



Much angst in the VRD

A boriginal Traditional Owners in the far north-west of the VRD region are confronting the reality of northern development, and NLC CEO Joe Morrison says it’s causing TOs “much angst”.

Two big projects are on the drawing boards—Ord 3A, which would extend the Ord River irrigation scheme over the Western Australia border into Spirit Hills Station in the NT, and Project Sea Dragon, a massive prawn farm proposed for Legune Station to the north. Native

title determinations cover both Spirit Hills and Legune stations.

For Ord 3A, The Northern Territory is seeking to extinguish native title over 4000ha on the Knox Plain; 1800ha would be irrigated farm land, the rest a buffer zone. It would be the first stage of the Ord3 scheme, which would eventually cover 14,000ha on the NT side of the border, extending north to the Keep River plain.

Project Sea Dragon would eventually expand to 10,000ha on the Legune floodplains and produce

100,000 tonnes of Black Tiger prawns per annum. Initially, the proponent wants an Indigenous Land Use Agreement to build “grow out” ponds over 1080ha, producing 12,000 tonnes per annum.

Both Ord3 and Project Sea Dragon impinge on areas of sacred sites and important dreaming tracks.

Joe Morrison told a conference, Water in the Bush, in Darwin on 23 October that both developments would come with a serious cost to culture and heritage.

“These lands hold cultural values which can’t be measured in dollars and cents,” Mr Morrison said. “And it’s the prospect of losing forever those cultural values which is grieving the people with whom we are having to consult.

“Development may deliver royalties and other benefits—jobs, even—but that is no comfort to our people whom we talk to and whom we represent. They stand to lose what little native title rights they have achieved.

Massive prawn farm—pages 3–6

Gunbalanya Out Gunyangara In

Traditional Owners at Gunbalanya have told the NLC that they don’t want to continue talks with the Commonwealth about a 99-year lease over their community.

The NLC has advised the Department of the Prime Minister and Cabinet of the Traditional Owners’ instructions, and has undertaken to have no more meetings with Traditional Owners, unless they invited it to do so.

The Indigenous Affairs Minister, Senator Nigel Scullion, has promoted the lease as “the most effective way to achieve economic and commercial development in Gunbalanya”.

The lease was proposed to be held by a Commonwealth officer, the Executive Director of Township Leasing (EDTL). Traditional Owners would have been able to advise on land use and sub-leasing through a Consultative Forum, but the EDTL would have had final control.

In October 2013, Senator Scullion, on behalf of the Commonwealth, signed a formal commitment with Traditional Owners to “negotiate in good faith towards a 99-year township lease.”

In August last year, the parties signed an Agreement in Principle—acknowledging that agreement had been reached on key terms of the proposed lease.

Over in north-east Arnhem Land, Gumatj Traditional Owners at Gunyangara (Ski Beach) are seeking a different kind of township lease.

Rather than having the EDTL hold the lease, a community entity owned and controlled by the Traditional Owners would hold it.

Gumatj Traditional Owners and Senator Scullion signed a Memorandum of Understanding during the Garma Festival on 31 July.

Senator Scullion said the community entity model would strike the right balance between local decision-making and land tenure arrangements to support economic development and home ownership.

“The community township leasing model has been developed at the request of the Traditional Owners in Gunyangara, who have strong local business organisations and want to strengthen local decision-making in their community.”

Township leases—Page 7



DANCING FOR THEIR LEADER Gumatj dancers at the Garma Festival bunggul ground celebrate the award by the University of Melbourne of an honorary Doctorate of Laws to Gumatj leader and former NLC Chairman Galarrwuy Yunupingu. Story, back page.

Pink pills turn Scullion

Two years after his appointment as Federal Indigenous Affairs Minister, Senator Nigel Scullion has reflected on his relationship with the Northern Land Council, telling a large audience attending a 2015 Garma Festival lecture that it's had "its ups and downs", but has now been reset for the better.

Senator Scullion also spoke about forging a new relationship between his government and Aboriginal communities: "Resetting that relationship is just about being a little bit more fair dinkum, little less arrogant, a little less self-confident that our job is to come up with the answers and solutions, therefore the only people in the room with the solutions in the rooms is us.

"And we know that that is a nonsense. Very much part of the future is being fair dinkum about a change in the settings of the relationship between Aboriginal and Islander people and governments

at every level. We need to work together, in a way that I think will bring real solutions."

Referring to his relationship with the NLC, Senator Scullion said: "It's had its ups and downs, as most people who follow this would basically acknowledge.

"But a significant change in the nature of the relationship was me to acknowledge that I shouldn't be providing solutions that they didn't want. Because if they didn't want that solution it probably wasn't going to work anyway.

"So, I've sort of taken a number of pink pills and too many months nutting out where I should've been. We've embarked on a new relationship, I think, and a much more positive relationship by saying, 'This is the challenge, how would we go about fixing it?' So, my congratulations to them (Northern Land Council) on that."

In March 2014, six months into his ministry,

Senator Scullion rounded on the NLC from the floor of the Senate while the Chairman, Deputy Chairman and Chief Executive were sitting in the public gallery.

Senator Scullion was displeased that the Senate was voting to disallow his regulations which would have enlivened section 28A of the Aboriginal Land Rights (Northern Territory) Act. Section 28A, an amendment to the Act passed under the Howard government in 2006, devolved powers of the Northern Territory's land councils to local corporations.

The NLC successfully lobbied Labor and Greens senators to disallow Senator Scullion's regulations.

To the Senate in March last year, Minister Scullion spoke of "a fair bit of mischief going on". Referring to Section 28A, he said: "That is our law now and that is the law which the Northern Land council, which is a servant of this, being a Commonwealth



Indigenous Affairs Minister Nigel Scullion (right) in conversation with NLC CEO Joe Morrison, in north-east Arnhem Land.

statutory authority, needs to respect."

He went on to accuse the NLC of "getting around the law ... to deny their own constituents procedural fairness." And he criticised the NLC because its Full Council "only meet every now and again. It's a terribly cumbersome process."

Meeting at Barunga in June, the Full Council delegated substantial powers to the Executive Council, which will speed up decision-making processes.

In his Garma Festival lecture, Senator Scullion congratulated the NLC for "the work that they're doing to streamline their decision-making."

The decision at Barunga to delegate powers was "a tough decision to do, but it was a sensible decision— a decision that would provide a lot of solutions for some of the challenges that they (the NLC) had."

New direction for former Deputy Chair



Retiring NLC Deputy Chairman John Daly (a former NT Police officer) with Commissioner Reece Kershaw, during the NLC's Full Council meeting at Barunga in June.

NLC Deputy Chairman John Daly has resigned.

He announced his resignation at the joint meeting in Kununurra on 24 September of the Darwin/Daly and VRD regional councils.

Mr Daly wants to spend more time with family and to pursue his personal endeavours. He recently accepted a role on the board of the National Indigenous Pastoral Enterprise, a wholly-owned subsidiary of the Indigenous Land Corporation.

Chairman Samuel Bush-Blawasi said that during his time as Deputy Chair, Mr Daly played a crucial role in advancing NLC policy positions on Township Leasing, S28a delegations and funeral and ceremony assistance.

"He was a passionate advocate for empowering

regions, and was a great support to myself, the Executive Council and the CEO on a wide range of matters including property rights and pastoral industry development," Mr Bush-Blawasi said.

"On behalf of the Executive, I thank John for his time and contribution in the role of Deputy Chair, and wish him well in his future endeavours."

Mr Daly was NLC Chairman from 2005–2007.

He will continue in his position as a councillor for the NLC Darwin/Daly Regional Council.

A new deputy chair will be elected at the next Full Council meeting, to be held at Gulkula, the site of the Garma Festival in north east Arnhem Land, the week beginning 16 November.

Traditional Owners ponder massive prawn farm

AMENDMENTS TO PASTORAL ACT

Law change permits diversification

Amendments by the present CLP government to the Northern Territory’s Pastoral Land Act, which became effective on 1 January 2014, have enabled the Seafarms prawn farm proposal to proceed at Legune Station.

The Government says the amendments have made it easier for pastoralists to diversify and generate alternative income streams. Previously, parts of pastoral properties could be used for non-pastoral activities, but permits were approved for only up to five years and had to be renewed annually. Non-pastoral use permits can now be approved for 30 years, and can be renewed.

Previously, permits were provided to the lessee and were not transferable if the pastoral lease changed

ownership. Under the new law, the non-pastoral use permit is now registered to the lease. The government says this will provide longer term security for investment and will likely increase the value of a pastoral lease when it is sold.

In July, Seafarms Group executive chairman Ian Trahar acknowledged the unique benefits which the amendments to the Pastoral Act have delivered: “We couldn’t undertake this project in Western Australia or in Queensland,” he told ABC News in July.

“None of the legislative instruments that are necessary for it to occur are in place (elsewhere). It’s been in my view visionary to establish the non-pastoral use component, and that’s very much why this project is here,” Mr Trahar said.

The Northern Land Council is consulting with Traditional Owners who are being asked to negotiate an Indigenous Land Use Agreement for the establishment of a prawn farm—touted as one of the biggest in the world—on Legune Station in the far north-west of the Northern Territory.

The Federal Court has recognised native title over the whole of Legune Station.

Perth-based Seafarms Group Ltd is seeking approvals for Stage 1 of a so-called Grow-out Facility which would be laid out as three farms on the Legune floodplains. Each farm would have 36 ponds of 10 hectares each; in total they would occupy 1080 hectares and, nominally, produce 12,000 tonnes of Black Tiger prawns per annum.

The company is calling it Project Sea Dragon, and has a seven-year timetable to expand to 10,000 hectares (100km²) and produce 100,000 tonnes of prawns per annum. The cost of the full development is estimated at \$1.45 billion.

Seafarms is expecting to begin construction of the first 1080 hectares of ponds

in the 2017 dry season and to stock them in late 2018.

The Northern Territory and Commonwealth governments have enthusiastically embraced the project and given it Major Project Status.

In July, the Deputy Prime Minister and Minister for Infrastructure and Regional Development, Warren Truss, said Major Project Status would allow Seafarms access to services to coordinate Commonwealth and Northern Territory government processes, such as environmental and biosecurity approvals.

Environmental approvals may be hard to fast-track. The NT Environment Protection Authority has reservations about the impact of such a massive development in a sensitive landscape that supports many species of vulnerable fauna, (and big colonies of waterbirds), and has ordered a full Environmental Impact Statement (see page 6).

In February, when Seafarms announced it had signed a deal with the owners of Legune Station, NT Chief Minister Adam Giles said Project Sea Dragon was “exactly the kind of enterprise we

need to see more of as we develop Northern Australia.

“As the Indigenous Affairs Minister, it’s also the kind of project that I know will be crucial to breaking the destructive cycle of welfare dependency in our communities,” Mr Giles said.

Seafarms says that at full scale the project would require a workforce between 1600 and 1700; about 600 would be employed at Legune and a further 700 at Kununurra and its environs to the west.

Sea Dragon wants an agreement with Traditional Owners, who have big decisions to weigh up. As Bernadette Simon, daughter of Senior Traditional Owner Maurice Simon says, “It’s native at the moment, all just beautiful country.” (see story, page 5)

If Traditional Owners end up not agreeing to the project, it remains to be seen if Seafarms would use legal processes under the Native Title Act to force an outcome.

From left, Bernadette Simon with niece Grace, brother Marcus and father Maurice, a senior Traditional Owner of the country on Legune Station proposed as the site of a huge prawn farm.



“It’s native at the moment, all just beautiful country”

The grand masterplan

... when it comes to the government, what can you do? There is no choice at the end of that line.

Project Sea Dragon will eventually spread across five sites in Western Australia, and the Northern Territory. Depending on the success of Stage 1 operations, it would finally include facilities at Legune, Darwin, Kununurra, Wyndham and Exmouth.

