



NEWSLETTER



SEPTEMBER 2019

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

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DON'T MISS PAGES 4 – 7 FOR ALL THE LATEST ON THE PURNULULU TRIAL, AUGUST 2019.

VOICE

TREATY

TRUTH

The KLC is continuing to support a Voice in the Constitution that can drive change to better the lives of Kimberley people.

Prime Minister Scott Morrison and Minister for Indigenous Australians Ken Wyatt have committed to a process of co-design.

Find out more about the path to constitutional reform on pages 8 and 9 of this newsletter.



Looking back
on the KLC

1979 - 40 years ago

Aims of the Kimberley Land Council – KLC
newsletter, volume 1, January 1979

- To represent the interests of all Aboriginal communities in the Kimberley with regard to land matters.
- To arrange meetings throughout the Kimberley for Aboriginal communities to talk about land matters.
- To help support Aboriginal culture in the Kimberley.
- To instruct the WA Aboriginal Lands Trust about land matters in the Kimberley.
- To work towards the introduction of land rights legislation in WA, whereby Aboriginal communities can exercise real control over their land.

1994 - 25 years ago

The WA Government refuses to recognise native title and has passed its own law called the Lands Titles and Traditional Usage Act 1993.

This law is in conflict with the Commonwealth Native Title Act. The KLC under instruction from the Worrorra and Yawuru peoples is challenging the WA Act in the High Court. The WA law wipes out native title and replaces it with Traditional usage rights.

Traditional usage is not a right to own land and is much weaker than gardiya ownership rights such as freehold title, which gives negotiation rights with respect to access.

Message from the Chairman



Marboo Ngimbi,

Welcome to the September edition of the Kimberley Land Council newsletter. As always there have been many new developments in the past couple of months that we will bring you updates on throughout this issue.

This month we all meet up for the combined AGMs of KLC, KALACC, KLRC and Aarnja. These AGMs are very important for the strong governance of the four peak Kimberley Aboriginal organisations.

This year we are doing things a bit differently. We are holding a full-day regional forum to talk about Kimberley issues that affect us all. This forum is a chance for all of you to have a say about what matters, what doesn't and where you think our region should be heading.

In other news, the KLC has continued to achieve native title outcomes with another three consent determinations, including Ngurrara D1, Mayala #2, and Bunuba #2 Part B. The Ngurrara D1 and Mayala #2 determinations cover small areas of country and have occurred because of a court decision called Tjiwarl, which meant certain areas of country had to be left out of earlier determinations so that we could ensure exclusive possession native title was recognised in these areas.

While this was a frustrating process, we are pleased to have now secured native title for these areas and we congratulate the Traditional Owners on this achievement.

Last month, Minister for Indigenous Australians Ken Wyatt delivered the 19th annual Vincent Lingiari speech. Disappointingly, in this speech Mr Wyatt confirmed the position of the Coalition Government not to pursue a constitutionally enshrined Voice in any referendum put by the government to the people of Australia.

The statement was made during a lecture that honours one of the bravest Aboriginal leaders of modern times. It is unfortunate that this same courage has not been shown by our government, and ultimately our Prime Minister, in regards to Constitutional reform. We will continue to tell the Australian public why we need a Voice in the Constitution and we will not give up. Aboriginal people do not want symbolic Constitutional recognition, we want a mechanism that can drive true change for our people.

I had the great pleasure of attending the KLC's Healthy Country Forum at Home Valley in August. This event brought together ranger and Indigenous Protected Area coordinators, partners and State and Federal Government officials to discuss priorities for Indigenous land and sea management in the region and the Kimberley Ranger Network.

Finally I would like to update you on the strategic planning process the KLC Board has recently been undertaking. The current KLC

Strategic Plan ends in 2020, with our Directors identifying the need to start working on a new plan early. The Board has already met to discuss the current strategic plan and how we are tracking against our strategic objectives, but now we want to hear from you, our members.

