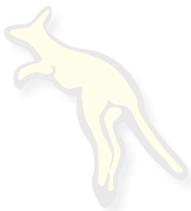
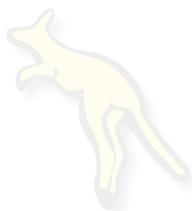




KIMBERLEY LAND COUNCIL

ANNUAL REPORT 2010





VISION

THE
KIMBERLEY LAND COUNCIL
IS A
COMMUNITY ORGANISATION
WORKING FOR AND WITH
TRADITIONAL OWNERS
OF THE KIMBERLEY,
**TO GET BACK COUNTRY,
TO LOOK AFTER COUNTRY,
AND TO
GET CONTROL OF OUR FUTURE**



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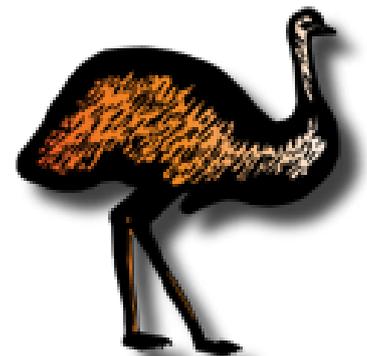
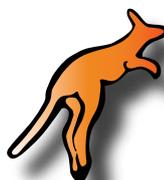
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INTRODUCTION

The Kimberley Land Council has experienced rapid growth over the past few years. While Native Title Representative Body (NTRB) activities remain the core business of our organisation, we have branched out into a broad range of programs that help us to achieve our members' Vision of getting back country, looking after country, getting control of the future, and being a strong organisation.

In past years, the KLC's Annual Report has focused almost entirely on NTRB activities. As part of the NTRB funding agreement with the Commonwealth Government, we are still required to present detailed technical information on our NTRB functions. This information is now included as an appendix of the Annual Report.

In order to reflect the full diversity of the KLC's operations, the Annual Report is now set out in terms of achieving the organisation's Vision, and will be organised under four main headings:

- Getting Back Country
- Looking After Country
- Getting control of the future
- Having a strong organisation

The Annual Report will also now be written in plain English, and will give a clear picture of what activities the KLC has undertaken to achieve our Vision over the reporting period (that is, from 1 July 2009 to 30 June 2010).

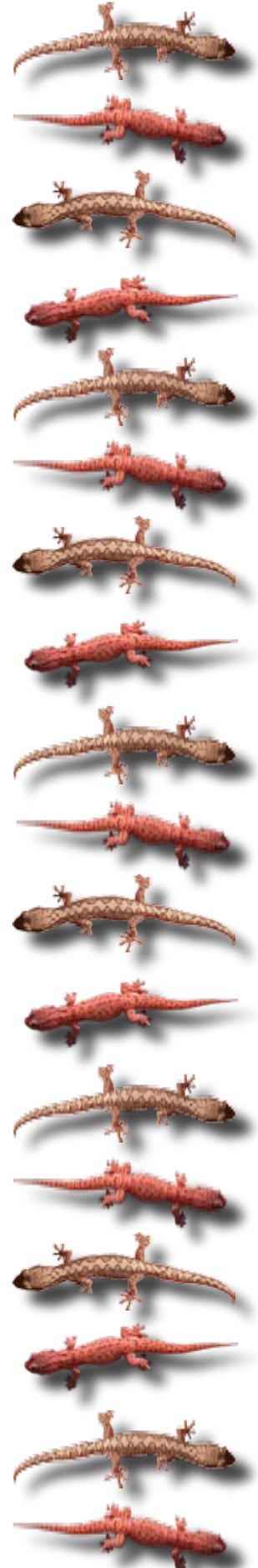
This way of presenting the Annual Report lines up with the way our new Strategic Plan is set out, and will make it easier to see what the KLC is trying to do, what it has achieved, and where it is heading in the future.



The Kimberley Land Council acknowledges the financial support provided by the Commonwealth of Australia and the Government of Western Australia.



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Chairman's Report

The KLC was formed in 1978 by Traditional Owners as an organisation for all Kimberley Aboriginal people.

More than 30 years on, the KLC is still achieving outcomes for Kimberley Aboriginal people, so we can get back country, look after country and get control of our future. To do this we need to have a strong organisation.

The core function of the KLC is to secure land rights for Traditional Owners. Native title is at the heart of our organisation, as all our other activities, including land and sea projects, ranger work and agreement making, follow on from our recognition as the rightful owners of our country.

The KLC has proved itself to be a strong organisation built on the foundations of courage and unity that our old people showed back when we started off.

We have never lost sight of this and will continue to build our organisation on those values, as we work to improve the lives of Kimberley Aboriginal people into the future.

Getting Back Country

The KLC has had great success in achieving native title outcomes for Traditional Owners, with native title recognised across almost 50 per cent of the Kimberley.

The KLC has experienced many challenges in this reporting period in relation to Native Title.

In light of increasing development pressures from the mining and resource sectors, the KLC, in this reporting period, has been working to lodge native title claims across all uncovered areas, to ensure Traditional Owners are in the strongest possible position when it comes to making decisions about their country.

In good news for Traditional Owners the State has agreed to connection for the Bunuba, Gooniyandi and Balanggarra claims, enabling those claims to move into the final stages of mediation towards a consent determination.

There would, however, have been more success in securing native title outcomes, in this reporting period, if the State Government had engaged and cooperated with the KLC further.

A stalemate between the political decisions of the State Government and its legal advisers has created long delays in the native title process.

As a result, the KLC has been waiting for more than a year for the Government to sign off on consent determinations for the Dambimangari and Unguu native title claims, and to approve connection for the Nyikina Mangala claim. The State Government's lawyers have approved these decisions but we are waiting in anticipation for final approvals from the State Government.



As we have not been able to progress the above claims any further, the KLC has concentrated its efforts and resources into resolving boundary issues between claims, gathering anthropological evidence to support connection, and investigating opportunities to merge smaller claims into larger cultural blocks, so as to provide a stronger native title case.

Looking After Country

KLC's Land and Sea Management activities have been leading the way in conservation and environmental protection of the Kimberley.

Through the use of traditional ecological knowledge and western science we have embarked on numerous projects to protect and enhance our country, including turtle and dugong management, fauna and flora protection, and fire and water management.

We have formed strong and positive partnerships with the many organisations that have wanted to assist the KLC in securing positive outcomes for Kimberley Aboriginal people.

The Kimberley ranger program has continued to expand across the Kimberley and during the reporting period the first Kimberley Ranger Forum was held for all ranger groups, so they could share information, attend workshops and network with each other. It was a huge success and provided many opportunities for the rangers to learn new things and share ideas.

The Kimberley Ranger Initiative, although focused on looking after country, has many flow-on benefits, including employment and training opportunities for our men and women, improved well-being, and the opportunity for rangers to take on leadership roles within their communities. As part of their training, Rangers also complete TAFE qualifications in Conservation and Land Management, ensuring their skills and knowledge are recognised and accredited.

Native title claim groups have also entered into consultations to establish Indigenous Protected Areas on their country, as a way for Aboriginal people to manage and protect areas with high cultural, historical and environmental values. The vision of Saltwater Traditional Owners involved in IPA consultations is to build a corridor of protected country in the north Kimberley.

Saltwater Traditional Owners, in this reporting period, also released a 10-year plan to protect, enhance and restore their vibrant country in the North Kimberley. The North Kimberley Saltwater Country Plan is the culmination of three years' work, and sets out a future direction to look after country stretching from the Lacepede Islands to Wyndham, covering Mayala, Dambingarri, Uunguu and Balangarra native title areas.

Traditional Owners from all native title areas worked together to create this plan which outlines ways to protect and look after country while highlighting ways in which Government and non-Government agencies can assist.

Getting Control of the Future

In a bid to improve the lives of Kimberley Aboriginal people, the KLC is looking to find the right balance between economic development and environmental conservation. Finding the right balance is about we, as Aboriginal people, doing something to help ourselves, by finding a new way to live off our land while protecting country at the same time.

Traditional Owners from across the Kimberley are looking to build a secure economic future by entering into resource agreements. Lumugal Traditional Owners signed an agreement with Kimberley Metals Group for an iron ore mine to be built in the east Kimberley.

The deal was signed after eight months of negotiations and highlights the strength of the KLC in brokering important mining agreements for Kimberley Aboriginal people that include not just royalties but life-changing benefits. There are significant employment, business development and education opportunities provided in the agreement, which will create long-lasting benefits for the Lumugal people.

During the reporting period, the Goolarabooloo Jabirr Jabirr Traditional Owners gave the KLC instructions to continue negotiations with the State Government and Woodside around a proposed LNG processing facility at James Price Point. Traditional Owners have supported consideration of this project, as it has the potential to create once-in-a-lifetime opportunities for Aboriginal people across the entire Kimberley. However, the KLC was given instructions to cease negotiations in June 2010 due to internal disputes amongst Traditional Owners and subsequent litigation. It is expected the State Government will announce moves to compulsory acquire the land during the next reporting period.

Kimberley Aboriginal people are experiencing a time of great change. We face many challenges, but we also have many opportunities ahead of us. So, the KLC continues to be the strong, transparent and successful organisation that we have all worked so hard to build. It is important that we continue to stand together as one people and speak with one voice.

Having a Strong Organisation

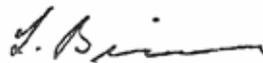
The KLC has come under criticism from some people in the community about some of the projects that we are undertaking as a way to improve our lives. As Aboriginal people we have the right to improve our lives and take advantage of the opportunities that are available to us – the same as all other Australians. We believe that by pursuing these activities we can create lasting change through providing education, employment, housing and business development opportunities for Kimberley Aboriginal people.

As members and board members of the KLC, our role is to support our organisation, to talk to our mob about what our organisation does and the successes we have had. When people criticise the KLC, they are criticising Kimberley Aboriginal people, because this is *our* organisation and nobody else's.

I would like to congratulate and thank the KLC Executive Board for its hard work and determination in the past year. As the Chairman of the KLC, I have had great pleasure in working with you and I would especially like to thank our Deputy Chairman Frank Davey for his ongoing support.

The staff at KLC have worked tirelessly to help us achieve our vision and produce real outcomes for Kimberley Aboriginal people. I congratulate them for their remarkable efforts and I extend a special thank-you to KLC Executive Director Wayne Bergmann and Deputy Director Nolan Hunter, who have led a strong and professional team. Keep up the great work.

We have a strong history and a strong future ahead of us. I look forward the important role the Kimberley Land Council will continue to play in securing life improvements and opportunities for Kimberley Aboriginal people.



Tom Birch
Chairman



CEO's Report



The Kimberley Land Council achieved significant outcomes for Kimberley Aboriginal people in the reporting period 2009-2010.

In line with our core functions and responsibilities, the KLC has continued to deliver high-quality services in relation to native title, land and sea activities, agreement making and regional governance.

The KLC works with Traditional Owners to find the right balance between economic development and conservation while creating life-changing benefits.

The KLC's members experience, on a daily basis the social and economic hardships of Aboriginal people in our region, which is why they are looking to use resource agreements on their country to provide real outcomes in education, employment, training and business development.

The KLC is working with Kimberley Traditional Owners to find the right balance between responsible development and environmental protection while allowing our people to become active participants in the modern economy.

Responsible development at the KLC is about minimising the physical impact on country so we can preserve the environmental integrity of the Kimberley Coastline. It is about minimising cultural impact, ensuring positive social outcomes for Aboriginal people and learning from the past so we don't repeat the same mistakes.

These principals underpin our organisation's activities to get back country, look after country and get control of our future.

Native title is at the centre of the KLC's functions as a native title representative body and during the reporting period we have faced many challenges but also achieved strong outcomes in this area.

In a landmark decision, the Federal Court recognised the native title rights of the Bardi Jawi people in relation to sea country. The Bardi Jawi people had been fighting for more than 15 years for native title rights and the decision ended more than five years of appeals.

The State Government also approved connection to country for three native title claims, enabling these claims to move into the final stages of mediation for a consent determination. These have been outstanding results for Kimberley Traditional Owners and highlight the great strengths of the KLC in securing positive native title outcomes.

The KLC, in this reporting period, has experienced challenges with the State Government in relation to approvals for native title consent determinations. There has been a deadlock in the State Government with Cabinet slow to sign off on consent determinations, despite State lawyers already approving of these measures.

The KLC could have been more successful in achieving native title outcomes if it was not for this deadlock. The KLC is ready to progress eight native title claims towards a consent determination in the next reporting period, as well as significant moves forward for other claims.

The success of the KLC in achieving these important outcomes will, however, be dependent upon the State Government's efforts to stop a current political blockage, in which Cabinet is not signing-off on consent determinations. The KLC is committed to working with the State Government to resolve these issues and progress native title claims forward.

The KLC has also been working with Traditional Owners to lodge native title claims across all uncovered land in the Kimberley, to ensure Kimberley Aboriginal people have strong rights when it comes to making decisions about their country.

The KLC receives funding to enable it to carry out its core function of native title; however there is an immense gap between the funding we receive and the work we are expected to undertake.

KLC overall has a substantial budget, but our funding is project specific and can therefore only be spent on certain projects. Examples of this include funding for gas negotiations, National Heritage Listing as well as many project specific land and sea activities. As a result, the KLC's resources are stretched to its limits; while we also have a shortage of staff to undertake the large volumes of work we are expected to carry out. Limited funding reduces our ability to properly undertake our core functions and relevant activities.

As part of the KLC's commitment to finding the right balance, our organisation has undertaken extensive projects in the areas of conservation and land management.

The KLC's Land and Sea Management Unit continues to grow and is of significant importance to our operations. But due to the fast growth of the unit, its resources are stretched, while there is a lack of funding to bolster the administrative support services

it requires. The Land and Sea Management Unit is focused on looking after country and has achieved exceptional results for Kimberley Aboriginal people.

The Kimberley Ranger Initiative is the flagship project of the unit and employs Aboriginal men and women to look after country, using a combination of western science and traditional ecological knowledge. This project not only provides jobs and TAFE qualifications in Conservation and Land Management but also promotes improved wellbeing in rangers, who often become mentors and leaders within their communities.

The Indigenous Protected Area project is moving forward and is nearing the final stages of completion. It is expected that some Indigenous Protected Areas will soon be declared in the north Kimberley, reflecting the high standard of work we have achieved in this reporting period.

The KLC also led the National Heritage Listing assessment of the Kimberley, on behalf of Traditional Owners. This process has involved numerous on-country consultations and meetings to inform Traditional Owners about this project but also for the KLC to receive instructions from Traditional Owners in how they wanted to approach National Heritage Listing.

Traditional Owners are supportive of National Heritage Listing in the Kimberley, as a way to protect the outstanding Indigenous, natural and or historic heritage values of the region. The KLC has worked closely with the Australian Heritage Council and the Federal Government on this project to ensure Traditional Owners were involved in the process and their views were heard.

Significant development and resource proposals in the Kimberley are having a considerable impact on the Kimberley Land Council and Traditional Owners, both in terms of resources and funding.

The KLC has experienced a considerable growth in the number of Future Act applications in the last reporting period. The majority of these applications have been from the mining and resource sector and Government departments wanting to carry out works on country.

Despite there being an increase in Future Act applications, the State Government has stopped funding Future Act activities across the State. As a result the KLC has been placed in a very difficult position, with no funding to pay for staff or the resources needed to carry out Future Act functions.

The KLC and Traditional Owners have also been involved in complex negotiations with the State Government, Woodside and its project partners for a

proposed gas processing facility to be built at James Price Point. The KLC has also been working to build partnerships with these organisations, along with the Federal Government, to ensure this project meets the highest standards in environmental, heritage and social standards – as Traditional Owners have instructed.

The KLC was instructed by Traditional Owners to cease negotiations on moving this project forward due to internal disputes amongst the group and subsequent litigation. As a result, the State Government reduced funding for the project, putting significant strains on the resources of the Kimberley Land Council and its ability to conduct research and hold information meetings for Traditional Owners.

The KLC expects the State Government will announce plans to compulsorily acquire the land in question, within the next reporting period. If this move does go ahead it will place both Traditional Owners and the KLC under enormous pressure both financially and in its ability to conduct fair and reasonable negotiations.

In other agreements, the KLC has continued to be successful in negotiating positive agreements for Traditional Owners. The Kimberley Land Council, in this reporting period, worked with the Lumugal Traditional Owners to secure life changing opportunities in the areas of employment, training, education and business development, as part of a deal for an iron ore mine in the east Kimberley. This agreement follows on from our previous hard work and achievements in this area.

The KLC has re-ignited plans to set-up a regional governance structure in the Kimberley, to ensure Traditional Owners are involved in any process that affects our lives. Extensive meetings have been held throughout the Kimberley region with individuals, communities, service-delivery organisations, government departments and Indigenous organisations.

A Tripartite forum has also been established between the State Government, The Federal Government and the KLC. This initiative is about 'Closing the Gap' between Indigenous and non-Indigenous people in the Kimberley and empowering Traditional Owners to influence and direct policy decisions affecting their future.

The ability of the KLC to put Traditional Owners in the strongest possible position to make informed decisions is pivotal to achieving life-changing outcomes for Kimberley Traditional Owners.

The KLC has excellent working relationships with the State and Federal Governments as well as community and Indigenous organisations. These positive relationships ensure Traditional Owners are in a position to deal with issues, address concerns and influence future policy direction, so they can achieve long-lasting improvements.



The Kimberley Land Council is committed to working with the State Government to resolve any issues in relation to native title so we can continue to assist Traditional Owners in gaining recognition as the rightful owners of their country, so they can enjoy all the rights and interests that come with this.

The KLC will continue to work with Traditional Owners to negotiate resource agreements that provide life-changing benefits for Kimberley Aboriginal people. The KLC will work to ensure that any projects are built in accordance with world's best practice in environmental, heritage and cultural standards and minimise any social impacts on Traditional Owners.

In the next reporting period, it is expected the State Government will announce plans to compulsory acquire the land at James Price Point to build a gas processing facility. This move would put extreme pressure on Traditional Owners and the KLC, both in terms of resources, workload and funding arrangements. The KLC will continue to engage with the State Government, Woodside and its joint venture partners in the project, to enable Traditional Owners to make a decision based on free, prior and informed consent.

The KLC will also continue to focus on the myriad of land and sea projects it has undertaken as a way to look after country, while providing Indigenous people with jobs and accredited training. Regional Governance planning in the Kimberley will steam ahead in the next reporting period, in a bid to Close the Gap and prioritise funding needs for social infrastructure.

Ongoing engagement and communication with Government's will ensure Traditional Owners have a seat at the table when it comes to dealing with issues and making decisions on Indigenous policy and planning in the Kimberley.

The KLC has many challenges ahead of us but also many opportunities in which to empower Aboriginal people to achieve real outcomes. I am confident we will continue to achieve the successes we have had in the past, well into the future. Our members are the backbone of the KLC and they have continued to provide our organisation with the strength and support it needs to achieve positive results.

The KLC acts on the instructions of Traditional Owners and this has been one of the great strengths in our community-based organisation, as all decisions about

projects and the future direction of the KLC is driven by the wishes of Kimberley Aboriginal people.

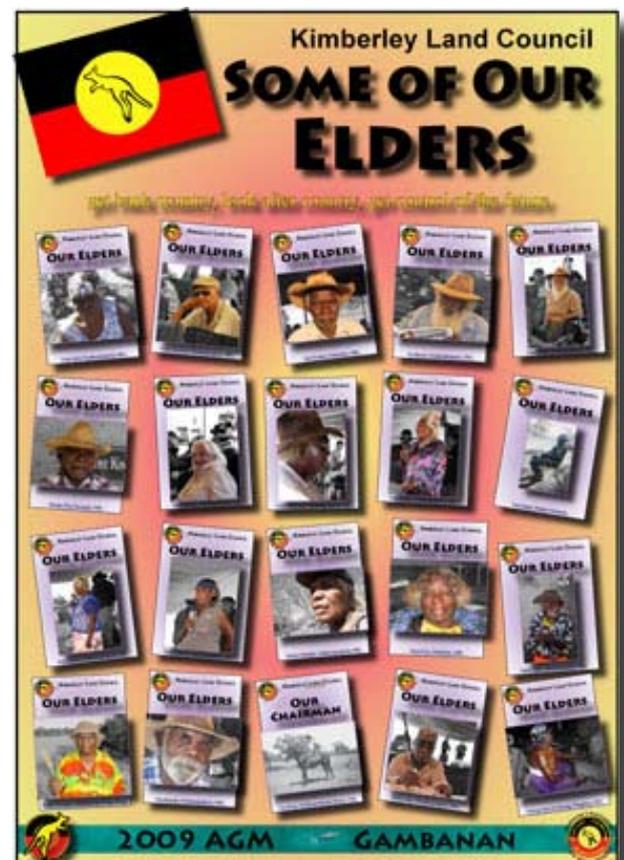
The KLC Executive Board has been pivotal in representing the wishes of the 29 native title claim groups and representing their views when it comes to making decisions about the way forward.

Our grass-roots process ensures we are working to achieve the vision of the people we work for, while giving the KLC clear direction in how to empower Traditional Owners, and achieve life changing opportunities for our people so we can ensure our culture, language and heritage remains strong and vibrant for generations to come.



W. Bergmann

Wayne Bergmann
Executive Director



ABOUT THE KLC

Overview

The Kimberley Land Council Aboriginal Corporation (KLC) is an association of Aboriginal people in the Kimberley region. It is a peak regional community organisation.

As the Federal Government recognised Native Title Representative Body for the Kimberley region, the KLC has statutory functions under the Native Title Act (Cth) 1993. In accordance with these functions, it assists Aboriginal people to obtain recognition of, and fully enjoy, their native title rights and interests. Native Title Operations of the KLC are funded primarily, but not exclusively, by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA).

