing through connection to country and culture," Nolan said.

"The Coroner has clearly identified "self-determination" and "empowerment" as key to any effective response – principles Kimberley people have been calling for consistently for decades.

"While we are hopeful that the findings will be a line in the sand, we know this inquest follows many other reports, reviews and recommendations.

"We must focus on outcomes, rather than output, on collaboration, rather than separation, and a whole of community approach. This is a Kimberley issue that requires all Kimberley organisations to play a part in their respective fields.

"We offer our sincere condolences and support to the many families and community members impacted by today's coronal inquest and the ongoing suicide crisis within our region."

Indigenous children aged five to 17 die from suicide at five times the rate of non-Indigenous children, according to figures produced by the Australian Bureau of Statistics this year.

According to data released by the Commonwealth Government last year, the Kimberley has the worst Indigenous suicide rate in all of Australia.





Jaru Native Title determined

The Federal Court of Australia travelled to Mary Pool to officially recognise the Jaru native title holders as the Traditional Owners of 23,591 square kilometres of country late last year.

Delivered by Justice Mortimer, the native title determination recognised both exclusive and non-exclusive native title rights and interests based on the Jaru native title holders' continuing connection to country based on their traditional laws and customs, which have continued unbroken since before the British declared sovereignty across Western Australia in 1829.

The Jaru native title holders were recognised with exclusive possession native title in reserves held in trust by the Aboriginal Lands Trust, Lamboo pastoral lease, a number of Aboriginal-held leases over communities, and part of

Carranya pastoral lease which is inside the determination area.

The determination also includes very important sites such as Dalany, Gariny, and the Sturt Creek waterway, including Red Rock, Chuall Pool, Bindi Bindi, Kulyarjaru Banana Springs, Jambat, Namarung, Marala Gorge, and all their associated Dreamings.

Jaru man and Applicant Kimberley Baird said the determination presents an opportunity for Jaru people to move forward.

"This is an historic day for Jaru people. It's been a long time coming," Kimberley said.





“I think what needs to happen with Jaru people is we need to come together as one - to unify - to speak with one voice.

“It’s a great opportunity for us to move forward. It’s up to the people themselves to come together and embrace it as one.”

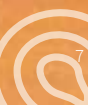
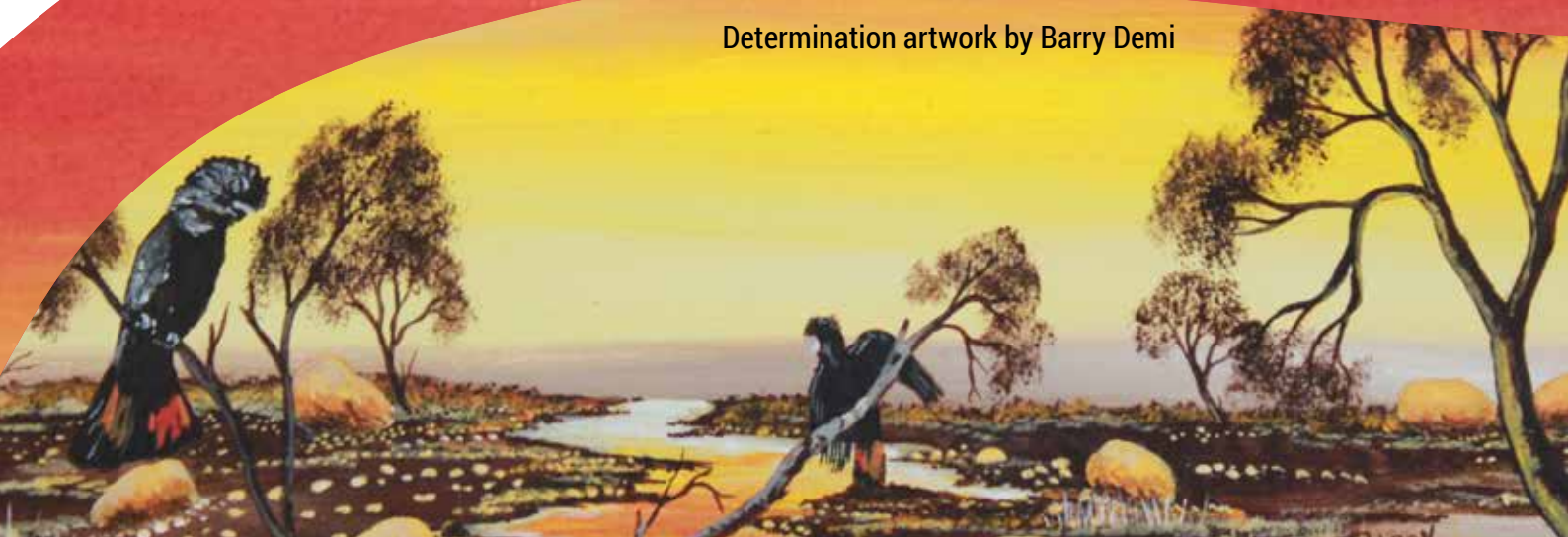
Kimberley Land Council Deputy CEO at the time, Sarah Parriman, congratulated the Jaru people on their long awaited recognition of native title.