Over the next few months we'll be rolling out the project KLC - Our Future 2024. This new initiative is all about talking to our members to find out what you think the KLC is doing well, what we can be doing better and what we need to do in the future to ensure that we stay in tune with our members' needs.

Part of this process will include the roll out of an engagement survey, which we'll be asking as many of our members and partners as possible to undertake. We are really excited about undertaking this work and setting a new direction for the KLC. Please do not hesitate to speak to me or any of our staff about this project.

I look forward to seeing everyone and having a great week at Home Valley.

Anthony Watson
Chairman





Josie Drill,
Cherylene
Nocketta and
Ethel Drill.

Federal Court hearing in Purnululu

In August 2019 the Federal Court held a hearing for the Purnululu native title claim and the Gajangana Jaru native title claim on country.

The hearing ran for nearly two weeks, from 12 to 22 August, with the Federal Court hearing evidence from native title claimants at Kwarre, Blue Hole, Cathedral Gorge, Echidna Chasm, Fowl House, Picaninny Creek, Elephant Rock and Frog Hollow.

The KLC provided legal representation for the Purnululu native title claimants. As the native title representative body for the Kimberley region, the KLC also provided funding for the legal representation and other costs of the Gajangana Jaru native title claimants.

Native title litigation is a very difficult process for native title claimants, and requires significant resources from the KLC, Federal Court, State Government and any other parties involved.

On-country court hearings in remote locations such as Purnululu are even more demanding. However, the Purnululu on-country hearings were very successful,

and the professionalism of KLC project staff, and the commitment of native title claimants from both claims to the hearing process was recognised and appreciated by the Federal Court.

Following the on-country hearing, the Federal Court heard evidence from expert anthropologists in Perth on 26 to 28 August 2019. Dr Tony Redmond and Dr Brendan Corrigan each gave evidence and were cross-examined, and also answered any questions from the judge, Justice Mortimer. Native title claimants attended this part of the hearing as well.

The Federal Court will hear closing submissions in Perth on 3-4 October 2019. The judge will then consider the evidence and a decision is likely to be handed down in 2020.









The long road to constitutional reform

VOICE TREATY TRUTH



While colonisation came swift and fast for Aboriginal people, righting the wrongs of the past and recognising Aboriginal people continues to take a very long time.

In this edition of the KLC newsletter, we look at the path to Constitutional recognition so far, and the many ups and downs Aboriginal people have experienced on this journey.

The KLC sees Constitutional reform as being critical to improving the lives of Kimberley Aboriginal people. We will continue to ensure that the opinions of Kimberley Aboriginal people are heard in relation to the Constitution, and tell the Australian public why we need a Voice in the Constitution.

Aboriginal people do not want symbolic Constitutional recognition, we want a mechanism that can drive true change for our people.

25 August
2019

Indigenous leaders from across Australia meet in Cairns to discuss the path forward for an Indigenous Voice to Parliament, including a process of co-design.

15 August
2019

Ken Wyatt delivers the Vincent Lingiari Memorial lecture and rules out a referendum, which includes a question regarding a constitutionally enshrined Indigenous Voice.

1 March
2018

The Joint Select Committee on Constitutional Recognition is appointed and is co-chaired by Senator Patrick Dodson and MP Julian Lesser.

27 May
2019

Ken Wyatt is the first Aboriginal person to be appointed the Minister for Indigenous Australians.

29 Nov
2018

The Joint Select Committee releases its final report recommending a process of co-design for a constitutionally enshrined Voice.

6 February
1995

The Aboriginal and Torres Strait Islander Commission (ATSIC) report Recognition, Rights and Reform says constitutional reform is a priority.