The KLC is conscious of the dynamic change taking place in contemporary Aboriginal society, and emphasises the role of Kimberley Traditional Owners, our members, and communities in managing that change. In this context, it is dedicated to the development of a modern, sophisticated and innovative service to our members and the community.

Membership of the Kimberley Land Council is open to Traditional Owners of the Kimberley who are aged over 18. A member-elected Board of 32 determines the organisation's priorities in all policy and operational matters. The Board, through the position of the

Executive Director, monitors the progress of native title applications, and oversees the conduct of the organisation's affairs. The Chief Executive Officer has responsibility for the day to day operation and administration of the organisation.

The Chief Executive Officer is assisted in discharging this responsibility by a management team and staff with diverse skills and experience. The work associated with the various functions of the organisation is undertaken by teams consisting of native title officers, legal officers, land and sea management staff, administrative support staff and others located in Broome, Derby, Kununurra, and other locations.

Alongside Native Title services, the KLC also assists Kimberley Traditional Owners in the management of their land and waters; in developing structures and processes for self-governance; in economic and social development; and in helping to build capacities in our communities.

The Kimberley Land Council is incorporated under the Corporations (Aboriginal and Torres Strait Islander) Act (CATSI), is registered for GST, and holds Charitable Tax Deductability status. It currently employs 118 staff, of which approximately 50% are Indigenous people.

Membership, Governance, and Stakeholders

The Kimberley Land Council has a formal membership in excess of 700 individuals, and is managed by a 32 member Board. Members elect 30 Directors to the KLC's Board: one from each of the 26 Native Title Claim Groups, and four 'Special Advisers' (elected for their region-wide knowledge and expertise). Salaried Chief Executive Officer and Deputy Chief Executive Officer positions are appointed by the Board.

Elections are for a two year period, and occur at alternate Annual General Meetings. Reports on activities and financial management are presented to Members at each AGM.

The Board sets priorities and policies for the organisation, and oversees the work of the Chief

Executive Officer and Deputy Chief Executive Officer in the implementation of those priorities and policies. The Board meets at least quarterly, and receives reports from the CEO/Deputy CEO and senior section managers on the performance of the KLC, and on any arising issues or challenges.

The KLC serves a stakeholder group that extends far beyond its formal membership. The KLC is recognised as one of the three peak Indigenous corporations in the Kimberley, together with sister organisations the Kimberley Aboriginal Law and Culture Centre, and the Kimberley Language Resource Centre (both of which were established as initiatives of the KLC).

Advocacy, Policy, and Political and Practical Solutions

The KLC is recognised as a major voice of Kimberley Aboriginal people on a very wide range of matters, from land rights and land management, to social, legal, and community issues, economic engagement, policy development and direction, and advocacy of Indigenous positions to governments and the broader community.

The organisation also plays a direct role in delivering practical, on the ground services and opportunities to Indigenous people and communities. This occurs in the areas of poverty relief, employment and training, education, community development, governance, land management, environmental work, and conservation of culture and heritage.

Vision

“The Kimberley Land Council is a community organisation working for and with Traditional Owners of the Kimberley, to get back country, to look after country, and to get control of our future.”



Values

Organisational Core Values

- Respect for our law and culture
- Respect for our Elders and stakeholders
- Fair and transparent decision-making
- Effective and open communication
- Working in partnership
- Trust and loyalty
- Justice and equality for Indigenous peoples
- Cultural diversity

Operational Core Values

- Achieve real benefits, long term outcomes and realistic aspirations through a commitment to social justice, reconciliation and equality
- Protect Country and Culture (Land, Law, Language)
- Promote sustainable connection to Country
- Act in the best interests of Traditional Owners through effective engagement and fully informed decisions

Aims

- To get back country
- To look after country
- To get control of the future
- To have a strong organisation

Objectives

- Improve the cultural, social, and economic well-being of Kimberley Indigenous people
- Operate as an effective body to secure the rights and deliver the aspirations of Kimberley Traditional Owners
- Develop and implement policies, strategies, and activities that allow high standard of delivery of services to Traditional Owners, to get back country, look after country, to get control of the future, and to have a strong organisation.
- Develop and implement sound, appropriate, and effective planning and review processes and documents



ACHIEVING THE VISION

Overview

The Kimberley Land Council is a community organisation working for and with Traditional Owners of the Kimberley, to get back country, to look after country, and to get control of our future.

In order to achieve this vision, the KLC has set up Management Units to focus on each part of the Vision.

Although each Unit has special responsibilities, the KLC Board and Directors make sure that they all work together to achieve the whole Vision for Kimberley Traditional Owners.

Getting Back Country

The Native Title Services and Legal Units of the KLC are primarily responsible for the 'getting back country' part of the Vision.

These Units assist Traditional Owners to:

- lodge and run their Native Title claims
- protect and enjoy their Native Title rights
- establish and develop their Corporate structures

Most of the activities of these Units fall under KLC's role as a Native Title Representative Body (NTRB). We are funded by the Commonwealth Government to perform a range of functions to help Traditional Owners have their land rights recognised.

On the ground, these activities include:

- organising meetings
- running Native Title claims through the court system (both arguing people's cases, and trying to come to consent determinations)
- looking after 'future acts' rights (about development on people's country)
- helping set up Prescribed Body Corporate (PBCs)
- helping people stand up for their Native Title rights



Looking After Country

The KLC's Land and Sea Management Unit is mainly responsible for activities involved in the 'looking after country' part of the Vision.

The Land and Sea Management Unit operates a large number of projects across the Kimberley. These focus mainly on helping Traditional Owners look after their own lands, through a range of activities including:

- Kimberley Ranger programs
- Indigenous Protected Areas
- researching and monitoring plants, animals, and the environment
- reducing carbon pollution by controlling fires
- managing tourism and other activities on country

Funding for the Unit comes from many different sources, including Commonwealth and State Governments, environmental organisations, and philanthropy.

The Land and Sea Management Unit has also developed a number of strong partnerships with other parties to deliver valuable 'on country' projects.

During the last year, the KLC has also been strongly involved in National Heritage Assessment to help protect the region.

Getting Control of the Future

The 'getting control of the future' part of the KLC Vision is undertaken mainly by the Agreements and Regional Solutions Units of the KLC.

These Units take instructions from Traditional Owners on how to deal with proposals for development on people's country. This crosses over a bit with the Native Title Services Unit and the Legal Unit, especially in relation to the Future Acts part of the Native Title law.

Agreements can deliver real outcomes that improve the social, economic, and cultural well-being of Kimberley Aboriginal people.

The Agreements Unit handles most of the work involved in negotiating development on Native Title land, including:

- informing Traditional Owners of development proposals
- organising meetings with Traditional Owners and developers
- organising heritage clearances
- Assisting Traditional Owners in negotiations with developers

The Regional Solutions Unit was established to assist Traditional Owners in relation to proposals for Liquefied Natural Gas (LNG) facilities on the Kimberley coast. The scale and time frame of this proposal meant it required a dedicated Unit.

The Agreements Unit is supported partly through NTRB funding, but mainly through 'fee for service' arrangements with developers.

Having a Strong Organisation

The 'having a strong organisation' part of the KLC's Vision is looked after by the Corporate and Financial Services Units.

These Units look after the Corporate Governance activities, and all the day to day operations of the KLC, including:

- Membership, Board of Directors, and meetings
- Financial management and Audit
- Human Resources
- Planning
- Reporting

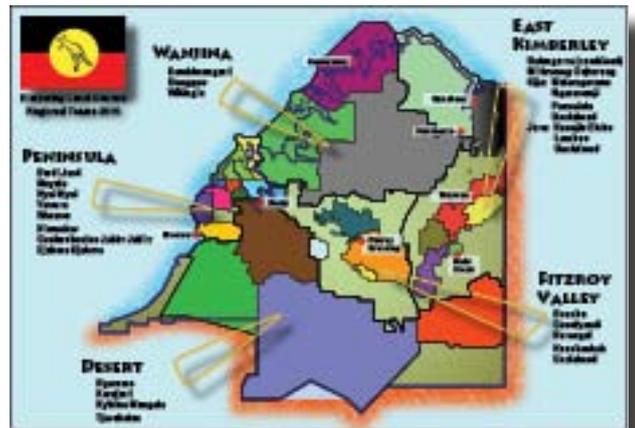
Corporate Services and Financial Services are funded through the NTRB process and through a levy on all the other funding provided to the KLC across all activities.

Regional Teams

While the KLC is organised into Units for management purposes, many of the staff from those regions are organised into regional teams.

Each regional team works for a set area of the Kimberley. Regional teams will have staff from the Legal, Native Title Services, and Land and Sea Management Units, and where appropriate from the Agreements and Regional Solutions units.

Teams are organised this way so that Traditional Owners are able to know which staff are working in their country, and to make the operation of the KLC more efficient.



getting back country



looking after country



getting control of the future



strong organisation



NTRB Functions

The Kimberley Land Council is recognised by the Federal Government, under the Native Title Act (1993), as the Native Title Representative Body (NTRB) for the Kimberley region.

Statutory Functions

The Native Title Act sets out the statutory functions of NTRBs - the things that NTRBs are required to do by the law. The Federal Government provides funding to NTRBs to do these things.

These functions are:

- Facilitation and assistance (s203BB);
- Certification (s203BE);
- Dispute resolution (s203BF);
- Notification (s203BG);
- Agreement-making (s203BH);
- Internal review (s203BI); and
- Other functions referred to in s203BJ and such other functions as are conferred on representative bodies by the NTA.

Broadly speaking, this means

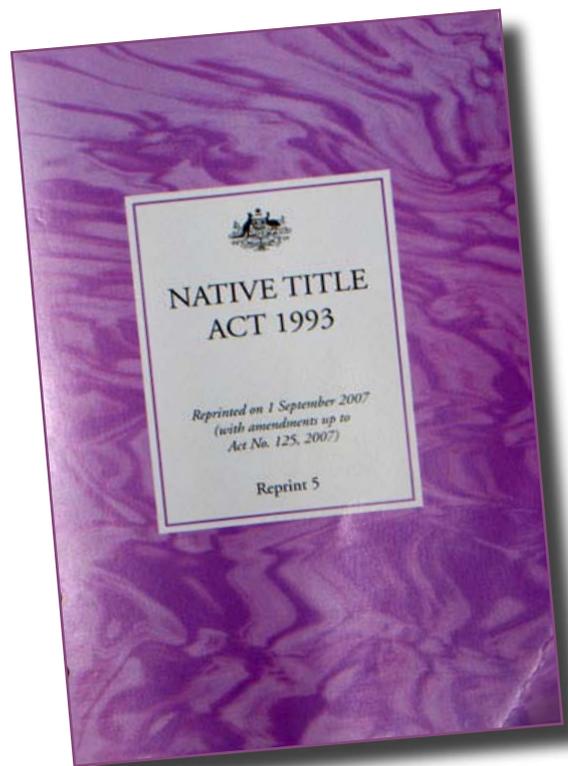
- helping people to develop, lodge, and move forward with native title claims
- helping claim groups to work out any disputes,
- keeping claim groups, the National Native Title Tribunal, the Federal Court, State and Federal Governments, and other parties, informed about Native Title matters
- assisting claim groups to make agreements with Governments and other people about how Native Title rights are respected and how country is developed, whilst keeping an eye on how the KLC operates as an NTRB, and how the whole Native Title claim process moves along
- other jobs related to getting Native Title, and using Native Title rights

NTRB Report

One of the things that NTRBs are required to do is provide a report on NTRB activities. The Federal Government sets out how this report should be done, and it is quite technical and uses some high English.

The information in this 'Getting Back Country' section of the KLC's Annual Report is based mainly on the NTRB Report, but is written in plain English to make it easier to understand.

The full technical NTRB report is included in Appendix One of the Annual Report.



Native Title

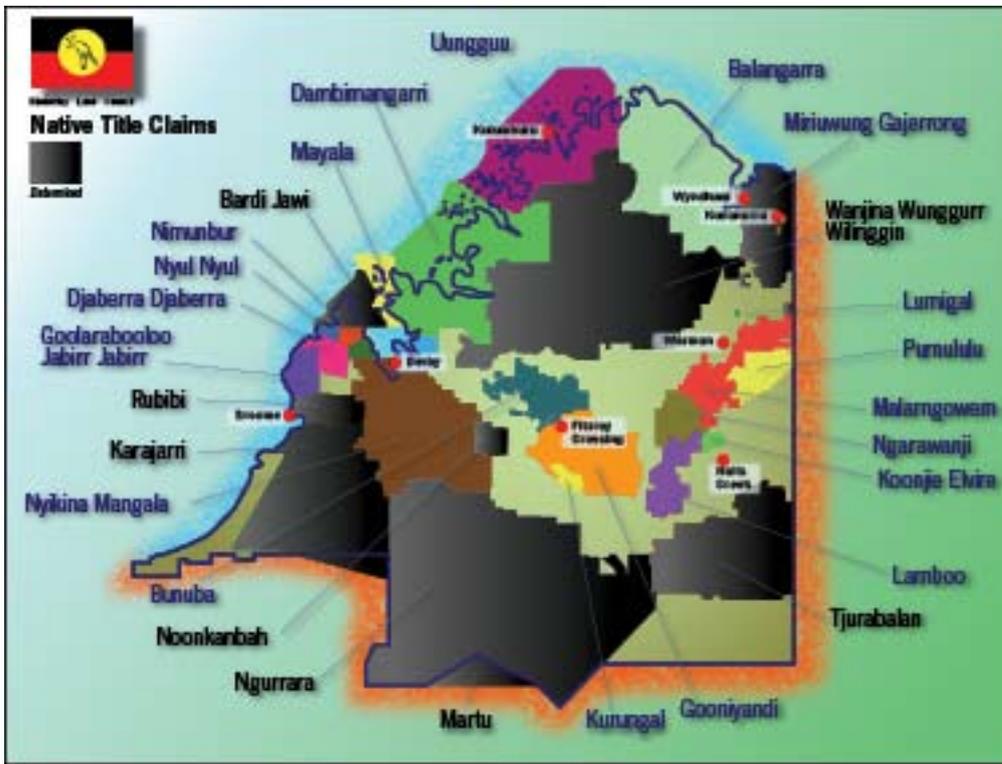
Priorities

In line with direction from the KLC Board, and the Strategic Plan, the KLC made the following priorities for doing Native Title work:

- lodgement and finalisation of Native Title applications, including representation in Court, and by moving mediation forward (by preparing connection material), and preparing new claims where appropriate;

- responding to future act notices;
- the negotiation of agreements; and
- protecting the recognition and enjoyment of Native Title rights and interests.

Most of our work was done in these areas, because this is what Traditional Owners expect from the KLC.



Meeting Native Title Targets

The KLC's generally finished most of the work it had planned at the beginning of the reporting period, as outlined in the NTRB Operational Plan.

In those areas where work was not completed in line with plans, it was usually because of external factors outside KLC's control.

Getting the planned work done was easier to complete when all parties took a position in favour of mediation and negotiation, rather than arguing it through the Courts. This approach reduced the level of litigation, with exception of the two appeals to the Full Court of the Federal Court that were resolved in favour of Traditional Owners.

While mediation is the preferred approach, in some cases the KLC has not met its targets because of delays by third party respondents and the State. Delays have occurred when the State or third parties have submitted new information to the terms of the mediation, or where the State has not been able to provide a position on the agreed terms. Further delay has occurred when the State has gone past the timeframe for the assessment on connection.

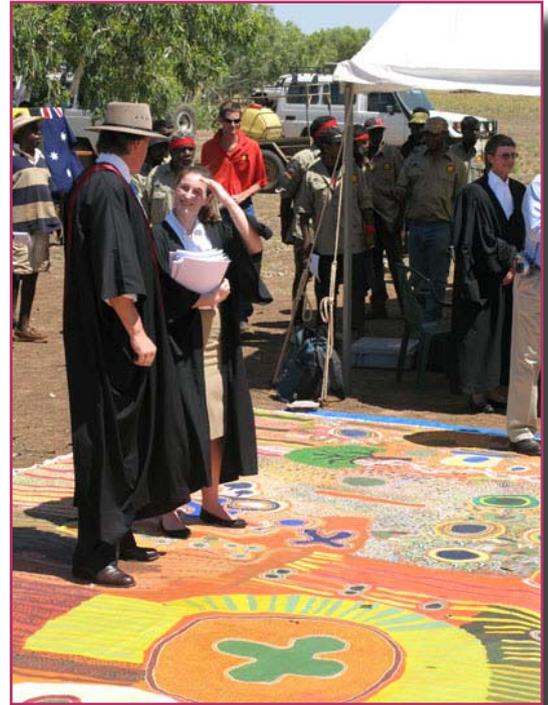
Facilitation and Assistance

The major Native Title job of the KLC is the provision of 'facilitation and assistance' to native title claimants, native title holders and registered Native Title Prescribed Bodies Corporate (PBCs). This means working for claimants to prepare and carry forward their Native Title applications, including assistance and representation in consultation, mediation and negotiation for agreements.

The significant developments and outcomes achieved under this role included:

- Decision on the appeal of the Bardi and Jawi determination, handed down in March 2010 in favour of Bardi and Jawi. Exclusive possession Native Title was recognised over most of the claim, including islands, with non-exclusive rights recognised on remaining areas, including sea country
- Ending of an appeal in the Rubibi claim.
- Provision of ongoing support to the Yawuru PBC in its 'global negotiations' over the settlement of outstanding issues relating to compensation and future development of the Broome township and surrounding areas
- Acceptance by the State of the connection materials in the Balangarra #3 and Balangarra Combined claims (the land and sea component), Bunuba, and Gooniyandi.
- Delays in progressing the Dambimangarri and Unguu claims, which were in mediation for a consent determination. Delays occurred when the State entered new land tenure information (which required further authorisation meetings). In Unguu the State put a new

- negotiating position about ILUAs over invalid conservation reserves. The KLC believes that this is an improper use of the State's negotiating position, because the State can't legally insist on these matters. The KLC does not see consent determinations as a barrier to negotiating ILUA's, and this should not be held as a negotiating point to accepting the terms of a consent determination.
- Connection reports were provided to the State for Bunuba (October 2008), Gooniyandi, (November 2008) and Nyikina Mangala (January 2009). The KLC did not receive formal acceptance on connection for Gooniyandi and Bunuba until March 2010. Despite agreeing to connection in principle for the Nyikina Mangala claim in July 2009, the KLC is still waiting for the State to respond formally.
 - Anthropological reports were prepared for the lodgement of a new claim for the Greater Jaru region
 - New claims were lodged for Nyul Nyul, and the KLC received instructions to lodge the Yurriyngem Tamm claim (greater Kija country) at an authorisation meeting in September 2009
 - A new claim (Yawinya) was lodged by Karajarri peoples over disputed country between the Karajarri and the Nyangumarta People (represented by Pilbara Native Title Services). This has moved into court ordered mediation
 - The KLC has undertaken further research on Goolarabooloo Jabirr Jabirr native title claims, and entered into mediation with the State on a Consent Determination. However negotiations broke down after one of the named applicants refused to take instruction from the claim group, and subsequently initiated proceedings in the Federal Court against the KLC acting on behalf of the claim group
 - Applications for assistance were accepted for Nimanburru, Jabirr Jabirr, and Worrwa to lodge new claims.



Applications represented by the KLC

There were five new native title claim applications in the reporting period (Martu #2, Journall Gidja #1, Journall Gidja #2, Jabirr Jabirr, and Nyul Nyul), making a total of 38 separate native title applications in the Kimberley NTRB area. The Kimberley Land Council provided representation for 32 of the 38 applications.

To make the KLC's work more efficient, a number of claims are grouped together and managed as a single unit. The 'grouped' claims are:

- Bardi and Jawi claim (Bardi and Jawi and Bardi and Jawi #2 (Brue Reef)
- Rubibi claim (Rubibi and Rubibi #17 - Rubibi #6 remains separate)
- Balangarra claim (Balangarra #3 and Balangarra Combined)
- Wanjinna/Wunggurr Wilinggin claim (Ngarinyin, Wanjinna/ Wunggurr-Wilinggin and Wanjinna/ Wunggurr Wilinggin #2)

This 'grouping' process means the KLC separately managed 27 Native Title cases.

Four of the Native Title claims represented by the KLC (Rubibi, Bardi and Jawi, Wanjinna/Wunggurr Wilinggin, and Tjurabalan) are in the post determination implementation phase. This involves the establishment of prescribed bodies corporate and other matters required by the determination, including future acts.

Two of the claims not represented by the KLC received assistance in the reporting period:

- assistance for Miriuwung Gajerrong regarding some future acts matters
- assistance to members of the Noonkanbah claim group to oppose the registration of the PBC for that claim.

At the end of the reporting period the KLC was under instruction to continue to represent and provide facilitation and assistance to 25 active and 11 emerging Native Title Determination Applications, and seven PBCs in the Kimberley.

New Native Title Applications

The investigation of new claims is based on the policy of developing either cultural bloc claims or claims which extend as far as possible across the traditional country.

The KLC worked on 11 emerging claim applications for traditional country for Nyul Nyul, Nimanburru, Jabirr Jabirr, Yurriyangem Taam (Kija), Jaru, Ngurrara, Bunuba, Gooniyandi, Nyikina, Warawa, and Wanjina/Wunggurr Speewah Valley.

Some of these 'new' claims being considered may result in the joining up of current, smaller claims. These include the emerging Kija claim (Yurriyangem Taam) and existing Kija native title applications (Malarngowem; Ngarrawanji and Purnululu), and the emerging Jaru claim and existing Jaru native title applications (Koonji Elvire and Lamboo).

Many of these 'new' claims follow on from a "Boundaries Meeting" in May 2008. The KLC worked with the six claim groups which border the central Kimberley (Nyikina Mangala, Bunuba, Gooniyandi, Kurungal, Kija and Jaru). Meetings were held with individual claim groups to finalise the various boundaries in the central Kimberley, and field work and research on the Kurungal claim and the emerging Kija and Jaru claims was done. This work has assisted groups to resolve a number of boundary issues.