LEGUNE

- 27 farms with a total productive area of 9,720 ha
- internal farm recycling ponds of 2,916 ha
- 10 seawater intake pumps, distributed in two seawater intake structures (Forsyth Creek and Sandy Creek)
- intake settlement basins
- main feeder canals for the delivery of seawater
- an expanded environmental protection zone and constructed marine wetlands
- an additional dam for freshwater storage and added delivery channel
- main discharge canals
- power generation plant (hybrid) and switchyard to meet peak demand of 90 MW at the grow-out facility
- gas storage infrastructure for full scale power generation requirements, or alternatively a local gas wellfield
- diesel storage for all fleet vehicles
- an expanded central village at Legune, and distributed on-farm accommodation

DARWIN

- a hatchery able to supply up to 100 million post larvae per week
- a core breeding centre
- a broodstock maturation centre

KUNUNURRA

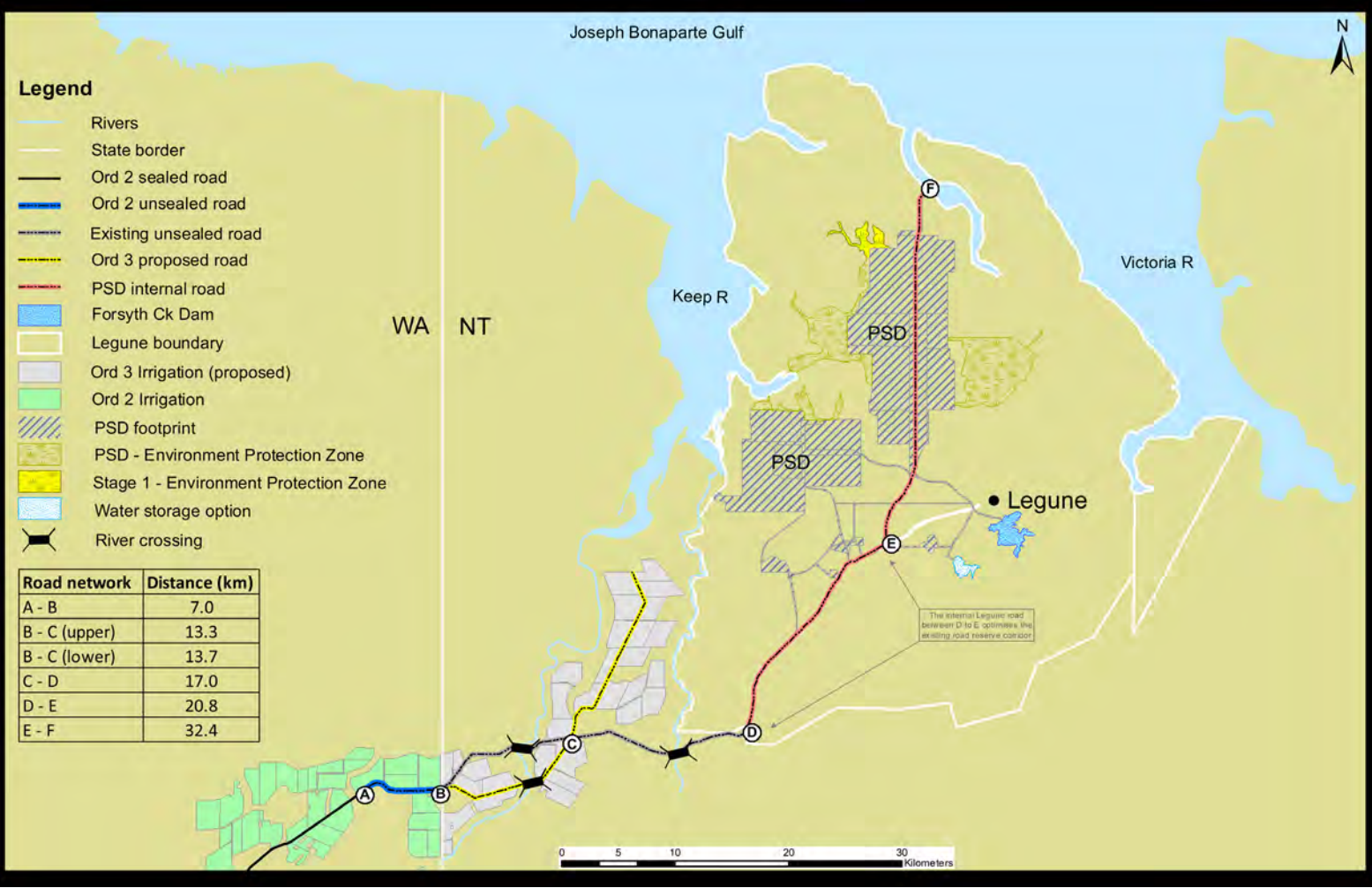
- a feed mill with total capacity of 200,000 tonnes per year
- a processing plant with a capacity of 400 tonnes per day
- a village for accommodating non-local workforce
- a power plant to supply the processing plant and Feed Mill
- township accommodation

WYNDHAM

- a container park for refrigerated reefer containers
- bulk storage sheds for WA grain and imported ingredients for prawn feed

EXMOUTH

- initial quarantine and founder stock centre
- a backup breeding centre



Bernadette Simon’s tears rise from a deep well of sadness, and she makes no effort to wipe them away. “I am crying for my country,” she says.

Draped over a small table on the front lawn of her house in Kununurra is a map of Legune Station in the far north-west of the Northern Territory, where an Australian agri-food company, Seafarms Group Ltd, proposes to build a prawn farm of immense proportions.

Her father, Maurice, is across the table. He is a senior Traditional Owner for the country, presently a pastoral lease covered by Native Title, where the prawn farm is to be sited. “It’s hard to say. It will be difficult,” he says of his consideration of a preliminary offer from Seafarms of an Indigenous Land Use Agreement (ILUA). Foremost in his mind are the sacred sites and important dreaming tracks that characterise the landscape.

Seafarms may not be wanting to extinguish Native Title rights over the prawn farm site, but Bernadette Simon is well aware that Native Title affords little protection, anyway: “Native Title is just so weak. Native Title, I believe, it’s just giving government an access back to blackfellas’ country and (government) can take it off them, just like that,” she says.

“I think it’s a good idea (the prawn farm) for some of us, but from my point of view I’m a bit half-hearted about it at the moment,” Bernadette tells Land Rights News. Her father and her brother, Marcus, indicate agreement.

“I’m just thinking about the country, that’s all, the impact on the country. But there’ll also be an impact on us, as the place grows and grows with more ponds and prawns. It won’t be the same. It’s native at the moment, all just beautiful country,” Bernadette says.

The Simon family moved into Kununurra about 10 years ago from their family outstation, Marralam, about 70km to the east of

Kununurra and about 30km inside the Northern Territory border and within the Legune Station pastoral lease.

They have dreams of returning to their country and rebuilding the outstation. If they do sign up to an ILUA with Seafarms, Bernadette has thoughts of applying revenue to making the outstation habitable again. “We’ll put it back into our community, to develop our community to build infrastructure for our communities.”

We take the Weaber Plain Road out of Kununurra to drive to Marralam through country that is still being cleared and levelled as the Ord River irrigation scheme creeps towards the NT border. “They going to grow rice over there,” says Maurice in the front passenger seat. “Perhaps we should set up a restaurant on the road and we could have prawns and rice,” he says without laughter, and recalls that he used to walk with his children into Kununurra through this country when the family lived at Marralam.

For Bernadette, the Ord irrigation area provides a stark preview of how the Seafarms project would irrecoverably alter the landscape: “All that area was bushland when we were growing up. Going back there now, it’s just a big ugly flat. Who’d want to go back your own country, your own place and see flats and pools? That’ll be devastating for me to back and look. It will be heartbreaking. “

Her mother’s country is to the west, around the Argyle diamond mine where the mining company Rio Tinto finally negotiated an ILUA ten years ago—20 years after the mine opened

and the Western Australian Government and the then owner of the Argyle mine, Ashton Joint Venture, had ridden roughshod over Traditional Owners.

“The Argyle diamond, that’s my mum’s side, so we’re pretty much, we’ve been down this track before. We know what development means and what it’s going to look like, what could happen, what’s going to happen.

“It just makes us more heartache. I thought my dad’s side was going to be just all bush land and my mum’s side be all, you know. That’s I how I saw our future, thought this one would stay natural.”

The abandoned Marralam outstation sits beside a billabong brimming with bird life.

It’s a cluster of run-down houses, probably beyond repair. Infrastructure like a communications tower and the water pump has been trashed.

“We need a bigger dump at our community, we need more street lights, because we only have about one,” Bernadette says.

Her brother, Marcus: “We need a playground for the kids, we need to knock all the houses down and build a new one. We need a proper house.”

But even if the Simon family signed up to the ILUA, and money flowing from that enabled them to get back to Marralam, they would still be grieving about the loss of country: “I feel emotion inside,” says Bernadette. “To tell you the truth I wouldn’t even think that in the near future something like this. I didn’t even dream of anything like this. I thought it was just going to stay native like that for us for the rest of our lives.

“IT WILL BE HEARBREAKING”

‘White man just look at the country and see dollar signs’



Senior Traditional Owner Maurice Simon at his family outstation, Marralam.

“We got connection to country, connection to the actual totem for us blackfella. Our culture come with culture, country, language, totems, all different mix, but they all under the one category.

“White man just look at the country and see dollar signs.”

There are more tears and a hint of resignation as Bernadette struggles to contemplate the limits to the

choices that lie ahead for her family and other Traditional Owners.

“When you get taught for your country, your elders they teach you names, what’s there, where can you go and it’s hard because my grandfather’s not alive any more to protect his country. You really can’t even, you can say, but when it comes to the government, what can you do? There is no choice at the end of that line.”



Pied Heron

Seafarms Group Ltd has high hurdles to clear in order to win environmental approvals for its proposed prawn farm on Legune Station.

The whole 10,000 hectares which the company has marked out for its mega prawn farm lie within a “Site of Conservation Significance for biodiversity values in the Northern Territory”—the Legune coastal floodplain.

In 2009, the then Department of Natural Resources, Environment, the Arts and Sport (NRETAS) identified 67 sites of significance for biodiversity conservation. They were rated for five major conservation values: threatened species, wildlife aggregations, wetlands, endemic species and botanical significance.

The “Legune Coastal Floodplain Site of Conservation Significance” ticked several of those boxes. Covering more than 1500km², it extends from the mouth of the Keep River to High Water Inlet, a tributary of the Victoria River.

The official description says the northern portion is dominated by tidally-influenced salt and mud flats, and the southern portion characterised by a range of seasonally inundated floodplain habitats (including freshwater sedge swamps, seasonal grassy marshes, small wooded swamps and clay pans). It includes the Legune Homestead Swamps and Osmans Lake system on the Legune floodplain - both listed on the Register of the National Estate for their natural values.

For wildlife aggregations, the site is rated of international significance.

It’s also been declared an Important Bird Area (IBA) by Birdlife International. IBAs are sites that are recognised as

internationally important for bird conservation and known to support key bird species.

The citation for the Legune IBA in 2009 says although there are few data and the main colony has only been counted once, these floodplains are believed to support more than 1% of the world population of Pied Heron. More than 40,000 mixed waterbirds have been recorded, mostly Wandering Whistling-Ducks and various egrets and herons.

The Legune wetlands are rated of national significance—and of possible international significance. Commentary on its listing as a Site of Conservation Significance says the site satisfies waterbird-based criteria for listing as a Wetland of International Importance under the Ramsar Convention.

The Ramsar Convention (formally, the Convention on Wetlands of International Importance, especially as Waterfowl Habitat) is an international treaty for the conservation and sustainable utilisation of wetlands, recognising the fundamental ecological functions of wetlands and their economic, cultural, scientific, and recreational values. It is named after the city of Ramsar in Iran, where the Convention was signed in 1971.

But without a Ramsar listing, the reality is that the Legune wetlands would attract little protection under the Federal Environment Protection and Biodiversity Conservation Act.

The listing as nationally significant wetlands is likely in itself to be insufficient to qualify as a matter of national environmental significance; further, the listing as an NT site of conservation significance also provides no obligatory protection.

But it would be a bad precedent for such listed sites to be devalued by a major development.

The site also encompasses Turtle Point which has a small length of beach that is “highly significant” for nesting Flatback Turtles. Here the site is considered of national significance for marine turtles.

In a document prepared by the NT Environment Protection Authority (‘Notice of Intent for Aquaculture Operations’), Seafarms concedes that Stage 1 of its prawn farm proposal will “reduce and/or modify habitat and other resources available to some of the threatened and/or migratory species that use the site.”

It continues: “... it is considered highly unlikely that the proposed project will constitute a significant impact to any threatened or migratory species.”

Elsewhere, discussing potential direct impact of Stage 1, the document says: “The modification of these areas will result in a loss of habitat and associated resources for resident and migratory fauna. Given the widespread nature of these habitat types within the surrounding areas, it is considered unlikely to constitute a significant impact to any species.”

It says a range of studies is proposed, “to comprehensively assess impacts to these species.”

Discussing potential indirect impacts, the company says: “The main potential indirect impacts of the proposed project primarily derive from the discharges from the operations to the marine environment. These will comprise elevated Nitrogen and Phosphorus and, whilst not considered to constitute a direct threat to any vertebrate species, have the

potential to modify existing resources in the marine environment.”

The NT Environment Protection Authority (EPA) decided on 14 September that the Seafarms project required the preparation of an Environmental Impact Statement (EIS).

The decision was based on the following:

- Potential to impact on threatened, marine and migratory species listed under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) and the Territory Parks and Wildlife Conservation Act (TPWC Act). Risks to biodiversity values could arise from habitat clearing, poor weed hygiene, downstream impacts from discharge of nutrient-rich water and extraction of large volumes of freshwater.
- Potential to impact on the Legune coastal floodplain Site of Conservation Significance, which is host to migratory birdlife aggregations of international significance, and includes Turtle Point, a highly significant nesting beach for the flatback turtle (Natator depressus; listed as vulnerable under the EPBC Act).
- Potential impacts from the discharge of waste from the prawn farming activities into receiving waters considered to be of high environmental value.
- The significant management requirements for solid and liquid waste and the potential detrimental effects of inappropriate management practices.
- Potential impacts on the local amenity and the environment from unauthorised third-party access to the area for recreational fishing,

camping and hunting. The proposed action would establish all-weather access, which could unintentionally provide entry to previously inaccessible areas.

- The implications of predation by birds on prawn stock held in ponds, both on the project feasibility and on bird aggregations.
- The need for consideration of decommissioning of the site in the event of unplanned closure.
- Potential economic, social and cultural impacts on the region and the Northern Territory, including the risks of the Project not realising its projected economic and social benefits.

Summing up its decision to order an Environmental Impact Statement, the EPA said: “... there is a risk of significant impact to the environment from the project, and a number of risks cannot be adequately characterised without further studies and a more comprehensive assessment.”

The NT EPA has published draft terms of reference for the preparation of an Environmental Impact Statement, and has invited public submissions before 23 October. After that the EPA will finalise the terms of reference and direct the preparation of a draft EIS.

