



Northern Edition

LAND RIGHTS NEWS

NORTHERN
LAND COUNCIL

Our Land, Our Sea, Our Life

April 2017 Issue 2

www.nlc.org.au

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A word from the Chair

June 21st will mark the 10th anniversary of the Howard Government's announcement of its infamous Northern Territory Emergency Response – the Intervention, as we've come to know it.

The impacts of the Intervention, immediate and continuing, have been devastating. Aboriginal men in particular were basically vilified as gamblers, drunkards, wife bashers, pornography addicts and paedophiles.

I remember telling a forum at the Garma Festival a couple of years ago about how shameful I felt as a result. Soon after the Intervention was declared, a close female family member was injured during a football match. The climate brought about by the Intervention was such that I was left feeling – quite wrongly – a sense of shame that somehow I would be looked on as being responsible for the injury. I wasn't the only Aboriginal man who felt branded and abandoned. Those sorts of feelings were widely held by fellow countrymen.

And let's not forget that the Howard Government suspended the Racial Discrimination Act to enable its Intervention to proceed. Suddenly, Aboriginal welfare beneficiaries found themselves subject to income management. Our people felt shamed as they handed over this new thing called a BasicsCard when they went shopping.

Also, let's not forget that the Labor Party

Opposition went along with all that. A federal election was only a few months away, and Kevin Rudd was so desperate to be Prime Minister that he was prepared to sacrifice the basic human rights of Aboriginal people, rather than oppose the Howard Government's Emergency legislation.

After Labor won government in November 2007, it did wind back some of the worst aspects of the Intervention. But Jenny Macklin's "Stronger Futures" still imposed policies and programs that offended Aboriginal people because Canberra continued to manage our lives.

Tens of millions of dollars of public money were squandered as the Intervention was rolled out in haste.

Armies of public servants were deployed at great expense to manage the Intervention. I remember that Qantas even introduced a direct service between Canberra and Darwin. We called it the Intervention Express.

And private contractors, most of them ignorant of Aboriginal culture, grew rich as they roamed unchecked across Aboriginal lands. At Numbulwar they dug a long drop toilet on a sacred site that was clearly signposted. The emergency legislation was so badly written that the Supreme Court had to find them not guilty of an offence under the Sacred Sites Act. There was evidence everywhere of poor planning and shoddy

workmanship.

We Aboriginal people were confused and dismayed. It seemed as if our lives had been turned upside down. We were no longer in control of our own welfare, of our own lives and destinies.

The destruction of CDEP was another blow.

On top of all that, we were further disempowered by the decision of the Northern Territory Labor Government to dismantle Community Government Councils and create the Super Shires. Community-owned assets were stripped away and services rapidly declined.

Aboriginal people in the Northern Territory are still struggling to cope with the legacy of all those measures.

The politicians responsible for the enduring shambles should hang their heads in shame. They won't, of course. We Aboriginal people are the only ones who've been shamed, and it's affected us badly.

Finally, but on a brighter note, I'm pleased to report that the NLC's relations with the current Federal Minister for Indigenous Affairs, Senator Nigel Scullion, are now on a good footing. We are committed to working together to improve the lives of Aboriginal people and to further the good works of the NLC.

SAMUEL BUSH-BLANASI

Chairman

JOINT LAND COUNCIL STRATEGY FOR ECONOMIC DEVELOPMENT

The Northern and Central Land Councils, after a decade of research and development studies, are working up a strategy to foster development on Aboriginal freehold land.

The Land Councils propose to establish an agency called the Aboriginal Land and Sea Economic Development Agency (ALSEDA) to drive the strategy. ALSEDA will develop a Project Prospectus to seek expressions of interest from investors and professional operators. It will be led by a board of experienced, independent directors.

ALSEDA will be the contact point for all aspects of the strategy and the partnering Aboriginal landowners in commercial development.

NLC CEO Joe Morrison says raising capital has been consistently identified as the main challenge in remote area development.

"Traditional Owners face significant hurdles

in accessing enough capital to construct basic infrastructure. The cost of infrastructure often exceeds the capacity of many grant programs, and commercial lenders require security that is not easy to provide," Mr Morrison said.

Central to the ALSEDA program will be the establishment of a new fund which will marry government grant and investment with private sector investment to stimulate infrastructure on Aboriginal land. Underpinning the model is independent advice from banking and legal sources that leases of Aboriginal land under Section 19 of the Aboriginal Land Rights Act are able to be fully commercialised.

It's proposed that the fund's foundation would depend on government grants as security for investors and equity for Aboriginal landowners, with further input from low-interest loans and private investment for a commercial return. Integrating the North Australia Infrastructure Facility, the Building Better Regions Fund and other government programs would also be a core component of the design.

It's expected that horticulture, which offers up to 30 full-time jobs per 100 hectares of land, will be the main industry.

In March this year the Executive



Joe Morrison CEO Northern Land Council

Committees of both Land Councils resolved the following:

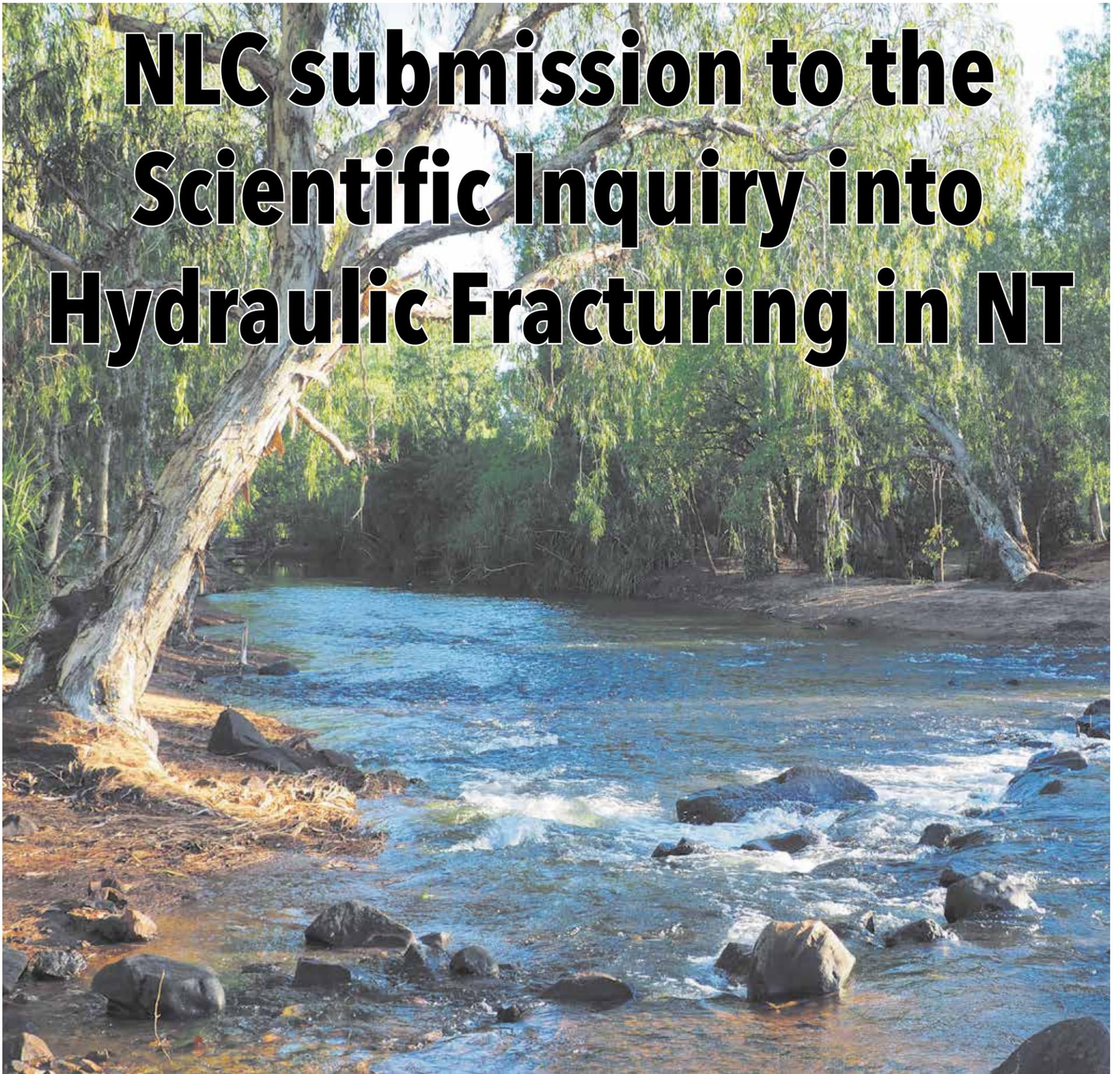
"The NLC and CLC support the proposed Economic Development Strategy, including the establishment of ALSEDA and the Capital Fund, to be tested in the NLC and CLC regions through six pilot businesses.

"The Councils will work to articulate clear guiding principles for the strategy and set out the process and options for achieving the sustainable economic development of the NT Aboriginal estate in accordance with the wishes of Traditional Owners."

It's planned that a pilot phase will be rolled out over four years from 2019 at six sites in the Northern Territory where there are good soils and water supplies.

The Land Councils' strategy brings together the key elements of land, capital and labour and outlines evidence-based processes for implementation. It identifies the need for cooperation among Traditional Owners, Land Councils, governments, regulatory agencies, industry bodies and research bodies. ALSEDA plans to bring those parties together later this year in a series of workshops.

NLC submission to the Scientific Inquiry into Hydraulic Fracturing in NT



Roper Bar crossing

The Northern Land Council, in its submission to the Scientific Inquiry into Hydraulic Fracturing ("fracking") in the Northern Territory, has emphasised the need to manage and protect the quality and availability of water.

The newly-elected NT Labor Government announced a moratorium on fracking on 14 September 2016, and subsequently established the Inquiry, chaired by Justice Rachel Pepper, who leads a panel of 10 scientists.

Of the NLC's 51-page submission to the Inquiry, nine pages deal with issues of water resources, quality and monitoring, surface and waste water management,

the construction and integrity of wells, and the management of abandoned wells. The submission includes 44 recommendations, which the NLC says are critical to offering maximum protection to the environment and to Aboriginal rights and culture, should fracking be approved.

The submission says the most significant concerns about hydraulic fracturing relate to the sourcing of the volumes of water required, and the potential for

contamination of drinking water by brine, chemicals and/or fugitive oil and gas.

"Traditional Aboriginal owners within the NLC's jurisdiction, regardless of their views on hydraulic fracturing, have consistently asked that a greater emphasis is placed on: protection of the quality of potable water sources; a guarantee of the integrity of natural springs; ensuring long-term access to potable water; and protecting the cultural

aspects of water," the NLC says.

The submission records that it is not the role of the NLC to hold an opinion on the merits (or otherwise) of hydraulic fracturing: "Nevertheless, the NLC lauds the wide-ranging nature of the Inquiry because its outcomes will help to ensure that decisions made by Aboriginal people in respect of onshore oil and gas developments continue to be undertaken in light of the best information available."

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The following are edited extracts from the NLC's submission, as it relates to water issues:

Water quality

Protection of near surface and surface water bodies is of paramount importance because many remote communities rely on these water sources for their survival. High-quality water is required for domestic and drinking purposes and to maintain natural ecosystems that provide food and/or are of aesthetic or cultural importance. The risks that a developing oil and gas industry poses to potable surface and groundwater quality are threefold and may occur via:

1. the release of fugitive gas and/or oils;
2. cross-contamination by brines (highly saline waters) contained within deeper aquifers; and/or
3. the release of chemicals used during hydraulic fracturing of shale.

These risks can be managed if gas wells are constructed to a high standard, if well integrity is maintained throughout production and abandonment, if surface management systems are well designed, and if water quality is monitored throughout and beyond each well's operational life.

Surface and waste water management systems

Hydraulic fracturing requires management of large volumes of water on the surface. The NLC is concerned that the large volumes of water used might lead to contamination of surface water and near surface groundwater aquifers if it is not managed effectively. The water is mixed with chemicals before being injected down the well, and then recaptured as produced water that returns to the surface once gas is released from the shale. This creates three pathways by which contaminated water can enter potable water supplies:

1. injection directly into the aquifer if well integrity has failed;
2. overland flow into rivers, lakes and streams; or
3. leaching into near-surface aquifers if spilt on the surface.

Those aquifers that are at greatest risk are shallow (usually less than 30m below the surface) and have a porous substrate (such as sandstone and karst).

Produced water is often stored above surface in large, open tanks, which allow the water to evaporate in hot, dry climates. The NLC considers this approach may be unsuitable in tropical climates, particularly when the wet season approaches and areas are prone to flooding. Improved environmental protection could be achieved by utilising purpose-built above surface storage tanks which can then be removed to facilitate disposal of produced water.

An alternative method of water disposal, which involves direct injection of produced water into deep aquifers, is often used in the USA. However, reinjection of water requires additional wells to be drilled, which are subject to the same concerns related to their construction and integrity. This method of disposal should not be permitted until its potential impacts are better known and a thorough understanding of regional geology (including fault lines), groundwater quality and flow regimes are acquired.

Water quality monitoring

The NLC is concerned that there is a limited amount of water quality data available from many of the areas that show high potential for gas production, and that this limited amount of data does not allow possible contamination of potable water to be accurately determined. The data that exist are difficult to find and to collate.

Where water quality data exist, background (or natural) levels for many of the key contaminants that might result from hydraulic fracturing (e.g. BTEX, methane and organic derivatives of hydraulic fracturing chemicals) are not available, making it difficult to determine now and in the future:

- a) if contamination has occurred;
- b) the extent of any contamination; and
- c) the level of risk to health and the environment that any contamination might pose.

The NLC is concerned that direction, flow rates and connectivity between the numerous aquifer systems are not well established. This makes it difficult to fully determine the degree of risk related to slow vertical and/or horizontal migration of contaminants that might occur. This absence of information highlights the need for more detailed local and regional hydrogeological studies so that potential movement of contaminated groundwater can be more accurately assessed on a site-by-site basis.