The KLC held large inter-claim boundary meetings between representatives from the various claim groups on the Dampier Peninsular involving Goolarabooloo Jabirr Jabirr, Djaberra Djaberra, Nyikina Mangala, and the proposed Nyul Nyul, Nimanburru and Nyikina Warrwa claims.

Proposed Kija Native Title Application

An authorisation meeting was held 'on country' in September 2009, and the KLC was instructed to lodge the Yurriyangem Taam claim. The claim was lodged for preliminary assessment. It is anticipated that the new claim will be lodged in the next reporting period.

Proposed Ngurrara #2 Native Title Application

The Ngurrara #2 application, although not yet lodged, has received support from the WA State Solicitors Office and the Office of Native Title.

Proposed Jaru Native Title Application

The KLC started significant field research and a draft preliminary connection report for the development of a Jaru native title application to be lodged over the areas east of the Lamboo application and south of the Purnululu application.

The applicants for both the Lamboo and Koonjie Elvire claims have given instructions to be included in a future Jaru native title application. It is expected that this claim will be lodged in the next reporting period.

Proposed Nyul Nyul Native Title Application

A number of claim group meetings were held in the reporting period, resulting in instructions to lodge a new claim over Nyul Nyul country. A consultant anthropologist has undertaken genealogy work and has finalised a preliminary registration report. An authorisation meeting was held to complete the process to enable registration. Further anthropological work was required following the lodgement of the Form 1 for preliminary assessment. It is expected that the new claim will be registered in the first half of the next reporting period.

Proposed Warrwa Native Title Application

An agreement in principle was reached between the Nyikina Mangala people and the Warrwa people regarding a proposed new claim over the unclaimed areas between the existing Nyikina Mangala boundary and the Dambimangarri boundary to the north, the Bunuba boundary to the north-east, and the Ngurrara #2 boundary to the south-east (including Derby township). Anthropological research has been undertaken in the current reporting period. However, during the reporting period difficulties arose between the groups, which has delayed the joint claim being lodged.

Proposed Djaberra Djaberra Native Title Application

The KLC received instructions to represent the Djaberra Djaberra claimants at a claim group meeting in February 2009, but has since been instructed by some named applicants to cease acting.



Report on Claims

The activity levels of claim work programs generally reflect the agreement reached between the KLC and the State at Regional Planning meetings in November 2009 and May 2010 in preparation of Regional call-overs before the Federal Court in December 2009 and June 2010 respectively. The National Native Title Tribunal continued its involvement of third-party respondents in the Regional Planning meeting. The KLC is not supportive of this development.

As claims are finalised the KLC Board will consider, subject to the availability of resources, the upgrading of the activity attached to other claims.

The KLC provided assistance to defend criminal charges on the basis of the defence of exercising Naive Title rights and interests, as reported elsewhere in this Report.

Claims through the Courts

Bardi and Jawi

The Bardi Jawi appeal against the November 2005 determination was lodged in July 2006, and heard in Perth in February 2007. The appeal sought to overturn the finding that no native title exists over part of the area claimed in the original application, including the islands and sea off Dampier Peninsula.

In March 2010 the Full Federal Court allowed the Applicant's appeal and formally recognised that the Bardi and Jawi were one society at Sovereignty, thereby granting Native Title rights to the Jawi people as part of the Bardi Jawi claim.

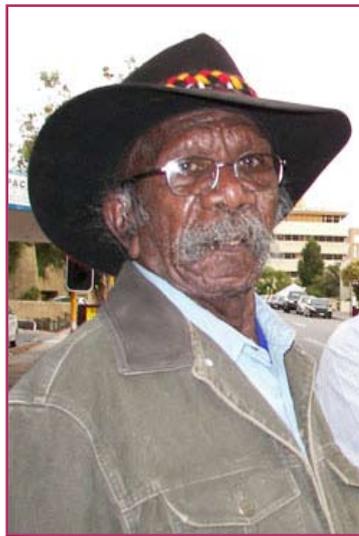
The parties then commenced negotiations regarding the terms of the final orders of the Court, which are expected to be settled in the next reporting period.

Instructions were also given to develop an ILUA between the Bardi and Jawi PBC and the two community councils operating in the area. Instructions were also given to develop a formal agreement between the PBC and the KLC for possible assistance in relation to the PBC's responsibilities in relation to future acts.

Rubibi

On 28 April 2006, the Federal Court handed down its determination of Native Title in favour of the Rubibi claimants. An appeal was filed by the State, with a defence and cross appeal filed by the Rubibi applicants, and a cross appeal filed by the Walman Yawuru respondents, in June 2006

The appeal was heard by the Full Court in March 2007, with a decision handed down in May 2008 dismissing the appeals of the State and the Walman Yawuru. The Court decided in favor of significant parts of the Rubibi cross appeal, including the determination of a greater area of Native Title than allowed at first.



The State lodged an Application for Special Leave to Appeal to the High Court, and the KLC lodged submissions in response to the State's appeal. The State withdrew its Application for Special Leave on 30 July 2009, the day before the matter was listed for hearing

The Yawuru Native Title Holders Aboriginal Corporation has now been registered as the PBC for that claim group.

The Yawuru native title holders have also been involved in formal negotiations with the State Government for a comprehensive agreement to settle all land issues in the claim area ("the global negotiations"). The KLC provided assistance in these negotiations.

Karajarri

Some outstanding post-determination issues remain from the 2002 and 2004 Federal Court recognition of native title over the Karajarri area. As an element of the 2004 consent determination, the Karajarri and pastoralists agreed to enter into negotiations for a co-existence agreement. These negotiations broke down and were never finalised.

Two other matters arising from the consent determination remain outstanding in relation to commitments made by the State to transfer the ALT lands within the claim area to the Karajarri PBC, and a joint management agreement with the Department of Environment and Conservation over Dragon



Tree Soak. Discussion with the ALT progressed during the reporting period but has been slow. In relation to Dragon Tree Soak, an expert

consultant was engaged by the KLC to draft the Dragon Tree Soak joint management plan. Negotiations with the State as well as a trip to Dragon Tree Soak were undertaken but progress has faltered.

The KLC has provided assistance in developing agreements with the State to facilitate the provision of services:

- Negotiation of an ILUA over the town of Bidadanga. The parties agreed to terms for an urgent ILUA in October 2008 to deal with community housing and other public infrastructure works, but are still awaiting a final document from the State to enable authorisation
- working closely with the Department of Planning and Infrastructure, and the Department of Housing and Works for a community layout plan for Bidadanga, which will ensure orderly development of the community and key services
- working closely with the Department of Indigenous Affairs and the Aboriginal Lands Trust
- Negotiating on Native Title rights being asserted by the Nyangumarta claim group. This matter was listed for Directions in October 2008. The KLC was directed to lodge a new claim over the Nyangumarta Part B area before December 2008. This was done and the parties have been in negotiation, and a proposed ILUA was drafted and put to the State and the respondent parties for consideration, but was rejected by the State. The parties have been attempting to resolve the issue by mediation.

Claims in Mediation

Wanjina Wunggurr Uunguu & Wanjina Wunggurr Dambimangarri

In this reporting period the parties have progressed the mediation for consent determinations considerably. A major and significant hold up was the insistence by the respondent party, West Australian Fishing Industry Council, to information relating to the claimants 'catch and take' activities and also on 'occupation evidence' beyond what was agreed by the State and the Commonwealth.

The KLC believed that the information sought was not a proper request for information and too detailed. WAFIC ultimately withdrew its objections which cleared the way for finalisation of the terms of the consent determination.

The KLC reached agreement with all Respondent parties and the State, and held authorisation meetings with the two groups so they could sign off on the terms of the consent determination. However the State then raised other tenure issues which required further authorisation meetings to be held. The State then raised issues concerning invalid conservation reserves and demanded the claim groups negotiate an ILUA over these areas before they would agree to a consent determination. Negotiations on this aspect are ongoing.

Noonkanbah

KLC was a respondent in this claim representing the rights and interests of a number of Traditional Owners who are recognised as Native Title holders in the determination.

As part of the consent determination for Noonkanbah, the Federal Court ordered that the KLC provide assistance to the Applicant upon request in relation to the development of a PBC. However no request was received.

Despite being a party to the proceedings, the Noonkanbah claimants sought numerous extensions of the time for lodgement of the PBC. The KLC received complaints from a number of native title holders for the area that meetings were being held,

which appeared to disclose irregularities in the meeting notification procedures. On investigation the KLC also established that the proposed rules appeared to disadvantage a number of native title holders. The KLC intervened in the registration process and the matter was listed before the Federal Court and a mediation process was ordered by the Court. This resulted in the PBC agreeing to amend its rules so as to accurately reflect the terms of the Native Title Determination.

Balanggarra #3 and Balanggarra Combined

Significant progress continued towards mediation of a consent determination for Balanggarra. The State agreed to connection for Balanggarra Combined in the previous reporting period but the State required additional material in relation to Balanggarra #3. This was completed by an expert anthropologist and provided to the State early in this reporting period. Connection was finally agreed by the State for Balanggarra #3 in February 2010.

The negotiations for a consent determination are progressing well and it is anticipated that there will be a consent determination on country during the next reporting period. However, as Balanggarra #3 sits over the township of Wyndham there are a large number of complex tenure issues which need to be resolved. This is very resource intensive and the State and KLC are experiencing difficulty in allocating sufficient resources to the task.

Ngurrara

Work has commenced on the development of a Prescribed Body Corporate, which was expected to be finalised by November 2009, subject to an agreement with the State for hand back of title over a special reserve (with exclusive possession Native Title). However, due to the State's inability to easily change land tenure arrangements, this time frame was not met. The KLC is now taking steps to have the PBC registered .

Meetings were held between the Ngurrara claimants and the various claim groups with shared boundaries to look at the full area of the proposed new Ngurrara claim.

The Ngurrara native title application has links with the Martu native title determination (which is the responsibility of Central Desert Native Title Services). Discussions have commenced between the KLC and the Central Desert Native Title Services in relation to issues affecting both claims, including shared community representations on the relevant Prescribed Bodies Corporate and development of a consistent approach to the Canning Stock Route Permit system.

A large meeting of the Ngurrara, Martu, Ngurrupa, Tjurabalan and Kwirrkura claim groups resolved these issues, and directed the CDNTS to lodge a new claim in the unclaimed surrounding areas.

Ngarrawanji, Purnululu and Malarngowem

Meetings were held which included members of these claims, and some future act activity took place. The KLC engaged a consultant anthropologist to undertake field work in relation to the unclaimed Kija areas and how the claims inter-linked. A preliminary report on this work was submitted to the KLC in June 2009. An authorisation meeting for the unclaimed area resolved to lodge a 'greater Kija' claim, Yurriyangem Taam. It is anticipated that these three claims will be incorporated into the greater Kija claim in the future.

In relation to the Ngarrawanji Claim, negotiations with the State for housing development on the Moola Bulla Excisions Blocks continued in the reporting period; however there has been little progress toward establishing the terms of the negotiations.

Nyikina Mangala

In the previous reporting period the KLC's submitted the draft consultant anthropologist connection report to the Office of Native Title. Following a preliminary assessment of the draft connection report by the State, additional material was presented by the consultant anthropologist to the Office of Native Title. The State raised concerns about the nature of the claim. A subsequent meeting of the legal representatives resolved these issues in principle, but the KLC is still waiting for the State to formally agree to connection. The parties will commence mediation for a consent determination in the next reporting period.

Goolarabooloo – Jabirr Jabirr

Research commenced on the Goolarabooloo Jarirr claim in the reporting period. This claim has always been dependent on the outcome of the Rubibi claim. Other issues including research conducted for neighbouring claims and the possibility of lodging an extended claim or a combined claim incorporating the Djaberra Djaberra claim is being investigated. This claim has been complicated as a result of the large gas development proposed within the claim

boundaries. The KLC held a number of meetings to resolve the issues but ultimately one of the named applicants brought legal proceedings against the KLC. This has utilised a great deal of staff time and KLC resources.

Mayala

This claim is closely linked and heavily dependent on the outcome of the discussions in the Bardi Jawi case. Field work has been undertaken to investigate the interests and extent of shared rights of Mayala claimants to the Dambimangarri claim, which share some common Apical ancestors. Extensive work on Mayala genealogies was undertaken in the reporting period.

Extensive negotiations in relation to a complex future act over a culturally sensitive island in the claim area have required considerable resources during the reporting period.

During the reporting period a small group of Mayala claimants sought to obtain separate representation for the claim group. This is not supported by the majority of claimants though it has caused a great deal of division within the claim group. The dissident group has retained legal advisers who have attempted to advise the claim group and sought to become the solicitors on the record. This has been instrumental in creating further conflict within the group.

Lamboos

Progress continues to be made on the development of a Jaru cultural bloc claim which would include the Lamboos native title application (which currently follows the boundaries of a pastoral lease).

Kurungal

This claim is closely linked with the research conducted on neighbouring claims Goonyandi and Ngurrara #2. Following the "boundaries" meeting for central Kimberley claims held in May 2008, a desktop review of existing material and issues for Kurungal was conducted. The claimants agreed in principle to reconfigure its boundary and to sort out how best to accommodate the various interests within the claim.

The KLC engaged a consultant anthropologist who commenced research including field research to provide a connection report on this claim which we anticipate will be completed early in the next reporting period.

Goonyandi

In the previous reporting period an expert anthropologist connection report was submitted to the Office of Native Title. This connection report covers the whole extent of Goonyandi country. In this reporting period, the State completed an assessment on the connection report. The State finally agreed to connection in March 2010.

Similar to other claims in the region, the KLC has continued to identify the extended boundaries of the

area, and the areas that are of shared interest with neighbouring claim groups. The KLC anticipates that, subject to boundaries for the unclaimed area being settled, it may be in a position to lodge a new claim over the unclaimed areas in the next reporting period.

Bunuba

In the previous reporting period an expert anthropologist connection report was submitted to the Office of Native Title for assessment. This report covered both the current application area and the traditional boundary lines that form Bunuba country under traditional law. The State was required to provide a response to the assessment of the connection report for this claim by May 2008 but did not do so until March 2010, when it accepted connection.

Similar to other claims in the region, the KLC has continued work to identify the extended boundaries of the area and the areas that are of shared interest with neighbouring claim groups. The KLC anticipates that subject to boundaries for the unclaimed area being settled, it may be in a position to lodge a new claim over the unclaimed areas in the next reporting period.

Koonjie-Elvire

The Koonjie Elvire native title application follows the boundaries of a pastoral lease. Instructions still stand to include the claim in the future Jaru native title application.

Protection of Native Title

The KLC's functions and activities in relation to protection of Native Title are performed concurrently through:

- pursuing recognition of native title rights and interests, through progression of applications for determinations of native title as described above
- utilisation of future act provisions and processes, including representation of Traditional Owners in future act negotiations
- civil litigation actions against third parties which transgress Native Title rights.

The KLC has progressed negotiations in a number of major agreements for the protection of native title rights and interests during the reporting period. These agreements are reported in other places in the Annual Report.

The KLC has maintained representation of native title claimants' rights and interests in relation to the large number of notices for future act developments issued in the reporting period, and continues to pursue resolution of the issues surrounding such notices through agreement making.

The KLC has been involved in extensive negotiations with the State regarding the expedited processing of community infrastructure plans for communities on ALT lands. The KLC has made a number of proposals to assist in this process including the concept of an over-arching ILUA to streamline the process. However, the KLC is still waiting for adequate funding from the State to enable this process to be rolled out across the Kimberley.



Disputes relating to Native Title applications

It is the KLC's policy to endeavour to resolve disputes relating to Native Title applications by consultation at claim group meetings and in the course of claim preparation.

Mayala

During the reporting period a small group of Mayala claimants sought to obtain separate representation for

the claim group. This is not supported by the majority of claimants, and has caused a great deal of division within the claim group. The dissident group has retained legal advisers who have attempted to advise the claim group and sought to become the 'solicitors on the record'. This has created further conflict within the group. There were two main areas of concern within that disaffected group.

- A perception that the KLC has taken too long to resolve the group's native title determination, and has not kept them properly informed. The KLC's position (which has been presented to the group on a number of occasions) is that this claim is closely associated with the Bardi Jawi decision, because the issues are very similar as they both relate to sea and island country. The Full Federal Court handed down its decision in favour of the Bardi Jawi people in March 2010, and the KLC and the State immediately commenced negotiations to resolve the Mayala claim. However, this has been put on hold due to the division within the group. The KLC held eight meetings with the Mayala people in the reporting period (including some joint meetings with the neighbouring Dambimangarri claim group). The KLC met with members of the disaffected group on two separate occasions. The KLC has attempted, without success, to resolve the issues at these meetings and has had the support of the majority of the claim group.
- Members of the disaffected group assert that the neighbouring Dambimangarri claim overlaps Mayala country. The KLC has attempted to mediate this dispute through joint claim group meetings, and three meetings of senior people from both sides. The KLC held a meeting at which the NNTT attended as observers. The meeting was for those people who speak for the disputed country from both claim groups. The disaffected group attended but walked out of the meeting. The remaining people present passed resolutions on how to proceed.

Goolarabooloo Jabirr Jabirr

This claim is made up of two separate groups; the Goolarabooloo and the Jabirr Jabirr. Historical tensions between the two groups has come to a head in response to pressures over a proposed LNG processing hub at James Price Point (a site within the claim area). Whilst there are no set lines, the Goolarabooloo group is generally opposed to the gas hub whilst the Jabirr Jabirr are willing to consider it, subject to certain conditions. The

KLC received instructions to enter into a Heads of Agreement with the State and the proponent regarding a regional benefits package. This was challenged, unsuccessfully, in the Federal Court by a member of the Goolarabooloo people (currently under appeal). During the course of those proceedings it was alleged that the KLC had a conflict of interest as it had previously acted for both groups. Accordingly, the KLC gave undertakings that it would take no further steps to progress the Native Title claim until the issues had been settled.

An authorisation meeting was held in April 2010 to replace the named applicant. The KLC went to great lengths to have attendees register before coming into the meeting to ensure that only genuine claimants could vote and participate. However this was sabotaged by certain members of the claim group who opened a side door, allowing unauthorised parties to enter the room and disrupt the meeting.

During this meeting the Jabirr Jabirr people resolved to split from the claim group and lodge their own claim. This was subsequently done.

The KLC is under instructions to facilitate a full authorisation meeting in the next reporting period to replace the named applicants.

Djaberra Djaberra /Nyul Nyul

There is a dispute between two neighboring groups about overlapping claims. The KLC has held joint meetings in an attempt to resolve these issues.



Disputes relating to ILUAs, rights of access and other matters

Nyikina Mangala - Shire of Derby West Kimberley ILUA

In the previous reporting period, an agreement was reached at a meeting between the Nyikina Mangala and Warrwa groups (conducted by the KLC with the assistance of the NNTT), in which the Warrwa agreed to remove its objection to the Nyikina Mangala – Shire of Derby ILUA and the lodgement of a new claim over certain unclaimed areas. In this reporting period further mediations were held by the KLC between the two groups resulting in the objection being lifted.

Kandiwal Aboriginal Corporation

The KLC has made concerted efforts to ensure the concerns of Kandiwal Traditional Owners' about country are noted and incorporated into any native title decision making processes in the region. KLC staff met with representatives of Kandiwal AC in early 2010 and outlined the proposed terms of a consent determination and answered some of their concerns.

Number of ILUAs

The KLC continued negotiations on five ILUAs in the reporting period:

- Looma Multi-function Police Station on Nyikina Mangala country;
- an Eco-Resort on Balangarra country;
- Public works ILUA at Bidyadanga on Karajarri country;
- Public Works ILUA at Warmun on Kija country;
- Yawuru area agreement;

The NNTT registered one ILUA (Yawuru area agreement).

The KLC also continued negotiations on template ILUA's with the State regarding a number of community layout plans across the Kimberley. The KLC proposed a means of streamlining Government processes for building houses and related infrastructure throughout the Kimberley. This required

the KLC to be properly funded to set up the necessary project team, and to ensure a uniform roll out of the Government building program. It has taken over two years for the State to finalise the funding agreement. Notwithstanding this the KLC has attempted to be as flexible as possible, allowing interim arrangements to be put in place. Despite this, the State has still not managed to produce any of the required documents to a final stage.

The KLC also continued negotiations about template ILUA's with the Pastoral and Graziers Association. The template proposes a means to streamline negotiations on ILUA's between relevant claim groups and pastoralists. Mediation with third party respondents such as pastoral lease holders regarding determinations of native title can be assisted by assurances that rights and interests can be recognised and enhanced through the process of ILUA's.



Responses to Future Act Notifications

The appointment of a Future Act Officer, funded by the State Government Office of Native Title (ONT), was maintained during the reporting period. This State-funded position remains a fundamental part of the KLC's ability to respond to the very large number of future act notices it receives in each reporting period. However, the KLC was notified that funding for this position will not be extended beyond the current reporting period. This will significantly impact on the KLC's capacity to respond to Future Act matters.

The degree of response to Future Act notices by the KLC is dictated by the available resources and subject to the priorities set by the Board. The KLC has adopted policies and procedures to ensure that, so far as possible, registered native title claimants are notified of any acts that may affect their Native Title rights and interests. This is done as a matter of principle and in accordance with the requirements of this function under the NTA. Internal procedures adopted by the KLC to maximise this response output include the entry of all Future Act notices on to a database and provision of those notices to respective native title claim groups for the purposes of notification.

The Future Act Officer continued to be responsible for streamlining the process by which the KLC responds to future act notices, in particular mining and exploration matters, and refining the data collection process and the database for reporting purposes. Streamlining Future Acts procedures, and further development of the Future Acts database and

notification process will continue to be a priority in the next reporting period, notwithstanding the withdrawal of funding for this position.

