



KIMBERLEY LAND COUNCIL
getting country back caring for country securing the future

NEWSLETTER

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KLC prepares for native title court battle

The KLC is preparing the Nyikina Mangala native title claim for trial after negotiations with the State Government for a consent determination have reached a stalemate.

The KLC will propose orders at a Federal Court directions hearing on October 4 to schedule the contested hearing of the Nyikina Mangala claim.

The Nyikina Mangala people have been waiting more than 12 years for their native title claim to be determined and the KLC is not prepared to wait any longer for the State Government to deliberate on what the KLC considers to be uncontentious matters.

The KLC is disappointed it has been left with no choice but to seek to resolve native title through the court, as it is a costly and lengthy process that comes at a great human cost to Traditional Owners.

This sees a return to the old days when native title had to be resolved through contested litigation. Kimberley Aboriginal people have a strong connection to country and the KLC has never lost a native title court case. Our results speak for themselves and we expect it to be no different with Nyikina Mangala.

Looking Back @ the KLC



Five years ago: 2007

In November 2007, Kija Traditional Owners signed agreements approving mining activities at the Kimberley Nickel Mine and the Thundelarra Copernicus Joint Venture Project near Warmun in the East Kimberley.

The KLC negotiated the agreements which protect Aboriginal culture and the environment while providing a significant community benefits package that includes royalty payments based on production, financial assistance for education and health programs, and assistance with employment and business opportunities.

At the time, Kimberley Land Council Executive Director Wayne Bergmann applauded the constructive approach adopted by all parties.

“These agreements provide clear proof

of what can be achieved when underlying principles of partnership and mutual respect form the basis of negotiations,” he said.

“By adopting a long term, mutually beneficial approach, the KLC, Traditional Owners and resource companies are able to come to win-win agreements.

“The agreements are a major step forward, and will provide a significant and enduring community benefits package. They are a further demonstration of how business can be done successfully in the Kimberley.

“These benefits provide a mechanism for improving the lives of current and future Traditional Owner generations, whilst paving the way for resource development in the region. The agreements are the latest of many negotiated by the KLC to benefit our people and our region.”



Ten years ago: 2002

In 2002, the Kimberley Land Council Executive Board joined other Aboriginal organisations in supporting the idea of a treaty between Indigenous Australians and Government.

ATSIC had set up a special committee to look at the idea of a treaty or formal agreement between Aboriginal people and the Australian Government.

At the time KLC Chairman Tom Birch said there needed to be serious discussion about a treaty and that any discussions should include Indigenous people from the start.

“My Executive Council feels very strongly that there needs to be real change in this country. We only believe this is possible if the Australian Government starts talking seriously with Aboriginal people about changing the relationship between us,” he said.



message from the **Chairmen**

The KLC has a long and proud history and has led the fight for political change in the struggle for Indigenous rights and freedoms for the past 34 years.

This year has been no different, as our organisation continues to work with Traditional Owners to ensure they are in the driver's seat, carving out their own futures.

The combined Annual General Meetings of the Kimberley Land Council, the Kimberley Aboriginal Law and Culture Centre and the Kimberley Language Resource Centre are upon us and will be held at Gambanan on the Dampier Peninsula. This annual gathering is a time for all Kimberley Aboriginal people to come together, discuss business and set priorities and goals while reflecting on the previous year's work.

The KLC has continued to achieve positive outcomes for Kimberley Aboriginal people. In August last year the Indigenous cultural values of the Kimberley were National Heritage Listed, cementing the region as a strong and significant place. This was a historic decision that was driven by Kimberley mob and facilitated by the KLC.

Native title is the core business of what we do and in the past year, our organisation has continued to work hard to progress as many claims as possible. We currently have six native title claims that have been provisionally scheduled by the Federal Court for consent determination hearings within the next year. We are also planning to resolve the Nyikina Mangala claim through litigation, as a result of failed negotiations for a consent determination with the State Government. The Federal Court also handed down a successful native title determination to the Karajarri and Nyangumarta communities across

shared country near 80 Mile Beach.

Conservation and land management is also an integral part of KLC business and the Kimberley Ranger Program currently employs more than 77 Aboriginal rangers and associated staff across 14 ranger groups. The Ranger program also engaged the services of more than 200 elders and casual rangers to assist in looking after country activities. The KLC is working to further expand this model through creating an International Ranger Network, so we can work with Indigenous people across the world to tackle environmental challenges on a global scale.