The NLC is also concerned that materials used for construction of wells might not be suitable for use under conditions where groundwater is acidic, contains high concentrations of dissolved CO₂ or O₂, or is highly corrosive. When designing wells and selecting cements and casing, local water quality parameters should be taken into account so that the risk of barrier failure is minimised and the long-term integrity of wells is maintained. This may require selection of ASTM verified materials for use, supported by an appropriate degree of regulatory oversight.

The key to successful control rests with development of a water quality management plan, based upon a set of water quality criteria. Once identified, a suitable suite of water criteria should be continuously monitored throughout production and well into the post-abandonment phase of the project. To ensure prompt action by the gas producer, the water management plan should be formulated according to a tiered approach, where specific activities are designed to manage problems at each level, before they begin to escalate.

Water resources

Most of the smaller Northern Territory communities, pastoral stations, and Aboriginal homelands are reliant on consistent supplies of potable bore water. The NLC and traditional Aboriginal owners express their concern that access to water may be disrupted if volumes of water required by the gas industry are continuous, high, remain unregulated or are not managed efficiently. The NLC understands that oil and gas activities are currently exempt from the application of the Water Act 1992 (NT). The NLC understands that the government is in the process of removing this exemption which means that oil and gas operators will require a licence under the Water Act where they use ground or surface water.

The amount of water used for hydraulic fracturing varies between wells, depending largely on the number of individual fracturing events undertaken. Volumes required are often quoted around 10-12 million litres per well.

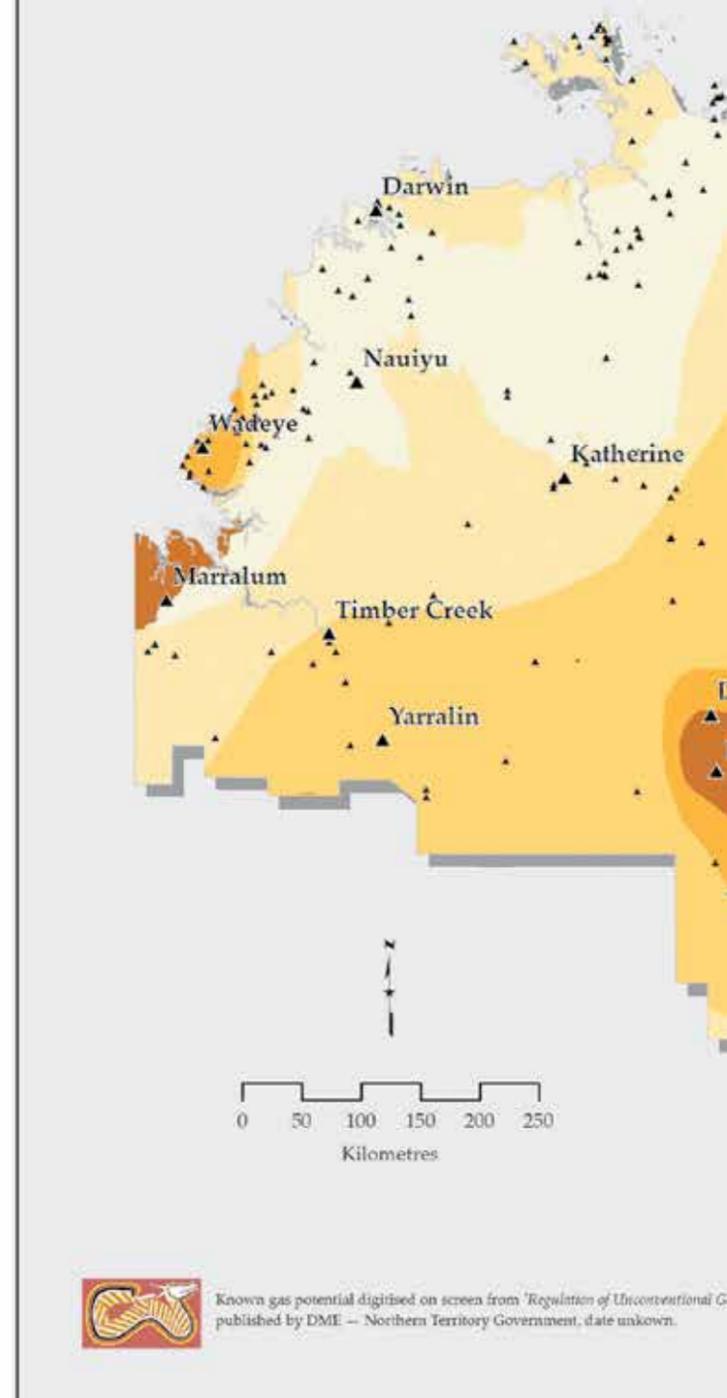
Should the Northern Territory Government proceed with development of the onshore petroleum industry, then a review of how water allocations are managed should be undertaken to reduce the cumulative risk posed to groundwater quality, volumes and flow, while catering for industrial diversity and social demands. If adequate controls are not placed on all users, overuse of potable water sources by industry may lead to significant drawdown of aquifer levels, with disastrous impacts on the natural environment and on remote communities that rely on bores for their domestic use.

Failure to allocate water in a fair and reasonable manner will have ramifications that may also include impacts on other enterprises, such as tourism and on cultural qualities and activities that require healthy, well-watered environments. These impacts would be felt greater in the more arid areas, where the effects of small drawdown volumes may be greatly magnified. Groundwater-fed rivers, springs, waterholes and streams are not only of ecological importance, but, in many cases, hold cultural significance. Consequently, the NLC believes that changes in water allocations and to the Water Act should be made to guarantee that the domestic and cultural needs of remote communities and homelands are always considered before those of competing industries.

To ease pressure on groundwater and surface water

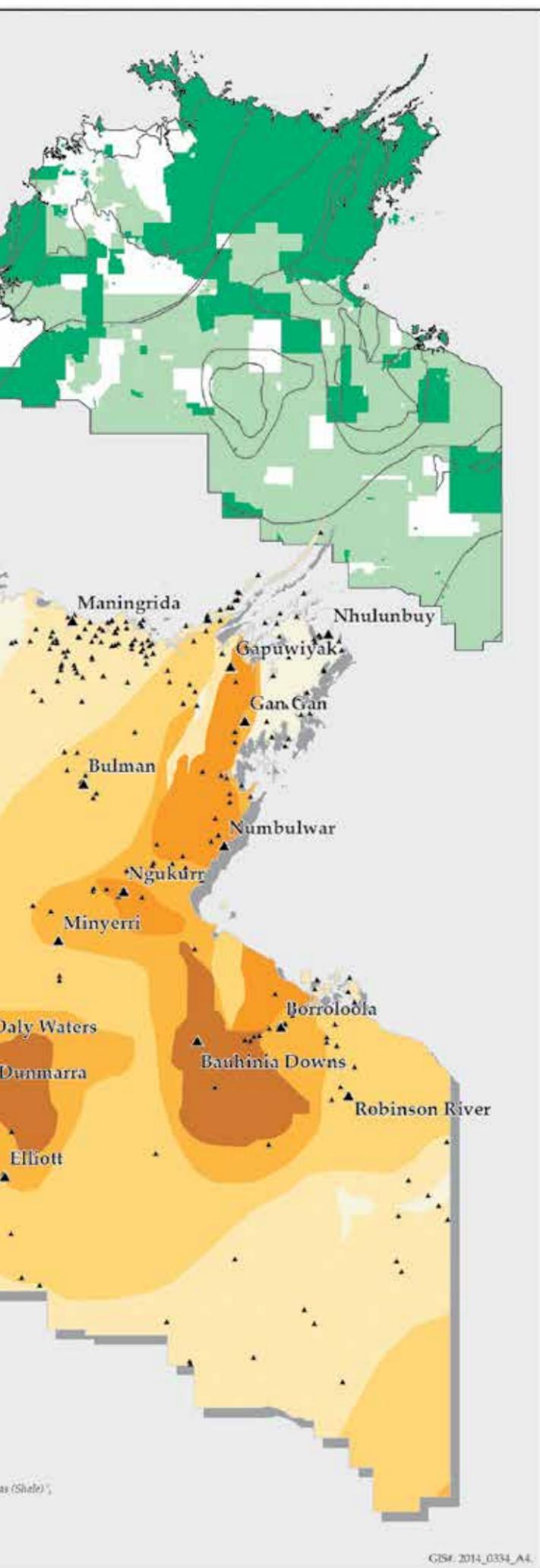
Known Hydrocarbon (Shale) Potential Northern Land Council Region

- Demonstrated high potential
- High potential, untested
- Moderate to high potential
- Moderate potential, untested
- Low to moderate potential
- Not considered prospective
- Aboriginal Land Trust
- Native Title
- Populated place



supplies, all industries should be encouraged to consider how they manage water. Water conservation should be a priority and there are a number of different methods by which the quantity of water required for extraction of gas from shale can be minimised. These include:

1. adoption of a re-use, re-claim and recycle philosophy;
2. capture of large volumes of rain and flood water during the wet season;
3. use of water of lesser quality (preferably from deeper aquifers); and



4. application of alternative technologies that require smaller volumes of water, such as gas lifts.

Cumulative impacts

Many traditional Aboriginal owners have expressed concern about the cumulative impacts that a wide range of industrial activities are having on water quality, its availability and their combined impacts on the natural environment and traditional food sources. There is concern that decisions have been and are still being made in the absence of a detailed understanding of groundwater flow patterns and information related to baseline water quality and quantity.

Traditional Aboriginal owners are observing expanding areas of impacted environment and are concerned that proper management of water supplies is a contributing factor. It appears that wide-ranging baseline studies of groundwater and recharge rates are not being assessed across aquifers, or at landscape or bioregional scales to create the level of information necessary to determine the volumes of water that can be sustainably utilised by multiple industries, without detrimental effects on communities and ecosystems.

Well construction

Use of appropriate materials and multiple cemented cases (or barriers) are the key environmental safeguards used by the oil and gas industry to reduce the risk of well failure. This is now a standard industry practice, and is used irrespective of whether or not oil or gas is recovered by conventional means or through the more unconventional hydraulic fracturing. Construction standards and testing/proving methodologies used in the USA are published by the American Petroleum Institute (API), which recommends the use of multiple casings constructed from materials that meet ASTM quality standards.

The use of multiple cemented casings represents a risk mitigation strategy built around multiple redundancies — meaning that should one of these barriers fail, the others will still protect the environment. There are usually four barriers, of which the surface casing is the most critical to environmental protection because it provides the main seal that isolates freshwater zones. The surface casing often extends tens of metres below the freshwater zone. Additional protection is provided by the other two casings; and by the production tubing, which runs through the innermost (production) casing.

Modern casing and cement materials are resistant to corrosion and to the high pressures encountered at depth and that result from hydraulic fracturing, however these materials can be damaged by improper handling, transport and storage techniques and this can have a negative impact on well integrity. Although cement compounds have been developed specifically for application in the onshore petroleum industry, it should be noted that these cements are subject to hydration chemical reactions and that over time these cements, like all cements, will deteriorate.

Unplugged or poorly plugged wells and wells that lose their integrity have the potential to act as conduits, allowing fluids and gases to migrate upwards. Should this occur, there is an increased risk that gas, oil or brines may contaminate potable groundwater systems.

Well integrity

The NLC considers well integrity failure resulting from poor construction or age as one of the biggest risks associated with the oil and gas industry. This issue is of significant interest to NLC’s constituents, because where petroleum projects progress, protection of the environmental assets of Indigenous people becomes contingent on well integrity. The NLC’s agreements with oil and gas companies currently stipulate that wells must be constructed with multiple barriers and be third-party certified prior to use.

Integrity of a well depends upon the standard of materials used in in well construction and the manner in which the well is constructed, especially the number of barriers in place. Integrity is normally assessed prior to hydraulic fracturing by using bond-logging (which reveals imperfections in the casing and cementing process) and after hydraulic fracturing by pressure-testing. However, unanticipated problems can occur and wells may fail.

Abandoned wells

The long-term integrity of abandoned wells is one aspect of the oil and gas industry that has not received thorough analysis in hydraulic fracturing reviews. The NLC is concerned about ongoing management of abandoned wells because these might present a risk of long-term chronic environmental impact through continuous leakage of oil or gas into the atmosphere, aquifers or both. Details about longevity of casings and cements in corrosive environments are difficult to find, which makes it hard to

determine the level of this risk.

To address concerns about the integrity of abandoned wells, an analysis of the physics of oil and gas migration is required to determine the level of risk of upward migration of large quantities of oil and/or gas within a depleted well, and to provide more reliable data related to the longevity of well construction materials. Even where negligible risk is established, it would be prudent to maintain an enduring record of well locations and institute well-funded systems to maintain and monitor any problem wells identified. The highest standard of plugging and abandonment should also be applied in fields where a risk of upward migration of oil and gas from depleted shale exists.



Photos above are from the welcome to country ceremony at Beetaloo /Jingaloo Outstation, July 2016.

Traditional Owners in Gapuwiyak welcome community development

In the small community of Gapuwiyak, NE Arnhem Land, Traditional Owners have decided (for the first time) to spend some of their lease money on lasting community benefits, with help from the Northern Land Council.

The Gupapuyngu-Liyalanmirri group has allocated more than \$400,000 to community projects from income it receives from Section 19 leases in Gapuwiyak township.

Sitting under a large shady tree outside the local shire office, Traditional Owners talked with NLC community development staff in March about their ideas for community projects. Their first priority is exploring a joint venture for a business and accommodation facility in town.

Senior Traditional Owner Gordon Marrkula said, "We want to spend our money on a business, to provide training and jobs for young people."

This is one of four pilot projects being supported by the NLC's new Community Planning and Development Program. Endorsed by NLC Full Council in November 2016, the program aims to help Aboriginal people to drive their own development and secure benefits from their land, waters and seas, using income they receive from land use agreements.

Supporting Aboriginal groups to plan and achieve their own development objectives through a community development approach has the following benefits:

Effective and sustainable projects – Aboriginal groups plan and decide on projects based on their priorities, knowledge and experience so these projects are more likely to be locally appropriate, effective and sustainable.

Capacity building – Because Aboriginal people are involved at every step of the way they build individual and group skills in governance, planning and development.

Empowerment – The skills individuals and groups develop means they can be more self-reliant. They have more power and control over their lives and futures.

Increased group cohesion – Working together can make Aboriginal groups stronger and more united as members together face issues and work to address them, including negotiating different views and working through group conflict.