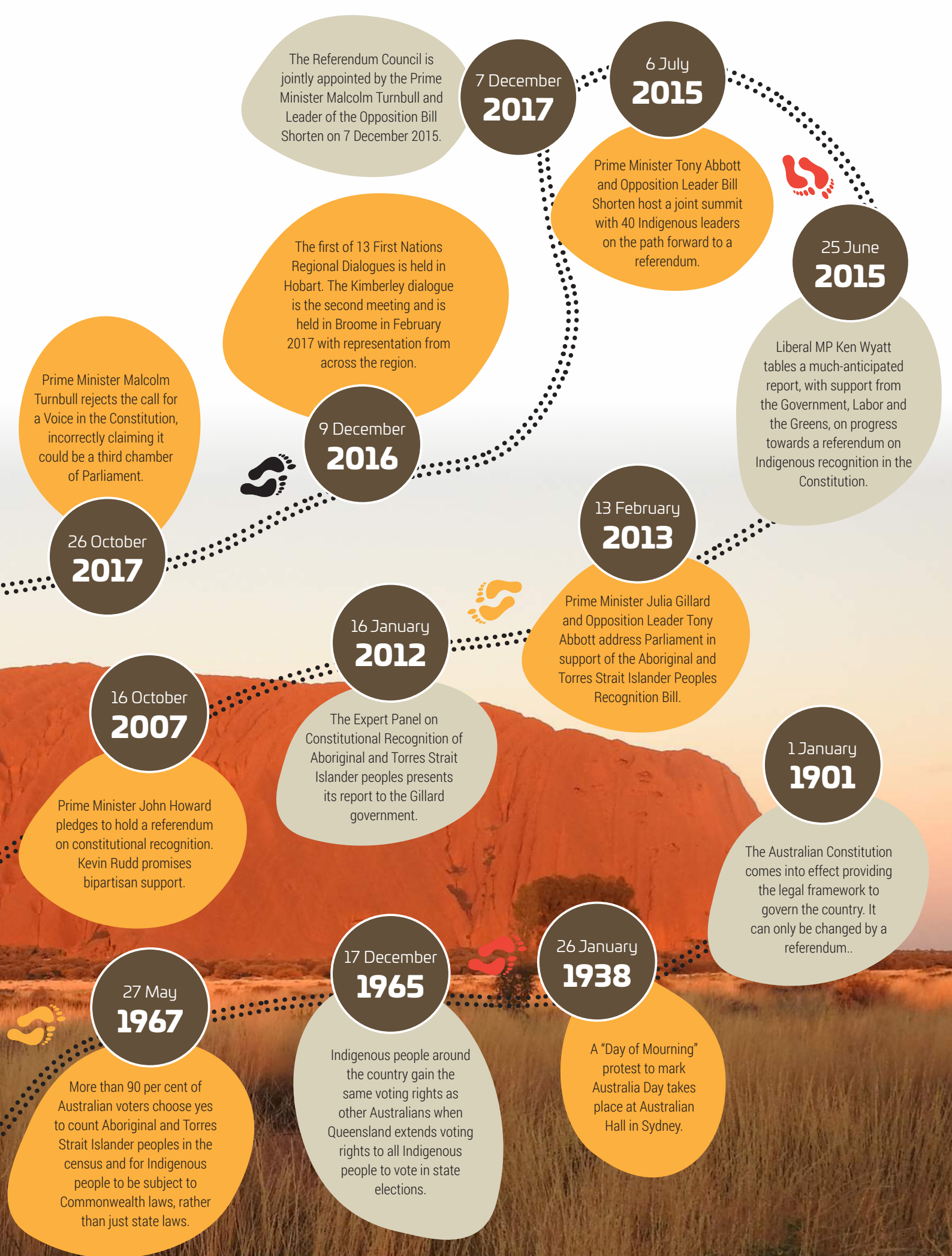
6 February
1995

The Aboriginal and Torres Strait Islander Commission (ATSIC) report Recognition, Rights and Reform says constitutional reform is a priority.

6 November
1999

A proposed preamble to the Constitution including Indigenous recognition is put to voters in a referendum. The preamble struggles to get attention in a contested debate over Australia becoming a republic. The referendum fails.





The Referendum Council is jointly appointed by the Prime Minister Malcolm Turnbull and Leader of the Opposition Bill Shorten on 7 December 2015.

7 December
2017

6 July
2015

Prime Minister Tony Abbott and Opposition Leader Bill Shorten host a joint summit with 40 Indigenous leaders on the path forward to a referendum.