Types of Future Act activities included:

- mineral tenement-related notices such as exploration, prospecting, mining and petroleum titles;
- compulsory acquisition notices for land to be used by a third party;
- compulsory acquisition by a government party for public purposes;
- water licenses;
- road building; and
- other purposes.

Each type of Future Act attracts a different procedural right for registered claimants.

In accordance with the Service Level Agreement between the State and the KLC, during the reporting period the KLC submitted to the State of Western Australia two six-monthly Future Acts Officer Reports showing the number of future acts for which notices were received, by type.

The level of work in the future act area is shown in the following Table (Future Acts). In the reporting period the KLC made, or otherwise facilitated the making of, responses to 305 future act notices. Of the 305 notices received in the reporting period, types of notices were: (228) exploration related applications, (14) prospecting related, (52) right to comment, (7) right to negotiate and (4) Notice of Intention to Take.

Other Future Act Activities

The KLC continues to be engaged in a high number of significant future act negotiations, whilst managing a broad future acts workload. During the reporting period:

- 158 objections were lodged,
- 113 objections were withdrawn or dismissed by the NNTT (27 of those were withdrawn/dismissed because of an existing HPA, 22 were withdrawn/dismissed due to parties coming to an agreement, 52 due to the Tenements being withdrawn, 2 following an excision on the tenement area to exclude Native Title and 2 objections were withdrawn due to lack of evidence, 6 due to

the Expedited Procedure being withdrawn by the NNTT and 2 were withdrawn due to the determination being handed down by the NNTT that the Expedited Procedure applies and the application is to proceed to grant)

- 155 agreements were in development during the reporting period
- 33 agreements were executed in the reporting period

Note: some figures may not correspond, as some notices received during the reporting period may be dealt with during the following reporting period.

Future Acts

Type of future act	#	Type of future act	#
Aquaculture	1	Recreation Purposes (eg. parks)	1
Clear Native Vegetation	15	Reserve Creation/Management	1
Exploration	228	Road maintenance/works	2
Public Housing	2	Water Supply	8
Public Works	2	Tourism	2
Infrastructure (Mining)	1	Petroleum	7
Land Lease	1	Horticulture	1
Land Sale	2	Boat Ramp	1
Land Use	2	Geothermal Exploration	2
NOITT	4	Lease re-newal	1
Pastoral Lease Variation	2	Marine Seismic Survey	1
Pearl Oyster Farm Lease	1	Miscellaneous License	1
Prospecting License	14	Navigation Satellite	1
Sublease	1	TOTAL RECEIVED	305



Protecting Rights

Criminal Defences of Native Title

The KLC provided assistance in two separate matters to Traditional Owners to defend criminal charges. The Kimberley Land Council provided assistance on the basis that there were legitimate defences to the charges based on a proper exercise of Native Title rights.

Case 1

In the first matter a group of Traditional Owners were charged with "disorderly conduct in public". The facts were that a group of off duty policemen and their invited guests were having a barbecue on a beach when they challenged the behaviour of some Traditional Owners. An argument followed and the Traditional Owners were charged with being disorderly *in public*. The KLC is running the defence that the beach is not a public place and therefore no offence was committed.

We say that the beach is not public for two reasons. The area is within a determined area and is exclusive possession Native Title land (above the high water mark). The beach is also within an area subject to an ALT Reserve created under Part III of the Aboriginal Administration and Planning Act 1972 (WA). Where a Reserve has been created for the use and benefit of Aboriginal people, a non Aboriginal person cannot enter this land without the authorisation of the ALT.

On the first argument, exclusive possession Native Title land, the KLC maintains that where a Native Title Determination gives the Traditional Owners the right to possession of the land as 'against the whole world' then by definition it cannot be a public place.

Case 2

Two TO's were charged with assault and damage to property after they stopped two trespassers on their land. The facts were that two non-Aboriginal people were driving through an area of land which is recognised as exclusive possession land subject to a Determination of Native Title. The land is also an Aboriginal Pastoral lease, owned and operated by the Prescribed Body Corporate for the Native Title holders.

Two senior Traditional Owners saw the two trespassers and called on them to stop. Instead the trespassers turned around and sped off in the direction of a significant cultural site. The Traditional Owners caught the two trespassers after they had entered the site. This caused the Traditional Owners a great deal of distress. When the trespassers stopped, the TO's hit them on the arms with a ceremonial stick. The Traditional Owners were charged with assault.

The KLC is arguing that the actions of the Traditional Owners were justified on a number of grounds. Under the Determination of Native Title the Traditional Owners had the right to protect significant sites and also the right to exclude non-Traditional Owners. Under the common law of Australia, a property holder has the right to protect his or her property from attack or threatened damage, including using reasonable force if required. In the circumstances it was a reasonable use of force.

The Traditional Owners had a cultural duty to protect the site under their law and custom and it was possible that their failure to do so would have made them subject to punishment for failure to protect the site.

In this case we are not arguing 'tribal law' as a defence. We are arguing that a Determination of

Native Title does allow Traditional Owners the right to protect their rights and to uphold the terms of the Determination. The cultural obligations is not a defence in itself but it does go to whether the actions of the Traditional Owners were reasonable in the circumstances.



LOOKING AFTER COUNTRY

Overview

'Looking After Country' is a core part of the vision of the Kimberley Land Council.

This function is undertaken by the KLC's Land and Sea Management Unit.

The Land & Sea Management Unit works with Traditional Owners to achieve the environmental outcomes they want to see happen on-ground. It strives to build on the long-term sustainability of work programs to create a strong future and lasting legacy for the next generation.

Projects are far reaching and cover all aspects of environmental management from protecting and enhancing waterways to wildlife and biodiversity monitoring.

These projects include the Kimberley Ranger Initiative, Indigenous Protected Areas, and a variety of area-specific initiatives in tourism, fire management, carbon abatement, waterways management, wildlife and biodiversity monitoring, community-based management planning, and ecological and cultural heritage research.

The Land and Sea Management Unit emphasises the combining of traditional cultural knowledge with modern science and technology to achieve best-practice methods and environmental outcomes. It also focuses on delivering direct employment and training opportunities for Traditional Owners in the management of their own lands.




looking after country

LOOKING AFTER COUNTRY

Land & Sea Management Unit

Outline

The Kimberley Land Council is committed to having a strong focus on indigenous, natural and cultural resource management. The KLC's Land and Sea Management Unit has made considerable efforts to understand the aspirations of many of the people that it works for and with.

As part of the KLC Vision is to 'look after country', in 1998 the Kimberley Land Council established a Land and Sea Management Unit (LSMU). The Unit strives to achieve the outcomes Traditional Owners of the Kimberley want to see, as well as building the long term sustainability of projects to work towards a strong future.

The LSMU builds upon Aboriginal connection to country and traditional ecological knowledge and management responsibilities. Practical and applied approaches to Aboriginal involvement in contemporary land management are used as the basis for addressing environmental, economic, and social sustainability issues in the Kimberley.

Traditional knowledge is used hand in hand with western science as an equal contributor in project management. These partnerships involving traditional knowledge and western academia form the basis for a significant and growing portion of the Unit's work.

All projects undertaken are done so in consultation with Traditional Owners, with regular reports being given to the Directors of the KLC.

A priority during the reporting period has been a focus on the future of the core services unit of LSMU, in order to ensure that all work can be logistically supported and that core facilities are provided to staff working in the field. With the continued growth of the LSMU, the unit is continually challenged with how to best provide support services to its staff, satisfy funding body requirements and utilise the available funds for administration in the most effective manner.

The level of core facilities being provided for projects includes office space, ranger compounds, accommodation, equipment and vehicles, all of which are required to achieve long term sustainability.

Without 'on country' facilities the effectiveness of projects become impacted and attracting skilled staff to remote positions becomes very difficult. The 'on country' facilities also enable the KLC to employ local indigenous staff to carry out administrative and support roles to Ranger groups, Indigenous Protected Areas and other project work, thereby contributing strongly to the economy and social identity of the local community. The LSMU projects are in turn able to provide working spaces to visiting project and funding partners and also other KLC staff when undertaking business on country.

The KLC, through the LSMU, sought funding under the Australian Government "Caring for our Country" program for support of the implementation of the soon to be released "Kimberley Caring for Country" Plan. This plan has had an enormous amount of consultation through the University of Notre Dame and will outline the way Traditional Owners of the Kimberley want their country looked after. The "Kimberley



"Caring for Country" plan will highlight the priority areas for management, mechanisms to carry out work (such as ranger development), and recognise the correct governance structures to consult with on projects. The funding will provide a great amount of support towards promotion of the plan and making sure agencies operating in the Kimberley recognise the plan's role in driving natural and cultural resource management.

The LSMU has continued to generate 'Fee for Service' work, coming from agencies recognising the benefits of getting people on country to deliver services which were often too high in cost to effectively take to the remote places. With the developing capacity of ranger work forces this is becoming a viable option for agencies looking to invest and gain a valuable service with the additional benefits of providing economic return to the community.

Many ranger groups are contracted by Universities conducting research and other Government organisations at present, some cultural tourism is also being undertaken which provides a different area for rangers to participate in and learn new skills. This is a testament to the reputation that the KLC's LSMU has developed in being able to deliver real outcomes.

The LSMU unit continues to grow with staff now based in many locations throughout the Kimberley. Further in this report there is an overview of each of the projects.

The Unit's main emphasis is to ensure that long term support for each of the Ranger groups and other 'on country' work is adequate. This could mean that there may be delays in taking on additional work or Ranger groups which is a reality of current resourcing.

It is vitally important that all work that the LSMU takes on can be supported to ensure its long term viability and sustainability. The Unit is continually aware that there are a number of groups where Ranger programs are desired, and will help develop those programs when it is viable for the unit, so that aspirations are not built up beyond capacity to deliver.

The LSMU is committed to governance of the KLC and the instructions which it receives from the Native Title working groups and established Prescribed Bodies Corporate of the Kimberley Region.



Partnerships

Partnerships remain at the forefront of the LSMU development. Partnerships with the sister organisations of Kimberley Aboriginal Law and Culture Centre (KALACC) and the Kimberley Language Resource Centre (KLRC) are vital to ensure that Law, Language and Culture form an integral part of our planning and work.

The LSMU continues to work with the KALACC Yirriman youth project, with a number of 'on country' events strengthening our partnership. The strong co-operation between Yirriman staff and the KLC Rangers is ensuring that this partnership continues to grow, thereby looking after one of the Kimberley's greatest assets, its 'young people'.

The KLRC partnership is also one that we will continue to develop and nurture. The KLRC continues to provide an advisory role to the LSMU so that projects can be undertaken with language specialists and that culture inherent in language can play a big part in on country activities.

The three organisations KLC, KALACC and KLRC worked especially hard on the steering of the "Kimberley Caring for Country" Plan which is testament to the strong partnership they hold and this plan will hopefully deliver all the three organisations' aspirations in the coming years.

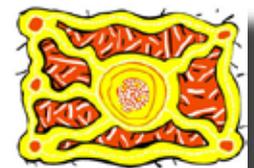
The LSMU continues to work in on large projects with the Northern Australian Indigenous Land and Sea Management Alliance (NAILSMA).

NAILSMA has supported the KLC in establishing a

large fire for carbon project in the North Kimberley, the Indigenous Water Facilitators Network and the Saltwater Peoples' network, and will continue to bring a strong co-ordinated strategic approach from the Northern Australian perspective.



The key funding partner for our on country work is the Australian Government through its Department of Environment, Water, Heritage and the Arts (DEWHA). We have an ongoing agreement with DEWHA to provide funding for Working on Country Ranger and support positions, as well as for established Indigenous Protected Areas (IPA's) at Paruku and Warlu Jilijaa Jumu, and for a number of IPA consultations. The LSMU will continue to work with the Australian Government to strengthen and further develop these opportunities.



One of the major points relating to the working relationship with DEWHA has been the Head Agreement undertaken with the department to reduce the levels of reporting places on recipients of funding for large programs. Under the new head agreement the LSMU will be required to provide more streamlined reporting to reduce administration of these large important grants.



Other key partnerships include:

- Indigenous Land Corporation - Kimberley Ranger Unit
- Department of Environment and Conservation - Fire management planning and operations.
- PEW Environment Group – Indigenous Protected Area coordination
- WWF – Threatened species management, fire management and coastal tourism
- Environs Kimberley - weed management, sustainable tourism
- Australian National University – Canning Stock Route project



Staffing

The LSMU currently has 34 staff positions funded throughout the Kimberley, each bringing specific skills to their area of work. Staff members fulfil an important role in delivering on the work plans that have been developed and many are project based. These projects are part of contracted funding agreements. There are also a number of vacant positions that are currently in the process of being filled; in particular the ILC KRI positions under the new funding agreement

LSMU continues to facilitate eight “WOC” Ranger groups totalling 49 rangers on traineeships additional to this are six admin trainee positions.

A number of Rangers have graduated through the TAFE program and have been presented with their Certificate 2 and Certificate 3 qualifications with some expressing a desire to study Certificate 4.

Outlook for the Future

The LSMU has been growing strongly for the past few years and some long term partnerships have been secured to allow for better planning of the units future.

How the unit develops into the future requires careful consideration and integration into the corporate structure of the rest of the KLC and it's overall governance model. It's large growth also means line structures are becoming critically important to spread the workload sufficiently.

LSMU is committed to developing projects that will be handed back to the Prescribed Body Corporate (PBC's) so that Traditional Owners are in control of their futures. The KLC will continue to work with the PBC's to ensure they have the skills and support to take on the running and administration of these projects. While we recognise there may be a long way to go for some PBC's others are getting close to this point and should be encouraged to take this next step when ready.

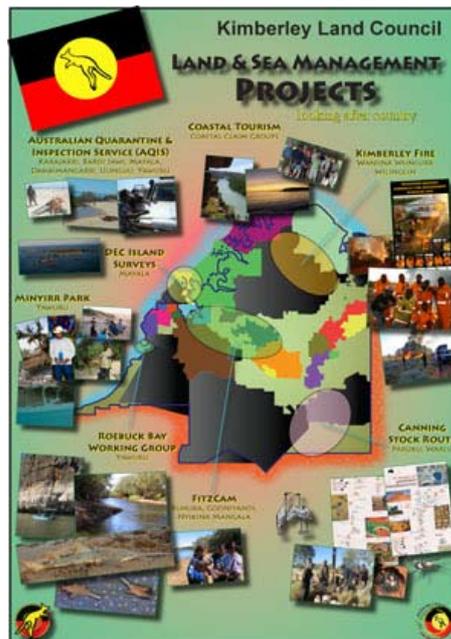


Land & Sea Projects

ARC Canning Stock Route

The LSMU has continued to work with the anthropology research team from the Australian National University (ANU) in its program to map cultural heritage along the Canning Stock Route. A recent trip took place to wells 44 – 48 along the route. This trip involved Walmajarri Traditional Owners, a mix of elders and young people. The Warlu Jilijaa Jamu Rangers did an excellent job during the journey with vehicle and logistic support. Planning was coordinated by the WJJ IPA office which ensured a successful trip.

Both the Paruku and WJJ IPA's are continuing to be involved with the Kuju Wanka (One Voice) project. This project is looking at a coordinated approach to tourism management on the Canning Stock Route involving Walmajarri and Martu Traditional Owners to the south which will see long lasting improvements in visitor experience and recognition of the traditional countries travelled through.



FitzCAM – Fitzroy Catchment Action and Management

The FitzCAM has produced the final catchment management plan after getting stakeholder input on the final draft stages. The project has now finished in the past financial year.

The key partnerships established through this project, especially those with the users of the Fitzroy River and the Traditional Owners, will continue within the Indigenous Water Facilitators Network.

Roebuck Bay Working Group

The planning for Roebuck Bay has resulted in the development of a Draft Crab Creek Management Plan and Preliminary Draft Ramsar Site Management Plan. The Roebuck Bay Working Group has also developed and released Roebuck Bay Interim Management Guidelines. The guidelines are being distributed as glossy brochures, to guide visitors and the local community on the wise use of Roebuck Bay.

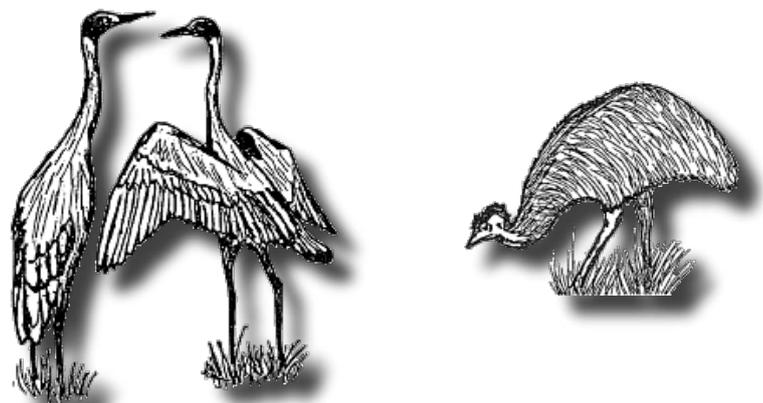
This will help to protect its many unique values whilst allowing people to continue to use and enjoy the bay and its coastal surrounds. For 2009/10 the group has secured devolved NRM Rangelands funding to continue its excellent work in management planning and to increase community understanding, participation and stewardship in the management of Roebuck Bay and the Ramsar site by:

- Facilitating volunteer engagement in on-ground projects that protect, restore or maintain the natural /cultural values of the Ramsar site;
- Identifying and prioritising on-ground projects which address Ramsar threats and are consistent with Rangelands objectives.

Nyama Buru Yawuru Pty Ltd, the company set up by the Yawuru people to implement and manage the Yawuru Native Title Global Agreement, have offered to host the RBWG Project, with Kandy Curran, the RBWG Project Officer moving to Yawuru offices in October 2010. The RBWG Project Officer will continue to work with all users of Roebuck Bay in a positive and inclusive manner, with a membership on the Roebuck Bay Working Group of 50 people.

Saltwater People's Network

The award-winning work previously undertaken by the Dugong and Marine Turtle Project continues with the involvement of the Bardi Jawi and Unguu Rangers expanding to involve the Nyul Nyul and Karajarri Rangers. Funding for this work has been granted for a further two years in conjunction with NAILSMA and will largely involve the support and use of Cyber / I-tracker technology by the participating ranger groups. The roll out of more I-tracker units further across the Kimberley to ranger groups should see a much larger monitoring effort of the key areas work is being undertaken by. This support given to ranger groups will also create capacity for them to monitor country and manage their own data collected from field work to help them make informed decisions on further work undertaken.



Fire For Carbon – The North Kimberley Fire Abatement Project

KLC is undertaking this project with four claim groups in the north Kimberley. NAILSMA project partners are doing similar projects in the NT and Qld. The project aims to get Traditional Owners managing fire across their country using modern techniques and traditional knowledge. Burning early helps keep country healthy and stops late dry season fires burning the whole country. In a few years time the project aims to be able to make money through Carbon Offsets by reducing the amount of greenhouse gases going into the atmosphere. This will help provide funding for fire management into the future.



Indigenous Water Facilitator Network

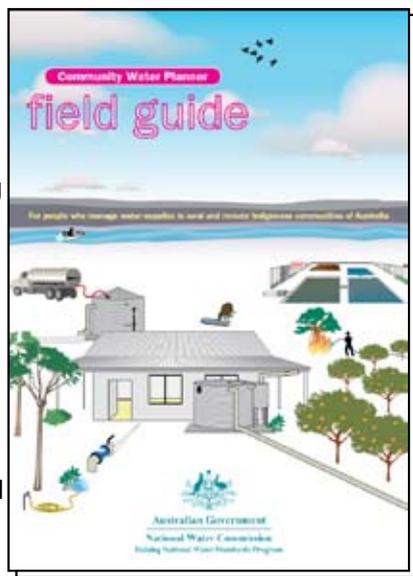
The Indigenous Community Water Facilitator Project works with Traditional Owners to gain recognition of Indigenous rights to water, and helps Indigenous people engage in the management and planning of water resources in the Kimberley.

During the reporting period, the Kimberley Land Council has become the host organisation for Indigenous Community Water Facilitator for both the west and the east Kimberley. The project operated across three main areas:

- The cultural significance of water
- Impacts of climate change on country
- Drinking water quality in remote communities

A range of activities were undertaken in these areas, including:

- Researching, documenting, and presenting water-related issues
- Educating people on water issues
- Conducting 'back to country' trips with Traditional Owners
- Creation of a seasonal calendar to monitor the impacts of climate change



- Documenting Traditional weather knowledge and looking at how that can help scientific understanding
- Actively lobbying governments to recognise the poor water quality affecting remote communities.

Kimberley Coastal Tourism Project

A strategic partnership has been formed between KLC, WWF and The Travel Corporation Conservation Foundation, and the Federal Government's Caring for Our Country program to provide funds to assist Traditional Owners to work closer with the existing tourism industry that visits their country with specific emphasis on the saltwater country.

The emphasis is on:

- working with Traditional Owners to build skills to manage tourism hot spots on their country
- assisting Traditional Owners to develop their own cultural awareness product and acquire accredited training for its delivery
- building Traditional Owners knowledge of Indigenous tourism business opportunities and practices
- developing partnerships with the tourism industry and Traditional Owners in tourism business opportunities
- working with tourism industry and Traditional Owners to develop culturally appropriate industry guidelines

Iconic Marine Species Surveys

The iconic marine species project is in collaboration with WWF Australia and focused on the engagement with Indigenous Rangers for marine surveys along the north Kimberley

Coast. Over the last 12 months Rangers from Bardi Jawi, Dambimangari, Unguu and Balangarra undertook marine survey trips in the

Buccaneer Archipelago, Dugong Bay, Admiralty Gulf and Napier Broome Bay to look out for marine species and get trained in marine survey technique's.