In an appendix to its draft terms, the EPA lists 64 threatened species, more than half of them migratory, to be considered in the EIS.

Many of them are accorded official status under the Federal Environment Protection and Biodiversity Conservation Act: three are listed as vulnerable, five as endangered and three as critically endangered; further to those lists, of the migratory species nine are listed as vulnerable and two as endangered.

Gunbalanya: Traditional Owners abandon township lease talks

Aboriginal Traditional Owners at Gunbalanya have instructed the NLC that they want to cease negotiations about a 99-year township lease over their community. Gunbalanya has a population around 900.

Senator Scullion’s department has been told that the NLC has undertaken to have no more meetings with Traditional Owners, unless it’s invited to do so.

The proposed lease, under section 19A of the Aboriginal Land Rights (Northern Territory) Act, was to have been held by a Commonwealth officer, the Executive Director of Township Leasing (EDTL). Section 19A was a creation of the Howard Government in 2006.

A section 19A lease would give the EDTL the right to decide who would get sub-leases. By contrast, the original (and existing) section 19 of the Land Rights Act ensures all leases require the informed consent of the Traditional Owners.

A fact sheet produced by the Department of the Prime Minister and Cabinet in August last year described the Gunbalanya lease as helping to provide a “strong foundation for building economic activity and intergenerational wealth in towns on Aboriginal land.”

“It allows for long term subleases to be granted which can help to attract investment and it assists Traditional Owners and community members in obtaining a loan from a financial institution to buy a home or start a business.”

The NLC has argued that the existing section 19 could achieve the same ends, and leave control of a township with Traditional Owners.

Senator Scullion launched his Gunbalanya lease proposal in October 2013, when he signed a formal commitment with Traditional Owners “to negotiate in good faith towards a 99-year township lease”.

On 18 August last year Senator Scullion was back in Gunbalanya for the signing by Traditional

Owners of “An Agreement in Principle”. It set out the “key terms” of a section 19A lease between Traditional Owners (represented by a law firm funded by the Commonwealth Government) and the Commonwealth.

After the 18 August meeting, one of the Gunbalanya Traditional Owners, Ms Julie Narndal, sought independent legal advice about the Agreement in Principle document. She later wrote to the NLC through her lawyer that she did not understand what she had signed.

The Aboriginal people of western Arnhem Land speak Kunwinjku, but no interpreters had been employed during the complex negotiations until the NLC employed interpreter Murray Garde. He attended consultations about the 99-year lease organised by the NLC at Gunbalanya on 31 August last year.

Mr Garde wrote later in Land Rights News (October 2014 edition): “There

seemed to be a clash between their understanding of what it was they had signed (the “Agreement in Principle”), and the actual contents of the document.

“It is difficult to reconcile how Traditional Owners could have signed the ‘Agreement in Principle’ with ‘Key Terms’ on August 18, with the required principle of ‘free, prior and informed consent’ (a fundamental requirement under the Land Rights Act) based on what they told me in Kunwinjku.

“The group made it clear that they were confused about the implications of township leasing in relation to their rights as Traditional Owners,” Mr Garde wrote.

“It was also explained to the Traditional Owners during these consultations that under a Section 19A township lease, the Executive Director of Township Leasing would only need to consult with the traditional owners about sub-leases. Any rights they would have enjoyed under the Land Rights Act to ‘free,

prior and informed consent’ about sub-leases would no longer apply. Bolkkime ngarri-bekkan manekke kunwok! ‘That’s the first time we have heard/understood this information,’ they replied.”

The Gunbalanya Traditional Owners’ direction to the NLC was delivered unexpectedly to NLC staff at a meeting in Jabiru on 11 August this year. Murray Garde again acted as interpreter. It was the first opportunity the Traditional Owners had to express their views after the Commonwealth sent the lease to the NLC in May for consultations to take place.

NLC CEO Joe Morrison later wrote to the Department of the Prime Minister and Cabinet: “The NLC was instructed by (Traditional Owners) that they did not want to proceed with the proposed s.19A township lease, they did not agree with it, and that they did not want to have any more meetings about it. Those instructions were confirmed the following day”.

Gunyangara wants to own a township lease

Aboriginal Traditional Owners of Gunyangara (Ski Beach) in north-east Arnhem Land have signed a Memorandum of Understanding with the Commonwealth Government to secure a township lease.

Unlike the township lease proposed at Gunbalanya, the lease would be held by a

community entity owned and controlled by Traditional Owners.

The MoU was signed during the Garma Festival in July. “This township leasing model will be the first of its kind,” Indigenous Affairs Minister Nigel Scullion said after the signing. “While it may make a model for other communities, it will be a matter for those other

communities about how they wish to administer a township lease if that’s what they require.”

A lease at Gunyangara was discussed between Gumatj leaders and the then Prime Minister, Mr Tony Abbott, when he visited north-east Arnhem Land in September last year. Gumatj leader Galarrwuy Yunupingu asked Mr Abbott if Traditional Owners, not the Executive Director of Township Leasing, could hold the lease.

According to a news report at the time: “Senator Scullion undertook to investigate the possibilities without destroying the whole lease concept.

According to a person present, Mr Abbott said: ‘OK. Let’s get it done’.”

Terms agreed in the MoU include:

- The community entity will be an Aboriginal corporation, representative of Traditional Owners and community residents, and will meet certain capacity requirements.
- The township lease will be able to be transferred to the EDTL if the community entity becomes unable to hold and administer the lease or requests a transfer, and can be transferred back to the community entity when it regains capacity.
- The lease boundary will include the township and

adjacent land, to provide for future economic development opportunities for Traditional Owners and the community.

- There will be an advance payment and an economic development fund, for the benefit of Traditional Owners and to be used for projects that deliver long-term community benefits.
- The lease will support home ownership and future government investment in housing. Rent paid under the housing precinct lease will be used to support better housing outcomes.

Retta Dixon Home—



THE Royal Commission into Institutional Responses to Child Sexual Abuse has found that a former senior prosecutor with the Northern Territory Director of Prosecutions (DPP) was wrong to have recommended in 2002 that sexual assault charges be abandoned against a house parent at Darwin's Retta Dixon Home.

The senior prosecutor was Mr Michael Carey, now the NT's Deputy Chief Magistrate. His recommendation was accepted by the then DPP, Mr Rex Wild QC.

The Royal Commission sat in Darwin between 22 September and 1 October last year, having nominated the Retta Dixon Home as case study No. 17. The Royal Commission is directed to focus its inquiries and recommendation on systemic issues; but it says it also recognises that its work will be informed by an understanding of individual cases.

The Darwin hearings focused on an investigation by NT Police of sexual assault complaints against Donald Henderson, a former house parent at Retta Dixon, and on the subsequent conduct of criminal charges by the office of the DPP.

In the 1960s and 1970s, several former residents told the then superintendent of Retta Dixon that they were being

sexually abused by Henderson. They all gave evidence that the superintendent did not believe them, did nothing, or caned them for "lying".

In 1973, girls at the home told a house parent that Henderson was sexually abusing boys. AIM sent its head to Darwin to investigate, but Henderson was not removed and AIM did not notify the police.

In 1975, after further allegations were raised, Henderson was charged with seven sexual offences against five children living at the home. None of the charges proceeded to trial and Henderson was not convicted of any offence.

In 1998, a former resident complained to police about having been sexually abused by Henderson in the 1960s. During their investigation, police also obtained statements from three more former residents who also alleged they'd been sexually assaulted by Henderson. Charges in relation to the four complainants were laid against Henderson in June 2001, and the DPP assumed conduct of the prosecution later that year.

The first complainant had died before a Magistrate committed Henderson for trial on 15 counts, in February 2002; in March 2002 Henderson pleaded not guilty in the Supreme Court for 15 charges.

The Royal Commission's report in July this year questioned the thoroughness of the police investigation, but its review of the DPP's conduct was damning.

The DPP in 2002, Mr Rex Wild QC, was overseas at the time of the Royal Commission's Darwin hearings, and did not give evidence. The current DPP, Mr Wojciech Karczewski QC, and a former senior prosecutor, Mr Michael Carey, gave evidence—although neither had any "independent recollection" of the prosecution of Henderson, and relied on tendered materials to give their evidence.

Mr Carey, on 7 November 2002, recommended that the prosecution of Henderson be abandoned, on the basis that there were no reasonable prospects of conviction. Before the Royal Commission he agreed that his memorandum that contained his recommendation to drop the charges against Henderson did not comply with DPP guidelines, and he could provide no explanation for that.

The Royal Commission has reported that Mr Carey's memorandum did not comply with the DPP guidelines in that it did not provide:

- A summary of the charges
- An analysis of the evidence in respect of each charge
- Any reference to pre-trial applications foreshadowed

by the defence, such as an application for separate trials or a stay of proceedings

- Any reference to Henderson's criminal history and the previous prosecution of him in 1975
- An accurate statement of the views of the police officer in charge and victims about the charges being withdrawn.

Mr Carey received the brief against Henderson on 6 November 2002, and by the next day he had reported to Mr Wild that there was no prospect of the matter going before a jury, "let alone obtaining a conviction." He could not explain to the Royal Commission why he had written his memorandum in such a hurry.

His two-page memorandum to the DPP said the charges against Henderson were doomed because they could not overcome a legal hurdle known as "latent ambiguity", which meant the charges lacked specifics of time and place and the accused could not have a fair trial. The staleness of the offences and inconsistencies between the witnesses and within the testimony of each particular witness also contributed to the decision to discontinue the prosecution.

But in his evidence to the Royal Commission, Mr Karczewski agreed that six of the charges could have and should

have proceeded to trial; further, one of the charges should have been split into two separate counts. The Royal Commission report said Mr Karczewski agreed it was "crystal clear" that there was sufficient evidence to proceed with those charges.

Mr Carey's memorandum of 7 November 2002 also stated: "I am told that the police ... do not have a problem with the matter's not proceeding (against Henderson). I am also advised that the victim's (sic) were simply pleased to have had the accused committed for trial and that that very fact makes them feel vindicated. They have apparently had the problems explained to them and would not be overly disappointed if the matter were not to proceed."

But the Royal Commission noted that after the DPP decided to discontinue the prosecution, the prosecutor had not notified the police officer in charge and the victims as soon as practicable, as required by the DPP guidelines.

The Royal Commission said that now-retired Detective Roger Newman, the officer in charge of the investigation of Henderson, and two of the three surviving complainants, were not told of the decision to drop the prosecution until 27 November 2002. A delay of 16

Wrong to drop charges

days in informing the police and complainants “did not meet the criteria” of the DPP guidelines. And, the Royal Commission said, there was no evidence that the third surviving complainant was ever advised of the decision.

“... Mr Carey agreed that he did not speak with the complainants or investigating officer directly before making the recommendation (to abandon the prosecution). He does not set out in the memorandum who he spoke to in order to ascertain the views of the police and complainants. Mr Carey said he believed that he obtained this information from Mr Dooley (Glen Dooley, a lawyer who worked at the DPP). However, an email from Mr Dooley to Mr Carey dated days after the memorandum is inconsistent with Mr Carey’s evidence. The email shows that Mr Dooley had not yet consulted with the police or complainants, so he was not in a position to share their views with Mr Carey,” the Royal Commission reported.

Its report further says: “Mr Karczewski QC (the present DPP) agreed that a delay of 16 days in informing the police and complainants did not meet the criteria provided for by the guidelines. He agreed that the delay, and the failure to communicate with the complainants and the investigating officer, were wholly lamentable and a serious failure by the DPP to observe the appropriate procedures.”

After the release of the Royal Commission’s report, the Northern Territory’s Attorney General, John Elferink, defended Mr Carey, whom he appointed as a Magistrate in 2013.

“It’s an absurd proposition to suggest anything other than the fact that Michael Carey is an extraordinarily good judicial officer,” Mr Elferink told the ABC.

“He’s served the people of the Northern Territory well. The whole appellant process through the court system is based on the idea that judicial officers err from time to time, and if you were going to criticise everybody who erred then no judge would have a job anywhere.”



The sad history

The Retta Dixon Home was established in 1946 by AIM (Aborigines Inland Mission), as a home for “half-caste children and mothers, and a hostel for young half-caste women”. It closed in 1980.

Since 1998, AIM has operated as Australian Indigenous Ministries. The original AIM was an evangelical organisation and Retta Dixon, a Baptist, was one of its founders in 1905.

In December 1947, the Australian Government licensed the home “for the maintenance, custody and care of aboriginal and half-caste children”.

The Australian Government was the guardian of many children at the Retta Dixon Home and the Royal Commission into Institutional Responses to Child Sexual Abuse reported in July that the government had “a general responsibility to all the children in the home, including for their care, welfare, education and advancement, until the time of self-government in 1978”.

It said that the Australian Government was “actively involved” in activities at the

Retta Dixon home: “This is evident from participating in the appointment of the superintendent and the training of staff at the home; considering and developing a policy in respect of corporal punishment at the home; visiting and reporting on the activities of AIM at the home.”

The commission was unable to make a finding as to whether or not the Commonwealth failed in its duties. However, it has reported that “a question remains as to whether in the circumstances the Commonwealth should have taken remedial action to protect the residents of the home from sexual abuse”.

At hearings in Darwin in September and October last year, the commission heard evidence from 10 former residents of Retta Dixon about sexual and physical abuse they suffered from house parents, and occasionally other children. The sexual abuse included allegations of rape, sexual touching and brutal physical assaults.

In the report of its findings, the commission said: “We also heard of the impacts of

the abuse on (witnesses’) lives, including serious effects on their mental health, employment and relationships. We heard of their pain and suffering over a long period and the personal costs associated with dealing with the long-lasting impacts.”