The NLC's community planning and development eight step process (refer diagram below) supports Aboriginal groups to work together to set and achieve their own development outcomes.

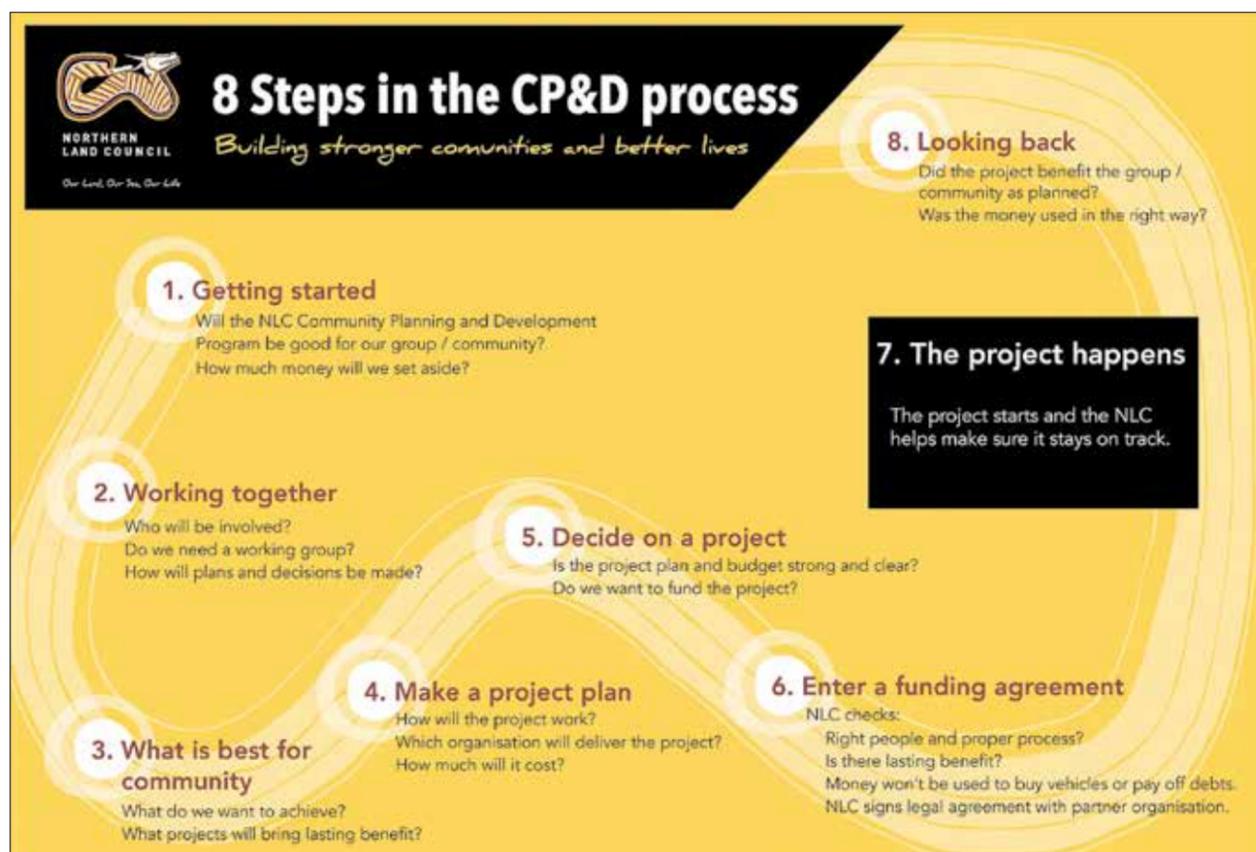
NLC Chief Executive Officer Joe Morrison said: "I am excited about this new phase where the NLC can support Top End countrywomen and men to fully realise the benefits that flow from full rights to land and sea country, supporting initiatives with lasting community benefit."



Traditional owners review current Section 19 leases.



Clancy Guthitjpuay talks about a business idea that will create jobs for young people.



TOs consider how to use their lease money to meet needs and get outcomes.

For more information about the NLC's Community Planning and Development Program, please call:

8920 5255 or

1800 654 299 (free call)

COMMUNITY DEVELOPMENT: THE NLC LEARNS FROM THE CENTRE



Photo: Members of the Central and Northern Land Councils outside the entrance to the Mutitjulu swimming pool, which was built as a Community Development project.

From left: Rita Tjingo (CLC), Johnny Tjingo (CLC), Malya Teamay (CLC), Paul Henwood NLC, Dorothea Randall (CLC), Bobby Wunungmurra (NLC), Yvonne Taylor (CLC), Chris Neade (NLC), Helen Lee (NLC), Wayne Wauchope (NLC), Linda Fletcher (NLC), Elaine Watts (NLC), Sam Bush-Blanasi (NLC), Joe Morrison (NLC), Raymond Hector (NLC), Reggie Uluru (in wheelchair, CLC), Richard Dixon (NLC), Matthew Nagarbin (NLC), Matthew Ryan (NLC).

By Dr Danielle Campbell*

“When we tell our story to Piranpa (non-Aboriginal people) we tell them a little bit but when we tell it to other Anangu (Aboriginal people) we tell them the whole story,” said Rita Tjingo, a stalwart of the Central Land Council’s Uluru Rent Money Project.

It was the first time Ms Tjingo, Uluru Traditional Owner and member of the project’s Mutitjulu working group, spoke to a group of unfamiliar Aboriginal people about the projects her community funded with its share of the rent money from the surrounding Uluru Kata Tjuta National Park.

After some initial nervousness Ms Tjingo was on a roll. “Women and men here are strong,” she told Northern Land Council members.

Ms Tjingo, Evonne Taylor, Dorothea Randall and elders Johnny Tjingo and Reggie Uluru glowed with pride as they explained how they invested four million dollars in a pool and upgrades to community facilities over the past decade.

The NLC members jumped at the chance to add a study trip to one of the projects that kicked off the CLC’s successful community development program before attending the constitutional convention at Uluru in late May.

The NLC members were keen to hear first-hand what the locals have learned about the challenges of driving their own development with their own money and the satisfaction that comes from a job well done.

“We have been disempowered by governments for a long time,” said Matthew Ryan from Maningrida. “Government has a top to bottom approach but we want to see what grassroots people like you are doing here”.

Listening to the exchange between the two groups blew me away, and not only because the Mutitjulu group’s confidence had grown

so much since I’d seen them last.

Back in 2006, I was one of the CLC staff members working with Traditional Owners and residents of the community that would become ground zero of the Intervention.

I worked on the project for 10 years from when they started to invest roughly half of their income from the jointly managed national park into projects that benefit their whole community.

Mutitjulu’s pool, now into its fifth year and the only pool in a remote community with secure operational funding until 2021, was always high on their agenda.

“We had our tjitji (children) playing in our sacred rock holes and the sewage pond,” explained Dorothea Randall. She said the CLC’s support during the planning phase was critical.

“We made sure that through our financial planning we locked in the future operational funding for a pool. We moved it aside so it collects interest.”

In the early planning stages the pool project grew into an idea for a “youth precinct” to give young people better recreation options, reward them for good school attendance and keep them healthy and active.

Over the years, the working group also upgraded their dilapidated recreation hall and basketball court and sourced co-funding for their projects from the Aboriginals Benefit Account and the Ayers Rock Resort’s Mutitjulu Foundation.

The NLC members were impressed to hear how the community pushed through the hurt and demoralisation of the Intervention to see their plans through.

“This is the opposite of the Intervention. We make our own plans and use our own money instead of waiting for government to decide” said Rita.

More recently, Anangu have used their rent money to fix up the community oval, with the help of eight local people who worked on the fencing, and installation of change rooms and grandstands.

Members of the Northern Land Council have been talking about setting up a community development program like the CLC’s for a

few years. This was their first chance to hear from the decision-makers, warts and all.

NLC member Wayne Wauchope said the NLC should consider re-introducing back gate money for Top End Parks and create an income stream for community driven development.

“I’m very proud to see the gate here because you are making money,” Mr Wauchope said. “Balanda always tell us we’re relying on the government and here you’re showing them that you are doing your own development. Up there, they took the toll away. We should look at bringing back the toll gates to get money to build things like this, put into projects.”

Dorothea Randall, a Traditional Owner who has been on the working group since it was set up, made the point that it has taken a lot of hard work, patience and learning lessons along the way. For example, the pool, the community’s highest priority, took seven years to plan and get approval from Parks to build.

The key has been Aboriginal decision-making at every step of the way combined with strong support from the CLC, which has built the governance and planning capacity of the group through the community development approach.

Rita Tjingo summed up this productive working relationship saying, “Anangu have a lot of power. The CLC has power too, but they come along behind and support us”.

NLC CEO Joe Morrison felt the visit was very worthwhile: “We are just starting out in the NLC region with this work and we know it’s going to be a journey. The initial response of Council and around the traps shows there is a big appetite for this kind of planning and development. It’s the opposite of the Intervention. It’s about asking Aboriginal people what they want to for their families and communities.”

Sammy Bush-Blanasi, NLC Chairman said, “It took a while to go through the Regional Councils and the Full Council and explain how the CLC does its community development program. It will take time to get it started but once people get the idea of putting aside some of their money and using

it for projects like here in Mutitjulu they will be very interested.

The NLC has talked a lot about how it can learn from the CLC but also adapt the approach so it suits the Top End. Building from the ground up, based on local priorities and needs, adapting to fit the local context, and problem-solving and flexibility when the situation changes are all key ingredients in good community development. The NLC’s work will be built on these core principles.

“It was a very good discussion today. We felt welcomed by the people and I am very impressed by the projects traditional owners have done here. I give it a big thumbs-up,” Mr Bush-Blanasi said.

Witnessing the exchange between Aboriginal people involved in the CLC’s and now the NLC’s community development programs was really interesting for me in terms of the similarities, but also some of the differences I think we’re going to see in the Top End. We’re hearing a lot more interest in enterprise development and joint venture arrangements from Traditional Owners up here. There’s no doubt the NLC’s program will be unique to this region but it will absolutely have informed decision-making and Aboriginal control at its heart.



*Dr Danielle Campbell joined the CLC in 2005. She played a lead role in designing and delivering a new community development program, which expanded rapidly between 2007 and 2016 across the CLC region. During this period Aboriginal traditional owner and community groups planned, funded and implemented hundreds of development initiatives using more than \$50 million of their own income from land use agreements. Danielle joined the NLC in 2016 to launch a similar program in the Top End.

RAC vs NLC: Appeal after Appeal

Having lost its case against the Northern Land Council in the Full Court of the Federal Court, the Rirratjingu Aboriginal Corporation (RAC) is asking the High Court to grant special leave to appeal the decision.

The Full Court in March heard the appeal by RAC against a decision in August last year by Federal Court Justice John Mansfield, who ruled that it was the role of the NLC under the *Aboriginal Land Rights (Northern Territory) Act 1976* to determine who were the Traditional Owners of the land on Gove Peninsula in north east Arnhem Land, where Rio Tinto Alcan operates a big bauxite mine. Further, Justice Mansfield decided, it was the role of the NLC to decide upon the proper apportionment of royalties from the mine.

Three clans, Rirratjingu, Gumatj and Galpu, are the Traditional Owners of the mining area covered by the Gove Agreement, which was entered into in May 2011.

The Rirratjingu Aboriginal Corporation

is disputing the application of the Gove Agreement and is seeking a bigger cut of royalties. It argues that the NLC should not be able to decide who are the Traditional Owners and how royalties should be divided, and that a court should settle the dispute.

The Full Court's decision against RAC concluded: "We ... reject the contention on behalf of the appellants (RAC) that the NLC had no role in paying the amount (royalties) to traditional Aboriginal owners and had no role in apportioning a payment to or for the benefit of each local descent group. In our opinion, the NLC had the power to pay the amount to those which it considered were the traditional Aboriginal owners of the Aboriginal land, and the NLC had the power to apportion the moneys to be paid for and on behalf of those traditional Aboriginal owners."

The RAC issued a statement immediately after the decision: "The Rirratjingu maintain that, while the circumstances are different, the principles are similar to a land

dispute between any other title holders, and therefore the Court process should be as well."

It said the dispute had entailed "years of fighting and millions of dollars in combined legal fees".

The NLC welcomed the Full Court's decision because it confirmed that its distribution of funds from the Gove Agreement had been correct.

"This action has been an unnecessary distraction from the real issue of advancing the welfare and prosperity of Aboriginal people in north east Arnhem Land," NLC Chief Executive Joe Morrison said.

"It has required the NLC to spend a lot of resources and money on a dispute which I hope can still be resolved through mediation.

"The NLC looks forward to working with all groups in north east Arnhem Land so that they can realise the potential of their communities and lands. We want to see strong organisations with strong Aboriginal

leadership, working for the benefit of Aboriginal people," Mr Morrison said.

The Gumatj clan, which was also sued by Rirratjingu Aboriginal Corporation, also welcomed the decision of the Full Court.

Traditional Owner Djawa Yunupingu said the Gumatj clan had always been certain of its position as landowners on the Gove Peninsula.

"This court case has been very expensive and has distracted us from our work at the community level where we are building businesses, creating jobs and educating children.

"The (Full Court) judgement is a vindication of the operations of the Land Rights Act which are well established. The judgement confirms what we already know about doing business on Aboriginal land," Mr Yunupingu said.

The three judges who comprised the Full Court were unanimous in their decision to dismiss the RAC appeal, and took only two and a half weeks to reach their decision.



The image of the late Roy Marika, a Rirratjingu man who championed land rights, was painted at Yirrkala last year to mark the 40th anniversary of the passing of the *Aboriginal Land Rights (Northern Territory) Act 1976*. Now, some of his descendants are challenging the Northern Land Council about how the act should be applied.

An Anniversary Remembered:

When Homelands Were Celebrated

By Jon Altman

An anniversary is the yearly recurrence of a date when an event first took place or when an institution was founded. Some significant anniversaries, like the passage of Northern Territory land rights law 40 years ago last year and the 50th anniversary of the 1967 Referendum, are celebrated; others, like the 10th anniversary in June of the Northern Territory National Emergency Response – the “Intervention” – will be marked, I suspect, with very mixed emotions.