“This is a very important moment in time for the Jaru Traditional Owners,” Ms Parriman said.

“After years of dispossession, a determination of native title proves at law that the Jaru native title holders have an unbroken and ongoing connection to country.

“The Jaru people have waited a long time to have their rights recognised and that is what the Federal Court of Australia has done.”

Determination artwork by Barry Demi



Jaru Native Title Determination





Landmark compensation claim upheld

Kimberley Land Council CEO Nolan Hunter has labelled a recent High Court decision in the Timber Creek compensation case “a landmark decision”.

On March 13 2019, the High Court ruled that native title holders from Timber Creek would receive \$2.5 million in compensation for loss of their rights, including cultural loss.

It is the first time the High Court has examined the Native Title Act’s compensation provisions, including how to put a price on cultural harm caused by forced disconnection from country.

According to Mr Hunter, the judgment reaffirms what the Native Title Act already says – that people should be compensated for loss of their land.

“After 25 years of native title law, this decision finally gives some certainty about how people are compensated for the loss of their native title land,” he said.

“Formal legal recognition of the harm caused to Traditional Owners by the process of dispossession from country and formal legal redress for that dispossession, like compensation, will give people some ability to take proactive steps to address historic community disadvantage.”

“However, we see again that the compensation for native title loss is not what you would get if you were compensated for freehold title.

“Aboriginal people still aren’t being treated the same as non- Aboriginal people in regards to loss of property rights because of the way the Native Title Act and the common law views “non-exclusive” native title rights, and how these rights will now be valued in compensation claims.”

Mr Hunter said the KLC is also concerned that pursuing future compensation claims could come at an even greater emotional and personal cost for native title holders who have already been forced to go through the adversarial and litigious native title court process to have their rights in country recognised.

“Without doubt, if there is no proactive involvement from government, litigation of compensation claims will extract a much higher personal toll on claimants than has been experience to date in native title determinations.

“The KLC is calling for a statutory ‘opt-in’ scheme as an alternative to litigation of native title compensation claims.

“The government and native title representative bodies together have a responsibility to do everything possible to avoid further trauma to Traditional Owners by forcing them to relive the enormous hurt and shame of being forcibly disconnected from country.”

Proud day for Traditional Owners

The members of the Giniyjawarnni Yoowaniya Riwi (GYR) native title claim have officially celebrated their native title determination, following a ceremony at the Federal Court of Australia in Perth last December.

The determination was attended by members of the applicant for the claim – the group elected by the wider claim group to represent them and help make decisions throughout the native title process.

Located in the central Kimberley, the GYR claim includes Gooniyandi, Kija and Gooniyandi/Kija identifying people. The claim area, which covers approximately 2,212 sq km, is bordered to the west and south-west by the Gooniyandi Combined #2 native title determination, to the north and east by the Yurriyngem Taam native title claim, and to the south by the Jaru native title determination area.

The Kimberley Land Council sends its sincere congratulations to the Giniyjawarnni Yoowaniya Riwi native title holders on such a special day and important achievement.



Applicant of Giniyjawarnni Yoowaniya Riwi native title claim Mervyn Street and Justice Colvin, Perth, December 2018.

Goorring Native Title recognised

In more exciting news, the Federal Court of Australia has made a determination of native title for the Goorring native title claim in the East Kimberley.