It said failings by AIM to act on complaints of abuse “lead us to conclude that ... AIM did not meet the obligations that it had to children in its care, including protection from sexual abuse.”

During the commission’s public hearing in Darwin, AIM offered a public apology and counselling; till then it had made no attempt to provide any form of redress to victims.

After the public hearing AIM published an apology in The Australian newspaper and undertook to establish a fund for financial compensation for the victims by the sale of a property valued between \$350,000 and \$380,000.

AIM has since reneged on its offer of compensation, and its members are now facing a class action in the Supreme Court of the Northern Territory. The action, which also nets

the Commonwealth and former house parent Donald Henderson, is on behalf of 83 plaintiffs. About half of them are suing for sexual and physical assaults (about 10 of them “catastrophic”) by house parents; the other half are suing for physical assaults only.

AIM publishes a glossy colour newsletter, showcasing its missionary works. None of the five issues of the newsletter published since the Royal Commission hearings more than a year ago has included any reference to the Retta Dixon matters considered by the Royal Commission.

IMAGE TOP LEFT PAGE 8: Ex-Retta Dixon Home residents and their supporters celebrating the dumping of the name Queen Mothers Park after their protests. “Following a large outcry from former residents of the Retta Dixon Home” the park was re-gazetted Karu Park in 1992 following the protestors’ demands. Karu is the Gurindji word for “child”. **PHOTO:** Therese Ritchie.

IMAGE TOP PAGE 9: THE PILLOWS ARE SMOOTHED: The dormitory at Retta Dixon Home, Bagot Aboriginal Reserve, 1958. Photograph by Australian News and Information Bureau photographer William (Bill) Pedersen. From the collection of the National Archives of Australia.

AND SO IT'S COME TO THIS

By John B. Lawrence SC*

On the sentencing and detention of Aboriginal juvenile offenders the late NT Supreme Court judge Justice James Muirhead stated in 1977 (*Jabaltjari v Hammersley* 1977 15 ALR 94 at 98):

“In dealing with Aboriginal children one must not overlook the tremendous social problems they face. They are growing up in an environment of confusion. They see many of their people beset with the problem of alcohol, they sense conflict and dilemma when they find the strict but community based cultural traditions of their people, their customs and philosophies set in competition with the more tempting short term inducements of our society. In short the young Aboriginal is a child who requires tremendous care and attention, much thought, much consideration. Seldom is anything solved by putting him in prison. If he becomes an offender he requires much by way of support and perhaps much by way of discipline to set him on the right track. It is with these considerations in mind that purposeful legislation, welfare and probation facilities, work release schemes, modern juvenile institutions and treatment centres have been set up in Australia.”

It wasn't until appearing in the Youth Justice Court in June this year that I realised our criminal justice system and its dealing with juveniles had reached a nadir. I was representing one of the Aboriginal children who had escaped the “new” Don Dale facility, which is in fact the reopened former Berrimah Jail. Following two days on the run, the two escapees decided to drive their stolen vehicle straight back into Berrimah through the front gates. Film of this Harry Potter Platform 9 ¾ manouvre was shown across the world .

The two juveniles charged did not appear in the court.



Graphic by Chips Mackinolty.

They appeared through a video link from the Holtze adult prison where they were handcuffed and shackled to their chairs. Behind them were two male prison officers with the door closed. I asked the Magistrate to order their release from handcuffs. Her response was that she didn't believe she had the legal power to do that. I submitted that her most important task was to ensure the juveniles received a fair trial and having them handcuffed and shackled to chairs in the adult prison prevented this happening.

The Magistrate rejected my submission, and the proceeding continued.

The evidence revealed the conditions being meted out by the NT Department of Correctional Services to some of their Aboriginal juvenile detainees: handcuffing, spit hooding, solitary confinement in a cell for 22 out of 24 hours, lasting from 7 to 17 days, which included eating their meals (some hot) with their bare hands.

I also learnt about the infamous incident in 2014 when some were subjected to a gas attack in order to break up a disturbance brought about by some detainees in such solitary confinement.

I walked out of the proceeding dumbfounded. The question that screamed, and still does, is how can we have a Department which deliberately deals with juvenile detainees in such a way?

The week 26 October to 1 November is International Children's Week. Because 2015 is the 25th Anniversary of Australia's signing The UN Convention on the Rights of the Child 1990, the theme is that children's rights are human rights which should be respected and revered.

Article 37 of The United Nations Convention on the Rights of the Child 1990 states:

(a) “No child shall be subjected to torture or other cruel, inhumane and/or degrading treatment or punishment.

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age”.

Australia is presently in the middle of a Royal Commission into Institutional Responses to Child Abuse.

The Northern Territory is still, eight years on, governed by Federal Intervention legislation as a consequence of the notorious “Little Children are Sacred Report.” To what extent, if any, does NT Department of Correctional Services respect children's human rights?

Notwithstanding all these features which require Governments to rigorously protect children's human rights, the debacle that has been exposed in the past two years within the NT juvenile justice system shows quite clearly that by deliberate design and policy Aboriginal children in are treated in a barbarous, inhumane and illegal way.

Multiple incidents within the juvenile detention facilities have revealed that the NT Government prosecutes policies against Aboriginal children which include spit-hooding, gassing, hand cuffing, shackling and extensive periods of unlawful solitary confinement. Treatment such as this you wouldn't think possible in any civilised nation.

Let there be no doubts as to whom we are talking about here. This is all about Aboriginal children.

The Northern Territory's adult imprisonment rate is 4/5 times higher than any other jurisdiction in Australia. The adult imprisonment rate is 903.5 per 100,000 compared with 193.5 nationally; 86% of those prisoners are Aboriginal. Internationally the NT tops all countries in the United Nations' figures for imprisonment rates. The country with the highest imprisonment rate, but below the Northern Territory, is the USA with 721 per 100,000 - a situation which President Obama has recently described as “all wrong”.

With juveniles the NT detention rate is 6 times the national average, and 97% of them are Aboriginal. The numbers are calamitous enough but what has become in 2015 one of Australia's

biggest human rights stains is the deliberate treatment of those NT Aboriginal children in detention.

The Vita Review commissioned by the NT government last year stated that the juvenile justice system existed in “a climate of daily crisis”. Michael Vita was the former Superintendent of NSW's Long Bay Jail and Villawood Detention Centres. He was tasked to review juvenile detention in the NT as a result of the highly publicised incident on 21 August 2014 which led to kids being gassed before being hooded and transferred, some unlawfully, into the adult prison. Following on from this incident, the then NT Children's Commissioner, Dr Howard Bath, decided to carry out his own investigations.

The Vita and Bath reports are scathing about how juveniles are detained and the way Youth Justice Officers (YJOs) reacted in the various situations that were investigated.

Dr Bath found that the inappropriate reactions were largely explicable by the lack of staff qualification and training. This long standing policy reveals that both the Minister and his CEO are unfit to hold their positions.

Further, Dr Bath found that in relation to an incident in August last year, “officers had acted inappropriately in threatening a detainee and attempted to cover up the CCTV surveillance to hide this”. And claims from Corrections that detainees had assaulted staff with shards of glass, bricks and steel poles were “inaccurate and misleading”. Similarly, Mr. Vita found that, “despite assertions to the contrary, 90% of the staff were casual”.

Let's look at the incident on 21 August 2014 within the Behavioural Management Unit (BMU) at the original Don Dale Detention Centre Six juveniles being held, for some at least, for unlawful periods of solitary confinement (7, and for some,

17 days) as a consequence of five of them having escaped a fortnight before.

Youth Justice Officers went to the cells that day to inform them their confinement was to be extended. One of the detainees, aged 14, complained. He was recorded asking, “Do you know how long I have been in here brus?” His sense of grievance and complaint escalated into a protest and one of the detainees was able to leave his unlocked cell and began smashing windows.

The matter escalated when one of the detainees deployed a fire extinguisher. The detainees then covered the CCTV camera lens with wet toilet paper and one of them tried to climb through a broken window. The recording seized by Dr Bath reveals that when one YJO tried to poke that detainee back into the BMU, a colleague said, “Let the fucker come through because when he comes through he will be off balance, I’ll pulverise the little fucker. Oh shit, we are recording hey?” (laughs).

That detainee then threw a piece of aluminium, hitting one YJO in the arm, causing a minor injury that did not require medical treatment. This was the catalyst for Correctional Service’s CEO Ken Middlebrook to order the gassing. There was no attempt to negotiate with the 14 year old despite the fact he said he wanted to talk to a particular YJO .

Recordings reveal a dog handler asking, “You going to gas the lot of them?” CEO Middlebrook is then heard to say to someone “...Mate, I don’t mind how much chemical you use, we gotta get him out...” (last part of sentence undecipherable.)

The Bath report found that during the gassing the children in the BMU thought they were about to die. The six were spit hooded, cuffed and moved into the male adult prison, some unlawfully. Two of the six were were seen on CCTV playing cards and had nothing to do with the disturbance.

The move of the children to the Complex Behaviours Unit (C.B.U) of the adult prison

“...the young Aboriginal is a child who requires tremendous care and attention, much thought, much consideration. Seldom is anything solved by putting him in prison.”

wasn’t the end of the dramas. While there, five of the Aboriginal children escaped from their cells and some of them got onto the roof of the CBU.

During this period, the Minister for Corrections, Mr John Elferink, and his CEO Mr Middlebrook announced that the purpose-built Don Dale Detention Centre would be shut after a life of less than 25 years.

On 29 October 2014, Minister Elferink told Parliament his reasons for closing Don Dale: “The options that are left to us are either to revamp the Don Dale Centre, which means that to bring it up to a certain standard you would have to spend many millions of dollars; or, alternatively with the expenditure of a mere \$800,000, taking the old medium security section of the Berrimah prison and turning it into an effective juvenile detention facility that will meet the requirements of government into the foreseeable future. *It will also enable us to deal with some of these juveniles who have caused us grief*” (writer’s emphasis).

And so it happened. On the 29 December 2014 the detainees were herded into the previously decommissioned adult prison in Berrimah—which Mr Middlebrook, in evidence to a Coronial Inquest four years earlier, had described as “only fit for a bulldozer”.

This year there have been further incidents in the old Berrimah Jail, related in the main to juvenile detainees demonstrating about their conditions.

In May 2015, several detainees managed to escape the old prison. They ran around Darwin for a couple of days stealing cars, before eventually deciding to return via Platform 9 ¾: from chaos to farce to comedy to scandal. But there is nothing funny about Aboriginal children being kept in the custody and guardianship of the Department of Correctional Services. Apart from the cost, (\$960 per day per child), the present conditions in Berrimah breach all kinds of national and international protocols.

Throughout this loud and visible exposure of the mistreatment of Aboriginal

children, the only real NT voices which have protested and opposed have been Aboriginal, from either individuals or organisations. Sadly, the fate of these Aboriginal children has attracted very little dissent from either the Labor Opposition, the Northern Territory Law Society or the Northern Territory Bar Association. Their virtual silence has been deafening and shameful.

Nevertheless Aboriginal voices continue to protest.

Mr John Patterson the CEO of AMSANT: “We need to listen to the experts and ensure young people in detention are housed in a therapeutic environment that can help them on a path to rehabilitation. It is also essential that when nine out of ten young people in detention are aboriginal, that youth detention is culturally appropriate”.

Mr Patterson went on to call for the NT Government to follow the lead of WA and NSW and introduce an Independent Custodial Inspector with unfettered access to youth detention centres to ensure that the national and international standards are being complied with.

On the 7th of October 2015 the National Aboriginal and Torres Strait Islander Legal Aid Services, in response to Dr Bath’s recommendations, issued a blistering statement demanding immediate change. It stated, inter alia:

“The Report provides indisputable evidence of a system that has failed and catalogues numerous breaches of the Youth Justice Act.

“The brutality exposed in this report is shocking. We call on the NT Government to immediately respond to the Children’s Commissioner’s report and commit to implementing each and every one of the recommendations.

The Community has lost confidence in the youth detention system. It is simply not working.”

This was strongly supported by the influential Law Council of Australia on 9 October when its Director Arthur Moses SC

stated: “... it’s important to remember that more than 90% of youth detainees in the Northern Territory are Indigenous. Children are, of course, the most vulnerable group in the Australian community and it’s critical the NT government takes swift and effective action to implement the findings of this (Dr Bath) report. If it fails to do so, the federal government should intervene to deal with the situation.”

Minister Elferink and his CEO Middlebrook must be replaced. Their decision to detain children in the old Berrimah prison must be reversed and appropriate outlays made to upgrade the original Don Dale Detention Centre. The punitive and inhumane policies against Aboriginal children is a disgrace and a blight on the entire Australian legal system. It has to end immediately. The people responsible for this embarrassment are not fit to hold office and need to be replaced immediately.

On 30 September, the Australian Foreign Minister, Ms Julie Bishop, made a highly publicised bid at the United Nations Session in New York for Australia to be given a seat on the United Nations Human Rights Council. A decision on Australia’s bid will be made in 2016. Australia’s competitors are France and Spain. One can safely assume that both Spain and France will not have juvenile justice systems which involve in any way the conditions and treatment deliberately meted out to Aboriginal juvenile detainees here in the Northern Territory of Australia.