March this year marked the 30th anniversary of the tabling of the report of the House of Representatives Standing Committee on Aboriginal Affairs, *Return to Country: The Aboriginal Homelands Movement in Australia*. This was also referred to as the Blanchard Report with deference to the chair of the committee, the late Alan Blanchard MP. This anniversary should have been widely celebrated for many reasons, but it slipped under the radar – perhaps there are just too many anniversaries to remember.

I am keen to both revisit and celebrate the Blanchard Report for several reasons.

The Aboriginal homelands movement that saw the re-occupation of Aboriginal lands by their owners and kin began in the NT in the early 1970s. There are a number of reasons for this, including: the late colonisation of the NT and hence the continuity of strong traditions and links to ancestral lands; the early implementation of land rights laws there; and the earlier existence of a reserves system that allowed a degree of maintenance of connection to country and associated economic reliance on wildlife harvesting.

The homelands movement was a rejection by thousands of Aboriginal people of the joint colonial projects of centralisation at government settlements and mission stations, and assimilation. With the policy shift to self-determination in 1972 people literally voted with their feet and moved to homelands – defined by Blanchard as “small decentralised communities of close kin established by the movement of Aboriginal people to land of social, cultural and economic significance to them”.

Homelands have represented a vexed policy challenge since their re-occupation, as an unusual form of settlement in ‘postcolonial’ Australia; they are generally tiny hamlets with small flexible populations of fewer than 50 people that sit at the very bottom of the size-sensitive settlement hierarchy.

In some places, including where I mainly work in west Arnhem Land, homelands are called outstations but I will use the term homelands here in keeping with the language

of the Blanchard Report – but also because I want to find a name for the residents of these places who have been totally absent in policy language, and the term “homelanders” is probably as good as I can get in a single word.

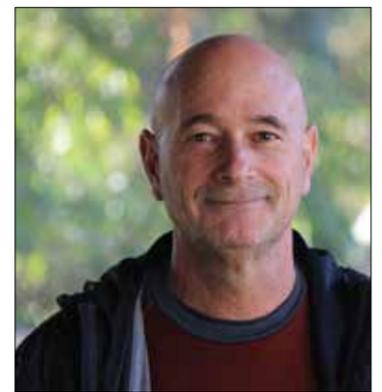
All too often in public and policy debates it is far from clear if the focus is on homelands, the places dotted across the landscape, or on homelanders, the people who live at these places on permanent, seasonal or occasional bases.

visited more than 50 homelands, it received 44 written submissions and examined 111 witnesses. It was a form of rigorous and bipartisan parliamentary inquiry unimaginable these days. I made two written submissions (one specifically requested by the committee) and provided verbal evidence as a witness focusing on the economic viability of homelands.

I cannot summarise this report of more than 300 pages and its 58 recommendations in any

and transport; and access to education and health services.

The Blanchard Report marked a critically important juncture in the history of the homelands movement because it debunked official scepticism about the commitment of homelanders to isolated living with limited access to services, and also recognised that when at their homelands people were more self-sufficient, more active and productive and less dependent on income support from the



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Baniyala (Yilpara) Homeland on Blue Mud Bay, East Arnhem Land.

Indeed, a large part of the reason why both the Commonwealth and NT governments have failed to develop sensible policies for homelands and homelanders since the 1970s is that these places find no ready niche in their governmental or bureaucratic machinery, in part because this machinery is tuned only to thinking about stable places and populations and not about tiny remote places with highly mobile populations. Homelanders from the 1970s often live between places, with this “in-between-ness” influenced by minimal service delivery and seasonality, especially in the Top End.

The Blanchard inquiry was undertaken between 1985 and 1987. The Committee

detail here. I just note that its overall tenor was positive and progressive; it accurately predicted that homelands would be permanent fixtures on the Indigenous policy landscape, and that homelanders would require access to basic services despite often living in very remote inaccessible locations.

Key recommendations included the need for information about homeland locations and the number of homelanders; appropriate policy making processes; funding for homelands and outstation resource agencies; support for projects to promote economic independence; equitable access to social security; the need for basic infrastructure – water supplies, housing

state than in larger communities.

In a sense, the highly informal arrangements that had seen very limited support for homelands were given a far greater degree of formality after Blanchard. The newly formed Aboriginal and Torres Strait Islander Commission (ATSIC) looked to implement its recommendations between 1990 and 2004 in what constituted a social compact for homelands living. This was incorporated in its “National Homelands Policy”.

Through this policy homelanders received some services support when living on country, mainly delivered by a network of about 100 community-based outstation resource

agencies. But, in return for being afforded the right to live in their own places and spaces in accord with their own norms and values, there was a realisation that services would never be delivered to the standard enjoyed by other Australians, especially the vast majority living in metropolitan situations.

The dominance of the Commonwealth government in this area of Aboriginal affairs in the NT is an issue that the Blanchard Report neglected to properly address perhaps because of political sensitivity at that time.

From 1911 to 1978 the NT was administered from Canberra and was only granted self-government in 1978. At that time a highly irregular deal was imposed on the first Chief Minister of the NT, Paul Everingham, via exchange of letters from the then Commonwealth Aboriginal Affairs Minister, Senator Fred Chaney.

This deal asserted that the Commonwealth would retain responsibility for homelands, perhaps in the belief that all were on land vested in Aboriginal land trusts under the Commonwealth Aboriginal Land Rights Act of 1976 – it was mainly a strategic response to the anti-land rights stance taken by the CLP government in Darwin.

This move annoyed the new NT government immensely, in part because it lost effective political jurisdiction (which comes with fiscal muscle) over a large part of the NT terrestrial estate and literally hundreds of small places. A form of policy resentment set in whereby the NT government would do as little as possible for the thousands living at homelands, forgetting they were not just among the longest term and most committed NT citizens, but also among the neediest.

So, while NT departments of education and health made token efforts to deliver services to homelands, these were never NT government priorities, let alone serious considerations.

At homelands it was the Commonwealth government that was of primary importance, particularly as it funded (via ATSIC) two programs crucial to homeland living: the Community Development Employment Projects (CDEP) scheme that provided flexible basic income support, and the Community Housing and Infrastructure Program (CHIP) that delivered rudimentary infrastructure and some housing, and importantly funded the community-based outstation resource agencies that provided services support, development assistance and political advocacy for homelanders.

With the demise of ATSIC in 2004 government policy shifted quite dramatically from resigned tolerance and limited support for living at homelands to outright intolerance and hostility; homeland living and the social compact on which it was based were suddenly at extreme risk as a policy of “new mainstreaming” was introduced with undue haste and poor planning.

This shift was very clearly signalled in December 2005 by Senator Amanda Vanstone in her last days as Minister for Indigenous Affairs in her poorly informed and provocative “conspicuous compassion” speech where she raised the spectre of homelands as “cultural museums” where children would be deprived of educational opportunity and might be “at risk”. This signalled the early days of the emerging discursive trope concerned with the safety and wellbeing of children that was turned into a political art form during the NT Intervention launched 18 months later.

In 2006 I published a paper, *In Search of an Outstations Policy for Indigenous Australians*. Using Community Housing and Infrastructure



Protesters gather in Canberra, March 2015, when the Western Australian Government was threatening to close homelands.

Needs Survey data collected by the ABS and commissioned by ATSIC, I reported 547 homelands in the NT with an estimated total population of 10,342 at an average 19 per cent community – almost 90 per cent were in very remote regions.

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I was seriously concerned at the loss of direction with the abolition of ATSIC and its National Homelands Policy; and the emergence of an ominous narrative that depicted homelands as places where the strength of Aboriginal culture was being identified by powerful voices as a negative barrier to “advancement to integration” rather than as a positive means to improve livelihoods when at homelands, as a growing body of evidence demonstrated.

I sensed a total absence of any comprehensive or joined-up government approach to the challenge of delivering citizenship entitlements to homelanders. This was evident in extreme vacillations in policy rhetoric, with the new Minister for Indigenous Affairs, Mal Brough, now saying that “safe and healthy” homelands would not be closed down, no matter how small they might be.

I ended that publication by suggesting that it might be timely for the Minister to again request the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs to inquire into the homelands situation, 20 years after Blanchard, before too

much new policy was determined. There was no serious consideration of this proposal.

Instead, a year later, homelands and homelanders got caught up in the NT Intervention maelstrom and the early social compact was unilaterally obliterated by the Australian government.

While initially, in emergency haste, the Commonwealth totally focused on the takeover of 73 prescribed larger communities, subsequently there was a belated realisation that there were more than 500 homelands and up to 10,000 homelanders in the hinterland.

The response to this was extraordinary.

First, after intervening in the NT using constitutional “territory powers” because the NT government was assessed as incompetent,

three months later the Commonwealth overturned the Chaney/Everingham arrangement and handed responsibility for homelands back to the NT as a part of a massive housing and infrastructure deal for townships.

This “homelands deal” provided \$20 million per annum for infrastructure support for 500 places, but was contingent on the NT government agreeing not to build any houses with Commonwealth funding at homelands. Effectively, the neglect of homelands was ensured and any potential growth was stymied. This arrangement has been locked in now till 2022.

Second, homelands became entangled in the new Closing the Gap policy framework introduced by the Rudd government. In this context homelands were always going to be deeply problematic places because gaps, as measured by standard social indicators, will be impossible to eliminate at homelands.

Having supposedly handed over responsibility for homelands to the NT government, the Commonwealth remained keen to ensure that it extended governmental controls over the homelanders.

Hence the Council of Australian Governments National Indigenous Reform Agreement of 2009 states quite explicitly that major investments in service provision are to be avoided where there are few economic and educational opportunities – which basically means almost all homelands. And there is much reference to the promotion of behaviours consistent with positive social norms, code for paternalistically trying to inculcate mainstream Australian norms.

Such sentiments are replicated and stated even more bluntly in the Indigenous Advancement Strategy, with all its evolutionary connotations,

introduced by the Abbott government in 2013. The mantra of Tony Abbott, the self-proclaimed PM for Indigenous affairs, simplistically aimed to get the adults to work, the kids to school and build safer communities.

But such a policy approach is disastrous for homelands because at homelands there may be no schools and no jobs and community safety may not be an issue – although if homelands are artificially concocted as dangerous places, then heightened police surveillance can be justified.

There is little room in the current overarching policy framework for living on the land, using its natural resources for a distinct lifeway based on a high degree of mobility and a flexible way of life inclusive of hunter-gatherer subjectivity – an economic right embedded in land rights and native title laws.

A suite of programs born of the Intervention have been fashioned for remote-living people that are predicated on centralisation and conforming to draconian rules and regulations that very effectively target Aboriginal people and that have especially deleterious outcomes for homelands.

A suite of programs born of the Intervention has been fashioned for remote-living people that are predicated on centralisation and conforming to draconian rules and regulations that very effectively target Aboriginal people and that have especially deleterious outcomes for homelands.

CDEP that was the income support foundation of livelihood at homelands has been replaced by the Community Development Program. This new remote work-for-the-dole scheme requires the jobless to work five hours a day five days a week in supervised work or training. Self-provisioning in the bush is not regarded as legitimate work or training, so homelander work effort is forcibly diverted from productive self-provisioning to unproductive make-work. Failure to comply is penalised by loss of income support. This malfunctioning program is more effective in punishing non-compliance than in generating jobs; it is impoverishing thousands.

Income management administered via BasicsCard requires half of welfare income to be expended at community stores licensed by the Commonwealth government. Income management is a measure that is looking to discipline and reform expenditure behaviour. BasicsCard is designed to deliver food “security” and to bypass customary norms of sharing with kin. But in effect it reduces the possibility of Aboriginal people exercising their own food sovereignty in the vicinity of homelands and increased poverty is resulting in intensification rather than intended dilution of sharing.

Housing policy as noted has focused all effort on larger places, what NT government policies like Working Futures and Homelands Extra termed “Territory Growth Towns”, policy language that has quickly disappeared because there is no economic growth evident at these larger places where administrative attention and financial support is focused. Conversely, no public housing is being provided at homelands, now conveniently deemed ‘private’ places.

The School Enrolment and Attendance

Measure (SEAM) and the Remote School Attendance Strategy (RSAS) require kids to attend school, or parents are financially penalised. As many homelands do not have schools, parents need to move to townships to access basic education. There is evidence that providing education at homelands and on country is more effective in increasing attendance.

After the Intervention, policing at “prescribed communities” was ramped up considerably to help build “safer communities”. But for homelands this increased presence is resulting in excessive policing of drivers, vehicles and guns. Even though vehicles are used mainly in the remote bush, police nevertheless impound ones that are unregistered and unroadworthy, thus depriving people of links to homelands and the means to hunt. Drivers too are prosecuted and fined if

caught driving without a current licence; the same happens with unlicensed guns that are impounded. Access to the hunting “means of production” is declining rapidly.

And finally, when outstation resource agencies that supported homelands were also CDEP and CHIP organisations they were afforded a degree of financial autonomy and exercised political power to represent their homeland constituents. In the aftermath of the Intervention these organisations have been effectively depoliticised and silenced and now increasingly need to work as administrative agents of the state just to survive.

The current suite of programs based on paternalism and punishment is looking to recentralise homelands for surveillance and to reprogram their subjectivities, or lifeways, to match those of mainstream Australians.

And yet there is no evidence that any of this is working.

But the government persists because not to persist is to tolerate a refiguring of the state and capitalism to suit homelands’ different aspirations. What I have termed economic hybridity or plurality that includes the customary can work better than what is

being provided at larger places. Such alternate possibilities highlight the clearly evident failure of the Commonwealth government’s decade-old project to Close the Gap.

More sinisterly, this creative destruction of homelands might be motivated by a corporate state concern that homelands can get in the way of capitalism’s spread as imagined in the grand project to Develop the North. A cursory glance at resource atlas maps shows few

identified mineral deposits on a commercial scale on Aboriginal lands. With major existing mines at Ranger and Gove facing closure and decline respectively, there are growing imperatives to explore for new prospects and a landscape cleared of homelands would form attractive “greenfields”.

The historian Patrick Wolfe argued that the logic of elimination is an organising structural principle of settler-colonial society. But in the project to eliminate the homelands and alter homelander lifeways we see something more targeted than his generalisation, something akin to what the renowned legal scholar Raphael Lemkin termed “genocide” way back in 1944.