This year is an election year for the KLC Executive Board and elections will happen at the AGM. As Co-Chairs of the KLC, we are very proud of our 30 directors, who are representative of all Kimberley Aboriginal people. Our Directors attend meetings, provide guidance, inform their native title claim groups and set the future direction of our organisation. We would like to thank all our board members for their hard work, leadership and commitment to the KLC.

We would also like to thank our KLC employees for their outstanding efforts, dedication and professionalism. Our staff go above and beyond their duties, to ensure we provide the best possible customer service to Traditional Owners. They are on the frontline working to achieve the goals and priorities our Executive Directors set, and I thank you for your successes in the past year.

TOM BIRCH & FRANK DAVEY

Federal Court battle



The KLC prepares Nyikina Mangala for litigation

The KLC is preparing the Nyikina Mangala native title claim for litigation as a result of failed negotiations with the State Government.

At a Federal Court directions hearing on October 4, the KLC will propose orders to schedule the contested hearing of the Nyikina Mangala claim.

KLC CEO Nolan Hunter said the Nyikina Mangala people had already been waiting more than 12 years for their native title claim to be resolved and the KLC was not prepared to wait any longer for the State Government to deliberate on what the KLC considers to be uncontested matters.

“We do not want to waste our time participating in futile negotiations. We believe the Nyikina Mangala people have a strong case for native title and we are preparing to put that to test through the court

process,” he said.

“We are disappointed we have been forced to resolve this claim through litigation because it is an expensive and lengthy process that comes at a great human cost to Traditional Owners.

“The KLC has had to go down this path before and we have never lost a native title case yet. Our results speak for themselves and we expect it to be no different with Nyikina Mangala.”

Mr Hunter said the KLC was aiming to have all the evidence for the Nyikina Mangala claim presented in the Federal Court by the end of 2013, with an on-country hearing for Traditional Owner evidence to be held during the dry season next year.

“The KLC Executive Board has made resolving this claim through litigation a top priority. Due to the



actions of the State Government in failing to resolve this claim through negotiation and consent, it will now need to be decided by the Federal Court.”

In other native title matters, Mr Hunter said six native title claims had been provisionally scheduled by the Federal Court for consent determination hearings within the next year.

These native title claims include Uunguu B, Ngurrara B, Gooniyandi Combined, Balanggarra Combined, Balanggarra #3 and Bunuba.

“Two of these native title claims have been sitting with the State Government waiting approval for a consent determination for some time. Due to changes in Federal Government funding for native title, the Federal Court is now able to take a more hands on approach to the management of native

title claims. It appears this has resulted in a speedier process and the progression of many native title claims in the Kimberley,” Mr Hunter said.

“It’s great to see these native title claims move forward and we are hopeful of achieving positive consent determinations for these six claims in the near future.

“The KLC has a successful track record in achieving native title outcomes for Kimberley Aboriginal people. More than 65 per cent of the Kimberley is determined native title land and less than 10 per cent of the Kimberley remains unclaimed.”



Wungurr Rangers



move headquarters out on country

The Wunggurr Rangers have realised their vision to set up a new ranger base out on Wilinggin country in the heart of the Gibb River Road.

After more than three years working on the project, the rangers have moved their headquarters from Derby to the Gibb River Station with rangers and their families now living in Kupungarri and Ngallagunda communities.

Wunggurr head ranger Robin Dann said it had been a positive move for the team of eight.

“We are really excited to be back out on our country. It’s so much easier on us, on our cars and it limits the amount of travelling we have to do so we can spend more time out on country,” he said.

“It’s been good for everybody. We now have a visible presence on country, with an office and a shed. It’s a really good set-up.”

Mr Dann said it had been a long journey for the rangers, who have worked hard to find a suitable location for their new headquarters as well as houses for the rangers and funding for infrastructure and an office.

“We had to start from scratch but the Gibb River community gave us a piece of land on which to build

our base and the Department of Environment and Conservation gifted us an office building,” he said.

“I thank all of these people for their on-going support and assistance in helping us to achieve our goal of moving back on to country.

“It’s been great seeing all the rangers and their families move back onto Wilinggin country and we have started a bit of a movement with many other people coming back too.