*Mr John B. Lawrence SC is a former President of the Northern Territory Bar Association and Criminal Lawyers Association NT; as well , he’s been as Director of the Law Council of Australia and the Australian Bar Association. He has lived and worked as a Barrister in the Northern Territory for over 25 years. He was formally a Senior Crown Prosecutor and then Solicitor in Charge of NAALAS before joining the independent Bar in 1997. He was appointed Senior Counsel in 2010.



Katherine Gorge or the Blue Mountains?

Mythology and speculation have swirled for years about the creation of the final scenes of *Jedda*, the first Australian feature film shot in colour. But film buffs who attended the launch of the Darwin International Film Festival on 28 August had the chance to hear new information about how the film ended as it did, and about the shooting of the final scenes in the NSW Blue Mountains.

Jedda premiered at Darwin's Star Theatre on 3 January 1955, and a beautifully restored print was screened at Darwin's Deckchair open air cinema as part of the film festival launch.

Rosalie Kunoth-Monks, who played the role of *Jedda*, attended the Deckchair screening with Ric Chauvel Carlsson, grandson of the film's

maker, Charles Chauvel, and both answered questions about the film from the ABC radio presenter, Vicki Kerrigan.

Ric Chauvel Carlsson's mother, Susanne, was 20 years old when she accompanied her parents on a far-reaching, five-month-long reconnaissance in 1950 through western Queensland, central Australia, the Top End and the east Kimberleys, to identify filming locations, test colour film stock and listen to outback yarns.

Susanne Chauvel Carlsson has written a biography of her father, but died before she could secure a publisher. Her son Ric continues to seek a publisher, and has kindly given Land Rights News access to a revealing chapter about the making of *Jedda*.

Legend has long had it that the film rolls which recorded the final scenes were air-

freighted to London for processing, but the plane crashed and burnt at Jakarta—thus the need to reshoot the scenes in the Blue Mountains.

A plane crash at Jakarta did destroy some of Chauvel's exposed film stock, but did those reels record the ending where *Jedda* plunges off a cliff with her abductor, Marbuk, a traditional Aboriginal man played by Robert Tudawali? To this day, tourists visiting the Katherine River gorges are told by the guides working for Nitmuluk Tours that a certain rock was "*Jedda's* leap".

Susanne Chauvel Carlsson's book tends to discredit that scenario. She writes that both Rosalie Kunoth-Monks and Paul Clarke (who played the role of Joe, her suitor, who was trying to rescue her from Marbuk), have both declared that they never took part in

a scene on the rocks above Katherine Gorge. And, she writes, the cameraman, Carl Kayser, also affirmed in an oral history that the climactic last scene was filmed only at the Blue Mountains.

Susanne Chauvel Carlsson asks: "...what was the footage lost on the plane? Perhaps it was purely scenic, we will never know."

Whatever that lost footage was, and wherever the ending was filmed, she says the ending had two versions—and the choice between the two was impulsive: "First there was Marbuk committing suicide and comforting *Jedda*. But when the second version was shown (in a private viewing during post production), with both Marbuk and *Jedda* plunging to their deaths over the cliffs, Betty Suttor (who played Sarah McMann,

the pastoralist's wife in the movie who adopted baby *Jedda* after her own baby died) stood up and screamed. Chauvel said, 'That's it! We'll have that one!'. "

ABOVE: At Kanangra Walls in Sydney's Blue Mountains, Charles Chauvel directs the final, fateful scene of *Jedda*. So that the landscape would match scenes shot in the Northern Territory the crew used a large spray gun from the Australian Army to paint the rocks reddish-brown. Photo courtesy of the Chauvel Film Trust © Ric Chauvel Carlsson.

BOTTOM RIGHT: A reprint of the original movie poster used to advertise *Jedda*.

The making of a classic



Susanne Chauvel Carlsson, daughter of Charles Chauvel. Photo courtesy of the Chauvel Film Trust © Ric Chauvel Carlsson.

The making of *Jedda* was a story in itself, a saga of frustration and perseverance.

"What a challenge my father had confronted!" Susanne Chauvel Carlsson has written in her unpublished biography of her father, Charles, who had formed a public company, Charles Chauvel Productions, to finance the making of *Jedda*. The company was floated on the New South Wales and Queensland stock exchanges.

"He was not unaccustomed to challenges, but this one was monumental — experimenting with colour, when there were no film laboratories in Australia able to process it, and planning to star two untrained Aboriginal people in a script that at the time would prove controversial.

"Film industry colleagues shook their heads and told him it would be 'death at the box office'. When production plans were underway and Charles seeking extra funding, he secured an interview with the Prime Minister, Sir Robert Menzies. He always

and continued producing film stock till the 1980s.

But the Gevacolour negative stock had to be processed in London, and its care and dispatch presented the biggest challenge on location.

"No film unit today would work under the conditions experienced by the *Jedda* team," Mrs Chauvel Carlsson writes.

"In that searing heat, the camera's only protection was a beach umbrella and an Aboriginal helper patiently fanning it with a palm frond. Each reel of film as it emerged from the camera was placed in a cooling box with flaps of hessian and placed in rock crevices or in bough sheds, to keep it cool until the end of the day. Many canvas water bags were needed, to keep the hessian wet. When near a river, the film was taken by dugout canoe to the nearest cave, with wet canvas or hessian at the mouth of the cave. In the cool of the evening, it was driven to Katherine, where the local butcher, Ted ('Cowboy') Collins, obligingly kept it in his cold room until it could be transported to Darwin, to catch the first available plane to London.

"The unit waited anxiously, often for weeks, for reports from Denham Laboratories—relayed via the Flying Doctor—to hear which scenes had been successful or otherwise. By that time they were often at a different location, perhaps several hundred miles away. Over rough tracks, camera equipment was transported on rubber mattresses to alleviate damage by vibration. Reflectors provided the only aid to lighting. The team owned a few arcs, but there was little chance to use them without an available generator."

The Gevacolour film stock arrived in 1000ft rolls (running time, 26m 40sec), which then had to be broken down in the field to 2x400ft and 1x200ft rolls, and rewound in the dark by a young camera assistant. European film, like Gevacolour, was wound emulsion side "out", whereas American and British film

stock was wound emulsion side "in". The young assistant wound the Gevacolour emulsion side "in" and did not notice his mistake when he threaded the film in the camera.

"The film was sent to London and a few weeks later the report came back that all of that footage was useless, as it had been exposed through the film base. Chauvel was

devastated. The first six-seven weeks of shooting had been lost and would have to be re-made—a huge loss in time, effort and money. The camera assistant was sacked on the spot and flown back to Sydney from Darwin, while the team got on with the work of re-shooting the scenes that they had worked so hard for."



State funeral honours



Mourners turned out in large numbers to pay their respects to former NLC Chairman, Mr Wunungmurra, at the State funeral held in his honour at Rika Park, Yirrkala, on Friday 5 September.

The Dhalwangu clan leader, who helped lead the fight for Aboriginal land rights in the 1960s and 1970s, passed away on Friday 7 August, aged 70.

Mr Wunungmurra served two three-year terms as NLC Chairman after which he retired from the role in 2013.

Those in attendance included family, friends, Yolngu from across the region, politicians including Minister for Indigenous Affairs, Senator Nigel Scullion, and the general public, some of whom travelled from afar.

Only a few days before his death, Mr Wunungmurra was honoured at the Garma Festival as a Yolngu Hero.

The citation to that award said he was one of the greatest of modern Yolngu leaders. It continued:

“As well as displaying his own style as an advocate, Mr Wunungmurra has been a trusted confidant of many Yolngu and non-Yolngu leaders who have for many years turned to him for guidance, advice and wise counsel.

“Born of the Dhalwangu clan he is a ceremonial leader of high degree and a man of fierce loyalty and vision for his people.

“As a young man Mr Wunungmurra attended Methodist Bible College in Brisbane and became an educator and a teacher at Yirrkala. He was

a bridge between two worlds for young Yolngu people and provided a pathway for many who have gone on to play their role in the life of the nation.

“With an independent mind and a willingness to listen Mr Wunungmurra has served with distinction as the Chairman of Layhnapuy Homelands, the Yambirrpa School Council and from 2007 to 2013 the Northern Land Council.

NLC member (East Arnhem) Djawa Yunupingu said:

“He was a teacher, a father, a grandfather, an uncle, a leader for his clan. He was full of knowledge, wisdom and good advice.

“He was much-loved by the Gumatj clan.... we miss him very much already.

“We feel the loss of him.

“Our hearts go out to his family.

“We will always remember him and honour him.

“On behalf of Galarrwuy Yunupingu and family, we pay our deepest respects and we will be grieving the loss of our mari.”

NLC Chairman, Samuel Bush-Blanasi said:

“Mr Wunungmurra was an Aboriginal leader of high degree, whose wise counsel was always respected.

“With his passing, the whole Northern Territory community lost a leader of great distinction.

“In his last report as NLC chairman, Mr Wunungmurra wrote that land and culture underpinned the existence and survival of Aboriginal

people, and he said the NT Land Rights Act had to be protected and preserved.

“And his long-term hope and vision expressed in that report was that the hard-won recognition of Aboriginal people and their land rights would be embedded in the Australian Constitution.

“Sadly, he has died without that hope and vision having been realised.

“Mr Wunungmurra was a kind and beautiful man.

“On behalf of the Northern Land Council I extend our heartfelt condolences to his family.”

ABOVE: Mr Wunungmurra's wife, Margaret, and family prepare for the procession and ceremony.

former NLC Chairman

CEO Joe Morrison delivered a eulogy at the state funeral for Mr Wunungmurra on behalf of the Northern Land Council. Here is the text of his speech:

Firstly, I pay my respects to the Yolngu people of these lands, and acknowledge the Traditional Owners, past and present.

We are gathered today to honour—indeed, to celebrate the life-long commitment of a great man to the cause of Aboriginal rights, and great human achievement and commitment.

Others before me have observed that the Northern Land Council is something of a family. Mr Wunungmurra was a loved and learned leader of our NLC family.

His passing has deeply affected us all—all the elected members, all the staff. He was a man of great wisdom, a man of broad vision. But as broad as that vision was, as high as his aspirations were, he never left his own community.

Throughout his long career of public service, he remained a traditional man of high culture, a man who sacrificed himself to the needs of his own people, a man who placed immense value on education and who respected all peoples.

The Northern Land Council will forever be indebted to his leadership.

He was proud to lead our organisation, and he did so with a gentle authority that commanded a sincere respect.

Staff and elected members felt proud to have been led by him.

He was chairman in 2008 when the High court decided the Blue Mud Bay case, and he celebrated that victory with typical restraint and dignity.

“I felt that I could breathe normally again,” he wrote at the time.

Yet he could see that there still remained significantly more for Aboriginal people to win beyond their property rights.

“None of us can yet sit back and rest,” he wrote.

I quote further from his writing: “There remains significant undone business—to this day, Indigenous people are not recognised in the Australian Constitution.”

As Northern Land Council Chairman he was committed to pursuing the constitutional recognition of our cultural and political rights and enshrining a protection against racial discrimination.

He wrote this back in 2008:

“I feel that the attainment of this constitutional recognition will close the chapter in our struggle that was opened when we petitioned the Government in 1963.”

That petition, of course, was the famous Yirrkala bark petition, which rests now at Parliament House in Canberra.

The 15th anniversary of the presentation of the bark petition was marked at this place only two years ago, and Mr Wunungmurra, in his last year of his second term as chairman of the Northern Land

Council, was there for that celebration.

He was but a teenager when he signed that petition—clear evidence of the early esteem with which he was held by the senior men of his time.

I said earlier that he never left his community. That was demonstrated when he left his Bible College studies in Brisbane to return home to help guide the 1971 Gove Land Rights case.

The Yolngu people might have lost that case, but it did lead to the Woodward Inquiry, and finally, to the creation of the Northern Territory Aboriginal Land Rights Act.

This man whose life we now celebrate was central to that history. His role in that history must never be forgotten.

For me, he was a kind, gentle but important presence that gave strength to others around him. He was a Director of NAILSMA during an important stage of its growth into a company.



One of the memorable things he said to me as I took on this job at the NLC was to ensure that our cultural integrity and authority was respected and maintained.

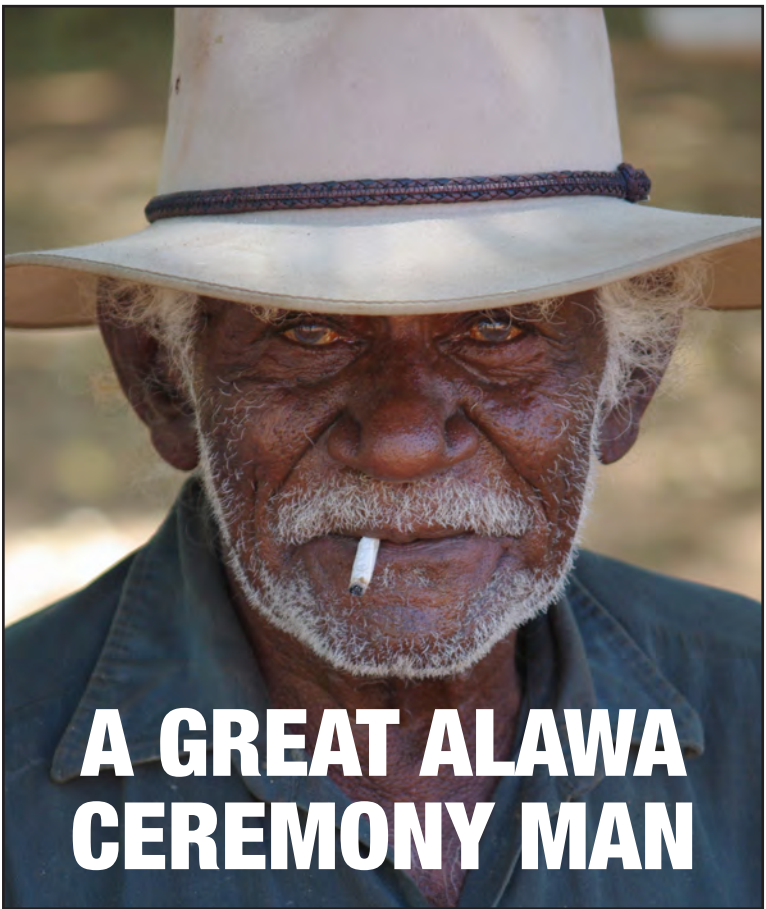
We at the NLC extend our love and sympathy to Margaret and the family wherever they may be and want them to know that the NLC will never forgot the enormous contribution Mr Wunungmurra gave to Aboriginal people, but importantly to the Australian nation as it further matures, a lasting benefit to all of our future generations.