In his book *Axis Rule in Occupied Europe*,



Baniyala (Yilpara) Homeland on Blue Mud Bay, East Arnhem Land.

Lemkin argued genocidal policy can deploy numerous techniques including the economic: “The destruction of the economic existence of a national group necessarily brings about the crippling of its development, even a retrogression. The lowering of the standard of living creates difficulties in fulfilling cultural-spiritual requirements”.

The impoverishment of homelands, their struggle for physical survival and the growing difficulties they are experiencing in retaining connection to country resonate with Lemkin’s acute theorisation of genocide.

Circumstances for homelands are currently dire; they are what American anthropologist Lucas Bessire has termed “hyper marginalised”.

But I do not wish to end with despondency.

Indeed, in spite of the best efforts of governments to eliminate the homelands,

And there might be some emerging opportunities for push-back, decolonising pathways out of the suite of genocidal programs being deployed.

One is to appeal to those sectional state and wider public interests that see value in the homelands as nodes of productive conservation action, carbon farming and cultural industry. While it might be imagined that these activities can be undertaken independently of cultural knowledge and on an expeditionary basis from larger places, in reality people on country with lived knowledge of country are crucial to such ventures.

As when the homelands movement first began, people are looking to generate income for survival in creative ways, tradition is being

refigured and deployed for the paid provision of environmental services and for carbon abatement; culture is marketed for cash; and people look to get meat any way they can, including via the culling of feral animals. Some might even find the means with philanthropic support to privately fund their homelands.

Politically, and with the critically important assistance of representative organisations like land councils, community organisations and civil society, homelands might mobilise domestic or international law to counter the attempt to evict them from their homelands; such action by governments constitutes a form of structural violence and human rights abuse that is counter to a number of international conventions and articles in the UN Declaration on the Rights of Indigenous Peoples.

It is possible that the struggle for alternative ways of living on country, a form of economic hybridity predicated on the maintenance of hunter-gatherer subjectivity, might constitute an economic formation of value for survival in an increasingly uncertain and unpredictable world. There may be avenues for homelands to build alliances with others living precariously and so be part of a wider struggle for economic and social justice.

I end by returning to the Blanchard Report. Its approach was progressive, it looked to open up possibilities, it was not fixated on delivering sameness but saw potentiality and benefits in difference and alterity. The challenge today is to ensure that the homelands way of life is not obliterated and to leave open the options envisioned as long ago as three decades ago in a bipartisan report to the Australian parliament. That would be the way to celebrate the 30th anniversary of *Return to Country: The Aboriginal Homelands Movement in Australia*.

the only information available in a decade collected by the Centre for Appropriate Technology and published late last year (after considerable governmental delay) shows that there are 630 homelands still in the NT with an estimated minimum population of 4,532 and a maximum of 11,174; it is reported that 70 per cent of homelands are occupied 70 per cent of the time. Some homelands are remaining on country despite all the barriers erected by governments.



Sea Country Working Group to advise on intertidal fishing access

Consultations held so far by the NLC with Traditional Owners about access to the intertidal zone around the Northern Territory coastline have demonstrated an overwhelming desire by Traditional Owners to control access to their sea country.

In March 2007 the NLC agreed to a short-term “interim” arrangement that allowed recreational and commercial fishers access to Aboriginal-owned coastal waters. That followed a decision by the Federal Court which effectively declared the inter-tidal zone (area between the high tide mark and the low tide mark) to be Aboriginal land and therefore outsiders needed permits or licences to access it. The High Court confirmed that decision in 2008 – the “Blue Mud Bay Case”.

The NLC Full Council, meeting at Timber Creek in November last year, decided not to renew the interim agreement, which expired on 31 December 2016, having been extended 11 times since 2007. The NLC gave notice of that decision in a Public Notice in the NT News on 24 December, where it said the interim arrangement had “continued for too long without any significant benefit to Traditional Aboriginal Owners, especially management rights over their sea country”.

The Public Notice also advised that the NLC had waived the requirement for permits until the end of June 2017, to allow time for negotiations among the NLC, the NT Government and user groups (Amateur Fishermen’s Association of the Northern Territory, Northern Territory Seafood Council and Northern Territory Guided Fishing Industry Association), with the aim of securing a permanent and comprehensive settlement.

The NLC’s decision does not affect the existing agreements with the Northern Territory Government that allow access for commercial and recreational fishers in six “high value” fishing areas.

History

After the High Court decision, the NLC and the NT Government in 2009-2010 developed a settlement proposal for consultation with Traditional Owners. It was aimed at securing “enduring” and certain access to all Aboriginal-owned tidal waters on a no-fee permit basis. In exchange for allowing “enduring” access, affected Traditional Owners would have got a package worth around \$36m to:

- develop and enhance a better fisheries management model (licensing and management, research, monitoring, and compliance);
- enhance marine ranger powers;
- establish a code of conduct;
- establish boat identification;
- enhance Aboriginal coastal licences;
- enhance commercial fishing opportunities;
- develop an Aboriginal Fishing Corporation;
- receive a one-off payment and annual payments for three high value recreational fishing areas; and
- resolve outstanding land claims.

The offer was presented to a number of Traditional Owner groups in 2010-2011, but it was not favoured. Traditional Owners did not want to give up their right to control access through permits or licences, and were unclear how a NT-wide settlement would benefit their local interests. Taking their reaction into account, the NLC Full Council rejected the offer.

Area agreements

The agenda then moved to negotiate separate agreements with Traditional Owners in small coastal areas where high fishing activity was identified. From 2012 to 2014, six agreements were settled for Thamurrurr, Anson Bay, Malak Malak, Iwaidja Armurduk, Dhimurru and Wurrabiliba

These agreements allow fishers access to tidal waters. Five of them are for twenty years and will expire between 2032 and 2034. The sixth agreement, Iwaidja Armurduk, was originally for three years, expired in June last year, was then extended for another year and negotiations will be held soon about a further extension.

Overall, however, Traditional Owners who have signed up to those six agreements now say the agreements don’t allow them proper control of access or management of their tidal waters. Where two agreements (Iwaidja Armurduk and Wurrabiliba) have “consultative committees”, Traditional Owners want their role strengthened and better supported, in terms of meaningful participation in management decisions.

SCWG and NLC Negotiating Committee

In June 2015, the NLC Full Council established the Sea Country Working Group (SCWG) to advise on how intertidal fishing access issues could be resolved.

The group’s membership is: Keith Rory, Borroloola Barkly region (Chair); Paul Henwood, Darwin-Daly-Wagait; Faye Manggurra, Ngukurr; Shadrack Retchford, Victoria River District; Wayne Wauchope, Wet Arnhem; Wesly Bandi Bandi, West Arnhem.

SCWG members also serve on the NLC Negotiating Committee on Sea Country Access and Management, established in February 2017. The committee also comprises representatives of NT Government agencies, the Amateur Fishermen’s Association of the Northern Territory, Northern Territory Seafood Council and Northern Territory Guided Fishing Industry Association.



Traditional Owner Helen Williams addresses a meeting.

A communique issued after the committee’s first meeting on 17 February said all parties agreed that a new, cooperative and productive approach is needed to implement matters outstanding from the Blue Mud Bay decision.

The committee identified the following priorities: understanding the concerns of Traditional Owners and their aspirations for the intertidal zone; resolution of immediate uncertainties about access; long-term certainty for all user groups; prioritising consultations with affected Aboriginal communities; a five-year strategy to implement marine ranger compliance powers; and ecological sustainability of fisheries across the NT.

Landowner engagement

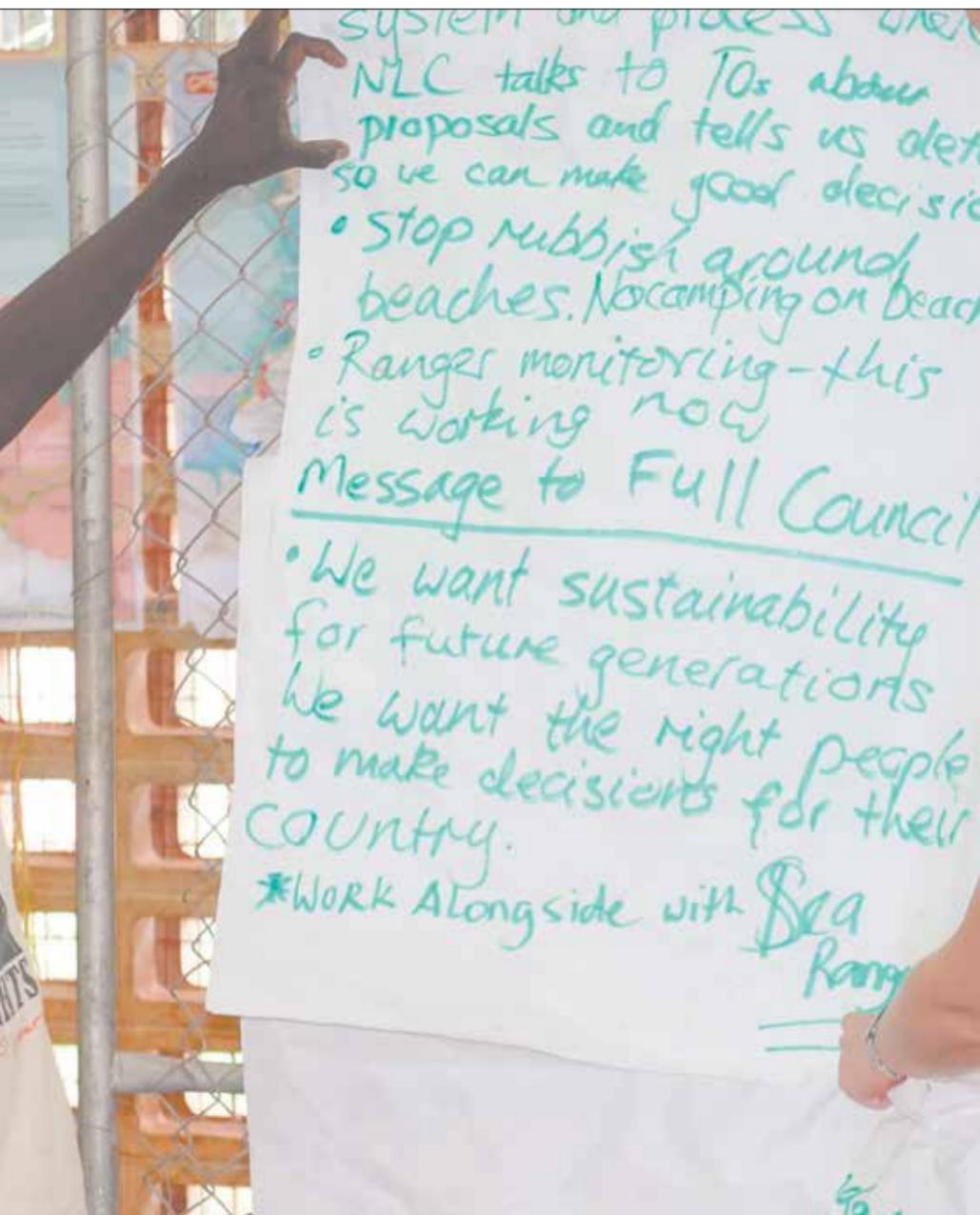
The SCWG is overseeing a process of consultation by the NLC with Traditional Owners across the Top End, which will inform the position of the Negotiating Committee presented to the next NLC Full Council meeting in Katherine, beginning 29 May.

Because of the tight timeframe, five areas have been selected for consultation meetings: Arnhem Bay, Yanyuwa and Malak Malak, Dhimurru, Blue Mud Bay, Iwaidja Armurduk and Maningrida.

So far, the feedback from meetings has been that Traditional Owners want to retain control over access to their waters and participate in fisheries management and development relevant to local perspectives.



Traditional Owner Shane Namanurki (left) and NLC Project Coordinator Mo (Maurice) Motlop display a sheet of talking points from a workshop at Maningrida on 12 April where Traditional Owners discussed access to, and management of, the intertidal zone.



g of Traditional Owners at Maningrida on 12 April.



NLC Anthropology Manager Steve Johnson (left) and NLC Sea Country Policy Officer Lorrae McArthur at Maningrida.



Traditional Owner Julius Clint Kernan (left) and NLC CEO Joe Morrison at Maningrida.



NLC Anthropology Manger Steve Johnson (centre) leads a workshop at Maningrida about the intertidal zone.

ROYAL COMMISSION INTERIM REPORT ... a youth detention system that was likely to leave many children and young people more damaged than when they entered



The Royal Commission into the Protection and Detention of Children in the Northern Territory, announced on 26 July 2016, delivered an interim report on 31 March this year. Its final report is due on 1 August.

In its foreword to the interim report, the Commission said evidence had already revealed a youth detention system that was likely to leave many children and young people more damaged than when they entered. Facilities were not fit for accommodating children and young people, and not fit for rehabilitation.

"They are harsh, bleak and not in keep with modern standards. They are punitive, not rehabilitative," the Commission said.

The youth justice system and child protection systems in the Northern Territory, it said, were "inextricably linked". Evidence had revealed that children and young people in out-of-home care were more likely to enter the youth justice system.

The Commission's interim report identifies some "general themes" from its work to date. On the following pages, Land Rights News reproduces the Commission's "interim observations".

Photo left: Commissioners Margaret White AO and Mick Gooda attend a joint meeting of the Northern and Central Land Councils at Kalkaringi, August 2016.

Pathway from protection to detention

Children and young people who have entered the child protection system are over represented in youth detention, both in the Northern Territory and in other parts of Australia.

In 2014-15, an Australian Institute of Health and Welfare report showed that 45 per cent of children and young people in detention in selected states and territories had also received a child protection service during the same year (the Northern Territory is not included in this statistic).

The Commission has heard that placement instability and having an experience of being in out-of-home care are also strong indicators of potential involvement in the youth justice system.

The Commission will consider what needs to change in the current child protection system to break the cycle for children and young people going from care into detention.

Community safety

The ultimate goals of any youth justice system are to reduce youth crime and build safer communities.

The 2011 Review of the Northern Territory Youth Justice System identified a high level of public concern about community safety and juvenile offenders. The Commission appreciates those concerns are also being voiced today. Victims of crime are understandably angry and frustrated by continuing safety risks posed by young offenders.