“And being based out on our country helps us to do our job, because we are there all the time and can see what needs to be done and work to fix any problems.”

Mr Dann said building a new headquarters was just the first step for the Wunggurr Rangers, who are now planning on setting up satellite stations across Wilinggin country.

“Our country is the size of Tasmania, so it’s a pretty big area to cover. This is why we want to set up satellite stations so we can be close to our people but also look after as much of our country as we can in an efficient way,” he said.



EPA recommendations fail to address Indigenous impacts of Browse LNG Precinct

The EPA's report and recommendations for the Browse LNG Precinct fail to address the social and cultural impacts the project will have on Aboriginal people.

The KLC lodged a submission detailing 10 grounds appealing the EPA's decision to recommend approval of the LNG Precinct at James Price Point. The submission also questions the EPA's position that it is unable to address the social and cultural impacts of the project.

Kimberley Land Council CEO Nolan Hunter said the EPA's position was at odds with the Terms of Reference agreed to in the Strategic Assessment Agreement which was signed by both the State and Commonwealth Governments and required the social and cultural impacts to be addressed as part of the approvals process for the project.

"Traditional Owner support for this project is conditional upon the social, environmental,

economic and cultural heritage impacts of the project being addressed. To date, the State Government has failed to address these impacts and that is of grave concern to Kimberley Aboriginal people," he said.

"This project has always been about responsible development and the State Government should follow through with its commitment to address these impacts. The State Government also needs to make sure it includes appropriate impact management conditions in its report to the Commonwealth Government.

"If the project is approved without social and cultural impacts being addressed; it will be a train wreck for Indigenous people and Traditional Owners will be forced to reconsider their support for the project."



Mr Hunter said other areas of concern about the EPA's report included the lack of detailed plans addressing Indigenous impacts and the lack of consideration given to Indigenous engagement and participation in managing project impacts.

"There is going to be significant disturbance to Indigenous heritage values in relation to some aspects of this project. Traditional Owners want to make sure there are strict conditions and management plans in place to deal with these areas of cultural significance," he said.

"There are hundreds of pages addressing project impacts on whales, turtles, plants and dinosaur footprints but the EPA's report is virtually silent on Indigenous impacts and the role of Traditional Owners in assessing and monitoring the impacts of the project during the life of the precinct."

The KLC's Indigenous Impacts report, released in December 2010, made more than 75 recommendations to minimise the identified

potential impacts of the LNG development upon Indigenous people in the area.

Mr Hunter said the recommendations were yet to be acknowledged or adopted by the State Government.

"The KLC's role has always been to represent and protect the interests of Traditional Owners. Our Indigenous Impacts Report identified 75 key recommendations to effectively manage and minimise any potential impacts of the proposed Browse LNG Project," he said.

"Unless the State Government adopts our recommendations, the project has the potential to leave Aboriginal people worse off."



Ngurrara Ranger

Ngurrara ranger Frankie McCarthy has had a stellar year.

He became a fully-qualified ranger after completing Certificate Three in Conservation and Land Management and graduating from Kimberley TAFE.

He was promoted to head ranger for his excellent leadership skills and to top it all off Frankie was recently awarded the Department of Environment and Conservation Kimberley ranger award for excellence.

"I was a bit surprised when they told me I had won. I can't believe that me, a ranger from the desert won a prize like that. Wow," he said.

"It was especially great because the award was

for all the Kimberley including Aboriginal rangers and Department of Environment and Conservation rangers."

Frankie completed a four-year apprenticeship as a cabinet-maker in Perth before returning home to the Kimberley to take up a position as a ranger with the former Warlu Jilajaa Jumu IPA group.

He worked with them for three years before taking up a full-time position with the Ngurrara Rangers two years ago.

"I like being out and about in the bush; it's peaceful, quiet and you can see the stars," he said.

"When I came back home to the Kimberley, I travelled around country with my old people and



WINS TOP AWARD

they took me around the desert and taught me about places. It's good to get away from town and the alcohol there."

Frankie said travelling with the old people across Ngurrara country inspired him to take up a position with the KLC Kimberley Ranger Program. He has never looked back.

"Looking after for my old people is important because those old people struggled for years and years to get native title and we are winning it all over the Kimberley," he said.