Karajarri Land & Sea Project

Funding was secured to fund a Land & Sea Coordinator in Karajarri and this position has recently been filled. The coordinator has begun work with the Karajarri Traditional Lands Association (KTLA) and the Karajarri Rangers to enhance relationships between Karajarri, KLC and various stakeholders and progress aspirations to attain Karajarri IPA.

Kimberley Ranger Initiative

The Kimberley Ranger Program has been a huge success in delivering conservation and land management outcomes across the Kimberley. Ranger groups have been working on developing land management strategies, recording and sharing of cultural knowledge, protecting cultural sites, youth programs, educational materials and media products.

The highlight of the year was the first Kimberley Ranger Forum held at Home Valley in April, this forum was attended by over 80 indigenous rangers from across the Kimberley, up to 20 visiting indigenous rangers from the Pilbara and Northern Territory, Cultural advisory committee members from each ranger group and partners to the KRP.

Rangers had the opportunity for networking and sharing ideas along with participating in workshops that ran over the three days. The Forum provided the Rangers with the opportunity to showcase what they have been doing on their country and to meet with various partners to build relationships. It was also an opportunity for the Kimberley Ranger Cultural Advisory Committee to gain a better understanding of the Ranger program and to provide their guidance and support.

A series of workshops were held for women to discuss options for women ranger groups within the Kimberley. The workshops were attended by women ranger groups from the Kimberley and the Northern Territory, who were able to give outline the steps they took to establish their groups.

The LSMU is continuing to develop operational bases and to provide facilities, equipment and other basics necessary to meet the operational needs of our ranger

teams. Examples of improving facilities on country include the support given to Ngurrara/WJJ IPA ranger base at Djugerari, Bardi Jawi's ranger shed extensions at Ardyaloon and the construction of the Nyul Nyul Ranger Office at Beagle Bay. Extra resources have also been given, driving a better working environment at Bidyadanga for the Karajarri Rangers and KTLA. In-kind support from the local communities and the PBCs are key factors in the establishment of ranger bases.

The LSMU is continuing to develop operational bases and to provide facilities, equipment and other basics necessary to meet all of the planned outcomes.

Examples of improving facilities on country include the support given to Ngurrara/WJJ IPA ranger base at Djugerari, Bardi Jawi rangers shed extensions and ablutions at Ardyaloon and the assistance with driving a better working environment at Bidyadanga for the Karajarri Rangers and KTLA.

Training undertaken by the existing WOC groups and developing ones has been a strength of the Kimberley Ranger Initiative.

The regular efforts and attendance of rangers on certified courses

has seen a number of rangers continue to achieve numerous certificates in Conservation and Land

Management. This is a certificate course integrated with their work program activities and one that highlights the success of the way the ranger program is working. A commitment to employment and studies is required by those participating and it is great to see the benefits rangers have been able to get from that commitment.



Looking After Country

HOME VALLEY STATION 2010



Working on Country (WoC) Program

The Working on Country Program (WOC) is funded by Department of Environment, Water, Heritage and Arts (DEWHA) and pays for ranger wages, travel, operational costs and field equipment to deliver Traditional Owner priorities for on ground environmental and cultural outcomes. The WOC Program also supports high level training to ensure Kimberley rangers develop the skills and experience they need to work effectively and safely on a diverse range of natural and cultural resource management projects.

The WOC Program fully funds eight Ranger Groups across the Kimberley (Wungurr, Unguu, Bardi Jawi, Mangala, Paruku, Karajarri, Nyul Nyul and Ngurrara), currently employing nine coordinators, 49 full time rangers, six part time administration support officers, a Program and a Admin Coordinator and many more casual rangers including senior cultural advisors. The Ngurrara Rangers are the largest and newest ranger group to commence. Recruitment for these rangers was completed in June and they have wasted no time getting the ranger compound set up at Djugerari, supporting mining clearances, and delivering on their annual work plan.

Over the past 12 months, the WOC program has secured 15 additional Ranger and Administration Trainees. Whilst Trainees work alongside the rangers, Ranger Admin Trainees help support their ranger team in the office and to secure the resources they need to hold meetings, engage their elders and run extended and logistically challenging bush trips.

Around May each year, the rangers, their cultural advisors, PBC elected steering committee members and project partners all meet to develop their annual workplans. These workplans form the basis of their contract with DEWHA, reflect the aspirations of Traditional Owners and define each projects the rangers will complete over the following 12 months. This year, the Nyikina Mangala Rangers hosted the planning workshop at Udialla Springs. The provision of great food and a rainforest meeting ground resulting in the best work plans produced to date.



Developing Ranger Groups (ILC)

The Indigenous Land Corporation (ILC) has agreed to fund core positions within LSMU which will concentrate on working with emerging ranger groups and also assist with the coordination of training and business development of the existing "WOC" Ranger groups.

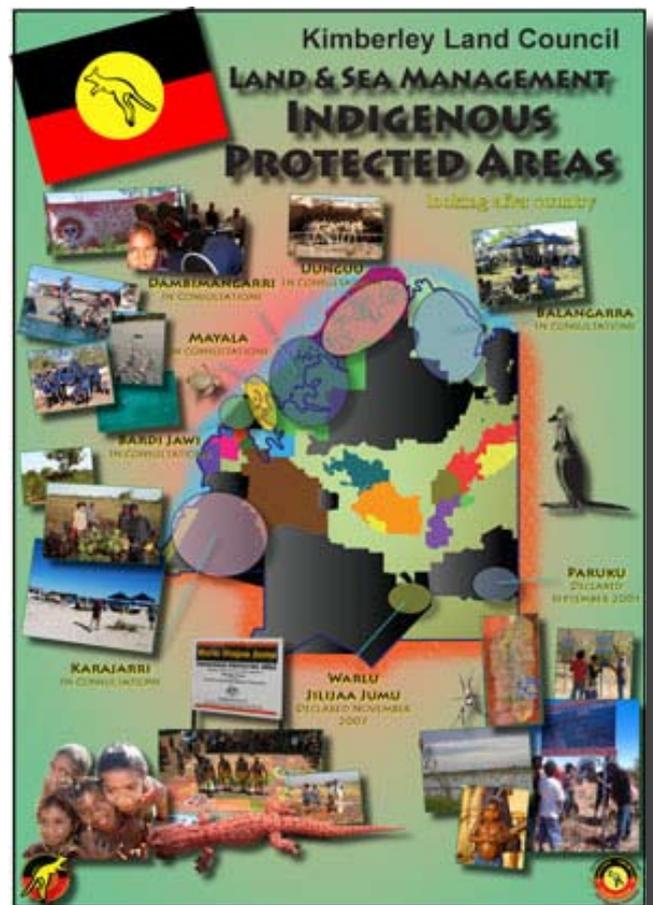
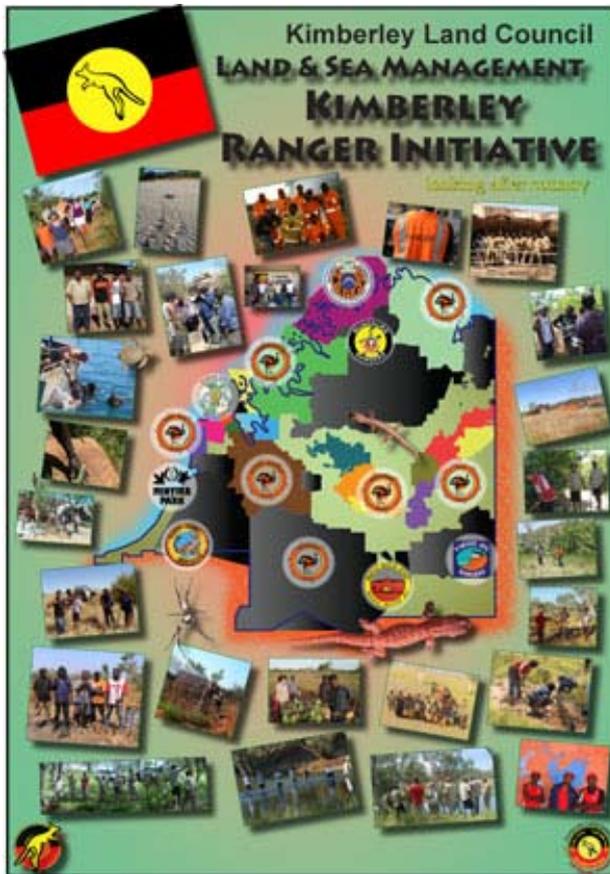
There has been a variation on the current contract which will ensure operational costs are sufficient to ensure effective coordination can be achieved given the areas covered by the developing groups.

Recruitment of key and newly created positions within the KRI has been a focus initially so the model can achieve its goals and deliver on aspirations of Traditional Owner groups looking to establish their own rangers.

There are many groups emerging that require support and assistance in developing their programs. A challenge for the KRP is to determine what area the support can cover and where communities are most ready to engage.

Under the developing ranger groups area the east Kimberley Ranger groups of Balangarra and Kija rangers have had set backs from the turnover of coordinators. Some assistance from other LSMU projects and casual staff has ensured a degree of momentum however without stability of the development officer position difficulties in progressing are inevitable.

The Fitzroy Valley is another area where aspirations are being expressed and some progress is occurring, a replacement coordinator is also required to maintain continuity for those groups.



Indigenous Protected Areas

Indigenous Protected Areas (IPA's) are one of the preferred models for land management by Kimberley Aboriginal people with currently two established IPA's and seven consultation processes in the Kimberley.

In developing the priorities for the Unit at the beginning of 2007, expansion of the IPA framework was identified as a high priority.

With five Kimberley IPA consultation processes underway stretching from Karajarri in the south to, Bardi Jawi, Dambimangari, Unguu and Balangarra in the north, the Land and Sea Management Unit is committed to support Indigenous land owners to

develop, declare and manage IPA's on their lands as part of Australia's National Reserve System.

It is anticipated that the Unguu IPA will be declared in the near future.

The Land-and-Sea Management Unit has been successful in securing additional funds to support the consultation process from the PEW Environmental group. Throughout the year Traditional Owners participated in planning meetings to capture their ideas for healthy country and develop a planning document that shows how Traditional Owners want to look after their country.



Paruku IPA

Two new co-ordinators are being recruited to fill positions in Billiluna and Mulan, with some restructuring of the positions to meet the special circumstances of the Paruku IPA, which occupies two pastoral leases and works strongly in conjunction with "WOC" rangers.

A 10 year management plan has been completed after a long consultation process with the Traditional Owners. The plan is print-ready and will be distributed to Traditional Owners and partners as soon as it has been printed. All subsequent annual work plans will be based on the aspirations and priorities identified in the management plan.

Developing a language program and a Junior Ranger program within the schools are both high priority, and the Mulan language program is already under way.

In October a large feral horse cull will take place around Paruku to alleviate grazing pressures on the lake. Prior to this the Paruku Rangers have begun mustering and breaking in horses in order to maintain a small herd for work and recreation purposes.



In July several members of the IPA travelled to Canberra for the opening of the Canning Stock Route art project at the National Museum. The IPA produced a painted map to demonstrate the role played by the Paruku Traditional Owners during the stock route era, when many of them accompanied the drovers as stockmen and women and camp cooks.

The Paruku IPA is approaching its tenth year, and in spite of some setbacks is in a strong position to achieve many of its aspirations in the next 10 years.



Warlu Jilajaa Jumu Indigenous Protected Area

The last 12 months have been busy for Warlu Jilajaa Jumu: most of the IPA Rangers moved on to become fulltime Working-on-Country Rangers, new IPA Rangers have been recruited and the new Rangerbase/Office out at Djugerari community has been developed.

After a season full of field trips Warlu Jilajaa Jumu IPA is now trying to incorporate the workplans of IPA- and WoC Rangers to look together after country and manage the IPA according to the Management-Plan.



National Heritage Assessment

In 2008 the Western Australian and Commonwealth Governments agreed to undertake a National Heritage Assessment of the west Kimberley as part of the Strategic Assessment for the Gas hub site.

Subsequently, the Federal Environment Minister, Peter Garrett, requested that the Australian Heritage Council assess 22.5 million hectares of country in the west Kimberley to determine whether any heritage “values” in the area should be included on the National Heritage List.

The KLC has been working with the Department of Environment Water, Heritage and the Arts (DEWHA) to ensure there was a culturally appropriate consultation process with Traditional Owners about the National Heritage Assessment, to make sure that any listing of cultural values only happens with the consent of Traditional Owners, and to make sure that the cultural values are properly understood and assessed by the Minister.

Places that qualify for National Heritage Listing are recognised because they have “outstanding heritage value to the nation”. Places can be listed for their Indigenous, natural or historic heritage values, or a combination of these.

Nominations for National Heritage are assessed by the Australian Heritage Council, which makes recommendations to the Federal Environment Minister. The Minister makes the final decision about the places and heritage values that are added to the National Heritage List.

Consultation meetings have been held with each of the Native Title claim groups whose country is covered by the National Heritage Assessment.

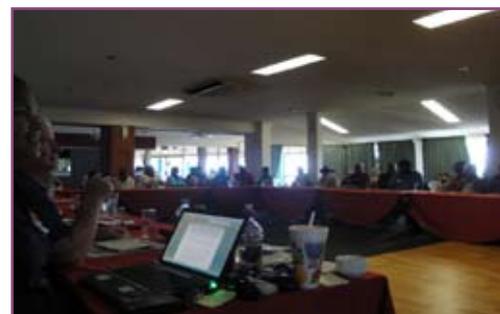
A Senior Leadership Group made up of senior cultural advisors supported KLC and DEWHA staff in the meetings with Traditional Owners.

A Traditional Owner Advisory Group, made up of two members from each native title group in the assessment area, was responsible for managing the preparation of reports on the cultural values identified as potentially supported for inclusion on the National Heritage List.



The research and reports, managed by the Traditional Owner Advisory Group, include stories that connect people, country, and culture across the Kimberley. These heritage stories are evident in the themes:

- Resistance, Survival and Adaptation;
- Galwal/Kalum Double Log Raft;
- Rock art in the context of its cultural landscape;
- Aboriginal Stockmen and the Pastoral Industry;
- The cultural values of the Fitzroy River catchment, and;
- Pearl Stories - Riches of the Sea.



Throughout the consultation process Traditional Owners referred to the Kimberley as a living cultural landscape that must be respected and looked after for future generations; people, country and culture is connected across the Kimberley through stories from the past, present and future.

A key issue that was continuously raised by Traditional Owners was a strong desire to manage and care for country, and the need for certainty that any cultural heritage values added to the National Heritage List would be adequately and appropriately managed.

From May 2009 to July 2010 the KLC National Heritage Assessment Project Team held more than 25 meetings with Traditional Owners on country. These meetings covered initial consultations on the National Heritage Assessment, reporting-back meetings, and final authorisation meetings, where Traditional Owners decided whether or not they would support National Heritage Listing of their cultural values.

At the final round of authorisation meetings in June 2010 each of the Traditional Owner Groups, which met in regional or cultural blocs, endorsed the listing of the cultural heritage values for their country and directed the KLC to submit a comprehensive cultural heritage values report to the Australian Heritage Council.

Senior Leadership members KLC Chairman Tom Birch, Deputy Chairman Frank Davey and Special Advisor Irene Davey went to Canberra to give the Federal Environment Minister a copy of the Kimberley National Heritage cultural values report and request that a decision be made on adding the values to the National Heritage List.



GETTING CONTROL OF THE FUTURE

Overview

'**Getting Control of the Future**' is a core part of the vision of the Kimberley Land Council.

There are a number of ways in which this part of the vision is achieved.

Under the Native Title Act, Native Title claims and successful determinations provide a foundation for the way the Kimberley Land Council facilitates agreements on behalf of Traditional Owners.

The Future Acts provisions of the Native Title Act 1993 give claimants certain rights to decide what activities happen on land where Native Title is recognised or under claim. These activities can include third party development proposals.

These provisions provide opportunities for claimants to negotiate agreements that deliver benefits to Traditional Owners for allowing developments on their land. Development proposals can include anything from services (such as the construction of roads and housing), to land management ventures (such as ecotourism ventures), to resource proposals (such as mining).

Part of the Kimberley Land Council's Native Title Representative Body function is to facilitate and negotiate 'Future Acts' agreements under instruction from Kimberley Traditional Owners.

In negotiating such agreements, Traditional Owners and the KLC focus on securing long-term benefits, so that Kimberley Aboriginal people can share in the wealth generated in the region, and become engaged in the Kimberley economy. Benefits include such things as improved education and training, employment opportunities, better health services, better housing, and community development and improved social conditions.

The Kimberley Land Council has established an Agreements Unit to co-ordinate activities relating to development proposals. The Agreements unit takes a pro-active position in identifying and developing opportunities for Kimberley Indigenous people to become engaged in the regional economy.

This includes business opportunities ranging from eco tourism to construction and maintenance, provision of services to government (such as assisting the Australian Quarantine and Inspection

Service to monitor the Kimberley coastline, or delivering the Indigenous component of research activities), establishment of carbon abatement initiatives, and utilisation of native and introduced resources (such as bush food harvesting, or management of feral camels and horses).

A separate Regional Solutions Unit has been established specifically to deal with proposals for the development of a Liquefied Natural Gas processing hub on the Kimberley coastline. The Regional Solutions Unit was established in response to the size and scope of this proposal.

The KLC is engaged with 29 claim groups across the region. There have been 11 determinations of Native Title, covering almost 50 per cent of the region, making the KLC one of the most successful NTRB's in Australia. This strong Native Title engagement is reflected in the number of beneficial agreements the KLC has negotiated on behalf of Traditional Owners.

GETTING CONTROL OF THE FUTURE



getting control of the future

Agreements

Introduction

The Agreements Unit was formed in early 2009, to facilitate all agreement making between Traditional Owners and third parties (other than the Liquified Natural Gas proposal negotiations, which are managed by the Regional Solutions unit, discussed below).

Part of the role of the Agreements Unit is to undertake negotiations for Heritage Protection Agreements, of which there were over 50 negotiated over the past year, and subsequently all Heritage Surveys (Work Programme Clearances).

There are two legal officers and one para-legal officer involved in the negotiations for the Heritage Protection Agreements, and one anthropologist, four project officers and two field officers working on Work Programme Clearances.

There have been 53 Work Programme Clearances undertaken over the past year, an increase of over 150 per cent. Last year a large number of companies working in the Kimberley reduced their exploration programs because of the global economic recession. This is now not the case and exploration activity has increased.

The main focus area this year has been in the central Kimberley particularly in the Nyikina Mangala and Ngurrara traditional lands. This trend appears to be ongoing for the next financial year with many companies already meeting with Traditional Owner groups and outlining their exploration programs for 2010/11.

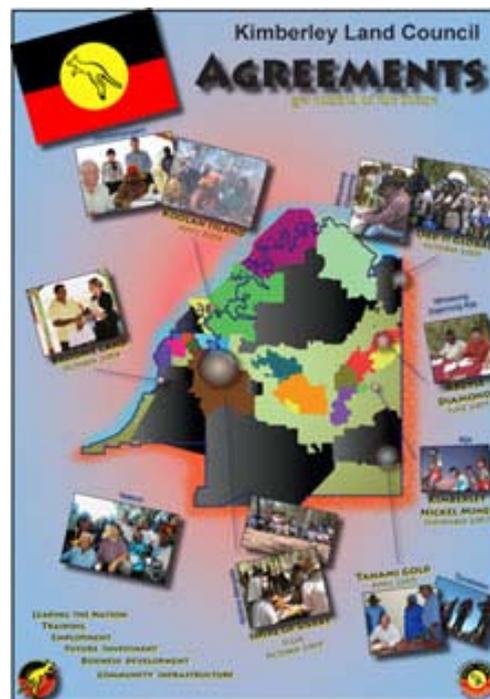
The main interests in the central Kimberley are coal and oil and gas. There has also been five companies exploring for uranium in the Tjurabalan traditional lands.

KLC has a new Heritage Protection Agreement in place for companies that want to explore for uranium. There have also been two meetings with Tjurabalan Traditional Owners in relation to uranium and KLC assisted by providing expert advice in relation to uranium exploration and mining.

One company has shown interest in exploring of uranium in the Nyikina Mangala claim area and there are long held interests in the Oobagooma area in the Dambimangari claim. KLC is undertaking discussions with the Department of Defence which holds the freehold for the Yampi Defence Lands where this deposit is located.

This unit will also assist Traditional Owners with negotiations of any mining agreements, as well as agreements with government departments and agencies, and research bodies.

The negotiation of Indigenous Land Use Agreements with the State of Western Australia to facilitate the building of infrastructure in communities will form a large part of the new unit's workload. KLC is still in negotiations with the State about the final agreement but this should be finalised in the first half of 2010. This will increase the staffing numbers of the unit by an extra five positions.



Negotiated Agreements

Pluton Resources Ltd

In the 2009/10 reporting period, the KLC continued to engage with Pluton Resources Ltd on behalf of the Mayala Native Title Claim Group in respect of Pluton's proposed iron ore mine on Irvine Island, located in the Buccaneer Archipelago, northwest of Derby.

In 2010, the Mayala Traditional Owners undertook a heritage survey on Irvine Island. During this period, the KLC also engaged with Pluton with negotiations for a Studies Agreement and a Negotiation Protocol and the

basis on which the Mayala Traditional Owners would engage with Pluton about a project-related agreement in the future. Two Negotiation meetings were held with the Mayala Negotiation Committee and Pluton. These negotiations will continue in 2010/11.

Pluton has also applied for exploration and prospecting tenements in the Dambimangari claim area. Discussions will begin with Dambimangari in 2010/11 in relation to these.

Inpex Browse Ltd.

Inpex Browse Ltd decided to locate their project out of Darwin rather than at the Maret Islands in the north Kimberley.

The company is investigating a location for a marine supply base. There are two possible locations in the Kimberley – Broome or Point Torment north of Derby. KLC has assisted Warrwa Traditional Owners to be part of the studies being undertaken at Point Torment in 2009 and 2010.