However, the Northern Territory youth detention system appears to be failing to reduce the rate of youth crime or rehabilitate youth in detention. To address youth crime effectively, the failings of youth detention also need to be addressed.

It has been put to the Commission that a greater focus on rehabilitation and restorative justice is likely to lead to safer communities. The Commission will hear evidence on these issues in the upcoming hearings.

Striking the right balance between reforming the youth justice system and ensuring community safety is of utmost importance to the Commission. The Commission will continue to receive evidence on this topic from experts and interested persons.

Remoteness and isolation

There are more than 1000 communities in the Northern Territory, many of them geographically dispersed, isolated and hard to access, and subject to seasonal conditions. It is not unusual to drive for up to eight hours from the urban areas to some of these communities. Travel by air may be an option but the cost is prohibitive for the majority of people and air travel is generally only available for medical emergencies.

The Commission has already observed that remoteness from the larger towns may lead to decreased options for health services, less economic development resulting in

fewer jobs, limited educational opportunities and restricted programs and services.

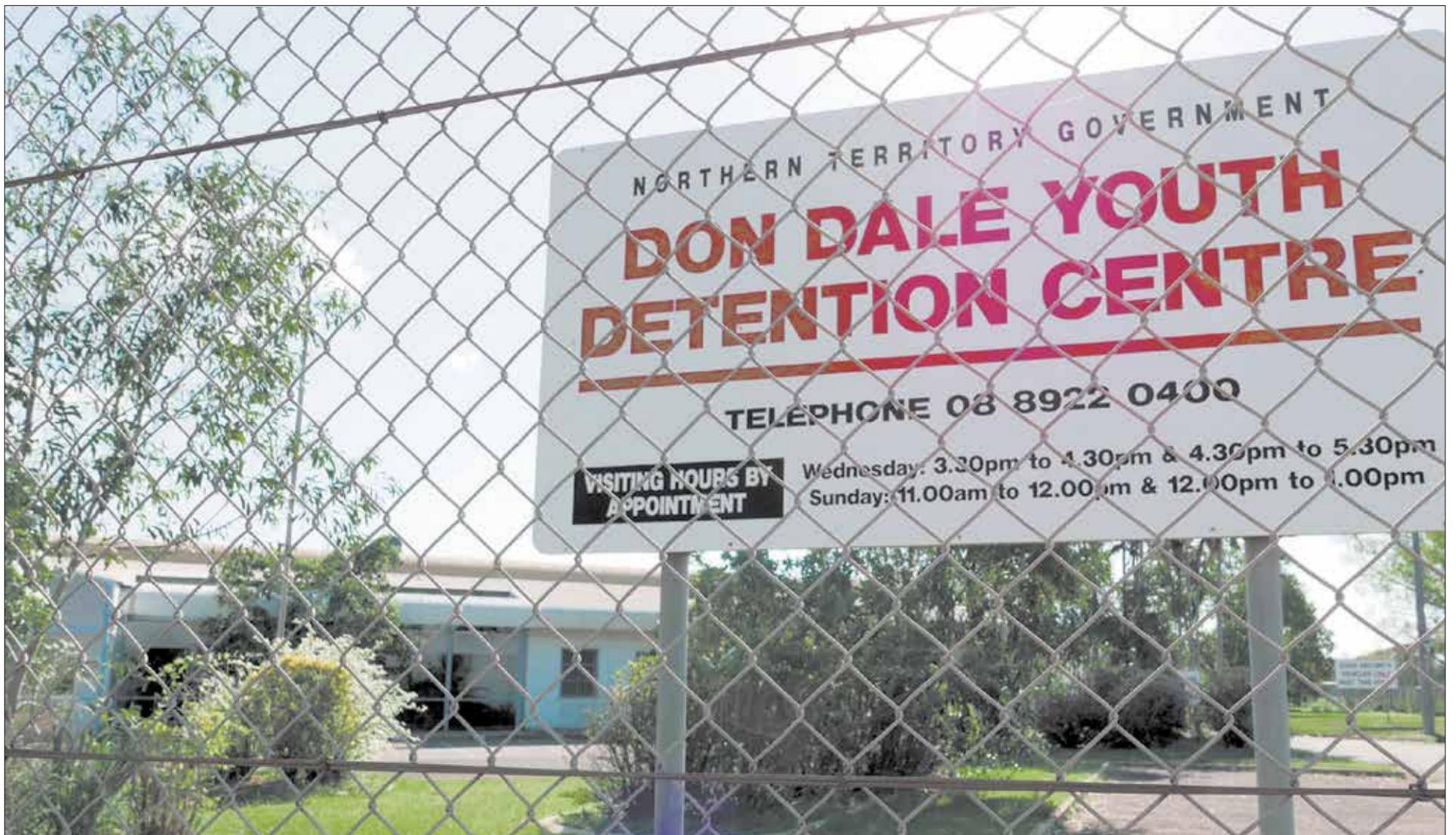
Remoteness means that there are often limited temporary and permanent solutions for child protection, and greater challenges to delivering effective early intervention.

In these circumstances, there are limited options for children and young people and detention may not always be used as a last resort. This results in children and young people being separated from their families and country.

Responding to the issues of remoteness in the Northern Territory will be a fundamental consideration for the Commission when making its recommendations.



The Commission meets Directors of the Warlpiri Youth Development Aboriginal Corporation at Yuendumu.



Disengagement of communities from decision-making

The quality of engagement between governments and the Aboriginal community in the Northern Territory was raised with the Commission many times during consultations and community engagement meetings. There were criticisms of the Northern Territory Emergency Response (the Intervention) and the abolition of Community Councils by the Northern Territory Government in 2007.

Even at this stage the Commission is of the view that any sustainable outcomes in the Northern Territory need to be based on communities being included and participating in decisions that affect them. Engagement not only requires governments to take action, but should also empower community ownership of the problems and participation in determining their solutions.

The Commission will further explore ways of achieving effective engagement as the inquiry progresses.

Over-representation of aboriginal children and young people

The evidence before the Commission clearly establishes that there is a significant over-representation of Aboriginal children and young people in both child protection and youth detention. This fact must influence the Commission's response to many of the issues under consideration.

The Commission accepts that many Aboriginal children and young people face disadvantage from birth. The National Aboriginal and Torres Strait Islander Women's Alliance pointed out to the National Children's Commissioner in 2015 that:

Aboriginal and Torres Strait Islander people continue to suffer the intergenerational effects of past welfare practices including the forced removal of their children and dislocation from their communities, country and culture, as well as experiencing higher levels of poverty and social disadvantage compared to other Australians.

The Commission is acutely aware of the continued impact of intergenerational trauma on Aboriginal people within the Northern Territory. Aboriginal people have experienced

trauma stemming from the results of colonisation and the loss of culture and land, as well as government policies such as the forced removal of children. This trauma has had a negative impact on cultural identity, which consequently has reduced the capacity of Aboriginal people to participate fully in their own lives and community.

The fact that so many Aboriginal children and young people enter out-of-home care and youth detention in the Northern Territory is a consequence of these factors.

Health

There are high rates of mental illness among children and young people in the Northern Territory, particularly among Aboriginal children and young people. Children and young people in the Northern Territory also suffer from high rates of rheumatic heart disease, sexually transmitted infections, ear disease and hearing loss, among other diseases and conditions.

Health issues for children and young people in the Northern Territory will form a significant part of the Commission's considerations as it moves towards making its final recommendations.

The Commission has been provided with evidence from Western Australia, which is applicable across all Australian jurisdictions, that demonstrates the profoundly harmful effect of the alcohol consumption, particularly in the early stages of pregnancy on the developing brain of an unborn child, leading to cognitive and behavioural deficits known generically as Foetal Alcohol Spectrum Disorder (FASD). Children and young people affected by FASD experience significant behavioural problems, including difficulty

paying attention, learning and controlling their emotions and urges, and placing them at significant disadvantage in the context of the criminal justice system. It also adversely affects their educational outcomes and general well-being.

The Commission has received evidence that critical periods of brain development occur from conception to birth, through early childhood and into adolescence. The Commission has been told that from conception to the age of five, environmental influences have a disproportionately greater impact on brain development compared with any other stage in life, and that trauma experienced in that period can have profound impacts that last through to adulthood. For example, the Commission has heard that early life trauma can expose children to 'toxic stress', which can impair the development of neural connections in the developing brain, leading to lifelong problems with learning, behaviour and physical and mental health. These problems, in turn, are associated with an increased likelihood of contact with the child protection and youth detention systems.

A second significant period of brain development occurs from early puberty through to early adulthood, when the brain matures in order to achieve higher order cognitive function, including decision-making, memory recall, understanding consequences and language comprehension.

The Commission has been provided with evidence indicating that incarceration during this period of brain development can be traumatic and can interfere with the normal developmental processes.

The Commission will continue to investigate these issues and consider the consequences of adolescent incarceration upon the developing brain. Health issues for children and young people in the Northern Territory will form a significant part of the Commission's considerations as it moves towards making its final recommendations.

Alcohol and other drugs

The Commission is aware of the high rates of drug and alcohol use (as well as other volatile substances) in the Northern Territory, and its impacts. In March 2017 the Australian Criminal Intelligence Commission released data on drug and alcohol use in the Northern Territory

indicating that alcohol and tobacco consumption rates were the highest average per capita across all states and territories, and with high rates of consumption of methylamphetamine ('ice') and MDMA.

The Centre for Primary Health Care and Equity reports that 'Aboriginal people are more likely to be incarcerated if they have a history of substance misuse, and substance misuse is considered to be responsible for a large proportion of offending behaviour that leads to incarceration'. The Commission has also heard that children and young people who are being detained in detention centres are often withdrawing from drugs and/or alcohol.

Youth justice

The Commission is continuing to take evidence on a range of practices within the detention centres, including the use of restraints, isolation and force, as well as the general treatment of detainees by detention centre staff.

The evidence heard so far, however, raises serious concerns about inappropriate and unlawful practices, unacceptable standards of conduct and inappropriate methods of dealing with detainees within the youth detention centres.

The Commission has heard evidence to the effect that a causal factor may have been the quantity and the quality of the training received by staff working in youth detention centres along with the staffing levels at the centres. Training has been explored with a number of youth justice officers through their statements, in public forums and in the public hearings.

Problems in the detention centres were also recognised within government well before the broadcast of the Four Corners program that led to the establishment of this Commission.

In September 2014 a 'Memorandum of Issues in Youth Detention' prepared by the Director of the Department of Correctional Services' Professional Standards Unit listed many of the same issues which have been raised in the Commission's hearings, including:

- poor or inadequate staff recruitment, training and rostering;
- inappropriate communication methods used by staff with children and young people;
- a lack of understanding of the rules of the centre by the children and young people detained;
- a lack of direction from centre managers; and
- insufficient programs and activities for the children and young people detained resulting in boredom and escalation of difficult behaviours.

The Memorandum concludes:

It should be obvious to anyone that if you treat youths like animals by not communicating, threatening, belittling them, withholding food and other entitlements they will react in an aggressive way. Most of these incidents were most probably entirely preventable with the use of appropriate communication and open interaction with the detainees combined with a regular routine to keep them occupied.

The positive response of youth justice officers once provided with direction from prison staff, clearly indicates that most youth justice officers are capable of performing

appropriately once they are shown what is expected of them and follow up is provided to them to reinforce that they are doing the right thing.

The Commission expects to hear further evidence on this Memorandum as public hearings progress and will no doubt hear a range of perspectives on the challenges faced by those working in the youth detention system or responsible for overseeing that system.

The Commission is aware that the Northern Territory Government has recently announced a number of measures to address some of these issues.

New youth justice officers will undergo six weeks of training with a focus on rehabilitation, including training about the impact of trauma on children and young people delivered by the Australian Childhood Foundation. A total of 25 new youth justice officers have been recruited to undergo this training, including 11 women and 12 Aboriginal people.

It is important to note, however, that many children and young people enter detention with serious cognitive disabilities, mental illness, addiction to nicotine, alcohol and other drugs as well as physical deficits such as poor hearing and sight, and, in some cases, also functional illiteracy.

These factors impact on their behaviour and ability to conform to the rules within a facility. The Commission has heard some evidence from past detainees who suggest that rules were not well communicated or consistently applied.

The Commission will continue to take evidence on these issues, and examine past and current practices in detention centres in the Northern Territory. The Commission will also continue to investigate methods of dealing with

detainees, standards of training and the qualifications of youth justice officers.

In addition, the Commission will examine the importance of ensuring that Northern Territory youth detention centres are accessible to families, that visiting hours are sufficiently flexible to encourage family visits, and that the facilities are accessible by public transport. It will consider the treatment of detainees upon arrival in detention, including the availability and the adequacy of health checks, as well as the steps taken to ensure that detainees are given full and adequate information about the circumstances of their detention in a language that they understand.

The Commission has heard that cultural competency recognises and understands that Aboriginality is not generic and that a range of individualised factors such as language, clans, skin groups and remote or urban-based communities inform how Aboriginal children and young people should be treated, what they consider important and how they may react.





A forum at Alice Springs on 24 February to discuss alternatives to detention.

Access to culture

Communities and experts have told the Commission about the importance of maintaining and strengthening connection to land and culture as a protective factor for young Aboriginal people.

The Commission has heard that cultural competency recognises and understands that Aboriginality is not generic and that a range of individualised factors such as language, clans, skin groups and remote or urban-based communities inform how Aboriginal children and young people should be treated, what they consider important and how they may react.

The Commission will continue to consider the extent to which Aboriginal children and young people in detention are able to maintain their connection to culture and community and the significance of this connection.

Detention facilities

Site visits to the current youth detention centres have revealed fundamental problems with the structural design of the Northern Territory youth detention centres. The Commission has heard concerns about the age and unhygienic conditions of the detention centres, their inappropriate design, the absence of privacy and the lack of windows for natural light and ventilation.

The Commission will consider whether poor design and infrastructure may have contributed to incidents and disturbances in centres. The Commission will address the conditions of detention facilities as it moves forward. This will include considering alternative options and best practice facilities in other jurisdictions.