25 June
2015

Liberal MP Ken Wyatt tables a much-anticipated report, with support from the Government, Labor and the Greens, on progress towards a referendum on Indigenous recognition in the Constitution.

9 December
2016

The first of 13 First Nations Regional Dialogues is held in Hobart. The Kimberley dialogue is the second meeting and is held in Broome in February 2017 with representation from across the region.

13 February
2013

Prime Minister Julia Gillard and Opposition Leader Tony Abbott address Parliament in support of the Aboriginal and Torres Strait Islander Peoples Recognition Bill.

16 January
2012

The Expert Panel on Constitutional Recognition of Aboriginal and Torres Strait Islander peoples presents its report to the Gillard government.

16 October
2007

Prime Minister John Howard pledges to hold a referendum on constitutional recognition. Kevin Rudd promises bipartisan support.

1 January
1901

The Australian Constitution comes into effect providing the legal framework to govern the country. It can only be changed by a referendum..

26 January
1938

A "Day of Mourning" protest to mark Australia Day takes place at Australian Hall in Sydney.

17 December
1965

Indigenous people around the country gain the same voting rights as other Australians when Queensland extends voting rights to all Indigenous people to vote in state elections.

27 May
1967

More than 90 per cent of Australian voters choose yes to count Aboriginal and Torres Strait Islander peoples in the census and for Indigenous people to be subject to Commonwealth laws, rather than just state laws.

26 October
2017

Prime Minister Malcolm Turnbull rejects the call for a Voice in the Constitution, incorrectly claiming it could be a third chamber of Parliament.



KLC- Our Future 2024

The KLC is looking to the future, beginning a new strategic planning process that will guide the organisation and our role.

The project, which is called KLC – Our Future 2024, encourages all people connected to the KLC to think about the future direction of the organisation.

Are we still in tune with our members? How can we get better at what we do? What should we be offering and working towards delivering in the future? And, critically, what is the value of the KLC now and into the future?

Our aim is to shape a solid future for the KLC by building upon the influence and authority the KLC has established in justice, best practice, good governance and self-determination.

The KLC Board has already started reviewing what the KLC achieved under our 2016-2020 Strategic Plan and is looking forward to developing strategies that will inform a new Strategic Plan.

What has the KLC Board identified so far?

The KLC's future is fundamentally determined by our relationship with our members, Traditional Owners, their native title organisations and our peak organisations.

Moving into the future will require being flexible and open minded with an emphasis on partnerships that include self-responsibility and accountability.

Our connection to our members and the success of their PBCs is core to the space in which the KLC has operated. The alignment between our membership and their PBCs is critical to what the KLC may look like and what we will achieve in the future.

What does the KLC Board want to know?

Being in tune with our members and taking an active role with our partners is important to the KLC Board. This requires engagement and an understanding of the needs of our current members, future members, partners and future partners.

We want to know what is valued or not valued in the work that KLC does? How important is the KLC to people and how well do we really engage with our members and more broadly? How good are our relationships? What are we missing?

KLC Our Future 2024 – engagement survey

Over the next three months, the KLC will be asking Kimberley Aboriginal people to provide their thoughts on the KLC and the services we provide. This will be done through an engagement survey, which will be rolled out across the region, including at the KLC AGM, as well as other meetings and opportunities throughout the year.

Following on from the engagement survey, the KLC will be asking to meet with all PBCs to hear their views about the future of the organisation, the future needs of PBCs and how KLC can best support PBCs.

Hearing from our members, Kimberley Aboriginal people and our different organisations will help the KLC Board shape the strategic direction of our organisation.

We are excited to start this new project and to hear from our members and future members, our partners and future partners.

We look forward to getting your feedback over the coming months and encourage all interested people to take part as this is your chance to have a say about the KLC.



Nyikina Mangala Traditional Owners stand united against illegal clearing



The Kimberley Land Council together with the Nyikina Mangala Traditional Owners have welcomed today's State Government announcement ordering the rehabilitation of Yakka Munga Station after illegal clearing at the site.