KLC is presently negotiating a Heritage Protection Agreement on behalf of the Traditional Owners.

Mount Gibson Ltd

KLC and Dambimangari Traditional Owners have negotiated further Heritage Protection Agreements for tenements on the mainland south of Koolan Island with Mount Gibson Ltd.

A Work Programme Clearance was undertaken on the western end of Koolan Island and the company has begun exploration in this area. Further clearances will be undertaken before drilling can occur.

Kimberley Nickel Mine

KLC continues to assist the Traditional Owners with their agreement with the Kimberley Nickel Mine. They have assisted with the employment of an Administrator to work full time on this project. the Administrator began in the 2009/2010 reporting period.

Ridges Iron Ore Project

The Kimberley Metals Group is a private exploration and mining company based in Perth and purchased the Ridges Iron Ore Project (previously named Argyle Iron Ore Project) in February 2009.

KMG is carrying out a Feasibility Study of the Ridges Project with the aim of bringing the project into production by 2011.

The project is situated in the East Kimberley about 170km south of Wyndham.

Negotiations began in September 2009 and were completed in June 2010

The KLC with Lumugal Traditional Owners has secured a significant mining agreement that provides for education, employment and business development opportunities.

The Agreement is between the Lumugal people and the Kimberley Metals Group for an iron ore mine to be built near Pompeii's Pillar in the east Kimberley.

The signing of the agreement in June comes after more than eight months of negotiations. Although the agreement is commercial-in-confidence, it provides for significant benefits for the Lumugal people including mining royalties for the life of the project.

Other highlights of the agreement include:

Employment opportunities:

- A minimum of two Traditional Owner training positions or apprenticeships with provision of full-time work once completed;
- Lumugal Traditional Owners to be given first preference for any employment positions;
- Employment of Aboriginal Cultural Rangers;
- Employment of an Aboriginal mentor to assist Indigenous staff

Business Development:

- Kimberley Metals Group will assist Lumugal Traditional Owners in establishing businesses to provide services to the mine;
- The company will provide capital and business expertise to assist Traditional Owners in setting-up business opportunities;
- Kimberley Metals Group will provide business development sessions every week for up to four hours to help Traditional Owners set-up businesses and ensure they are successful; and
- Businesses owned by native title holders will be given first preference when awarding contracts.

Education:

- Significant on-going commitments to increase education opportunities for Lumugal Traditional Owners.

This agreement highlighted the strength of KLC in working with Kimberley Traditional Owners to secure important agreements that provided long-term benefits for Aboriginal people.

The Lumugal Traditional Owners worked together as one group to successfully negotiate this agreement which will provide positive outcomes for their people.

This agreement maintains the high standards of agreement making in the Kimberley.

The company will pay a considerable mining royalty rate but more importantly this agreement offers substantial education, employment and business development opportunities that will ensure a better future for Kimberley Aboriginal people.



Aboriginal Lands Trust

The KLC continued to work with the WA Department of Indigenous Affairs regarding the transfer of Aboriginal Lands Trust held land to identify priorities, although progress is relatively slow.

Progress has been made in relation to:

- commitments made by the State of Western Australia in relation to the Karajarri consent determination, regarding the transfer of ALT lands within the claim area;
- discussion on ILUAs to be rolled out across a number of Kimberley communities;

The KLC will continue to work with the ALT to speed up the process for transferring the ALT Kimberley estate to the Traditional Owners.

Broome Native Title Global Negotiations

During the reporting period the KLC and the Native Title holders continued negotiations with the State Government. The Prescribed Body Corporate, the Yawuru Native Title Holders Aboriginal Corporation (the Yawuru PBC) continued the negotiations with KLC's assistance, on behalf of the community of Native Title Holders. There were extensive negotiations with the State concerning a wide ranging number of issues including compensation, land tenure and commercial interests.

There have also been discussions surrounding the protection of native title rights through land management arrangements with State departments.

Regional Solutions

Liquified Natural Gas Proposals

The Kimberley Land Council and the Western Australian State Government entered into a Financial Assistance Agreement on 8 October, 2009. This Agreement covered the period from the 1 April to 31 December 2009, with the aim of resourcing the KLC on behalf of Traditional Owners to participate in discussions about proposals to develop a Liquified Natural Gas (LNG) processing facility on the Kimberley coast.

On 4 June 2010 a new Financial Assistance Agreement was signed. The KLC has complied with its obligations under both of these Financial Assistance Agreements.

development, but also addresses the "ripple effects" that flow on beyond the immediate site.

This is required to make sure that the lessons learned from industrial development in the Pilbara are applied to Kimberley development proposals. This includes ensuring mistakes of the Pilbara are not repeated, and that benefits of development are maximised, and negative impacts minimised.

All of the above activities are directly related to the proposed LNG hub and cannot be viewed in isolation. They demonstrate the KLC's commitment to arriving

at a world's best practice agreement, which protects the rights and interests of all affected Indigenous groups.

Negotiations

The Ripple Effect

The opportunities arising from the LNG negotiations go beyond the immediate impacts on a specific site and Traditional Owner group, to include the add-on activities of:

- Regional governance and decision making;
- Native title consent across a number of claims;
- Land tenure reform on the Dampier Peninsula;
- Engagement in social investment programs through tripartite agreements;
- Opportunities for commercial activities; and
- The distribution of regional benefits.

The KLC is committed to a process that not only considers the impacts from the physical footprint of the

affected the negotiations to some extent, it should be noted that such issues are not outside the norm when claim groups are subjected to the enormous pressures



ILUA

The terms of an ILUA had not been agreed upon by June 30th 2010, through no fault of the KLC. The KLC has delivered on all of its commitments on time and within budget.

The Premier in June announced plans of possible compulsory acquisition by the State, citing breakdown within the native title group as the primary reason that the ILUA had not been signed.

While the issues within the native title claim group have affected the negotiations to some extent, it should be noted that such issues are not outside the norm when claim groups are subjected to the enormous pressures

associated with major resource development, and that those issues were addressed by the KLC and the claim group in a relatively short period of time.

On 3 August 2010, the native title claim group met and authorised a new Applicant (comprised of six members of the claim group). This decision is yet to gain the required approval of the Federal Court. The authorisation of a new Applicant is expected to assist in addressing the issues within the native title claim group referred to above.

The Premier of Western Australia informed the KLC (including through public statements) that compulsory acquisition would be commenced if an ILUA was not finalised in large part by 30 June 2010. This deadline passed without an agreement having been reached.

The KLC believes that this timeframe was not realistic or, if complied with, would not have resulted in an effective agreement which protected the interests of native title parties. (See for example the several years taken to negotiate the Ord Final Agreement and the Yawuru Agreement both of which delivered outstanding results, compared to the much shorter period taken to negotiate the Burrup Agreement, which has experienced significant issues in implementation.)

The KLC believes that compulsory acquisition would introduce significant risks to the timing of the project, and possibly to the commercial parties' and native title owners' willingness to continue to support the project.

The KLC's position is that the State and Woodside must return to the negotiation table and settle the detail of the ILUA and Management plans. There is no need for compulsory acquisition to proceed, as Traditional Owners are committed to achieving a negotiated outcome with the State and Woodside.

Compulsory acquisition may result in a loss of support for the project amongst native title parties because an adversarial process is unlikely to be able to deliver on the key condition of that support; namely, responsible development.

Tripartite Engagement

The Tripartite Forum is a forum for Traditional Owners through the KLC, the Commonwealth Government, and the State Government to engage on issues relating to the social and economic well being of Indigenous people in the Kimberley.

The first Forum was held on 4 December 2009. The Tripartite aims to meet at least every three months. The forum also has Working Groups assigned to the issues listed below, which meet on a more regular basis.

1. Education, Employment and Training
2. Health and Well Being
3. Governance and Leadership
4. Business Development
5. Land Access and Housing
6. Cultural and Natural Resource Management

In addition to the involvement of Traditional Owners and KLC Board Members in the Tripartite Forum, the KLC-convened Kimberley Futures Forum elected three community representatives to participate in the Tripartite Forum. They are Patrick Green (Leedal Pty. Ltd.), Ian Trust (Wunan Foundation) and Marty Sibasado (Nirrumbuk).

The Tripartite Forum has struggled to find identity and purpose, partially because of time commitments and the lack of clarification of roles of each party.

In June there was a substantial amount of work done, by the KLC and local Commonwealth representatives, to review the Terms of References and representation of the working groups. It is expected that as a result the next six months will produce improved results.

There is some concern about the Commonwealth's failure to meet its secretariat obligations and the consequent delay in action plans being issued, and the level of government commitment.

Strategic Assessment Process

The LNG Precinct is being assessed by the State and Commonwealth governments in two separate and concurrent Strategic Assessments.

The Commonwealth Government assessment is being documented under a Strategic Assessment Agreement signed with the State Government. The State Government assessment is being done under the Environment Protection Act 1984 (WA).

The Proponent for the project under both assessments is the State of Western Australia's Minister for State Development.

The Commonwealth Strategic Assessment Agreement, which is a statutory agreement under the Environment Protection Biodiversity Conservation Act 1999 (Cth), sets out the Terms of Reference (ToR) for the Commonwealth assessment.

The ToR require the Proponent to provide a Strategic Assessment Report to the Federal Environment Minister, which identifies in detail the impacts of the proposed development on the environment, heritage, and Aboriginal people and culture, and the mitigation and management measures that will be implemented to address those impacts.

The Strategic Assessment Report is being prepared for the Proponent (the Minister for State Development) by the Department of State Development. The original timeframe for the submission of the report to the Commonwealth Department of Environment, Water, Heritage and the Arts was April 2010. As of 30 June 2010, the Strategic Assessment Report had not been finalised by the Department.



Indigenous Impacts Report

The KLC has been contracted by the Department of State Development to prepare the sections of the Strategic Assessment Report relating to impacts of the proposed development on Aboriginal people and communities. As required under the Terms of Reference, this includes social, economic, heritage, culture, and environmental values impacts, as well as a report on Traditional Owner consent and community consultation.

These impacts and the recommended mitigation and management measures have been reported on by the KLC in the Indigenous Impacts Report, which is comprised of the following sections.

- Volume 1: Overview and Consolidated Recommendations
- Volume 2: Report on Traditional Owner Consent and Indigenous Community Consultation
- Volume 3: Aboriginal Social Impact Assessment Report
- Volume 4: Heritage Impact Assessment Report
- Volume 5: Aboriginal Archaeological Site Avoidance Survey, James Price Point
- Volume 6: Ethnobiology Studies Report

The Draft Indigenous Impacts Report (except for volume 6) was provided to the Department of State Development on 31 March 2010 for its consideration. The KLC had not received a response to this as at 30 June 2010. Once this feedback is received, the Indigenous Impacts Report will be finalised by the KLC.

Aboriginal Social Impacts Assessment Report

Avoiding the significant detrimental impacts that major industrial developments can have on Aboriginal people and communities (as experienced elsewhere, notably in the Pilbara region of WA) comprises a large part of Traditional Owners' requirement for 'responsible development'.

The Aboriginal Social Impact Assessment (ASIA) undertaken by the KLC for the purposes of the Strategic Assessment has been crucial to determining (a) potential and likely impacts and (b) appropriate management and mitigation measures to avoid those impacts, or to otherwise make the impacts acceptable. A third purpose behind the ASIA has been to identify potential positive impacts, and recommend strategies to maximise the possibility of Aboriginal people and communities benefiting from those positive impacts.

The Department of State Development's original timeframe for completion of the Strategic Assessment Report was April 2010. This required the ASIA, which was commenced in August 2009, to be completed by December 2009.

This presented a very short study timeframe, with obvious consequences on the scope of the assessment. In particular, the short timeframe did not permit the ASIA to include a household survey, which is a key measure of the circumstances of the impacted population. However, the ASIA methodology was designed to overcome these limitations to the extent possible and, where not possible, the mitigation and management measures include conditions that these types of studies must be completed in the future.

The KLC ASIA team met with native title groups and other affected Indigenous people in Broome, Derby and the Dampier Peninsula. The team also met with more than 88 Indigenous organisations (Government, NGOs and Aboriginal organisations) that provide services to Aboriginal people and whose operations are likely to be impacted upon by an LNG Precinct.

The ASIA shows clearly that the LNG Precinct can either make a significant contribution to Aboriginal social and economic development, or can actually leave Aboriginal people much worse off.

Which of these happens depends on whether effective policy, funding and management responses are in place to ensure that Traditional Owners and other affected Aboriginal people can take advantage of opportunities created by the LNG Precinct, and that negative impacts are minimised.

Participation in Studies

During the reporting period KLC staff and Traditional Owners participated in studies to establish the suitability of James Price Point as a site for the LNG precinct, with a view to consideration of environmental, cultural and heritage issues.

These studies have allowed the KLC to employ a team of about 10 younger Traditional Owners to assist the technical teams in the field. This is an ancillary benefit from the project that is producing direct employment, skills enhancement, and personal development opportunities.

Traditional Owner Governance

During the reporting period the Goolarabooloo Jabirr Jabirr claimants, in consultation with industry experts, have developed preliminary Trust and other entity structures for the management of benefits flowing from the Heads of Agreement.

The in-house team also focused on portfolio development and commenced the necessary policy formation.

Progression of governance was affected by the uncertainty around the claim group. The KLC had anticipated by the 30th June we would have been into the implementation stage. However, due to issues relating to representation within the group, the KLC assumed a 'caretaker' role, and the project was suspended until those issues were resolved.

May marked the first meeting of the Jabirr Jabirr Youth Advisory Committee. This is an initiative of the younger claim group members who wanted to develop skills to prepare themselves for future roles, such as being board members and management committee members. The aim is skills development in areas such as governance and leadership processes. This strategy fits with a key KLC goal of encouraging young people to participate in Native Title, and has been very well received.

The Traditional Owner Negotiating Committee participated in leadership training, attended conferences and participated in negotiations.

Dampier Peninsula Plan Consultations

The KLC has been developing a consultation model for the proposed Dampier Peninsula Plan. This Plan deals with land tenure reform and land use and infrastructure development on the Peninsula, integrated with governance and heritage protection.

The consultation process will seek to establish ownership and empowerment for Traditional Owners and other indigenous people of the Dampier Peninsula, allowing them to come together to create a people-driven sustainable management plan that is a blend of traditional and contemporary processes.



Given the increasingly complex political climate of the Dampier Peninsula, it is apparent that achieving the most successful outcomes for planning and action requires a tailor-made consultation process (with Traditional Owners, community councils, various stakeholders and non-indigenous interests). It will also need to be designed to work off a low trust/high cynicism base to build confidence, credibility and strong partnerships so that commitments and action for change can occur.

The consultation process is designed to identify areas where the people of the Dampier Peninsula need to 'come together' for mutual interest, strength and sustainability. It is also an opportunity for people to decide *how* they want to make decisions for the Peninsula, and to develop structural models to support decision making.

The consultations will commence in the next reporting period.

Commercial Opportunities

The KLC has continued to explore joint venture partners and possible commercial opportunities. This has had a low priority at this particular point of time, due to a number of issues arising from negotiations.



Education and Training

Kimberley Literacy Plan

The Kimberley Literacy Plan is an initiative of the KLC Board, which wanted to look at a 'cradle-to-grave' approach to address literacy and educational issues. The long term aim is to equip Indigenous people with the skills needed to take advantage of job opportunities from development.

The Plan looks at a variety of educational programs to address needs across ages. For example, a Work Readiness Training program was developed specifically for local conditions and aims to remove barriers to entry into the workforce for people with literacy and numeracy issues.

The Kimberley Literacy Plan is progressing well with a trial of the Work Readiness Training program scheduled for early in the next reporting period. The KLC has received many positive comments from the stakeholders on the program's ability to 'value-add' to their services.

Reading Recovery

The Reading Recovery program is an intensive literacy intervention aid which originated in New Zealand. The KLC championed the program after being made aware of the positive successes demonstrated in a local trial which was under threat of funding cuts. It has 48 students currently enrolled. Feedback from teachers has noted the steady

increases in reading abilities and confidence across the board. The KLC will now move from development and implementation into a strategic advisory role with the Reading Recovery program.

The Kimberley Land Council, Melbourne University, and Notre Dame University are in discussion about units of study around literacy intervention. These could lead to formal qualifications for people who provide tutorial assistance but may not be qualified teachers, as well as professional development units for qualified teachers.

The KLC will undertake the next step of working across education sectors to ascertain interest in and support for this initiative.

The KLC has also been working across education sectors, through a Parents and Learning program, to develop workshops for parents of primary school aged children, to assist them in helping their children with pre-school activities and reading.

If local Indigenous people are to secure opportunities arising from an LNG hub, it is imperative that high schools are able to prepare them to enter into trades through apprenticeships. The KLC is working with other stakeholders in relation to consultations regarding the introduction of trade training centres in schools.



The KLC is a member of the Trade Training Centre Feasibility study working group, which is looking at a specialised centre located near to the Dampier Peninsula.

The KLC has co-ordinated a community skills audit to determine the aspirations and qualifications of Traditional Owners to engage in employment opportunities, should an LNG hub be established. Other parties have looked at workforce planning and models for the establishment of a centre. The Education and Training Working Group meets regularly and the final report will be released early in the next reporting period.

Media and Public Relations

There was a high level of media coverage for issues relating to the proposed LNG Hub throughout the reporting period.

Consistent editorial coverage in local, state and national press covered the whole range of issues relating to the gas. The reporting that related most directly to the Kimberley Land Council included:

- failure of the Commonwealth to meaningfully address the social impacts of the project over its whole life;
- national anti-gas campaigning (such as the 'Save The Kimberley' booklet launched by former judge Murray Wilcox in Sydney);
- the main findings of the Aboriginal Social Impact Assessment report;
- Premier Barnett's repeated threats to compulsorily acquire James Price Point.

Many of the major media reporting in state and national newspapers showed the KLC and Director Wayne Bergmann in a positive way. On the other side, key TV programs including the ABC's Four Corners, National Indigenous Television, and ABC's Stateline WA presented the Kimberley Land Council as being in conflict with some of the native title claimants, and made some negative statements on the role of the KLC in negotiations.

The KLC tried to get on the front foot with a positive media campaign that included:

- Taking out paid advertising in the local newspaper (Broome Advertiser);
- production of two, five minute mini-documentaries aired on local Indigenous television (Goolarri Television); and
- production of a 'Monthly Update' newsletter distributed locally and further afield;
- an updated website, (klc.org.au) including a stand-alone LNG negotiations page.

This campaign helped bring in reasonable local support for what the KLC was trying to do. Feedback indicated that the level of information put out surrounding the gas project from the other parties (the State and Woodside) was very low.

Federal Court action taken against the KLC, and issues surrounding the ability of the KLC to obtain instructions from the claim group, made media coverage difficult towards the end of the reporting period. This is expected to be resolved early in the next year.



Kimberley Futures

For a long time, Kimberley Aboriginal people have wanted to establish an accountable and well functioning representative Indigenous regional body. The aim of such a body is to let governments and other parties know about the vision that people have for themselves and their region.

However, little real support has been given to develop this idea. There is still a big open space for the establishment of an accountable and well functioning regional body that is accountable to, and promotes the interests of, Kimberley Aboriginal people.

Since the abolishment of ATSIC, there has been little or no region-wide representation of Indigenous needs and aspirations.

Indigenous people know the value of country, in terms of land, language, law and culture. Indigenous connection to country is amongst the strongest and most continuous in Australia.

Others, however, see the Kimberley as valuable in terms of industrial and economic opportunities. There are a range of valued mineral resources lying beneath the land and sea country, and government and industry are extremely keen to tap into them.

Development in the Kimberley is likely to progress over the next few decades at an alarming pace, and there is a real danger that Kimberley Aboriginal people will get left behind, or even further disadvantaged by this.

Now, more than ever, there is a need for a body that has the ability and capacity to voice Kimberley Indigenous concerns at the highest level, and the authority and mandate to make sure that voice is heard.

Senior Kimberley Traditional Owners have come up with the idea of 'Kimberley Futures' to be that voice.

Over the past 12 months the Kimberley Futures team has been speaking to as many people as they can about the project.

Discussions have taken place with more than 30 aboriginal service providers, more than a dozen native title claim groups, several industry representatives and various State and Federal Government agencies and representatives.

Over the past few years, and especially the last year, the Kimberley Land Council has taken strong steps to get Kimberley Futures up and running. A Kimberley Futures project team has been established to take the idea forward.

The team has been taking advice on what functions Kimberley Futures might be able to perform for the advancement of Aboriginal people in the Kimberley.

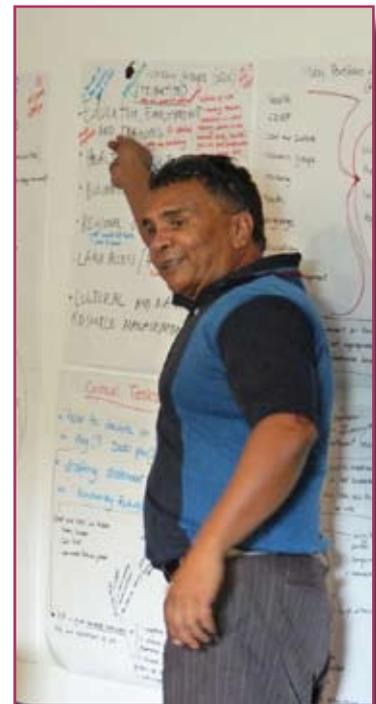
In March this year the team held a large forum in Broome which was attended by more than 40 organisations over two days.

The forum reaffirmed the portfolios that Kimberley Futures should focus on, and re-elected a Reference Group, as well as nominating three representatives to the Tripartite Forum.

The team has developed communication tools, including a newsletter, to inform people of what has been happening and what the plans for the near future are.

A draft Kimberley Futures structure has been developed, and will be presented to Claim Groups, organisations and community councils for comment and endorsement in the early part of the next reporting period.