Thank you countrymen, ladies and gentlemen.

Barney Janagla Ellaga Yuwararangma-jinji was born at Hodgson Downs Station in 1938 and died at his family home in Minyerri in August 2015. He was the eldest son of Sandy Mambulji—an Alawa man and Ruby Mekun—a Ngalakan woman. He was a Guyal Bardi Bardi man through his adopted father, Tommy Yananyingu, and the senior Mingirringgi of Ganamuru (Sugar bag) that imbued parts of Nutwood Downs and Cox River (Alawa Aboriginal Land Trust).

Mr Ellaga grew up on Hodgson Downs Station where his father was head stockman. From an early age he spent long periods walking through Alawa country with his family and “old people” learning about sacred sites, song lines and law for that country.

Mr Ellaga was a widely known, deeply respected and inspiring Alawa leader. He spent his life working to look after country and ceremony



A GREAT ALAWA CEREMONY MAN

—running ceremony right to the end of his long life—from Minyerri, to Jilkminggan, Urapunga and Ngukurr; well beyond to Barunga, Binjarri, Bulman, Maningrida, Numbulwar, down to Borroloola,

across to Elliot; and to Emu Point. He is remembered by many as a “great teacher” who generously shared his pre-eminent cultural knowledge of country, sacred sites, land tenure, kinship and ceremony....

“Mine baba [brother]—him do everything just right...always worried for country, sacred sites and keeping Alawa culture going strong” (Dorothy Watson)

For the past 40 years, he worked tirelessly to secure and progress land rights and native title for his family, for Alawa people and for land-owning clans from neighbouring language groups. He worked on many land claims, beginning in 1980 with the successful Alawa-Ngandji Cox River land claim through to leading the recently authorised native title claims over Nutwood Downs and Hodgson River stations.

He led countless sacred site surveys across the Roper River-Borroloola region and his unwavering and strong leadership was crucial to finalising countless NLC negotiations and agreements that continue to benefit Aboriginal people in the region. He served on the Full Council of the Northern Land Council from 1995 to 2004.

During his earlier life, Mr Ellaga worked as a stockman on Hodgson Downs, Hodgson River, Nutwood Downs, Roper Valley and Elsey stations. He was a respected artist and his work has been widely exhibited since 1989, when he held his first exhibition at the Alcaston Gallery in Melbourne. He has held many solo and group exhibitions and his work is held in many collections, including at least nine works held by the National Gallery of Australia, Canberra.

He was an honest, generous happy and humorous man who loved and cared for his family and countrymen from Minyerri, Jilkminggan, Ngukurr, Maningrida, Gapuwiyak, Elliot, Borroloola, Numbulwar and Bulman. He was loved and respected by all and is deeply missed by his family, his countrymen and his many friends from across the Northern Territory and Australia.

By Gay English. Mr Ellaga's family approved the use of his image.

Borrooloola clinic under scrutiny



The Department of Health has undertaken to improve services at its Borrooloola Health Clinic, after an intervention by the Health and Community Services Complaints Commission.

NLC member Jack Green and other Borrooloola residents formally complained to the

Commission after the death of an elderly woman on 7 February (a Saturday).

The woman had showed signs of distress and breathing problems while attending a funeral at Borrooloola cemetery. Mr Green phoned the after-hours, on-call health practitioner and was told to bring the woman to the clinic.

The woman was dead on arrival when she was delivered to the clinic by a family member. Mr Green had complained that an ambulance was not sent to the cemetery.

A Department of Health investigation records that clinic staff reported, “there was no indication via the telephone consult that (the

patient) was in dire straits or had chest pain”; further, they said there had been no refusal to attend at the cemetery.

The practitioner told the investigation, “... by requesting the family to being (the patient) to the clinic for the assessment or her ‘short wind’, there would be a markedly reduced time to care than waiting for the clinic staff to attend. The possible time differential in this specific case is 7 to 10 minutes versus 20 minutes response time if the Clinic vehicle was assigned to retrieve the patient. Please note that the distance from the Borrooloola Cemetery to the Borrooloola Clinic is 2.5 kilometres”.

Mr Green also raised “issues of general community dissatisfaction with the clinic and a loss of trust in its services”. The Complaints Commission found that his complaint raised issues of public interest and questions about the practice and procedures of the Department of Health, and held a conciliation session with Mr Green and other community members at Borrooloola in July. Emergency response procedures and “other quality and satisfaction issues” were discussed.

The day before the conciliation, the Commission consulted members of the family of the deceased and a range of community members, including representatives from each of the town camps, about their concerns with the clinic.

As a result, the Department of Health has drawn up an action plan. Its main points are:

- Education for staff about communication strategies in emergencies; consideration of a community member on call for emergencies to assist communication.
- Development and implementation of the “Care and Response to the Deteriorating Patient Program”.
- Inform clinical staff about “expectations and obligations around documentation”.

- Implementation of a clinical auditing process to “review and improve documentation standards”.
- At times of funerals, consult with families before the clinic is closed.
- Assist the Borrooloola community’s request for a St John’s ambulance service.
- Mandatory annual workplace behavior training for staff.
- Recruitment of permanent staff to address continual turnover.
- Recruitment of an Aboriginal community liaison officer to assist orientation of new staff and community engagement.
- Fortnightly meetings with elders from each camp to discuss clinic services and staff behaviour.
- Clinic closures to be “communicated appropriately with the community”.
- Requests for an ambulance at community and sports events for be considered on a case-by-case basis.
- Community education about emergency responses and triaging.
- Community members to join interview panels for senior positions; the Aboriginal liaison officer to be a panel member for other clinic staff jobs.

The Commission, headed by Mr Stephen Dunham, has accepted a recommendation from the conciliator that it monitor the department’s action plan.

“The complaint raised issues of public interest and questions about the practice and procedures of the Department of Health,” the conciliator reported.

The Commission’s consultations and conciliation had confirmed a broad range of concerns with the clinic, she wrote. “It is important that the actions identified are implemented and that (the department) remains accountable for achieving last improvements to the service.”

PHOTO: NLC member Jack Green complained about the Borrooloola Health Clinic.



Promising export market

The NLC has worked closely with the NT Government to develop industry standards and conditions to ensure good practices and animal welfare management by third party buffalo musterers working on Aboriginal land.

The export of live buffalo from the Northern Territory

to South East Asia is a promising market. Animals weighing around 450 kilograms are currently attracting up to \$1.50 per kilogram. The market has sparked a big in interest in mustering activities on Aboriginal land. An NT Government aerial survey in June 2014 identified a wild buffalo

population around 100,000 across the vast lands held by the Arnhem Land Aboriginal Land Trust. The NT Government has been working with South East Asian importers, mainly in Vietnam, to advise on how they could develop their infrastructure to appropriate standards, so as to meet the World

Organisation for Animal Health’s Export Supply Chain Assurance System (ESCAS) which allows overseas importers to do business with Australian livestock exporters. In 2014 just over 5000 buffalo were exported from the Darwin Port to Vietnam and Borneo. The market has the potential to grow to

10,000 buffalo per annum, most of the animals coming off Aboriginal land.

ABOVE: Musterers, drive a mob of buffalo towards a trap hidden among trees in western Arnhem Land.

Buffalo bids considered



More than 80 Traditional Aboriginal Owners attended a consultation in Ramingining on 1 October to consider bids for a buffalo mustering licence over a large parcel of Aboriginal land.

The proposed licence area is 5,237 km²—an area bounded by the Blyth River in the west, the coast to the north, the Central Arnhem road and Donydji homelands to the south, and stretching east to encompass most of the Arafura wetlands. Such a large area made NLC’s conduct of the consultations a big task from an anthropological, logistics and cost perspective.

More than 100 Traditional Owners from 34 clan estate groups were consulted. As well as those who reside in Ramingining, TOs came to the meeting from Katherine, Bulman, Beswick, Maningrida, Gaupwiyak, Gamardi, Mirringata, Donydji,

Yathalamarra, Ngangalala, Walkabamirri, Bulukardaru and Ngaliyindi.

Their concerns included sacred site protection, exclusion zones and environmental and animal welfare. All these concerns will need to be managed through a four-year agreement which will govern monitoring and compliance.

Mustering will likely begin next dry season.

Further buffalo mustering proposals will be considered in the greater Gapuwiyak and Maningrida areas, also over large areas of land, with multiple proponents and numerous clan estate owners.

LEFT: Keith Nadjamerrek examines a 5-metre painting of a buffalo at Djabidjbakalloi, stone country Arnhem Land plateau.

Both photos ©Dave Hancock, Gallery Two Six.

Ngad Bininj dja nganabbarru



Us Aboriginal people and buffalo—in the Djelk IPA

By Jon Altman

In May last year I was flying low in a skilfully-piloted helicopter over the Tomkinson River wetlands in western Arnhem Land, locally known by the big name Bulkay. While I had visited Bulkay on many occasions this was my first chopper flyover since 2009. This area, historically renowned as a seasonally rich meeting place for large gatherings of Aboriginal people, had herds of buffalo visible from the air in greater numbers than I had ever seen before; the environmental damage experienced on bone-jarring drives over the pugged floodplains during the dry seasons was clearly visible, as were numerous wallows and deep channels.

It struck me that this was not a good look within the Djelk Indigenous Protected Area (IPA), declared for its natural and cultural values of global significance. This event got me thinking seri-

ously about the relationship between Kuningku people, who are owners and managers of Bulkay, and wild buffalo as they co-inhabit an area declared for its conservation values while allowing sustainable use of natural resources.

The rapid growth of the IPA program over the past two decades is one of the positives in both Indigenous and environmental policies. The program was established by the Howard Government in 1997 as a vehicle to support Indigenous land management and to increase the size of the National Reserve System, Australia's terrestrial network of protected areas.

The program's aim is to enhance the conservation estate's comprehensiveness, adequacy and representativeness. Success has seen its continuation and expansion; in total IPAs now cover 668,000 km², nearly 10 per cent of the continental land mass; and in total IPAs cover 43 per cent of conservation lands. Soon, with more declarations anticipated, Indig-

enous Australians will be the majority owners of Australia's conservation lands.

Indigenous land owners commit to conserve declared lands in exchange for funds from the government to deliver environmental services. Like much else in the fraught relationship between Indigenous people and the Australian state, this is not an exchange based either on equality between partners or social justice.

It is an example of a Hobson's choice, a situation where there is an appearance that one can make a free and informed choice, but where in fact one does not have a real choice—at least if maintaining the cultural and environmental values of one's ancestral lands is a priority. And this is a priority for Indigenous land owners many who have struggled for a long time to get legal recognition over their lands.

Indigenous peoples are crucially important in the management in perpetuity of vast IPA lands to maintain

biological diversity according to one of six internationally recognised land management categories defined by the International Union for the Conservation of Nature (IUCN).

But this admirable project is also potentially unstable. On one hand, IPAs need to be managed in a way that is consistent with national and international conservation guidelines. On the other, when Indigenous land owners voluntarily declare their intent to do this, it is inevitably in a manner that must recognise their primary native title rights and interests in all their local and regional variations.

Sometimes these obligations clash. This is especially the case in IPAs declared in accord with IUCN Category VI, protected areas that aim to conserve ecosystems and habitats together with associated cultural values and traditional natural resource management systems. In such protected areas, that are usually spatially large, low-level non-industrial use

of natural resources compatible with nature conservation is a major aim. These are protected areas that allow sustainable use of natural resources, but at times there are tensions between Indigenous and environmental prerogatives.

I want to demonstrate some of these tensions with research that I have undertaken over the past 36 years with Kuningku people in Arnhem Land who hunt buffalo in what is now the Djelk IPA.

Djelk was declared in September 2009 as Australia's 33rd IPA covering more than 6,700 km² of the Arnhem Land Aboriginal Land Trust in the Maningrida region.

The IPA covers an area of tropical savanna from the Arafura coast to the Arnhem Land Plateau and includes some major river systems and biodiversity rich wetlands like Bulkay.

The Djelk IPA has some of the most biodiverse and structurally intact landscapes in Australia, in part because

it has been reserved for exclusive Aboriginal use since colonisation in the early 20th century; it has not been subjected to prolonged or intensive commercial agriculture or industry, with mining limited to the Ranger Uranium mine well to the west and the Gove bauxite mine well to the east.

But this IPA still faces many threats from changed fire regimes, the spread of exotic weeds, and introduced animals such as buffalo, pigs and cats, as well as marine pollution, loss of endemic species and climate change.