"The WA Government's condemnation of the illegal clearing at Yakka Munga and its strong stance on rehabilitation of the land is an important step forward,' Kimberley Land Council Deputy CEO Tyrone Garstone said.

"The Nyikina Mangala Traditional Owners have shown that anyone can stand up to big business, fight for what is right and win.

"We are still at a loss as to how such destruction could have occurred when there is an Aboriginal Heritage Act that is meant to protect the cultural values of Traditional Owners.

"The Aboriginal Heritage Act has failed the Nyikina Mangala people and it is vitally important that this is taken into account as the government looks to overhaul this ineffective piece of legislation."

Nyikina Mangala Traditional Owner Rosita Shaw said it is critical that before any rehabilitation work occurs, a full environmental, cultural and heritage survey must be undertaken at the site.

"Any rehabilitation of Yakka Munga Station must occur with the consent of the Nyikina Mangala Traditional Owners and with us

involved from the start," she said.

"This area was populated by our ancestors and is home to spiritual beings that have lived in the trees, spoken Nyikina and protected and looked after our people.

"Before they put the land back we need to document not only the damage that has occurred, but all of the environmental and cultural values of this area because this is our library we are talking about.

"The wilful destruction of our land highlights why we need a strengthened Aboriginal Heritage Act for Aboriginal people in the Kimberley and all over Western Australia."

Damien Parriman, CEO of Walalakoo Aboriginal Corporation, the Prescribed Body Corporate for the Nyikina Mangala people, said the decision serves as a reinder that this is not how business is done in the Kimberley.

"The native title rights and cultural values of Traditional Owners must be acknowledged and respected as key stakeholders on their traditional lands," he said.

"This situation is a reminder to us that we cannot simply rely on the good faith of those who want to develop the Kimberley to respect our rights and values. Clarity and certainty in the various State and Federal statutory frameworks is required if we are to avoid this situation occurring again."



Better together - looking after country in the Kimberley



The need for a strong and connected Kimberley Ranger Network was one of the key takeaways from the Kimberley Land Council Healthy Country Forum at Home Valley in August.

The event brought together Ranger and Indigenous Protected Area Coordinators, partners who work or support Indigenous rangers and the State and Federal Governments to talk about land and sea management in the Kimberley.

Every ranger team in the Kimberley was represented at the forum, as well as many PBC members who gave an important insight into their land and sea management experiences.

Key topics of conversation included how to have productive and balanced partnerships, the growth of women rangers, and examples of collaborative

projects such as ISWAG (Indigenous Saltwater Advisory Group) and the Dampier Peninsula fire project.

There was also the first all of Kimberley conversation about joint management, with different Traditional Owner groups discussing their varying experiences of joint management, with some groups having largely positive experiences and others significantly different.

It is hoped that this discussion will help to ensure that now and into the future, all Aboriginal groups who are part of joint management arrangements, experience a best practice model which embeds native title rights, and Aboriginal heritage and culture, at their core.

Overall the forum highlighted the strong leadership across the region in the land and sea management sector and the





benefits of joining together to share and collaborate on the strategic direction of country management in the Kimberley.

It was also important to collaborate with engaged partners who were willing share, listen and provide strong input to sessions.

The Kimberley Land Council would like to thank our hosts the Wilinggin and Balanggarra Traditional Owners. We also acknowledge those organisations who supported the event, including the Indigenous Land and Sea Corporation, Woodside and The Nature Conservancy.

A huge thankyou also goes to Balanggarra, Kija, and Miriuwung Gajerrong Rangers for the site preparation and management before and during the week.







New PBCs in the Kimberley

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] FCA 854).

Earlier this year, in January 2019, the Federal Court also made a determination of native title in the smaller Bindunbur #2 native title claim (Manado (on behalf of the Bindunbur Native Title Claim Group) v State of Western Australia [2019] FCA 30).