The team will seek clarification and direction from Traditional Owners, through a set of questions regarding the functions of Kimberley Futures, before moving forward to the next step.



HAVING A STRONG ORGANISATION

Overview

Having a strong organisation is a core part of the Vision of the Kimberley Land Council. All the activities of the KLC depend on good corporate governance and good management. This is central to the efficient and effective operation of the KLC, and ensures that we are a stable, properly resourced, and well respected organisation.

communication, human resources, and relationships with other organisation and Government departments allows the KLC to be a long-term organisation with good standing.

Promoting Indigenous leadership and advancement amongst our members, directors and staff strengthens our organisation and provides the opportunity for the KLC to grow and flourish as a peak Indigenous organisation, well into the future.



HAVING A STRONG ORGANISATION

The Board and our members provide the vision of the KLC and are the backbone of our organisation, which was formed by Kimberley Aboriginal people for Kimberley Aboriginal people. Our corporate and management structures and processes support the vision, direction, and activities of all parts of the organisation.

The Corporate Governance and Financial Services units of the KLC service the Board of Directors, and all the planning, reporting, staff and the financial functions of the KLC.

Having a strong organisation means operating to the highest of standards in all areas of our work. This allows Traditional Owners to make well-informed decisions about their country, and allows the KLC to follow those instructions. Good processes for managing money, information and



strong organisation

Governance

Good corporate governance underpins the legitimacy and operation of the KLC.

The KLC aims to ensure best practice in corporate governance, whilst acknowledging

the unique nature of its membership and Board of Directors, to ensure that others can place confidence in the way the organisation operates.

Governance Structures & Practices

The Corporate Governance of the KLC takes place in accordance with its incorporation under the Corporations (Aboriginal and Torres Strait Islander) Act 2006. Governance practices are set out in the KLC's Rules.

Under this framework, the elected Board makes decisions about governance practices. The Board appoints a Chief Executive Officer to manage the affairs of the KLC on a day to day basis. The Chief

Executive Officer is also a member of the Board. The Chief Executive Officer is the interface between the Board and the staff of the KLC.

The Chief Executive Officer and senior management provide regular reports to the Board, but the Board takes no direct role in staff management or the day to day operation of the KLC. The KLC is managed through a delegations framework and in accordance with the policy and procedures set by the Board.

Senior Executive Responsibilities

The Chairman and the Deputy Chairman are elected by the Board to represent the members, the Board, and the organisation. They provide leadership and direction to the Board and the organisation, ensure that the KLC operates properly and fairly for all its members, speak on behalf of the KLC and its members, sign off on legal documents, and chair KLC meetings.

The Chairman ensures meetings are held and properly conducted, manages meeting agendas, ensures equal participation of all Board members in decision making, and signs to confirm accuracy of meeting minutes.

The Chairman provides leadership to the KLC, the Board, the Chief Executive Officer, and staff and acts as KLC spokesman and interface between the KLC and the broader community.

The Chief Executive Officer is responsible for the overall day-to-day operational and administrative management of the KLC, including overseeing the operations of the Corporate Services, Financial, Legal, Land and Sea Management, Regional Solutions, and Native Title Services units.

The CEO is supported by a Deputy CEO, and a management team consisting of the Principal Legal Officer, the Finance Manager, the Native Title Services Manager, the Corporate Services Manager, the Regional Solutions Manager, and the Land And Sea Management manager, and currently also the Regional Gas Manager.

The management team meets regularly to determine operational and administrative matters. Managers conduct meetings, as required, with staff in their areas of responsibility.

Senior Management Committees and Separation of Powers

The Board meets a minimum of four times per year to make decisions about the direction priorities, and activities of the organisation, and other appropriate matters including the Strategic and Operational Plans.

The Board has no direct role in the day to day administration and operation of the KLC. Specifically, they do not have a direct role in staff recruitment and management, or in financial management.

Financial and Operational Risk Management

The KLC maintains and applies stringent financial and operational procedures to ensure that adequate information is available for the effective management of the organisation.

The KLC employs a Financial Manager to manage the financial affairs of the organisation. The Financial Manager is a qualified Chartered Accountant, and forms part of the KLC's senior management team.

Financial and operational reports are presented to the management and Board meetings, and any issues

or potential issues requiring attention are dealt with. The KLC is pro-active in identifying financial and operational risk, and invariably adopts a cautionary position.

The Chief Executive Officer and senior staff provide financial and operational reports to the Board meetings, and assists the Board in identifying potential risks and appropriate courses of action to minimize or exclude those risks.

Ethical Policy and Standards

The work of KLC staff is conducted in accordance with ethical standards relevant to their particular disciplines or professions, to professional codes of conduct, and in line with the KLC Policy and Procedures manual.

The KLC Board and staff are also covered by a KLC Code of Conduct.

Budget and Audit

The KLC's financial management and accounts are independently audited on an annual basis. During the 2008-2009 financial year, the KLC had a cash turn-over approaching \$20million.

Membership

Members

Membership of the Kimberley Land Council is open to any Aboriginal person over 18, who is a Traditional Owner living in the Kimberley.

A review of the Members Register was conducted during the reporting period, to consolidate all previous

Membership lists, identify any errors, and to include changes where members have passed away.

The current Membership Register shows that the Kimberley Land Council has 888 Members.

Directors, Meetings, & AGM

Board of Directors

The Board of Directors during the reporting period was made up mainly of Directors elected (for a two year period) at the 2008 Annual General Meeting,

with three new Directors appointed during the current reporting period.

Kimberley Land Council Directors for the year to June 30 2010 were:

- | | |
|---------------------------|--------------------------------|
| Tom Birch (Chairman) | Frank Davey (Deputy Chairman) |
| Theresa Barker | Stan Brumby |
| Rita Augustine | Phyllis Gallagher |
| Patsy Bedford | Mervyn Steet |
| Lennie Hopiga | Josey Farrer |
| Hanson Boxer | Edna O' Malley |
| Frank Sebastian | Butcher Wise |
| Albert Peumora | Albert Dann |
| Evonne Birrell (28/9/09) | Esther Waina (7/4/2010) |
| Wayne Bergmann (Director) | Nolan Hunter (Deputy Director) |

- Rosie Lala
- Pearl Gordon
- Lorna Hudson
- Inga Pederson
- Gordon Smith
- Anthony Watson
- Alan Bin Salleh
- Gregory Tate (28/9/09)

SPECIAL ADVISERS:

- | | |
|-------------|-------------|
| Joe Brown | Joe Davey |
| Irene Davey | John Watson |

Board Meetings

The Board met on five occasions during the reporting period:

- July 2009 - Kununurra
- September 2009 - Gambanan, and 2009 AGM
- December 2009 - Broome
- April 2010 - Fitzroy Crossing

Annual General Meeting

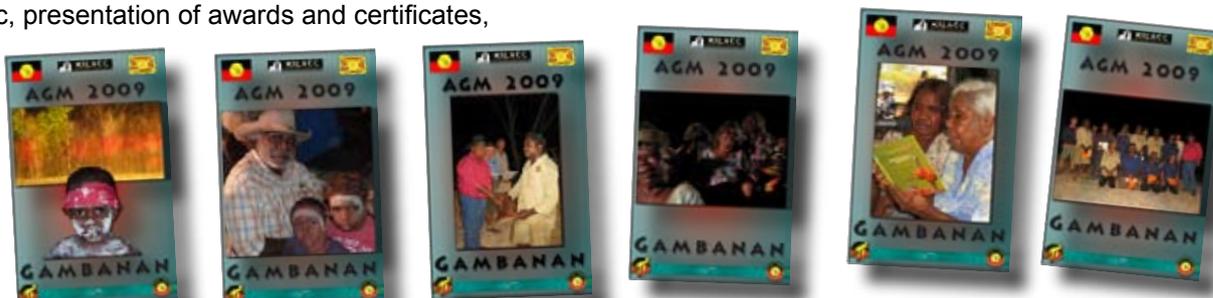
The 2009 AGM was held at Gambanan on the Dampier Peninsula.

As usual, the AGM was part of a bigger Kimberley Indigenous gathering, which included the AGMs of the Kimberley Aboriginal Law and Culture Centre (KALACC) and the Kimberley Language Resource Centre (KLRC).

The gathering also included a cultural festival of dance and music, presentation of awards and certificates,

and separate mens' and women's meetings.

In excess of 1,000 Kimberley Aboriginal people attended part or all of the gathering.



Strategic Plan 2010 - 2015

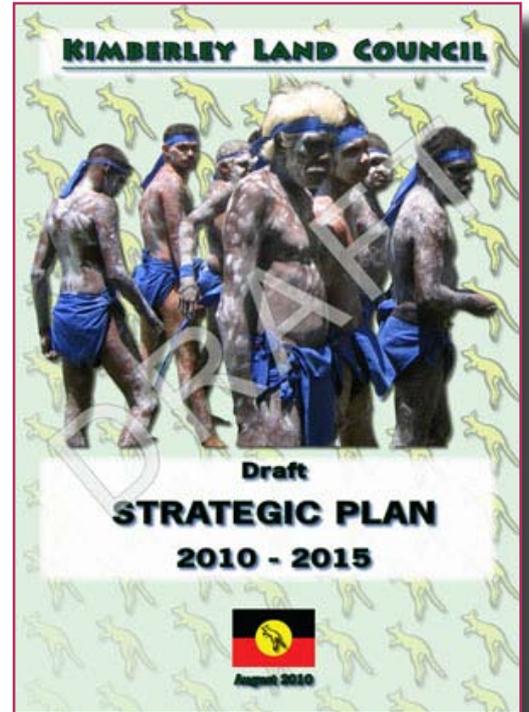
During the reporting period, work started on development of the KLC new five year Strategic Plan (2010-2015).

Under direction from the Board, a range of planning and consultation processes were put in place to identify the direction for the KLC over the next five years. This included confirmation of the KLC's Vision, a review of our history and organisational structure, and a new look at our Core Values (organisational and operational).

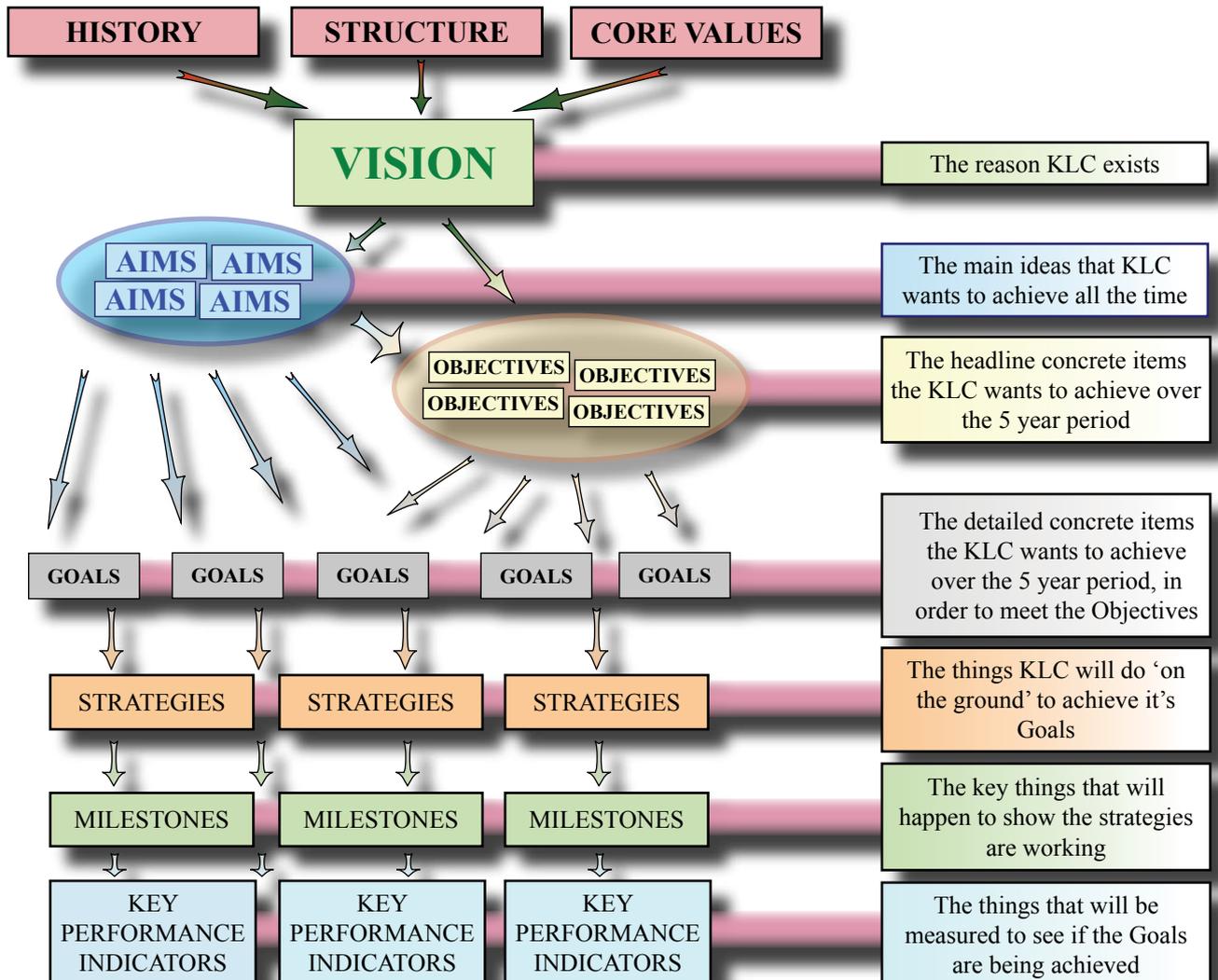
From these, the Aims and Objectives of the KLC were developed, with 45 Goals established to guide our activities.

The Strategic Plan is expected to be completed early in the next reporting period, when Strategies for achieving the Goals are put in place, along with Milestones and Key Performance Indicators to help us measure our progress.

The Strategic Plan will also include a method for monitoring and reviewing, so that it can be adapted to changing circumstances.



Strategic Plan Structure



CORPORATE MANAGEMENT

Management Structure

The KLC Board is the decision-making body for the Kimberley Land Council. The Board meets at least four times per year to make decisions about the direction and activities of the organisation and other appropriate matters including the Strategic and Operational Plans.

The Board has no direct role in the day to day administration and operation of the KLC. They do not have a direct role in staff recruitment and management, or in financial management.

The role of the Board is to set the direction of the organisation, establish priorities, and direct the development of the Strategic and Operational plans. The Board then directs the director and management team to put their decisions into action.

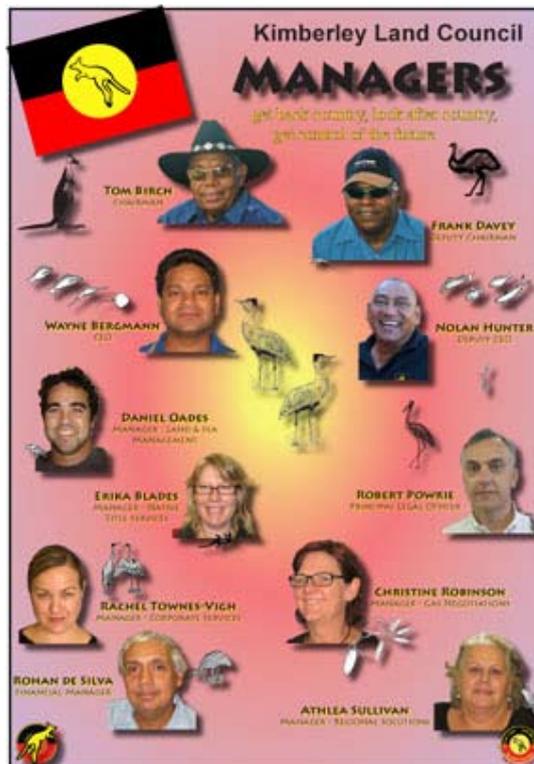
Corporate Management of the KLC, under direction of the Board, is the responsibility of the Director, supported by the Deputy Director and the management team.

Wayne Bergmann is the Chief Executive Officer of the KLC (appointed June 2001, current). The responsibilities of the Chief Executive Officer are the overall day-to-day operational and administrative management of the KLC, including overseeing the operations of the Corporate Services, Financial, Legal, Land and Sea Management, and Native Title Services units. The Chief Executive Officer is the interface between the Board and the staff of the KLC.

The Chief Executive Officer is supported by a Deputy CEO, Nolan Hunter (5/6/07, current) who assists the Chief Executive Officer in managing the day-to-day operations of the Land Council.

The Chief Executive Officer and Deputy CEO are assisted by a management team consisting of:

- Principal Legal Officer Robert Powrie [from May 2006]
- Finance Manager Rohan De Silva [from February 2008]



- Native Title Services Unit Manager Erika Blades (from February 2008)
- Executive Unit/Corporate Services Manager Rachel Townes Vigh (from May 2009; formerly Senior Finance Officer 2007-2009)
- Regional Solutions Unit Manager Christine Robinson (from May 2009; formerly Corporate Services Manager 2003-2009)
- Agreements Unit Manager Athlea Sullivan (May 2009 on; formerly Native Services Manager [2005-2008], and Regional Gas Manager [2008-2009])
- Land and Sea Management Unit Manager Gary Kairn (Jan 2009 to May 2010) and Daniel Oades (from May 2010 current)

The management team meet on a regular basis to determine operational and administrative matters. Managers conduct meetings, as required, with staff in their areas of responsibility, and direct staff activities and priorities.

Organisational Structure

Management Groups

For management purposes, KLC staff are employed under the management groups mentioned above:

- Legal Unit
- Native Title Services Unit
- Executive/Corporate Services/Finance Unit
- Regional Solutions Unit

- Agreements Unit
- Land and Sea Management Unit

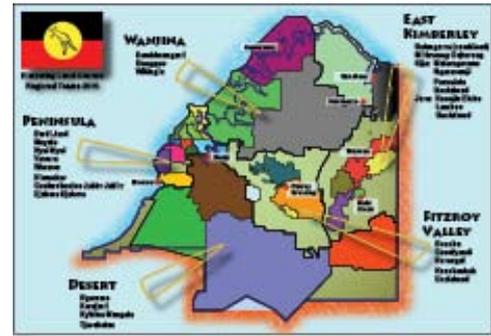
Staff within those units are responsible to the Unit Managers, and regular (yearly) staff performance reviews are conducted by Managers.

Regional Teams

Staff working 'on the ground' with Traditional Owners are allocated into regional teams. These staff are predominantly from the Legal, Native Title, and Land and Sea Management Units, with staff from the Agreements and Regional Solutions units engaged as required.

Each team covers a set geographical area, to provide staff consistency for Traditional Owners.

The regional teams approach also delivers greater efficiency in dealing with Traditional Owner groups, allowing meetings to cover a range of different issues relevant to the group, while reducing costs and time pressures on both Traditional Owners and staff.



Office Locations

The head office of the Kimberley Land Council is located on Pembroke Rd in Broome. The Legal, Native Title, Corporate Services, Financial, and Land and Sea Management Units operate from this office.

Separate offices in Broome house the Agreements Unit and the Regional Solutions Unit.

The majority of KLC's staff are based at these locations.

The KLC has an office facility and corporate Library in Derby, which is the base for mainly Land and Sea Management Unit staff.

An office in Kununurra houses mainly Native Title Services Unit staff.

The KLC also has staff in remote locations of One Arm Point, Mulan, Fitzroy Crossing, Djugeran, Kalumuburu, Beagle Bay, and Bidyadanga).



Planning

Strategic Plan

A strategic plan guides the overall direction of the KLC, and a new strategic plan for 2010-2015 is currently being developed.

This plan sets the direction for the organisation and

identifies KLC's visions, values, aims and objectives. To meet these aims and objectives, a number of goals have been set for the five year period, and strategies identified to achieve the goals and monitor progress.

Operational Plans

The KLC has implemented a policy whereby each Unit develops an Operational Plan, covering the 12 month period ahead. This Plan is a detailed outline of what the Unit intends to do in the short to medium term.

The Operational Plans follow on from the Strategic Plan, and break the 'big picture' down into identifiable activities.

The Operational Plans are a tool for managing each of the KLC's areas of activity, by identifying the detail of planned work, timelines for completion, and the staff and financial resources to be allocated to that work.

The Operational Plans follow on from previous years, to make sure services and activities are delivered consistently and according to the 'big picture'. They show the progression of ongoing work and identify new work to be taken on.

During the reporting period, The Native Title/Legal Units (NTRB activities) worked to an Operational Plan, whilst the Land and Sea Management Unit worked to a combined Unit Strategic and Operational Plan.

Each unit will develop an Operational Plan for the following reporting periods.

Risk Management - Operational

The KLC has maintained and applied strong operational procedures to make sure that enough good information is available for the effective management of the organisation.

The senior management team meets regularly to review progress, and identify upcoming issues. Financial and operational reports are presented to these meetings, and any issues or potential issues requiring attention are dealt with.

The management group looks ahead to identify any possible operational problems, and is always very cautious to protect the interests of the organisation and its members.

The Chief Executive Officer and senior staff provide operational reports to the Board meetings, and assists the Board in identifying potential risks and appropriate courses of action to keep those risks low.

The Chief Executive Officer and Deputy CEO keep a good eye on all the activities of the KLC, and keep the Chairman and Deputy Chairman regularly up to date of operational matters.



Resource Constraints

The Kimberley covers about 412, 451 square kilometres, divided into four local government areas, with six major towns and some 200 Aboriginal communities. Native title has been recognised over almost 50 per cent of the Kimberley region.

This is a huge area to cover, and it is difficult and expensive to deliver the wide range of services offered by the KLC to all Traditional Owners.

Effectively, each KLC office must service an area in excess of 200,000 square kilometres. The organisation as a whole, including its Board and management staff, service the whole region. As an example, travel between Broome and Kununurra for Board meetings involves two days' driving.