"Those old people fought for native title and our young people and rangers are looking after it for them. It makes me feel proud that all these young

people are coming through the ranger program."

Despite his successful year and new role as head ranger, Frankie said it will be business as usual for him and his ranger team.

"We are gearing up to do some big community clean-ups and we do a lot of travelling which I like. We will be doing another trip in October, driving to Alice Springs to meet other desert ranger groups and see what they are doing and how they are doing it," he said.

"The Ngurrara Rangers are desert rangers and we are getting there slowly and hopefully we can become bigger and even better."





Pearl Gordon

fights for justice

Pearl Gordon has been fighting for justice her whole life.

Police have held a gun to her head, she lost a brother who died in custody and she has protested for Aboriginal rights across Australia.

Pearl has battled many Governments from Hawke, Keating, Howard, Rudd and Gillard with some advancing Aboriginal rights more than others.

Her quest for justice is far from over and Pearl continues her fight as an Executive Director of the Kimberley Land Council Board, having been a prominent member since the early 1980s.

Having grown up in the Kimberley, Pearl experienced first-hand the problems and difficulties Aboriginal people faced. But she wanted to know more, she wanted to find out what other Aboriginal people in Australia were doing to fight for Aboriginal rights.

She went on a tour of Australia that took her from Kununurra, Townsville, Mt Isa, Mackay, Brisbane, Newcastle, Sydney, Canberra, Melbourne, Adelaide, Coober Pedy and Alice Springs.

"I wanted to talk to Aboriginal people. I wanted to know what they were doing and if they had the same problems we have in the Kimberley; they were talking about the same thing our people were. In the Kimberley we were fighting for land rights,

fighting for rights," she said.

"We were all fighting for the same goal, it was the same in the eastern states, NSW, SA, VIC, and we are still fighting for the same thing."

In 1988, Pearl was in Sydney protesting against the Bicentennial of Australia; challenging the mainstream symbolism of Australia Day, along with a throng of other Aboriginal and non-Indigenous people who marched through the streets.

"It was about the recognition of Aboriginal people, we had survived," she said.

"A lot of people don't realise, lots of Aboriginal people have fought for justice in this country. Like Noonkanbah. Lots of Kununurra people were there to support them and stand with them. Young people should realise that those old people fought for justice; even now we are still waiting for land rights and the rights of people across the board."

Pearl lost her brother in 1987. He died in the lock-up in police custody.

"I got involved in the Deaths in Custody when my brother died in Broome. He was 25 years old," Pearl said.

"He was in the lock-up in Wyndham and then he came out. He got sent back to Wyndham and then sent to Broome and died there. That's Death in



Custody. He left behind a daughter and wife. Very sad.”

Pearl attended protests in the Blue Mountains and Canberra where she stayed for six weeks battling the wintery elements while she listened to more than 600 people tell the stories of loved ones that had died in custody.

“A lot of people have a heart attack, that’s what they say. There was lots of hanging. Young fellas in the lock-up for not even 10 minutes and they were found hanged,” she said. “I was at protests in Canberra (deaths in custody) when police put a revolver to my head. I was standing with two other girls, Northern Territory girls. There were three of us black girls and then policemen standing with two dogs and pointing gun at us. I said ‘God, if you are real, I don’t want to go back in a coffin; I want to go back to my kids’ and God did that for me, brought me home.

There has been many Governments come and go in Pearl’s time fighting for justice and Aboriginal rights. But it was Paul Keating who introduced land rights in 1993 after the Mabo decision overturned the concept of terra nullius.

The KLC was a strong Aboriginal organisation by then, after having been formed out of the land rights battle in Noonkanbah in 1978. Pearl Gordon was on the board when native title was introduced and has worked to assist Kimberley Aboriginal people get recognised as the rightful owners of their traditional country. Today, more than 65 per cent of the Kimberley is determined native title land. But Pearl said there is still a long way to go in the land

rights battle.

“People have got native title but a bit more needs to be done. We got our recognition why don’t we use it. In 1993, we got that recognition, why aren’t we using it? No-one is using it? These government people should be coming half way to meet us,” she said.

“Maybe we should be setting something up. All land councils need unity. Right across the board, we are all talking about the same thing. Maybe we need to look at setting-up something like a Federal Land Council, so we can get together and move forward together. Land councils should just get together and that recognition we got we should just use it.”