These determinations recognised native title rights across the middle Dampier Peninsula for the Jabirr Jabirr/Ngumbarl, Nimanburr and Nyul Nyul people. The determinations were celebrated on country at Beagle Bay in May 2018.

After the Federal Court recognises native title, native title holders must establish an Aboriginal Corporation called a Prescribed Body Corporate or PBC. The primary function of a PBC is to look after native title. The Directors and members of a PBC must make sure native title holders are consulted about activities on their country, even if the native title holders are not members of the PBC.

Jabirr Jabirr/Ngumbarl, Nimanburr and Nyul Nyul people have been working to create PBCs to look after their native title rights and interests. After over 12 months of workshopping and determining governance structures, this work was completed in June and July 2019.

The Federal Court has now made orders nominating the Nimanburr Aboriginal Corporation, Nyul Nyul PBC Aboriginal Corporation and Gogolanyngor Aboriginal Corporation as the PBCs for the Bindunbur determination. The Gogolanyngor Aboriginal Corporation was also nominated by the Court to be the PBC for Bindunbur #2 determination and the Jabirr Jabirr/Ngumbarl determination.

Each of the above PBCs are now listed on the National Native Title Register as registered native title body corporates, holding the native title on trust for each respective group of native title holders.

There are now 19 PBCs in the Kimberley region, with this number expected to grow next year.

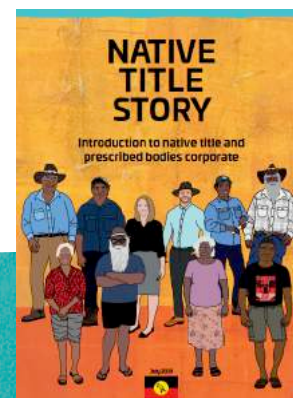
The KLC can provide support to native title holders through their PBCs in the post-determination environment, but the KLC does not make decisions for PBCs.

If a PBC asks the KLC for help, the KLC can assist with:

- legal advice about matters that impact native title
- legal advice about PBC rules under the CATSI Act and the Native Title Act
- support to organise PBC meetings (members' and directors' meetings)
- help setting up ranger groups and with caring for country activities.

Photographs from Bindunbur, Jabirr
Jabirr/Ngumbarl Authorisation Meeting -
Nomination of PBCs





Native title resource available now

The Kimberley Land Council has released a new native title booklet to help Traditional Owners across the Kimberley better understand native title.

The information resource features bold graphics and some familiar pictures of well-known Kimberley leaders.

KLC Chairman Anthony Watson said the resource was designed to provide information in an informative, but fun way.

"We want to make sure that all Traditional Owners understand what their native title rights are and how Prescribed Bodies Corporate work," Anthony said.

"We know that native title can be confusing and at times confronting, and as a result some people choose not to engage with the process.

"This information resource has been created to make native title accessible to everyone and to ensure that all Aboriginal people in the Kimberley have useful and up to date information at their fingertips."

To coincide with the release of the resource, the KLC native title and legal teams have been travelling around the region to present the information contained within the booklet and to answer any questions that people may have about the native title process.

Information sessions have already been held in Halls Creek and Fitzroy Crossing, but there are a number still to come, including:

- 23-26 September 2019: KLC, KALACC, KLRC and Aarnja AGMs at Home Valley Station
- 28-31 October 2019: Kununurra, Wyndham, Kalumburu

The Native Title Story book can be found on the KLC website www.klc.org.au/what-is-native-title. Please contact Jaime Parriman at the KLC on 9194 0100 if you would like us to visit your community or if you would like copies of the information resource.

The Native Title Story book has been adapted from a similar information booklet produced by the Central Land Council.





Dampier Peninsula Working Group update

Traditional Owner representatives and Aboriginal community corporations from across the Dampier Peninsula met in Ardyaloon on 23 to 25 July for a productive meeting looking at the protection of cultural, social and environmental values on the peninsula, as well as the economic opportunities presented from the Cape Leveque road sealing.