The Goorring native title claim covers a small area on the eastern boundary of the Doon Doon pastoral lease. An acknowledgment of native title is scheduled to occur on country this year. A big congratulations to the Goorring native title holders on this fantastic news, which means you will now officially be recognised at law as the Traditional Owners of your country.

A PBC now needs to be established by the Goorring native title holders with the assistance of the KLC.

It's a huge achievement and a testament to the perseverance of Kimberley Aboriginal people and the hard work of Kimberley Land Council staff.



Middle Dampier Peninsula native title decision and appeal

In May 2018 the Federal Court of Australia made a determination of native title in the Bindunbur and Jabirr Jabirr/Ngumbarl native title claims (Manado on behalf of the Bindunbur Native Title Claim Group v State of Western Australia [2018] FCAFC 238).

These determinations recognised native title rights across the middle Dampier Peninsula for the Jabbir Jabbir/Ngumbarl, Nimanburr and Nyul Nyul people. The determinations were celebrated on country at Beagle Bay in May 2017.

Following the determinations, a number of appeals were lodged with the Federal Court of Australia.

The Goolarabooloo people appealed on the grounds that they had native title rights and interests in the Jabirr Jabirr/Ngumbarl determination area that should have been recognised.

The Bindunbur and Jabirr Jabirr/Ngumbarl claim groups appealed on the grounds that that their determination should recognise exclusive possession over beaches and waterways where there was no existing right of public access.

In December 2018, the Full Federal Court of Australia made a decision in relation to these appeals.

The Goolarabooloo appeal was dismissed and the Goolarabooloo people have not sought to appeal this decision again.

The remaining appeals, by the Bindunbur and Jabbir Jabbir/Ngumbarl native title holders, were upheld by the Full Federal Court of Australia.

The court determined that exclusive possession native title can be recognised to beaches, waterways, marshes and riverbanks, unless the public has a right of access such as through a public recreation reserve or nature reserve.

The State of Western Australia and Commonwealth of Australia have recently sought special leave to appeal this decision in the High Court of Australia.

If special leave is granted, the appeals made would likely be heard by the High Court later this year.

A decision regarding the special leave applications is expected to occur by mid 2019.

The Kimberley Land Council is acting for the Jabbir Jabbir/Ngumbarl and Bindunbur native title groups in this matter.

Aboriginal Heritage Act plans revealed

The State Government has released a discussion paper outlining its plan for new WA Aboriginal Heritage legislation.

The KLC has long been calling for a complete overhaul of the Aboriginal Heritage Act, which is from a pre-native title and pre-racial discrimination legislation era.

In a submission to the State Government as part of its review into the Act, the KLC recommended the legislation be repealed and replaced, rather than amended piecemeal.

KLC CEO Nolan Hunter said changes to the 47-year-old Aboriginal Heritage Act are long overdue.

“It’s pleasing the government has recognised what we have been saying all along – that the current Act isn’t fixable and that they need to start afresh,” Nolan said.

“The overriding purpose of the heritage legislation should be the protection of Aboriginal sites for the benefit of Aboriginal people. Currently, the Act is primarily directed at processes that provide for damage to and destruction of Aboriginal sites.

“Applications to damage or destroy Aboriginal sites are almost never rejected under the current Act.”

The State Government’s new discussion paper outlines a number of proposals aimed at improving heritage legislation, including a proposal to repeal the current Act and replace it with new legislation.

Other recommendations included in the discussion paper include:

- Updating the definitions and scope of new legislation, for example what is the definition of a ‘place’.
- Local Aboriginal heritage services. The suggestion is that PBCs could take on a role in heritage management.
- An Aboriginal Heritage Council.
- Ministerial oversight and approval for land use proposals that involve major impacts to Aboriginal heritage or projects that are of state significance.
- Retaining the register of Aboriginal places and objects.
- Introducing a referral mechanism to facilitate assessments and approvals.
- Acknowledgment of the importance of agreement making and native title standards
- Transparency of decision making
- Stronger enforcement and penalties and a possible role for Aboriginal rangers in enforcement. Limiting the current ignorance defense.
- Protecting places of outstanding importance.