A community project, the Djelk rangers, was established in 1993 as a pig control program, with Gurrgoni man Dean Yibarbuk as the founding father. During the 1990s, the rangers became the natural and cultural resource management arm of the Bawinanga Aboriginal Corporation. They were funded under the Community Development Employment Projects (CDEP) scheme and the Natural Heritage Trust.

Initially there was regional ambivalence to the embrace of the IPA program and environmental management according to externally-stipulated criteria. And there was the practical political challenge of negotiating with more than 100 regional land-owning groups to commit their lands to a conservation commons, while ensuring that each maintained control of what happened on their estates. The political complexity of this process saw the consultation phase extend over seven years.

I first worked in this region as an academic researcher in 1979 when I resided at Mumeka outstation and a number of seasonal camps with Kuninjku people.

Bulkay was not overrun by buffalo when I first camped there at a seasonal camp called Mankodbe Kayo—‘the place where the bush potato rests’. There were no buffalo, pigs or cane toads on these resource-rich wetlands where people gathered annually to feast on seasonal surpluses of aquatic birdlife, barramundi and catfish, goannas and wallabies.

We drank fresh water from the clear billabongs and waded in creeks relatively free of estuarine crocodiles to fish with spears and conical fish traps for barramundi.

When I flew low over Bulkay in a light plane for the first time in May 1980 there were no buffalo to be seen, no wallows, pug marks or criss-crossing trails etched in the landscape.

In 1981, in an early act of advocacy for Kuninjku people, I defended their right to harvest buffalo, concerned that the Brucellosis and Tuberculosis Campaign (BTEC) proposal to eradicate wild buffalo and cattle in the Top End might extend into Arnhem Land. I argued to the Feral Animals Committee Buffalo Working Party that owing to the economic significance of the buffalo in the contemporary outstation economy, an eradication program would be unacceptable to outstation residents who would need to be heavily compensated. In any event BTEC did not extend into Arnhem Land.

During the 1990s the numbers of buffalo and pigs increased rapidly, something that people living on country were well aware of, and wel-

comed as a ready source of meat. In the late 1990s the Djelk rangers increasingly collaborated with western scientists looking to develop herd management plans to minimise the ecological impacts of buffalo and pigs. As an element of these collaborations there were some aerial counts of buffalo, with a figure between 4,000 and 6,000 estimated for the region.

In 2002 and 2003 I worked with a number of Bininj and Balanda biologists who camped with Kuninjku in various locations to monitor wildlife utilisation as part of a project to assess sustainable use.

With the benefit of hindsight, the alarm bells about buffalo (and pigs) should have sounded loudly back then, but people were camping happily on the flood plains and evidence of environmental degradation and species decline was limited. The greatest concern focused on the recent arrival of the deadly cane toad, the ‘rubbish frog’ as Kuninjku people call it, and the devastating impact the invasion had on goanna populations.

A decade later things had changed dramatically,

although as in the boiled frog parable, as things happened slowly slowly, no-one seemed to have noticed or reacted as they might have.

Not long after I flew over Bulkay last year, the NT Department of Land Resource Management published a report conservatively estimating nearly 100,000 buffalo in Arnhem Land. The survey estimated that there were 20,000 buffalo in the Djelk IPA, at a density in some wetlands, like Bulkay, of more than 40 per sq km—these were the herds that I had seen from the chopper.

The experts seem to be in agreement that since the last comprehensive aerial survey in 1998 the buffalo population has quadrupled and that it could be growing at an annual rate of 15–20 per cent that will inevitably plateau.

In February this year I was invited along with my colleague, linguist Murray Garde, to participate in two Healthy Country Planning meetings as an element of regional consultations to develop a management plan for the 2015–2025 period. We were invited to help facilitate two meetings with Kuninjku land owners because of our long associations with these

people and Murray’s linguistic skills invaluable for clear communications.

Kuninjku people clearly and unequivocally recognised the environmental problems and biodiversity threats posed by the buffalo population explosion. Buffalo have become very visible in the landscape and they were identified as destructive not just of the wetlands, but also of fresh water supplies. As Balang noted, ‘When buffalo go into our drinking water, it makes the water dangerous and we cannot drink it anymore. Buffalo have different toilet! They make the billabong yellow and they put sickness in the water’.

Buffalo were also damaging rock art sites, riparian vegetation, a long list of edible plants and animals and sacred sites. As a Kuninjku ranger remarked, ‘When travelling in the chopper around Mankorlod I have seen a lot of buffalo track. At Kolbbe which is a really sacred site, lot of buffalo there in that swamp. We can’t see the red lilies there anymore. Long time, pigs eat them, buffaloes wreck them’.

ABOVE LEFT: Celebrating a successful hunt near Mumeka, 1980.

BELOW: Butchering a buffalo, Bulkay 2002.

“When buffalo go into our drinking water, it makes the water dangerous and we cannot drink it anymore.”



At the same time Kuninjkku have become increasingly dependent on buffalo, and to a lesser extent on pig, as a source of meat. Indeed over the past 15 years buffalo meat has almost become a staple, Kuninjkku people like eating buffalo and value it highly.

In 1981 I estimated that 25 per cent of bush protein came from buffalo and that the community at Mumeka exploited about one buffalo a month. Today this percentage might be as high as 75 per cent. This is partly linked to mega-abundance and ease in killing if one has a rifle or shotgun.

Given that swamp buffalo are estimated to weigh 300–550 kgs each, the regional herd represents 8.5 million kgs of buffalo. With an estimated dressing percentage (amount of useful meat) at just over 50 per cent per animal, this represents a massive ‘protein capital’ of over 4 million kgs of meat. Given the way that this mega fauna is generously shared when successfully hunted, buffalo also represent a massive stock of ‘social capital’.

Kuninjkku are unsure how this population explosion came about. One theory is that the relative absence of Bininj in the landscape has allowed the nganabbarru, their name for buffalo, to become the dominant species: Bulanj noted, ‘We have been in Maningrida and these things have arrived while we have been away.’

When Balang stated, ‘Before at Bulkay Bininj were camping all the time, but not now’, his son-in-law responded, half-jokingly, ‘The buffaloes are now the land owners.’ For various reasons, including rapid growth in dangerous crocodile numbers, people no longer camp seasonally at Bulkay. Buffalo outnumber outstation residents by 40 to one.

Others attribute the population explosion to growing difficulties in accessing guns and vehicles, owing to enhanced policing and stricter controls over both after the Port Arthur massacre in 1996, and then the Northern Territory Emergency Response Intervention from

2007 that has seen an escalated and increasingly vigilant police presence. What is clear is that the absence of Bininj in the landscape has been correlated with rising numbers of buffalo.

When it comes to what to do about this population explosion Kuninjkku land owners are uncertain, bearing in mind that our discussions were largely framed by the IPA planning process and a recognition that something needed to be done urgently as the population was estimated to be increasing by 4,000 per annum, despite site-specific ground culling by Djelk rangers.

Balang was adamant ‘Pigs and buffalo, kill them. Well three, and crocodiles’. But he also noted affectionately ‘I like the buffalo’; indeed when I visited him in 2014 he had one called Wamud (the same subsection term as his father) as a pet living in his yard in Maningrida.

When confronted with the prospect of aerial shooting of buffalo to waste people were decidedly uncomfortable, despite assurances that meat would be shared with land owners and that some could be stored for local consumption in a chilling facility at the ranger shed.

The upshot of the meetings was permission to cull 5,000 buffalo in the Djelk IPA, but in the wet season when the carcasses would rot away quickly so that Bininj would not be confronted by all the wasted meat and rotten stench on the flood plains.

I too, as someone who had hunted buffalo with Kuninjkku in the past, found myself deeply saddened by the prospect of buffalo being shot to waste. I was reminded of the earlier writing of anthropologist Basil Sansom about ‘the Holocaust of the buffalo’ at Wagait and his evocative reference to ‘helicopter gunships’ manned by professional platform shooters who were Vietnam veterans.

The recently completed Djelk Healthy Country Plan ranks buffalo as the fourth highest of 12 identified threats to healthy country. Goals have been set to ensure no increase in buffalo

numbers, hence the decision to cull 5,000; and then to reduce the population to 10,000 in five years and to 5,000 by 2025, back where it was in the late 20th century.

But even this modest aspiration has proven difficult to operationalise owing to complex cross-cutting political machinations in relation to buffalo. Aerial culling is very expensive and as noted people dependent for livelihood on buffalo meat are reluctant to condone waste.

‘we need the buffalo to eat, but we also want to look after our country.’

And so there have been emerging proposals from the NT Government and even Bawinanga senior management to turn buffalo to profit with excited talk of a new live export trade to Vietnam, perhaps the conservation threat posed by buffalo could be dealt with profitably via commercial contracting? And then there is all the talk from Canberra about ‘Developing the North’.

Experts I have consulted believe that like so many previous development proposals dreamt up for this region by technocrats in offices, live buffalo export from the Djelk IPA is not commercially viable owing to remoteness and poor road links.

And it is not politically viable because it is counter to the wishes of Traditional Owners who control use

of their land and resources and recognise that it will be Balanda contractors from outside who will profit.

The Djelk plans to cull were thwarted by counter proposals for live export and only 2400 buffalo were killed in the last wet season, a number that will see population increase not stabilisation.

And there are wider tensions that indicate that an Arnhem Land strategy is needed to manage buffalo because of their high mobility. There are some who see potential for wild husbandry of buffalo for live export, but I suspect that this is not what IUCN Category VI protected areas are about.

Rangers working in the contiguous Djelk and Warddeken know that even as they cull there is in-migration of buffalo from elsewhere, especially from the south from a live export operation near Bulman. Commercial operators face profit-motivated moral hazard: why export any females, the reproductive means to regenerate stock and future profits? And so numbers multiply and migrate elsewhere.

Rangers have been bestowed with ‘ranger power’, not only are they on wages unlike most of their countrymen, but they also have access to working vehicles, high powered rifles and training as marksmen, including in aerial platform shooting. All this empowers them, but also lumbers them with more responsibility to deliver meat to their families and kin. And such privileging can also disgruntle those living at Maningrida and outstations without guns and vehicles. These tensions between being a ranger and being a Kuninjkku, being a conservationist and a hunter are palpable, but poorly recognised by employers and funders.

Responding to a discussion we had in February 2015 about the competing tensions in aspiring to live on ancestral lands and the counter-pressures to reside in Maningrida, a close friend Balang captures this lyrically in Kuninjkku. As translated by Murray Garde, Balang

describes a situation that would be a ‘contradiction’ in English, but for which there is no word in Kuninjkku. Effectively he says ‘we want to live out on our country but then we want to come back in to Maningrida and then we want to go back out again, but what can we do, we are tied up’. To be ‘tying up ourselves’ can be translated as ‘we are frustrated’.

A contradiction is clearly evident in relation to Ngad Bining dja nganabbarru—Us Aboriginal people and buffalo—living in the Djelk IPA: ‘we need the buffalo to eat, but we also want to look after our country’. This is a contradiction that frustrates many.

The means to address this contradiction will require a sophisticated and carefully negotiated regional strategy and adequate resourcing to manage buffalo, to allow rangers to work with land owners, to assist people to return to live and hunt on their country, to shoot buffalo and utilise meat, to balance the pressures for conservation with the maintenance of a highly valued source of protein that wandered into Arnhem Land in the late 1820s, well before the Balandas.

Jon Altman is an emeritus professor of the Australian National University and a foundation director of Karrkad-Kandji Ltd. The views expressed here are his own.



No Money for Thumbs up?

The Federal Government has cut all funding under its IAS grants rounds for the Jimmy Little Foundation’s Thumbs up! program and the Northern Territory Territory Government has not offered any financial help to continue the highly regarded Thumbs up! music and healthy lifestyle programs.

The foundation is now seeking funding from corporate and philanthropic organisations to support its community engagement and program delivery.

The Federal Government funding allowed the program to be rolled out into 30 communities across the top end. Thumbs up! and its “good tucker—long life” mantra are recognised as a healthy lifestyle brand that delivered nutrition and healthy lifestyle education to school children and those living in remote communities.

In 2009, the Fred Hollows Foundation funded a pilot of the Uncle Jimmy Thumbs up! nutrition and healthy lifestyle program and visits were made to the Yolngu communities of Gapuwiyak, Galiwinku, Ramingining, Milngimbi and Yirrkala.

The music facilitators for the pilot were Shellie

Morris, Allen Murphy and Foundation CEO Graham “Buzz” Bidstrup.

Jimmy Little visited all of the communities and met with elders and residents. He was also involved in the workshop program with school children.

Following the success of the pilot program, further funding was secured from Medicines Australia that allowed for repeat visits to all the communities throughout 2010 and 2011 and then the Federal Department of Health and Ageing funded the Thumbs up! program for the next three years.

Uncle Jimmy Thumbs up has had supportive partners in East Arnhem land, like the Arnhem Land Aboriginal Progress Association, which has been on board since the start of Thumbs up!, and has placed signage in ALPA stores and promoted Thumbs up! healthy recipes.

ALPA has also worked with Uncle Jimmy Thumbs up! to deliver Parents and Citizens Education (PACE) programs in Milngimbi and Ramingining and in 2014 the two organisations undertook a music and workshop tour of five Yolngu communities called “Longer—Stronger”. The tour highlighted the importance of eating good

food in the fight against chronic disease and warned residents of the dangers of alcohol and other drugs. The tour featured singers Neil Murray (Warumpi Band), Kevin Bennett (The Flood) and Kahl Wallis (The Medics).