The Dampier Peninsula Working Group (DPWG) will continue to progress these issues and ensure appropriate consultation of these matters takes place in partnership with representatives from all tiers of government, who also attended the recent workshops.

The key issues identified by Dampier Peninsula Traditional Owners and community members have been clearly heard by the State Government and as such State Government departments have been allocated responsibilities for addressing these issues.

The Kimberley Land Council has been contracted to deliver coordination of the DPWG for a year and hopefully ongoing engagement will continue beyond this.

Key issues raised for consideration of the DPWG and government

- Cultural heritage protection
- Tourism and business case support
- Visitor management/information and day use site upgrades
- ALT divestment, land tenure reform and approvals support
- Environmental values management
- Community and visitor safety
- Empowering families and addressing social impacts
- Secondary roads network
- Skills and enterprise support
- Marine infrastructure
- Cross-government coordination and funding

Hanging up the boots



Russel "Rusco" Smith



Austin (Kevin) Dann



Chris Sampi

The KLC has recently said a very sad goodbye to three of our most well known and loved Kimberley rangers.

On the Dampier Peninsula, Ranger Chris Sampi started with the Bardi Jawi ranger group in 2009. Chris was an incredible advocate of Indigenous land and sea management and an excellent cross cultural communicator.

Chris was also the region's first trained Indigenous ranger fire officer. His contribution to the team was remarkable and he will continue to be remembered as one the leaders and most recognisable faces of Kimberley land and sea management for many years to come.

Russel "Rusco" Smith was one of the original Gooniyandi Rangers and the backbone of the developing ranger team at its inception.

As a 'station man' he knew what it meant to work hard and provided valuable knowledge and skills transfer to a new generation of Gooniyandi workers. His knowledge of country and culture was critical to many projects. Rarely seen in anything but his signature old cowboy hat, tucked

in shirt and skinny jeans, and always ready for work.

In another sad goodbye, the Wunggurr Rangers and the KLC have farewelled Austin (Kevin) Dann after a decade of dedicated service. Austin was always a strong leader of the ranger group and made sure the team got the job done.

As he moved into a Senior Cultural Ranger Role - Kevin worked for many years on a cultural database at Mowanjum - providing an irreplaceable service identifying people and stories from historic information sources - supporting the saving and passing on of cultural knowledge.

Although it is sad to see these rangers leave, we are pleased to see our rangers making long lasting careers through the Indigenous ranger program.

Chris, Rusco and Austin brought on-the-job experience, wisdom and work ethic to help build their ranger groups, mentoring and supporting younger rangers. Most importantly they all spoke strongly to the broader community about the value of being a ranger and working on country.





Botswana Government in the Kimberley

The Kimberley Land Council was excited to welcome a delegation of Botswana Government officials to the Kimberley in August.

The Botswana contingent attended the KLC Healthy Country Forum in an effort to learn more about Indigenous land and sea management, in particular Indigenous fire management.

Jacob Mafoko, of the Botswana Government, said the forum had provided an important insight into the way Indigenous rangers manage country.

“The Indigenous people and Indigenous rangers have a wealth of knowledge,” he said. “They are well organised which is what we are learning, we need to get well organised.

“One thing I’ve learnt here is that knowledge goes from family to family and generation to generation. This is what we are lacking.”

Over the past two years, the KLC and partners LDI, Baker McKenzie, Charles Darwin University and Australian Aid, have been working with Botswana to exchange knowledge and skills specifically around fire and carbon,

and the way Kimberley Aboriginal people manage fire on their traditional lands.

The partnership is part of the International Savannah Fire Management Initiative – a ground-breaking project which will see the implementation of savanna burning at a series of pilot sites in Botswana, with the potential for expansion across the world.

The project, which has received \$3.87 million of Commonwealth Government funding, is the result of national and international recognition of the knowledge of Australia’s First Nations people in reducing carbon emissions through right-way fire. Indigenous people in the north of Australia are world leaders in fire management across savanna landscapes and we want to share our knowledge to help people look after country all over the world.

If you haven’t heard about this project check out <http://isfmi.org/>



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.