The State Government is calling for submissions to be made on the discussion paper by 31 May 2019. For more information visit <https://www.dplh.wa.gov.au/aha-review>



Kimberley Land Council

Directors 2018-20



IRENE DAVEY
CULTURAL ADVISOR



JOHN WATSON
CULTURAL ADVISOR



WAYNE BERGMANN
CULTURAL ADVISOR



ANNETTE KOGOLO
CULTURAL ADVISOR



NOLAN HUNTER
CHIEF EXECUTIVE OFFICER



ALBERT WIGGAN
NYUL NYUL



BOBETTA ALBERT
JABIRR JABIRR



MARGARET ROSE
NYANGUMARTA
KARAJARRI



RUSSEL DAVEY
BARDI JAWI



TREVOR COX
NIMANBUR



THOMAS KING
KARAJARRI



BROOME

DERBY



Council

20

FRANK DAVEY
MAYALA



CATHERINE GOONACK
UUNGUU



TOM BIRCH
DEPUTY CHAIR
BALANGGARRA



ROSIE SAHANNA
WILINGGIN



DAMBIMANGARI
VACANT

ROBERT WATSON
WARRWA



WYNDHAM

MIRIUWUNG
GAJERRONG
VACANT

KUNUNURRA

SHIRLEY PURDIE
MALARNGOWEM



JEAN MALAY
YURRIYANGEM TAAM



SHIRLEY DRILL
PURNULULU



GREG TAIT
NGARRAWANJI



EDITH SKEEN
KOONJIE-ELVIRE



ROSEMARY
ROSEWOOD
JARU



NOONKANBAH
VACANT

BUNUBA
VACANT

ANTHONY WATSON
CHAIRMAN
NYIKINA MANGALA



FITZROY CROSSING

DOUGLAS HOBBS
KURUNGAL

HALLS CREEK

JOSEPH NUGGET
NGURRARA



ELIZABETH LULU
TJURABALAN



East Kimberley Claim Update

Ngarrawanji

An authorisation meeting with the Ngarrawanji native title claim group was held on 26 November 2018 in Halls Creek. The native title claim group authorised a Minute of Consent Determination of Native Title (MCDNT).

The Ngarrawanji native title claim mostly covers pastoral lease land where non-exclusive native title will be recognised. Exclusive possession will be recognised over an area of unallocated Crown land. There are some small areas where native title cannot be recognised because of public works.

An 'on country' consent determination is scheduled for first half 2019.

Yurriyngem Taam

An authorisation meeting for the Yurriyngem native title claim group was held on 19-21 March 2019 in Warmun. The native title claim group authorised changes to the claim group description, the terms of a Minute of Consent Determination of Native Title (MCDNT), the terms of a pastoral access Indigenous Land Use Agreement (ILUA) and selected a new Applicant for the Yurriyngem Taam claim. The claim group description authorised at the meeting will be the "Native Title Holders" recognised in the Federal Court determination of native title. The Federal Court has scheduled a determination of the Yurriyngem Taam claim for 23 May 2019.

Purnululu

The Purnululu claim has been set down for an 'on country' hearing from 12 - 23 August 2019. An 'on country' hearing will involve Purnululu claimants giving evidence about their connection to country before a Justice Mortimer of the Federal Court. KLC lawyers and anthropologists will meet with members of the Purnululu claim from late April - early May and late in July 2019 to prepare for the Federal Court hearings in August 2019.

Malarngowem

An authorisation meeting with the Malarngowem native title claim group was held on 29-30 November 2018 in Warmun. The native title claim group authorised a MCDNT and pastoral access Indigenous Land Use Agreement (ILUA).

The Malarngowem native title claim mostly covers pastoral lease land where non-exclusive native title will be recognised. Exclusive possession will be recognised in parts of Bow River pastoral lease, Aboriginal reserves and leases, and unallocated Crown land. Native title will not be recognised in Telstra reserves, roads, and other public works.

An 'on country' consent determination is scheduled for the middle of 2019.

Koongie- Elvire

A meeting of the native title claim group for the Koongie-Elvire claim was held on 5-6 March 2019 in Halls Creek. The purpose of the meeting was for the native title claim group to confirm and decide on the proposed claim group description to be recognised as the native title holders for the area of this claim which would then be authorised at an Authorisation Meeting in April 2019.