The Commission notes the Northern Territory Government's announcement that additional funds have been identified for investment in new youth detention facilities. However, it would be premature for the Northern Territory Government to commit those funds at this stage to any immediate upgrading or building new detention centres before the Commission completes its work and makes final recommendations. While there is no doubt that the current facilities are not appropriate places to house youth detainees, before expending additional resources to fix or replace them, decisions need to be made about the more fundamental question of what kind of facilities are required, and where they should be located. The Commission is examining these questions in its inquiry,

including considering the most appropriate model for detention facilities in the Northern Territory.

Diversion

The appropriateness and effectiveness of diversion of children and young people away from the formal court process has emerged as an important theme for the Commission's consideration.

On 24 February 2017 the Commission hosted an expert roundtable, 'Diversion and Alternatives to Youth Detention', in Alice Springs. The roundtable brought together community organisations, government officials, academics and service providers from across Australia. Participants engaged in a detailed discussion considering the underlying principles of youth justice, early intervention, diversion and successful models of detention. The roundtable was an opportunity for the Commission to hear firsthand from experts with experience in diversion, including local service providers in Alice Springs.

The Commission is aware that on 8 February 2017 the Northern Territory Chief Minister announced an \$18.2 million package of initiatives to address crime and to break the cycle of offending. The announcement included commitments to:

- fund 52 youth diversion workers based in Darwin, Palmerston, Katherine and Alice Springs, to be co-located with police, education and non-government organisations—the positions were to start immediately and be operational in all regions within three months; and
- provide an additional \$6 million for non-government organisations to run diversion options for police and courts and to support the enforcement of bail conditions.

The Commission is also aware of a staffing increase for Northern Territory Police to tackle youth crime, announced on 31 January 2017. The Commission welcomes this new funding, noting particularly the additional support for diversion.

Diversion options arise at many stages, from the time a child or young person first comes into contact with the police, through to the courts and sentencing options. Police engagement with 'at risk' children and young people in the Northern Territory can involve diverting them away from

formal court processes with the use of warnings, cautions, family conferencing initiatives and other diversion programs.

The Commission has benefited from discussions with police officers who participated in the meetings in Darwin and Alice Springs. The Commission received evidence that diversion at the earliest stage of a child or young person coming into contact with the police is shown to have positive results when implemented effectively.

The Commission notes that police are key to a successful reform agenda to divert children and young people away from a life of crime. The decisions police make in the early stages of their contact with a child or young person will affect the way they travel through the youth justice system, and how likely they are to be sent to detention.

The Commission will also consider the use of group conferences and family conferences, which are used in other jurisdictions including South Australia and Victoria as an alternative to divert children and young people away from the court system, and involve families in the decision-making process.

In future hearings, the Commission will consider whether the current or proposed diversion options in the Northern Territory are appropriate, sufficient and well-targeted.

Another important theme that has emerged from the Commission's work is the use of remand, the practice of holding children and young people in detention prior to conviction. The majority of the youth detainee population today are on remand, awaiting trial or hearing, and a significant proportion are in detention for breaching the 'non-criminal' conditions of a bail order.

The Commission will examine alternatives to custodial orders and remand conditions in future public hearings.

Bail conditions

The Commission has heard that bail conditions in the Northern Territory are too strict, particularly for minor offences, and effectively set children and young people up to fail with breaches of bail conditions leading to detention. However the Commission has also heard that while on bail, children and young people continue to offend.

Notably, there has been a substantial increase in breaches of bail conditions by children and young people in the Northern Territory in recent years. It has been suggested that there is a need for a more graduated response to breaches of bail.

The Commission notes the Northern Territory Government's recent legislative amendments to expand the use of electronic monitoring bracelets.

The Commission will further consider issues relating to bail, together with the use of specific remand facilities, separate to youth detention centres with fewer restrictions placed on those on remand. The Commission will also look into the important role of police in making decisions about breaches of bail conditions, which could lead to detention.

Post-detention and recidivism

Preparing children and young people to reintegrate into society is fundamental to their rehabilitation and to reducing crime. Support for children and young people leaving detention is critical to their successful transition back into the community and not falling back into a cycle of re-offending.

The Commission will examine post-detention services for children and young people in the Northern Territory in future hearings. The Commission will also consider the need for transition planning for those leaving detention.

“Being part of the Recognise campaign makes me proud and I know my whole family is very proud of me.”

Lena Marion Petterson, 14, Darwin

Meet Lena Marion Petterson. She's 14 and she's just finished a two-day workshop with Recognise, the people's movement raising awareness about the need to change the Australian constitution.

“Being part of the Recognise campaign is very important to me because this has an impact on my future and who I am,” she said.

“Not many people know about the stuff our people have gone through. So getting that acknowledgement in the constitution will just give people a lot more knowledge.”

Lena Petterson goes to school in Darwin, but heads out to her traditional land at Litchfield National Park, whenever she can.

“I think I'm really privileged to know where I'm from and to still have some of

our land. There's definitely a connection with the land. It's not something you can talk about it's just a feeling you get when you're there.

“I love going fishing and shooting. When I go fishing with my brothers and sisters, we just grab our rods straight out of the troopy and line up along the banks. We go shooting for goose and pigs and it's heaps of fun.

“My nanna, Marion Scrymgour, is from the Tiwi Islands, just north of Darwin. We catch the ferry there sometimes on weekends and go to the beaches and go fishing.”

Lena recently joined a group of teenagers who travelled to Sydney to find out more about Recognise and get involved in the campaign. They'll now join a

national network of Recognise Youth Representatives to raise awareness among young Australians.

Young voters aged 18-24 represent 12 per cent of the national electorate and will be critical to the success of a referendum on constitutional recognition.

Lena is excited about being involved in the campaign and will be making the most of every opportunity she can to spread the word about Recognise.

“I'm going to start by talking to my family and my friends and then I'm going to talk to my teachers and see if I can speak at my school assembly. I'm also going to go to a few footy games and just try and get the word around about Recognise.

To find out more visit: www.recognise.org.au



NT Field Leader for Recognise, Mae Mae Morrison hits the road for constitutional change

Mae Mae Morrison has been travelling across the vast regions of the Northern Territory spreading the word about the need for constitutional reform.

Mae Mae is the NT Field Leader for Recognise, the people's movement raising awareness about the need to fix the Australian Constitution.

The Constitution, written in 1901, makes no mention of Aboriginal and Torres Strait Islander people. It also has sections in it that allow for discrimination based on a person's race.

"When the Constitution was written more than a century ago, 40 white fellas sat around the table to write the nations rule book. They thought Aboriginal and Torres Strait Islander people were a dying race. But we proved them wrong. And I believe acknowledgement of us mob in that document, as the first nations of this country, is long overdue," said Mae Mae Morrison.

Mae Mae's first contact with Recognise was back in 2013 in Alice Springs. She was working in the health sector when the Journey to Recognition arrived at the Central Australian town.

"I saw all this mob with the R shirt, and I was thinking, who are these guys? I had a conversation with the actor Aaron Pederson and he told me what the campaign was all about and I got interested. He was talking about us mob in the constitution and how we need to be acknowledged as the First Nations of this country."

In her new role, Mae Mae will co-ordinate and train a team of volunteers across the Northern Territory. She will be attending many community events including the Barunga and Garrmalang Festivals and she'll also be holding information sessions.

Mae Mae is a Torres Strait Islander and Aboriginal woman originally from Queensland. She first moved to the Territory nearly 30 years ago, to kick off her career in radio journalism at Batchelor.

Mae Mae has decades of experience in remote community engagement. She speaks Yolngu Matha and Torres Strait Creole and has strong connections across the Northern Territory and Queensland.

Along with Mae Mae in the Northern Territory, Recognise has a national network with Field Leaders in New South Wales, Western Australia, South Australia, Queensland and the ACT.

Recognise Joint Campaign Director Mark Yettica-Paulson said, "like the successful 1967 referendum and the Mabo decision, constitutional recognition is an important next step in the journey to reconciliation."

"As we mark the 50th anniversary of the 1967 referendum, we look back on the hard work of those tireless campaigners who brought about the most successful referendum in Australia's history. Nine out of ten Australians voted "YES" to equality, for a better deal for Aboriginal and Torres Strait Islander people.

"The '67 campaigners pounded the pavement, bussed, walked, baked and talked their way around Australia to drive home their unifying message for change. It's now time for our generation to do that again.

To find out more visit www.recognise.org.au



JOINT MANAGEMENT PROGRAM:

Judbarra/Gregory National Park



Judbarra/Gregory Joint Management Committee, with additional NLC staff and NT Parks & Wildlife Service staff.

The joint management program at Judbarra/Gregory National Park continues apace in 2017. A Joint Management Committee meeting was held at Timber Creek in March 2017. The meeting included a workshop on governance and effective meeting procedures in a Joint Management context.

The meeting gave committee members and mentors the opportunity to review the park's on-ground operations from the previous year, as well as discussing permit applications and proposed work plans for 2017.

In May 2017 a team of scientists from the NT Department of Environment and Natural Resources undertook intense field surveys of the wildlife of Judbarra/Gregory National Park. The scientists were keen to have the support and involvement of Traditional Owners. The Timber Creek Ranger crew were able to assist for 1 week, their assistance and skill providing a unique insight for the scientists.

One survey site proved to be a hot-spot for the northern rock rat, with up to 10 of them caught per night. The rangers assisted with the setting up of night-time motion detecting cameras, which should provide additional data on species present once the cameras are collected and analysed. It is proposed that the surveys will be conducted every 3 years to determine the ongoing health of wildlife with the national park.



Raniel McCann and Kym Brennan (DENR) setting up a motion-camera site.

Working together to manage Mimosa in the Finnis Reynolds Catchment

***Mimosa pigra*, a Weed of National Significance, has become a significant wetland weed in the Top End where it forms impenetrable thickets along drainage lines, across floodplains and around billabongs in many river catchments. It has caused many serious cultural and environmental issues in the Finnis and Reynolds River catchments, including impacting on the ability of the Aboriginal traditional landowners to access food resources and manage cultural sites, reducing the biodiversity value of floodplain habitats and the grazing value of pastoral land.**

The Finnis Reynolds Catchment Group (FRCG), a five-year project funded under the Australian Government's Biodiversity Fund Round One initiative was established in 2012 to address these issues. Since 2013, the project has been coordinated by Territory Natural Resource Management (TNRM), the regional NRM body for the NT. The project has engaged land managers and representatives from pastoral properties, Indigenous ranger groups and the Northern Land Council (NLC), various small property managers, and staff from NT Government Weeds Management Branch, Litchfield National Park and the NT Land Corporation.

Case study - Bulgul Rangers trial biocontrol methods

As part of the project, the NLC Bulgul Rangers operating within the Delissavale/Wagait/Larrakia Aboriginal Land Trust have

been involved with biocontrol of Mimosa in floodplains where the use of other methods of management is not possible. The control of floodplain weeds can be challenging, particularly in areas too wet to access until after the weeds make seeds each year. Using biocontrol makes good sense in such situations, and there is no off-target damage.

The Bulgul Rangers released the Mimosa flea beetle, *Nesaecrepida infuscata* in paperbark floodplain areas within the Land Trust. The beetle works by damaging both the leaves and the roots of Mimosa. The flowering and seeding of the Mimosa plants has slowed right down at the release sites, and defoliation by the insects has allowed light to reach the ground and helped native plants to establish. Despite the extra light on the forest floor, new generations of Mimosa are not persisting as the seedlings also get damaged by the beetle.

Overall, the Mimosa flea beetle has been very effective in reducing seed output and reversing Mimosa spread. The Bulgul rangers are very happy with the impact that the beetle is having at the release sites, and are now encouraging the beetles to spread by deliberately redistributing them to other areas. They collect the beetles easily by shaking the Mimosa branches over a funnel with a container attached on the bottom. The containers of beetles are then taken to new sites and let go where the Mimosa is looking big and healthy. The distribution work doesn't need fancy equipment, and anyone can do it, making it a really handy way for people to help slow down Mimosa plants in areas where they can't spray easily.

Project outcomes - the future

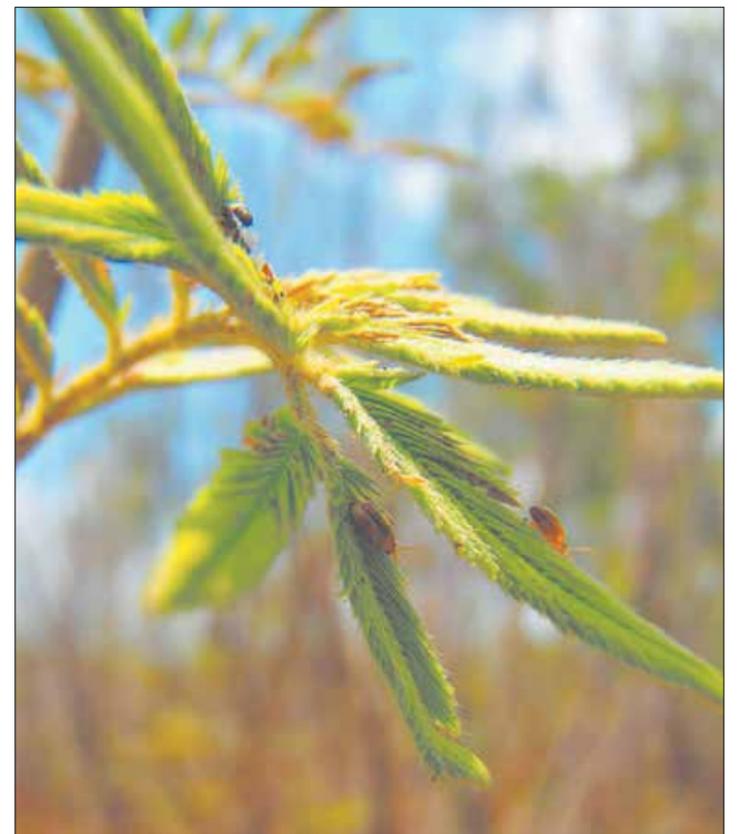
Project outcomes over the five years since 2012 have included a reduction in Mimosa

infestation in the Finnis Reynolds Catchment, identification of priority fauna species in the area, increased establishment of biocontrol agents, and increased relationships and knowledge transfer between the people who own and help manage country and protect the values of the catchment. TNRM is now helping the FRCG to highlight their achievements, market gains made through the project, and seek ongoing funding and sponsorship opportunities to continue this important work and other priority catchment activities.