Uncle Jimmy Thumbs up has been involved with the organisation of cultural festivals in both Milngimbi and Ramingining. Last year ALPA funded Thumbs up! to source sound and lighting equipment and musical instruments. Thumbs up! has supplied personnel and technical expertise to help run their festivals and is also working on this year’s Milngimbi Festival.

For the past two years Thumbs up! has also run a “music4life”program in partnership with the NT music school but this funding has now ceased.

New grant applications are being submitted to fund a partnership between the Gatjirrk Aboriginal Corporation and Thumbs up! to continue its music and healthy lifestyle programs in Milngimbi and other East Arnhem communities.

STORY: by Graham Bidstrup, CEO Jimmy Little Foundation.

PHOTO: The late Jimmy Little with school children at Milngimbi.

Petrol retailers on notice

The Australian Government is considering using its powers under the Low Aromatic Fuel Act 2013 to designate areas in and around Katherine and Tennant Creek as “low aromatic fuel areas”. The designation would force petrol retailers to replace regular unleaded petrol with low aromatic fuel.

Petrol sniffing has damaging health and social impacts, including brain damage and death and where low aromatic fuel has been introduced, sniffing rates have reduced by 82 per cent.

An explanatory memorandum to the Low Aromatic Fuel Act, introduced by Greens Senator Rachel Siewart, said that,“despite the clear success of low-aromatic fuel (LAF) in reducing the prevalence of petrol sniffing and the benefit this brings to affected communities, efforts to extend its coverage and restrict availability of regular unleaded petrol (RULP) have been frustrated by recalcitrant retailers that refuse to stop supplying RULP and stock LAF.”

Government fact sheets detail the areas that the proposed designations will capture: Katherine will cover all fuel outlets from Adelaide River to Mataranka—Adelaide River, Hayes Creek, Mary River, Pine Creek, Katherine, Katherine East, Nitmuluk, RAAF Base Tindal, Mataranka and Mataranka Homestead; Tennant Creek will include the town (five retail fuel outlets) and the Threeways Roadhouse to the north.

In both Katherine and Tennant Creek regions, some outlets are refusing to stock low aromatic fuel and stop selling regular unleaded 91 octane petrol, which contains the toxic aromatic components that give people who sniff petrol a ‘high’. The Minister for Indigenous Affairs, Senator Nigel Scullion, is considering using the Low Aromatic Fuel Act to force them to change over.

The Act is about “promoting the supply of low aromatic fuel and controlling the supply of other fuels in certain areas in order to reduce harm to the health of people, including Aboriginal and Torres Strait Islanders, living in those areas from sniffing fuel.”

The Minister for Indigenous Affairs, Senator Nigel Scullion, has the power to designate an area as a low aromatic fuel area if he’s satisfied that doing so “is reasonably likely to help reduce potential harm from sniffing fuel in that area.” But, first, he has to consult, and the Act spells out whom he should consult with: community representatives and bodies, Aboriginal persons or Torres Strait Islanders, manufacturers and suppliers of fuel, persons with an interest in human health, and “any other person that the Minister considers appropriate”. Those consultations have already been conducted across the Katherine and Tennant Creek areas by officials from the Department of the Prime Minister and Cabinet.

Two companies, BP Australia and Viva Energy Australia (formerly Shell Australia), now manufacture low aromatic fuel products, which have reduced levels of damaging compounds such as benzene, toluene and xylene. The Australian Government funds the extra costs of production.

BP produces a fuel called Opal fuel at its Kwinana refinery in Western Australia, and first distributed Opal from Adelaide in 2005, to supply Central Australia and other regions.

Viva Energy produces Shell Unleaded 91 Low Aromatic at its Geelong refinery in Victoria, and began distribution from Darwin in November 2014. The Darwin tank supplies the Top End of the Northern Territory and the East Kimberly.

Both products have an octane rating of 91, the same as regular unleaded fuel.



Knowing country

The Wardaman Indigenous Protected Area (IPA) is yet to get a full-time Indigenous ranger program up and running but has been able to employ casual rangers to undertake special projects.

The Wardaman IPA, located approximately 200km south west of Katherine in the Victoria River District, was dedicated to the Australian National Reserve in June 2014.

In September the rangers partnered with Terry Mahney, a senior vertebrate scientist formerly from the Department of Land Resource Management's Flora and Fauna Division, to learn how to do vertebrate surveys and set up camera traps.

Bill Harney Senior attended the trip as a senior cultural advisor. He assisted the group with Wardaman language names for species and told stories about the different animal dreamings.

The first trip in early September has yielded some amazing results. Among the species found on the southern end of the Menngen Land Trust were Gouldian Finches,

Planigale, Kakadu Dunnart, Grassland Melomys, Short Eared Rock Wallaby, Keelback Snake and a variety of other pythons, goannas, skinks and geckos.

The group will soon analyse the data from the camera traps to see what additional species they can identify.

This will be the second time the group has collaborated with Terry Mahney, who is now an independent consultant. Their first trip was to take part in the federally funded 'Bush Blitz' project where scientists from all over Australia gathered at Judbarra/Gregory National Park in June 2015 to look for new and rare species.

The Wardaman Traditional Owners, the Wardaman IPA Aboriginal Corporation (WIPAAC) and the casual Wardaman rangers hope studies like this will help them to develop a good monitoring program on the IPA, develop capacity in vertebrate sampling and ecological surveys, and also build the profile of their casual rangers to attract full time funding in the future.

They will present their initial findings with Terry Mahney at the Territory NRM Conference in Darwin in November.

ABOVE: Jason Raymond and Ted Croker Junior setting up a Camera Trap.



ABOVE: Small mammal trapping—Ted Croker Jnr examines a specimen.



LEFT TO RIGHT: Patrick Nelson, Jason Raymond, Michael Murrimal, Ted Croker Junior, Matthew Birdum, Terry Mahney, Roderick Harney, Paul Simonato and CDU Sugar Glider researchers.

Collaboration delivers for graduates



The program that has delivered 12 work-ready graduates has been praised by senior policy staff at the Northern Land Council for its far-sightedness.

The graduates, from the NLC Victoria River region, last month completed the Certificate I in Resources & Infrastructure Operations as part of Oil and Gas Exploration Company Pangaea (NT) Indigenous Employment Training Program.

The NLC, Native Title holders and Pangaea (NT) are parties to an ‘Exploration Deed’

(‘Agreement’) that covers petroleum (oil & gas) exploration activities on country in Borroloola/Barkly region.

The NLC has facilitated annual work program meetings with Pangaea (NT) and Native Title holders since 2012 where Native Title holders together with the NLC have consistently asked for training and employment opportunities for Traditional Aboriginal Land-owners.

“I have seen many mining companies aspire to employ Indigenous people, yet very few deliver. In fact, when we

first discussed this project with representatives I had originally thought it may be a little too ambitious but I am happy to have been proven wrong,” NLC Senior Policy Advisor, Leanne Liddle, said.

At an April work program meeting, Pangaea (NT) identified several suitable positions for Native Title parties under a Seismic Tiltmeter Exploration Program. This was discussed with the relevant TOs and those who were interested in work came forward.

In mid-2015, Pangaea (NT) approached the NLC with an initiative to support employment and training for Native Title parties. From this, Pangaea representatives met with NLC staff and management to specify the NLC’s role and what assistance the NLC could provide in the form of advice and logistical support for TOs. This project is 100 per cent cost-recoverable.

On 22 July, a start-up meeting was held at the NLC’s Katherine Regional Office in which senior Native Title

holders and NLC staff (an anthropologist and Katherine Regional SPOs) were brought together by the company to ensure people were still interested and that the program would be run in a culturally-appropriate manner. It was suggested that the initial stages should have two elders working as mentors who would also have the opportunity to participate in the course work if they wished.

On 10 August, a screening session was held in Mataranka which 14 interested trainees attended. The company provided a briefing for the upcoming works and training program, and held a question-and-answer forum. Participants were advised that the work would be comprised of a two-week training session, a two-week break and two weeks to return to work to obtain the certificate.

The graduates undertook the bulk of their training at Flying Fox Station, about 100km east from the Stuart Highway turn-off at Mataranka, and

at on-site locations west of Larrimah, with MS Contracting and Top End Training. Crucially, the training is specifically designed toward Pangaea’s requirements. The participants were paid industry-standard rates throughout their training.

The training and work period was held during the 2015 Tiltmetre seismic work program.

The competencies that the 12 graduates have achieved were:

- Operate Roller & Compactor;
- Conduct Tractor Operations;
- Conduct Civil Operations Skid Steer/Loader Operations;
- Conduct Operations with Intergrated Tool Carrier;
- Operate a 4WD Vehicle.

The certificate offered is an introductory qualification with pathways into Certificate II and III in Resource & Infrastructure Industry Training Package.

Hands-on the best approach for work

Aquanis Johns looked very much at home when he pulled up in the grader at Flying Fox Station.

“AJ”, as he’s widely known, was one of 12 graduates of the joint Pangaea-NLC 14-week training program, delivered by Mark Sullivan Contracting and Top End Training at the Borroloola/Barkly location.

Throughout the course, AJ achieved competency tickets for front-end loader, backhoe and grader operations. He graduated with a Cert I in Resources & Infrastructure Operations, along with all the competencies offered and basic emergency first-aid.

“The best part of my time here was getting on the machines and learning new things when working as a team,” AJ said.

It’s a sentiment shared by his fellow participants.

Youngster George Maroney came straight out of high

school into the program. It was the practical aspects of the program that appealed to him.

“The best part of the training was actually learning how to use the machinery, not just reading how to use it,” he said.

“I was happy to work at Tarlee and learn how to use a GPS to locate the spots around the drill site.”

Liam McIlwain was among the more experienced of the participants, having worked in construction and at a nickel, coal and copper mine.

Liam has a heavy rigid truck and loader licence and six years’ experience working the ADF at Robinson Barracks.

“I thought the training here was good. The best thing about it was driving the machines and meeting new people,” he said.

“The only thing I thought would have been better was



to be able to spend more time at Tarlee and driving newer machines.”

Kevin Maddington, trainer with MSC, delivered in-field training of the program and machinery operations.

“The operating of the machines has been one of the main keys to the success of this course so far,” he said.

“Taking the boys in groups of three with an Elder over to the civil camp at Tarlee has

been a valuable learning experience for them.”

High honour for Gumatj leader



Former NLC Chairman Galarrwuy Yunupingu was honoured by the University of Melbourne at a ceremony on the bunggul grounds of the Garma Festival of Traditional Cultures at Gulkula, north east Arnhem Land on 1 August.

The University conferred an honorary Doctor of Laws degree on Mr Yunupingu. He can now add the title HonLLD (Melb) to the AM (Member of the Order of Australia) which he was awarded in January 1985 for service to the Aboriginal community.

A long parade of university staff and graduates attended the ceremony in their formal gowns. Equally colourful were a troupe of traditional dancers from Mr Yunupingu's Gumatj clan.

ABOVE: Galarrwuy Yunupingu (left), with Noel Pearson, Marcia Lamgton and Pat Dodson.

The following citation is from the official program for the ceremony:

Galarrwuy Yunupingu was born at Gunyangara, near Yirrkala, in the far north of Northern Australia in east Arnhem Land, a member of the Gumatj clan of the Yolngu people.

His relentless struggle for land rights and advocacy for the agency of his people have profoundly advanced the interests of Aboriginal and Torres Strait Islander people throughout Australia. His leadership of the Northern Land Council in securing the rights and interests of the Aboriginal Traditional Owners of the 'Top End' of the Northern Territory over two long terms over more than a quarter of a century resulted in the return of all Aboriginal Reserves and most claim area to Aboriginal ownership.

His leadership of the Gumatj and neighbouring clans

through his work as a Gumatj clan leader has resulted in economic development, a complex agreement with Rio Tinto Alcan in relation to the bauxite project near Nhulunbuy, securing benefits for the affected Traditional Owners.

From the early 1960s Galarrwuy Yunupingu began working with his father to achieve land rights for his people. As a young man he helped draw up the first bark petitions presented to the Australian Parliament in 1963, conceived in protest at the Australian Government's excision of Yolngu land for bauxite mining and challenging the rights of mining companies to exploit traditional Aboriginal territory.

Framed with painted bark, the Yirrkala Bark Petitions became the first traditional Aboriginal documents recognised by the Commonwealth Parliament. The fundamental significance of these documents for Australian democ-

racy deepens as the call for constitutional recognition for Aboriginal and Torres Strait Islander people grows louder and stronger.

In 1975, as the Aboriginal Land Rights (Northern Territory) Bill passed through the Australian Parliament, Galarrwuy Yunupingu joined the Northern Land Council, becoming chairman two years later, a position he held for most of the subsequent years until his retirement in 2004. Throughout these many years he led negotiations with mining companies, with successive governments and countless bureaucrats, to protect the rights of northern Indigenous communities and support them in the commercial development of their lands—his honour and dignity setting a high standard for the dialogues that took place.

Public accolades for his achievements have included being named Australian of

the Year in 1978, made a Member of the Order of Australia for his services to the Aboriginal community in 1985, and inclusion in the National Trust's list of Australian Living Treasures.

In 2008 Galarrwuy Yunupingu led the presentation of another petition, this time to Prime Minister Rudd, asking for formal recognition of self-evident rights to be secured for his people through a process of constitutional reform.

Galarrwuy Yunupingu is recommended for the award of the Doctor of Laws honoris causa in recognition of the fire he has lit within Australia: a fire that will blaze even brighter until Indigenous people secure their self-evident rights to property, their own way of life, economic independence and control over their lives and the future of their children.



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