Pearl has always been a fighter, never one to shy away from standing up for the Kimberley mob. Now as an elder she is passing on her fighting spirit to the younger generation, so they have the strength to follow in the footsteps of the old people before them.

“When we were kids we listened to our father and mother and other older people, which is why we have done these things. Those people concerned about Aboriginal people and our rights have always been there at the KLC,” she said.

“Young people are our future and they need to listen to elders; listen and learn. These young people should be proud. Some of us old people are still around and we can lead them to better things if they listen and learn. Johnny Watson and other old people has been a good leader to me because I listened to him and learnt from him.”

Saltwater Country Meeting

Traditional Owners are leading the way in saltwater country management through cultural and scientific monitoring of the Kimberley coastline.

The coastal Traditional Owner groups are part of the KLC's Saltwater Country Project which provides a holistic approach to landscape management of the coastline, which stretches thousands of kilometres from the south of Broome to Wyndham near the Western Australia/Northern Territory border.

The annual Saltwater Country meeting was held in August and provides a platform for discussion between coastal Traditional Owner groups and stakeholders including State and Commonwealth agencies and non-governmental organisations to address issues around the management of saltwater country.

KLC CEO Nolan Hunter said the meeting was important as all participants could share ideas while developing models for engagement.

He said the Traditional Owner perspective of saltwater country management was not limited to the jurisdictions of State and Commonwealth agencies but reflected a landscape approach that crosses boundaries and borders.

"Saltwater Traditional Owners want to look after country as a whole and this includes land and water. We want to provide a unified approach to managing our country irrespective of whether it falls under State or Commonwealth jurisdictions," Mr Hunter said.

"With the development of Marine Protected Areas across Kimberley waters, now is the time to implement culturally appropriate and scientific

methods to manage and monitor saltwater country assets and values," he said.

"Traditional Owners call on State and Commonwealth agencies to apply an ecosystem approach so management of land, water and living resources will be integrated while promoting conservation and sustainable use in an equitable way.

"The Marine Protected Areas will be jointly managed with Traditional Owners and we want to work collaboratively with research organisations and State and Commonwealth Agencies to achieve better conservation outcomes for all Australians."

The Saltwater Country Project started in 2006 and includes coastal Traditional Owner groups from Balanggarra, Unguu, Dambimangari, Bardi Jawi, Yawuru and Karajarri. Representatives from these groups form the Saltwater Country Steering Committee which recently developed new project aims.

These include:

- Expanding the project to include all Kimberley coastal Traditional Owner groups
- A focus on saltwater country management initiatives and priorities
- Designing frameworks, in conjunction with relevant stakeholders, about culturally appropriate ways to monitor and evaluate the health of Saltwater Country
- Developing marine research priorities that are relevant to Traditional Owner groups in the Kimberley





KLC to get new Broome office

The KLC is set to get new offices at its Broome headquarters, ensuring we have a strong and positive future working with Kimberley Aboriginal people.

The final piece of funding was recently received from Royalties for Regions for construction of the new building. The KLC has also received support from the Commonwealth's Regional Development Australia Fund and Lottery West and hopes to secure a commitment from the Indigenous Land Corporation in the near future. Construction of the offices is a \$14 million project.

KLC CEO Nolan Hunter said the construction of new offices on the corner of Gregory and Pembroke Streets in Broome was long overdue and would provide a central location for all staff members to work together.

"The KLC has played a vital role in promoting the interests of Kimberley Aboriginal people for the past 35 years and construction of new offices will ensure our organisation continue to achieve positive outcomes for Traditional Owners into the future," he said.

"The new offices will provide a long-term, visible presence for the KLC and ensure we remain and affective, efficient and stable organisation.

"The office will replace our current out-dated facilities and provide our staff with a vibrant working environment in which to undertake the native title, legal, land and sea, housing, finance and corporate service functions of our organisation."

Mr Hunter said construction of the new facility would start later this year and be completed by December 2013. It will be a two story construction, with a combined floor area of more than 3,000 square meters.

"Being an Aboriginal organisation, we want to provide opportunities for our people, so there will be significant Indigenous employment and involvement during the construction phase," Mr Hunter said.

"The KLC would like to thank all our partners for their support in this project and for recognising the importance of our organisation in working with Kimberley Aboriginal people."



fighting strong since 1978

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.



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