To learn more about the FRCG project, please contact:

Territory Natural Resource Management
08 8942 8303

Ricky Cubillo, Bulgul Ranger Coordinator
08 8978 2585



Adult mimosa flea beetles, *Nesaecrepida infuscata*, on a Mimosa plant.



Bulgul Rangers, with TNRM and NTG Weeds Branch staff, translocating *Nesaecrepida infuscata* beetles.



Collecting *Nesaecrepida infuscata* beetles for translocation to other Mimosa infestations.

ORD FINAL AGREEMENT: Study questions enduring worth of land use agreement for Miriuwung Gajerrong people



A study published by Curtin University and the Centre for Regional Development at the University of Western Australia has questioned the enduring worth of an Indigenous Land Use Agreement (ILUA) between the WA Government and the Miriuwung Gajerrong people.

Known as the Ord Final Agreement (OFA), finalised in September 2005 and registered a year later, the ILUA was meant to deliver a range of social and economic benefits in return for the native title holders having agreed to surrender their native title rights over specific land areas.

The WA Government website records that the ILUA would:

- resolve native title and heritage issues affecting approximately 65,000ha of land around Kununurra and Lake Argyle, paving the way for Ord Stage 2, and other agricultural, industrial and residential developments;
- provide for the creation of six conservation parks covering approximately 154,000 hectares; and
- accelerate economic development in the East Kimberley Region, creating long overdue employment opportunities in one of the most disadvantaged areas of Western Australia.

The authors of the report, *Aboriginal Assets? – The Impact of Major Agreements*

Associated with Native Title in Western Australia, say that in light of the Miriuwung Gajerrong peoples' struggle for native title recognition and their insistence that compensation for previous injustices be included before moving forward with the Ord Final Agreement, the relinquishing of native title rights as part of the Ord Final Agreement was "clearly a very substantial compromise for the traditional custodians to make".

And those traditional custodians had high hopes that substantial benefits would flow from the OFA, as the authors record from an interview with one of them: "When we first signed that agreement back in 2005 ... there were a lot of, you know, aspirations and there were a lot of Aboriginal people with a lot of good gut feeling, you know, a lot of good binji ... there were a lot of benefits in there, too, as well, as part of that Aboriginal Development Package, you know, for employment and training and job opportunities ... there were also opportunities for MG people to start up their own business."

The report states: "On the face of it the agreement provides for a substantial package of benefits. However, the \$11 million Ord Enhancement Scheme, included as compensation and to implement the recommendations of the Aboriginal Social and Economic Impact Assessment equates to less than \$3,500 per beneficiary. With the overall package of benefits estimated to be worth \$57 million, this translates to around

\$20,000 per beneficiary. However, because the agreement provides for benefits in a complex range of forms and with extensive limitations, including dictating governance structures, assigning a monetary value to those negotiated outcomes is highly problematic".

Also, a series of delays in the development of Ord Stage 2 has curtailed the potential for traditional owners to secure alternative income streams. One traditional owner told the authors of the report: "There were supposed to be certain lands which were to be released for economic developments. The OFA gave the MG people or the MG Corporation 10 years to 'make yourself self-sustaining'. Ten years have gone. The lands which were economically viable, we still haven't got, and the State keeps telling us 'when it is convenient' for them."

Another traditional owner said: "The intention was for a lot of benefits to roll out, but in actual fact nothing has really rolled out at all because of the slowness of the promised land releases and all that for us to become economically viable."

The authors discerned "a strong sentiment" that the WA Government had failed to act in good faith, but the limitations of the negotiated agreement were also noted as a major contributor to the poor outcomes: "With a caveat to having the benefit of hindsight, one respondent describes the negotiated agreement in the following terms:

"If you look at the OFA as a document, it is one of the worst agreements that I have ever come across. It gives all power and authority to the State Government, basically forces the MG people to do lots of things, and it didn't really set up an equal partnership between the MG people and the State. The State ... had all the rights and no responsibilities."

The report concludes: "After the long and arduous journey of native title claims, appeals and then negotiation of the OFA ILUA, the Miriuwung Gajerrong people have been left with greatly curtailed control over the land ruled to be their traditional country and seemingly little in the way of the benefits of employment, enterprise development and economic independence that they set out to achieve through the agreement.

"While initial impressions may be of a sizeable compensation package, and indeed benefits have accrued in a variety of forms, there is a perception that they have given up much for relatively little. This perspective is most evident in sentiments expressed by people in the senior management of MG Corporation that, with the benefit of hindsight, they would do things very differently if given the chance over again to negotiate the agreement. The OFA appears to have done little to address poverty and other social problems that remain entrenched among many of the Muriuwung-Gajerrong people."

FEDERAL BUDGET 2017-18

How it was sold and received

Government

WHAT THE GOVERNMENT SAID:

The Coalition Government is making the right choices, with Aboriginal and Torres Strait Islander people big winners from the federal budget.

The Minister for Indigenous Affairs, Senator Nigel Scullion, said the cross-portfolio budget investment delivered fairness, opportunity and security – for all Australians, especially First Australians.

“The three key principles that underpinned this week’s budget were fairness, opportunity and security. The Indigenous-specific initiatives supported in this budget can be seen through this prism,” Minister Scullion said.

“Governments should do all they can to ensure our First Australians have every opportunity the wider community enjoys to get a good education and work in a good job, and feel secure in their homes, workplaces, streets and shops.

“Our policies are going a long way to delivering on this for Aboriginal and Torres Strait Islander Australians.”

The Coalition Government’s cross-portfolio

investment in initiatives to improve outcomes for Aboriginal and Torres Strait Islander people includes:

\$55.7m to help Close the Gap in Indigenous employment by strengthening the engagement between employment services providers and Indigenous communities and providing enhanced support for Indigenous participants;

\$146.9 million in business support for Indigenous entrepreneurs including tailored loans and capital assistance;

\$11 million to develop and implement a Community Development Programme youth engagement strategy in collaboration with remote schools;

\$113 million to expand the ParentsNext initiative to 30 locations to provide intensive support to help increase the participation of Indigenous parents in the labour market;

\$15 million for new Indigenous Protected Areas in addition to those already declared or under consultation as part of the Indigenous Protected Areas Network;

\$5.9 million to help close the gap in literacy achievement, trialling the use of play-based

digital applications to improve English literacy outcomes for Indigenous children in 20 preschools across the country;

\$33 million through the Boosting the Local Care Workforce initiative to support more regional workers, including First Australians, to meet the demand of the National Disability Insurance Scheme and an ageing population;

\$39 million for Community Legal Centres to support victims of domestic violence;

\$16.7 million for Indigenous Legal Assistance Providers to assist in addressing Indigenous incarceration rates;

\$0.4 million for the supply of medicine through the Pharmaceutical Benefits Scheme to clients of Remote Area Aboriginal Health Services;

\$18.8 million to continue the Rheumatic Fever Strategy including expansion to at-risk communities;

\$52.9 million to enhance research and evaluation in Indigenous Affairs, including the establishment of an Indigenous Research Fund.

Minister Scullion said cross-portfolio efforts

would build on the success of initiatives such as the Government’s Indigenous Procurement Policy, which, in its first 18 months, had seen 708 Indigenous businesses win Commonwealth contracts worth \$407 million.

“To drive greater change and to close the gap, we need to harness greater opportunities for Aboriginal and Torres Strait Islander people across all areas of government expenditure and investment,” Minister Scullion said.

“For example, infrastructure spending not only delivers roads and rail that improves the services for regional communities, it ensures there are jobs and opportunities for businesses in those communities, many of which are Indigenous owned and run.

“I will be pushing hard to ensure infrastructure investment, such as Sydney’s second airport, delivers jobs and business opportunities for First Australians.

“Improving opportunities for Aboriginal and Torres Strait Islander people will lead to much better outcomes and help to close the gap. This budget ensures even greater opportunities for First Australians right across the board.”

Labor Party

WHAT THE LABOR PARTY OPPOSITION SAID:

The 2017 Budget fails to deliver for Aboriginal and Torres Strait Islander Australians.

Malcolm Turnbull is spending \$50 billion on a tax handout for big business, but he refuses to reverse the \$500 million in cuts the Government has made to the Indigenous Affairs portfolio. It’s clear what his priorities are – and it’s clear he is out of touch.

The Government is persisting with its discredited and disastrous Indigenous

Advancement Strategy, even though it has been shambolic and led to widespread confusion amongst local organisations.

The Indigenous Advancement Strategy has been evaluated – and it’s been judged a failure. It should be ripped up and replaced with something that respects local voices, gives more control to communities and Indigenous controlled organisations, and prioritises evidence-based outcomes.

While the Budget includes piecemeal proposals for better employment and health outcomes, there is no comprehensive strategy

to make progress on the stalled Closing the Gap targets, or to address other longstanding issues such as the incarceration crisis.

The Budget also fails to secure the future of the National Congress of Australia’s First Peoples with proper funding. Congress is our independent, elected, national Indigenous representative body – it must be respected and resourced.

Of course, the Government’s savage cuts to Medicare and schools will hurt millions of Australians – and Indigenous Australians will be disproportionately affected.

The Government’s entire approach to Indigenous Affairs is defined by savage cuts to services, a loss of local control, a failure to listen to Indigenous voices, and policy-making which is paternalistic and overly bureaucratic.

It’s time for Malcolm Turnbull to listen and lead.

He should start listening to the views of Aboriginal and Torres Strait Islander people about what is working and what isn’t. He must start leading by finally addressing his government’s failures, and changing his approach.

Legal Sector

WHAT THE LEGAL SECTOR SAID:

The National Aboriginal and Torres Strait Islander Legal Services (NATSILS), National Family Violence Prevention Legal Services Forum (NFVPLS) and National Association of Community Legal Centres (NACLC) joined together to respond to the Federal Budget.

The three peaks jointly welcomed the additional funding in the Budget of \$39 million for Community Legal Centres (CLCs) and \$16.7 million for Aboriginal and Torres Strait Islander Legal Services (ATSILS).

“The additional funding for CLCs provides a critical lifeline for all those people who rely on the help of CLCs every day and for our centres and communities across Australia,” said NACLC Chief Executive Officer Nassim Arrage.

“The decision to reverse funding cuts to ATSILS is one step toward ensuring our communities have access to justice and diversionary services” Cheryl Axleby, Co-Chair of NATSILS said.

“However, this Budget is a missed opportunity to invest in putting an end to family violence against Aboriginal and Torres Strait Islander women” said Antoinette Braybrook, National Convenor of the National Family Violence Prevention Legal Services Forum.

“Aboriginal and Torres Strait Islander women are still 34 times more likely to be hospitalised from family violence and 10 times more likely to die of violent assault than other women.

“While we welcome the additional \$9 million for FVPLSs announced last year, we continue our calls for increased funding to ensure national coverage and long-term funding to

create certainty for our services across the country. This would be a tangible commitment to ensuring safety for all Aboriginal and Torres Strait Islander women, regardless of their geographical location.”

“This Budget addresses the immediate funding crisis for most CLCs, but there is more work to do” Mr Arrage said.

“There is more work to do in ensuring increased, secure and long-term funding for the legal assistance sector. There is more work to do with Government towards a fairer society where anyone can receive legal help when they need it, not just when they can afford it”.

Ms Axleby agreed: “Commitments to justice should not stop there. The Government must take further action aimed directly toward ensuring incarceration rates for Aboriginal and Torres Strait Islander people do not continue

to soar as they have done”.

All three peak bodies called for a long-term vision for the legal assistance sector that includes adequate, sustainable and predictable funding, building on the recommendations made by the Productivity Commission.

“Our services require funding stability and certainty to ensure the ongoing delivery of essential front line services to our people” said Ms Axleby

“We urge the Government to treat today as the beginning of the next chapter for the legal assistance sector to engage with us to develop a vision for a sector that can meet the significant demand for our services across Australia,” Mr Arrage said.

KENBI RANGERS ON THE FRONT LINE

The NLC's Kenbi Rangers played a big support role in a scientific program to release thirty five northern quolls on Indian Island at the entrance to Bynoe Harbour on 12 May.

The program is a partnership with scientists from the University of Melbourne, and aims to establish on the island a colony of quolls resistant to poisonous cane toads.

The main breeding stock of the quolls released on Indian Island came from Queensland, where they have learnt not to hunt cane toads. Cane toads were released in north Queensland in 1935 to help control beetles that were damaging sugar cane crops. The experiment failed, and the cane toad has since devastated native fauna populations across northern Australia, including the northern quoll.

Indian Island is overrun with cane toads, and the batch of quolls released there had already been trained not to eat them. Before they were let free on Indian Island, the quolls had been trained to avoid cane toads by being fed their flesh which had been laced with a chemical which made the quolls sick.

The Kenbi Rangers worked closely with the University of Melbourne scientists for several months in the lead-up to the quolls' release. Camping on the island, the rangers provided logistics support and their boats were used for transport to and from Indian Island.

The rangers had also travelled to Melbourne to update university staff on the program. They will have a continuing role in periodic monitoring of the new population of the introduced quolls.



Senior Kenbi Ranger John "Mango" Moreen at his camp on Indian Island. The boxes contain the northern quolls which had been brought by boat from Darwin. Photo courtesy ABC News (Steven Schubert).

TOP END
HEALTH SERVICE

Sexual Assault
Awareness Month

Prevention is possible

Raising awareness of Sexual Assault.

Talk Early

Talk Often

Talk Early

Sexual violence is a widespread issue that impacts everyone. We can all play a role in preventing sexual violence and supporting survivors. Together we can create safe and respectful communities.

Talk Often

We encourage the community to raise awareness of sexual assault by:

- Challenging secrecy, shame, and isolation about sexual assault
- Providing support and understanding to survivors
- Promoting justice and condemning sexual assault.

Prevent Sexual Assault

- Discuss sexual assault with family, friends and children
- Teach children about feeling safe, and forming respectful relationships
- Promote prevention and support for survivors in your workplace through policies and education.

For more information or support please call the Sexual Assault Referral Centre:

Darwin 8922 6472
Katherine 8973 8524

www.health.nt.gov.au



Land Rights News Northern Edition
is published by Samuel Bush-Blanasi
for the Northern Land Council.

Publication dates
January, April, July, October

Circulation
7,000

Contributions
Land Rights News welcomes stories
and photos about Aboriginal people
and organisations.

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