After the meeting on 5 and 6 March 2019 it is clear that the KLC needs to have further discussions with the Koongie-Elvire claim group about the future of the claim. The Authorisation Meeting that was scheduled for 9 and 10 April 2019 has been postponed to allow for these discussions to take place.

Another claim group meeting will be scheduled for June 2019 and the KLC will invite a representative of the Federal Court to attend that meeting to inform the claim group of the Court's position in relation to the claim.



Rangers sail through maritime training

The Uunguu and Balangarra rangers have recently completed a series of maritime training courses to assist them to look after coastal country in the north Kimberley.

Both these groups have aspirations to develop their maritime operational capacity by completing training and acquiring vessels, enabling them to conduct their own patrols and marine coastal surveys to engage in visitor management, biosecurity surveillance, marine park management activities and coastal site monitoring and maintenance. Eight rangers have completed their certificate I in Maritime Operations, which covered a range of competencies and skills in operating and maintaining vessels, survival and emergency response and applying good seamanship. This training is a key step for these rangers working towards gaining coxswain qualifications.

The KLC organises and facilitates a wide variety of training opportunities to build the capacity of Kimberley Indigenous Rangers and support them to gain valuable industry qualifications in Conservation and Land Management, Maritime, Safety, Fire Operations and Business. 2019 is set to be another huge year of training and we can't bring you more pics and updates from the KLC training coordinators and rangers across the region.

Thanks to the Department of Agriculture and Water Resources for funding this recent maritime training.

Land and Sea Management Unit update



Nyikina Mangala rangers undertake construction work

Migratory shore bird research, 80 Mile Beach Marine Park



Planning, measuring and mathematics

Our rangers have been learning the fundamentals of shed construction to enable them to build bough shed structures to provide shade and shelter for community members and visitors.

The training was held in Fitzroy Crossing last week with 18 rangers in attendance and was hosted by North Regional TAFE lecturers George and Gareth.

As well as providing a range of practical skills these workshops also allow an opportunity for our rangers to network, share knowledge and build relationships.

Migratory shore bird research

The Karajarri Rangers have been working closely with members of the Global Flyway Network and the Nyangumarta Rangers for a 10 day survey at 80 Mile Beach Marine Park.

The rangers have been tagging, measuring and weighing different species of migratory shore birds, some that come all the way from Siberia to feast on our mudflats. This work is important as the populations are declining in some countries due to habitat loss and human impacts. We all had a great time being able to check out these beautiful birds up close.

Huge turnout for ISWAG

The Indigenous Saltwater Advisory Group (ISWAG) met in Broome for two full days of discussion and exciting planning for Kimberley Saltwater Country.

ISWAG brought together 44 people including saltwater land managers from around the Kimberley with scientists to plan a regional turtle and dugong project that will help us understand more about our the movements and habitats of our cultural species.

Shed construction, planning, measuring and mathematics





Firing up for fire training

It was awesome to see rangers from Gooniyandi, Karajarri, Nyikina Mangala, Bardi Jawi and Nyangumarta rangers groups complete their Aerial Fire Operations/Incendiary Machine Operator (IMO) training in Derby recently.

Training included completion of industry accredited units covering operation of aerial incendiary devices and working safely around aircraft in fire operations.

The training is critical for Indigenous rangers to successfully undertake aerial burning operations on their country as part of their annual fire programs. Rangers undertake fire operations from around March to July, working closely with Traditional Owners, pastoralists, DFES, shires and other agencies.

Early season burning reduces the intensity and scale of hot fires late in the dry season by creating important fire breaks and reducing fuel loads. Late season bushfires can cause significant environmental damage and danger to people and property in the Kimberley.

The training was organised by the Kimberley Land Council and run by North West Regional TAFE.

Representatives in attendance include Traditional Owners from the Balanggarra, Wunambal Gaambera, Dambimangari, Bardi Jawi, Nyul Nyul, Yawuru and Karajarri peoples as well as staff from government and non-government agencies.



Indigenous Saltwater Advisory Group



ICN: 21

The Kimberley Land Council welcomes donations to support our activities – donations of \$2 or more are tax deductible. The Kimberley Land Council acknowledges the financial support provided by the Commonwealth of Australia and the Government of Western Australia.