This significantly adds to costs, and has a marked effect on human resources.

The KLC tries to reach a balance between demand and resources. However the, human and financial resources available to the KLC were limited. Our ability to deliver services and to respond to all issues, depends on what resources we have.

Across the board, KLC's staffing levels in the reporting period were low in comparison to work demands. Our staff work really hard, and they feel the pressure.

An ongoing issue for the KLC is the strong demand on the labour market created by the ongoing growth and development of industries in the Kimberley region, in particular industries associated with the mining and resources boom in the region.

The KLC finds it difficult to compete in the current labour market with other employers, mainly because it can't offer the same rates of pay offered in both the public and private sectors to experienced and professional staff.

This is made harder by the high cost of living, including housing, in the Kimberley.

The KLC's physical office accommodation remains below good standards needed for efficiency, safety, and productivity. This continues to have a negative affect on the organisation's outputs and performance.



Human Resources

The KLC staff is made up of Indigenous and non-Indigenous people, and includes lawyers, anthropologists, environmental and land management officers, Native Title officers, librarians, and financial and administrative personnel. At the end of June 2010,

118 staff were employed by the KLC on permanent, permanent part-time or fixed term basis. Sixty-nine positions were funded through project grants other than FaHCSIA's NTRB funding.

Four of the nine Managers are Indigenous.

Staff Details at 30 June 2010

KLC Staff at 30 June 2010	
Male	56
Female	62
Indigenous	54
Non-Indigenous	64
NTRB	49
Non-NTRB	69
Total	118



Ethical Policy and Standards

The work of the KLC staff is conducted in line with ethical standards relevant to their professions, to professional codes of conduct, and in line with the KLCs Vision, Values, and Policies and Procedures.

Pay Levels of Senior Staff

Pay levels of senior staff is negotiated in relation to market factors, and resources and other recruitment issues for the organisation.

Seven employees received salaries of more than \$100,000 during the reporting period.

Workplace planning, keeping staff, and staff turn-over

Staff Planning

The KLC recognises the importance and value of the staff contribution to workforce planning.

Managers conduct regular planning sessions with staff in their units, exchanging information that assists both staff and management. Planning is undertaken by the senior management group on a regular basis.

Staff from the various offices meet regularly to discuss workplace issues. The Native Title Services Unit and Legal Unit meet on several occasions to report on progress of activities to the NTRB Operational Plan and develop strategies for the progression of activities.

The KLC conducted one all-staff workshop in the reporting period. The purpose of the workshop was to discuss and implement regional teams for the purpose of sharing and utilising resources efficiently and effectively across the Kimberley.

Many regional planning meetings took place, as well as various corporate and operational planning sessions across the various Units and teams. The Board also provides advice and support to workplace planning processes.

Keeping staff and staff turn-over

The KLC experienced a turnover of approximately 20 per cent during the reporting period across all Units. One staff member returned from maternity leave within the 12 month period to 30 June 2010.

The turnover figures include, secondments, study leave and terminations

However, the KLC still struggles to recruit and retain more experienced professionals, as we are unable to compete in terms of pay with other NTRB bodies and industry players. In addition the pool of experienced Native Title lawyers and professional staff appears to be getting smaller, creating a highly competitive marketplace.

The KLC has also experienced significant growth in the reporting period with an increase of more than 37 per cent in staff across the organisation. Such increases can have significant consequences for existing staff in terms of the pressure of inducting, mentoring, training and supervision of new staff.

Performance Management

The KLC continues to use and refine its performance management procedures and activity based reporting.

Staff performance is reviewed formally on an annual basis and informally as required throughout the year.

Training and Development

The KLC values its staff members and recognises the importance of skills development. The KLC Training Register reflects a mixture of internal and external training. External training is sourced from across a range of service providers and features both industry specific training and individual professional skills development.

During the reporting period staff attended training organised by the Aurora Project in Foundations of Native Title, Future Acts, Agreement Making, Understanding ILUA's, NTRB Legal Masterclass, Management & HR Workshop and Negotiating Skills.

Staff also participated in other training opportunities including the Office of Native Title Future Acts seminar, FaHCSIA CFO, SPO & CEO Conference and Native Title Field Officers workshop.

In addition, KLC staff were offered OHS and First Aid Training, and four wheel drive training is offered to all staff required to travel off-road as part of their duties.

Internal training included new staff inductions, information technology training and on-going training focusing primarily on KLC policies, procedures, planning and processes.

Six KLC directors and 14 staff attended the NTRB conference facilitated by AIATSIS in Canberra in June 2010.

The KLC encourages staff to take the lead in finding opportunities for professional development. The benefits to staff of attending industry specific training are significant, and help overcome issues associated with working in remote areas in highly specialised fields.

The KLC also organises regular internal training sessions to increase staff skills and understanding of KLC policy and processes.

The KLC looks for a diverse range of training activities to both benefit staff individually and to collectively increase skills and organisational performance.



Staff Employment Agreement

Employment at the KLC is covered by the KLC Enterprise Agreement (2004). This agreement covers employment conditions and pay levels (and now they are adjusted), leave and allowances, workplace relations, organisational change and human resource management.

The agreement gives certainty and transparency in staff employment conditions, and sets the role and activities of the organisation in staff management.

This has improved employment security and simplified staff management. In 2008 the KLC commenced discussions with staff on a new workplace agreement. The new KLC Enterprise Agreement will be implemented in the second half of 2010. The new Fair Work Act 2009 will guide the process of the new Enterprise Agreement.

Occupational Health and Safety

While KLC offices comply with the basic occupational health and safety requirements, the KLC is concerned to improve standards in this regard. However, in the absence of adequate funding and alternative premises, it is difficult to achieve best practice in this area.

Every effort continues to be made to ensure that staff work in a safe working environment at all times, whether in the office or the field. During the reporting year staff were offered OHS, stress management and first aid and four-wheel-drive driver training.

The KLC also engaged an external service provider to implement an Employee Assistance Program. This program has been successful and utilised by a number of staff in varying circumstances. It is part of the KLC's overall commitment to staff well-being.

Financial Management

Audited Financial Statement

The KLC Financial Statements to the end of June 2010 were independently audited.

Full details of this audit can be found in the Appendix 2 of the Annual Report

Risk Management - Financial

The KLC has maintained and applied strong financial procedures to make sure that good information is available to the Board and to Managers, for the effective management of the organisation.

The KLC employs a Financial Manager to manage the financial affairs of the organisation. The Financial Manager is a qualified Chartered Accountant, and forms part of the KLC's senior management team.

The senior management team meets regularly to review progress, and identify upcoming issues. Financial reports are presented to these meetings, and any issues or potential issues requiring attention are dealt with.

The management group is forward-looking in identifying financial risks, and always takes a cautious approach in protecting the organisation and its members.

The Chief Executive Officer and senior staff provide financial reports

to the Board meetings, and assists the Board in identifying potential risks and appropriate courses of action to keep those risks as low as possible.

The KLC employs an Auditor who assists the organisation with financial management, compliance, and risk analysis.

The Chief Executive Officer and Deputy CEO keep a close eye on all the activities of the KLC, and keep the Chairman and Deputy Chairman regularly up to date about financial matters.



Tendering and Contracting Practices

The KLC maintains and uses a register of consultants. Consultants are required to put in fixed fees for each financial year, which makes for competitive tendering.

The practice of contracting consultants to provide expertise is less than ideal for the KLC.

In 2008 – 2009 and 2009-2010, the KLC worked hard to reduce its dependency on external consultants to progress Native Title claims. This was the result of reduced litigation and improved in-house capacity.

However the increase of Work Programme Clearances and complex commercial negotiations increased the number of consultants employed to give expert advice to the KLC in other areas.

It is KLC policy that consultant contractors work closely with staff, to facilitate transference of skills and expertise. This approach will help to develop and retain capacity within the organisation.

Communications & Public Image

Educational Resources

The KLC has a two-person community relations team that works to inform our members and the public about matters of interest relating to the KLC.

During the reporting period, the KLC produced five newsletters which highlighted important issues in native title, land and sea management, agreement-making and legal matters as well as upcoming events and meetings.

Our newsletters also include updates on Government policies, as well as key Indigenous initiatives that could affect our members. Hard copies of the newsletter are posted to 53 Indigenous communities and organisations within the Kimberley, and to Board members. The newsletter is emailed to the media, government departments, project partners and organisations within Broome, Western Australia, and Australia.

The KLC has provided the media with information about KLC activities through numerous briefing sessions, media releases and press conferences. Executive Director Wayne Bergmann, Deputy Director Nolan Hunter and various Kimberley Traditional Owners have spoken to the media about a wide range of topics including native title, development, tourism, land management strategies, ranger projects and government proposals.

The KLC initiated a 20-minute weekly radio segment on National Indigenous Radio Service which promotes our activities.

The KLC has promoted its activities and highlighted Indigenous issues in the media, with hundreds of stories published in local, state and national media outlets. The KLC monitors the media and distributes relevant clips within our organisation.

The KLC launched a revitalised website at the start of 2010, with provision for video clips and photo galleries. It provides information on all Units within the organisation, highlights projects, lists media releases, news updates and has links to reports.

KLC Director Wayne Bergmann has been the keynote speaker at several events and conferences including the 'Aligning Indigenous Land Management with Conservation' conference in Darwin and the National Native Title Conference in Canberra.

KLC employees and Kimberley Traditional Owners regularly attend and present at international, national, state and regional conferences and forums about the work and activities the KLC is involved in.

An information booklet was produced for the public and media on the role of the KLC as a way to help them understand our functions and responsibilities as a Native Title Representative Body. Information sheets and media workshops were produced and delivered to ranger groups.

Numerous power point presentations have been produced and presented to the KLC Board, KLC members and Kimberley Traditional Owners, as a way to inform them of matters relating to their native title claims.

The KLC is proactive in informing its members and native title claimants on issues relevant to them so they can make informed decisions. As a result, the KLC regularly organises on-country meetings for native title claimants. The KLC's Chairman, Deputy Chairman, special advisers and Board members are present at these meetings.



Complaints about the KLC

The KLC has a 'grievance resolution policy' to guide us in dealing with complaints made about the KLC.

The policy comes into play if a KLC member or an outside person is not satisfied with a decision of the KLC Chief Executive Officer, a Sub-Committee of the Board, a delegated decision, or any act of a member of KLC staff. This policy does not include decisions of the NTRB Grants Committee.

The person making the complaint is required to notify the Chief Executive Officer of their complaint. If the matter relates to a member of staff, it is referred to that staff member's supervisor and an internal investigation commences.

If the complaint relates to a decision or act of the Chief Executive Officer, the matter is referred to the Chairman and an internal investigation takes place.

The person making the complaint is notified in writing of the outcome of the complaint.

This procedure is communicated to the community through appropriate measures.

Six complaints were received during the reporting period.

Of these complaints, three were Native Title related. One is ongoing, and two have been resolved. One complaint related to alleged discrimination on the part of the KLC and was resolved. One complaint related to LSMU activities and was resolved through mediation. One complaint related to the agreements unit and is on-going.

KLC responded to all these complaints in accordance with the complaints procedure process detailed in the Policy and Procedure Manual.

Glossary

ACAA	Aboriginal Councils and Associations Act, 1976
ADJR	Administrative Decisions (Judicial Review) Act 1977 (Cth)
ALT	Aboriginal Lands Trust
ATSIC	Aboriginal and Torres Strait Islander Commission
CALM	Department of Conservation and Land Management (WA)
CATSIA	Corporations (Aboriginal and Torres Strait Islander) Act 2006
COAG	Council of Australian Governments
CPA	Certified Practising Accountant
DIA	Department of Indigenous Affairs (WA)
FaCSIA	Family and Community Services and Indigenous Affairs
HPA	Heritage Protection Agreement
HPWG	Heritage Protection Working Group
ILUA	Indigenous Land Use Agreement
KALACC	Kimberley Aboriginal Law and Culture Centre
KLC	Kimberley Land Council
KLRC	Kimberley Language Resource Centre
MG	Miriuwung Gajerrong
MoU	Memorandum of Understanding
NAILSMA	Northern Australian Indigenous Land and Sea Management Alliance
NHL	National Heritage Listing
NNTC	National Native Title Council
NNTT	National Native Title Tribunal
NTA	Native Title Act 1993 (Cth)
NTRB	Native Title Representative Body
NTSU	Native Title Services Unit
OHS	Occupational Health and Safety
OIPC	Office of Indigenous Policy Coordination
ONT	Office of Native Title (WA)
ORATSIC	Office of the Registrar of Aboriginal & Torres Strait Islander Corporations
PBC	Prescribed Body Corporate
PLO	Principal Legal Officer
RHA	Regional Heritage Agreement



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Appendix 1: NTRB Report

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Contacts

Chief Executive Officer: Mr Wayne Bergmann
Principal Legal Officer: Mr Robert Powrie
Internet home page: www.klc.org.au
Internet address for this report: <http://www.klc.org.au/reports.htm>

1. NTRB Overview

a) Description of the Kimberley Land Council

The Kimberley Land Council was established in 1978 at a meeting of Kimberley Aboriginal people following a dispute between Kimberley Traditional Owners, the Western Australian Government and a large mining company at Noonkanbah. The KLC was set up as a peak regional community organisation, to secure Kimberley Aboriginal Traditional Owners' rights and interests in their lands and waters, and to protect their significant places.

In May 2000, the Federal Minister for Aboriginal and Torres Strait Islander Affairs recognised the Kimberley Land

Council, under s203AD of the Native Title Act 1993 (Cth) (NTA), as the Native Title Representative Body (NTRB) for the Kimberley region in Western Australia. At the end of 2007 reporting period, the KLC was again re-recognised for a further period of six years. As a Native Title Representative Body, the KLC's operations were primarily funded during the reporting year by the Land Branch of the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) under a Program Funding Agreement.

b) Role and Functions

i Legislation

The KLC was an incorporated association under the Aboriginal Councils and Associations Act, 1976 (ACA Act). In accordance with the rules of operation prescribed by that Act, the KLC has adopted certain objectives to advance the aspirations of Kimberley Aboriginal people. However with the passing of the Corporation (Aboriginal and Torres Strait Islander) Act 2006 C'th (the CATSI Act) the ACA Act was repealed. The KLC is now incorporated under CATSI Act.

ii Legislative Functions

As a Native Title Representative Body, the KLC has specific functions under Part 11, Division 3 of the NTA. These functions are:

- Facilitation and assistance (s203BB);
- Certification (s203BE);
- Dispute resolution (s203BF);
- Notification (s203BG);
- Agreement-making (s203BH);
- Internal review (s203BI); and
- Other functions referred to in s203BJ and such other functions as are conferred on representative bodies by the NTA.

iii Corporate Governance Policies

The Corporate Governance of the KLC was dictated primarily by the legislative framework, the organisation's Constitution and the statutory requirements of the CATSI Act and the Finance Minister's Orders under which the KLC operates. Governance matters are also considered within the framework of the KLC's Native Title Representative Body functions governed by the NTA, along with the program funding agreement with the Commonwealth Government, through (FaHCSIA).

Within these statutory functions and obligations, the Board of the KLC makes decisions in relation to its governance policies. These decisions are documented in the KLC Policy and Procedure Manual, and are applied to the governance activities of the KLC, including the conduct of all the Board members and staff, management activities, and development of the Strategic priorities and the Operational Plans.

The KLC Board is diligent in ensuring that the organisation complies with all regulatory and funding requirements and that the KLC's governance reflects and implements KLC's regulatory obligations, vision, values and policies in an open and transparent way.

NTRB Functions

In accordance with the KLC's statutory functions, the KLC assists Kimberley Traditional Owners to obtain recognition of, and fully enjoy, their Native Title rights and interests. The vision, values, policies and priorities of the KLC reflect KLC's statutory and regulatory obligations.

Vision Statement

"The Kimberley Land Council is a community organisation working for, and with, Traditional Owners of the Kimberley to get back country, to look after country and to get control of our future."

The KLC vision remains relevant and strong. The KLC has always been guided by a strategic plan and the Management team is currently working on a new Strategic Plan to present to the board for approval for 2010 – 2015. This was previously a requirement of FaHCSIA; however, whilst it is no longer a requirement, it is seen as a vital instrument in planning for the KLC's future. A new Strategic Plan will be implemented in 2010. FaHCSIA does require the KLC to establish and implement annual Operational plans which link into the overall Strategic Plan.

Values

The KLC as a peak Kimberley Aboriginal organisation is dedicated to the development of a modern, sophisticated and innovative service to our members. The KLC is conscious of the dynamic pressures in contemporary Aboriginal society and emphasises the role of communities in managing those pressures. The KLC is a practicality-driven organisation, charged with responsibility to protect, enhance and give formal legal, social and political status to the customs, laws and traditions of Kimberley Traditional Owners, in accordance with the following values:

Organisational

- Respect for our law and culture
- Respect for our Elders and stake holders
- Fair and transparent decision-making
- Effective and open communication
- Working in partnership
- Trust and loyalty
- Justice and equality for Indigenous peoples
- Cultural diversity

Operational

- Achieve real benefits, long term outcomes and realistic aspirations through a commitment to social justice, reconciliation and equality
- Protect country and culture (land, law, language)

- Promote sustainable connection to country
- Act in the best interests of Traditional Owners through effective engagement and fully informed decision-making
- Provide a positive, consistent, clear, and supportive working environment

Policies and Procedures

The work and activities of the KLC management and staff are in accordance with the documented KLC policies and procedures, which reflect the KLC's obligations as an NTRB and which are consistent with the Strategic and Operational Plans.

Setting Priorities

Each reporting year it is necessary for the KLC to set priorities for its operations that address, to the extent possible within available resources, the needs and aspirations of the Traditional Owners we represent. The priorities must address the statutory and financial

framework, and other constraints, within which the KLC as a representative body under the Native Title Act operates. The KLC has an established procedure for setting priorities which is documented in the Policy and Procedure Manual. Priorities are determined by the Board annually and can only be varied with Board direction and approval.

KLC Regional Planning and Prioritising Process

In accordance with the provisions of the NTA the KLC Board and staff are involved in an annual process of selecting and giving priority to all matters arising from its statutory functions. KLC also meets with the National Native Title Tribunal and the Western Australian Office of Native Title to agree to prioritisation of work programs currently before the Federal Court of Australia. Staff and financial resources are allocated and claims are progressed in the reporting period in accordance with the priority assigned. It should be noted that the requests placed on the KLC for assistance to progress Native Title activities from our members far exceed the resources available.

c) Organisational Structure

Membership

The membership of the KLC is open to any adult Aboriginal person who is a Traditional Owner of country in the Kimberley region.

Executive Board

The KLC is governed by a Board of Directors (the Board) elected for two year terms. The Board is responsible for carrying out the KLC's objects on behalf of its members. It provides leadership and direction to the organisation; determines the KLC's priorities in all policy and operational matters; oversees the implementation of the KLC Strategic Plan; monitors the progress of Native Title applications and other land-related matters; and oversees the conduct of the KLC's affairs through the position of the Chief Executive Officer.

The Board is made up of one representative from each Native Title claimant group in the Kimberley. Every two years each claimant group nominates a representative for appointment to the Board. If required, elections take place at the Annual General Meeting (AGM) from the nominations received to fill the vacant positions. The general membership also appoints 4 Directors (all of whom are Kimberley Traditional Owners) on the basis of their special knowledge and whom the members deem appropriate because of their experience and contribution to the objects of the organisation. Members of the Board give their time voluntarily.

The Chief Executive Officer, who must be a member of the KLC, is also a Director and is appointed by the Board to manage the daily affairs of the organisation. The Chief Executive Officer is in a paid position.

The Directors for this reporting period, and meetings attended, are listed in Table 5.

Executive Appointments

The Board elects a Chair and Deputy Chair from among its membership. Members are elected for a two year period, with terms commencing and expiring at every second AGM. Elections were held in the reporting period, meaning this report covers two separate Executive Committees (although some members remain common to both). The next elections will take place at the 2010 AGM.

The Board may also appoint members to a Sub-Committee (a smaller group with powers and responsibilities delegated from the full Board).

Specific Sub-Committees of the Board are:

- i The Native Title Representative Body Grants Committee;
- ii The Native Title Representative Body Review Committee; and
- iii The Research Ethics and Access Committee.

The Grants Committee assesses new applications for assistance to pursue a Native Title claim. The Grants Committee evaluates whether those Native Title applications have demonstrated legal merit. Decisions about providing assistance may be reviewed, on application, by the Review Committee. If the applicants for assistance are still not satisfied, they have the right to have the decision reviewed under the Administrative Decisions (Judicial Review) Act 1977 (ADJR). The process by which this occurs is described in more detail under the section: Report on Performance; Output Group 6—Internal Review.

Annual General Meetings

The KLC's Annual General Meetings are attended by the KLC membership and constituency. In the interests of cost efficiencies these meetings are usually held 'on country' in conjunction with meetings of the Kimberley Aboriginal Law and Culture Centre (KALACC) and the Kimberley Language Resource Centre (KLRC). This results in a very high attendance of Kimberley Traditional Owners and ensures a high degree of representation and participation in the KLC's decision and policy-making processes, and ensures a high level of accountability and transparency of the KLC's operations.

In this reporting period the AGM was held at Gambunan, near One Arm Point on the Dampier Peninsular, West Kimberley, in September 2009.

Staffing

Overall authority for daily operational and administrative decisions is delegated by the Board to the Chief Executive Officer. The Chief Executive Officer is assisted in discharging his responsibilities by a Deputy CEO, KLC managers and staff through a delegations framework.

The work associated with the KLC's NTRB functions is undertaken by multi-disciplinary teams. Members of claim teams work closely together and are responsible for specific claim applications. Claim teams work with claimant groups on matters relating to the Native Title applications, including future acts, and obtain instructions from claimant groups and Native Title holders.

Legal officers have the carriage of specific claims as well as providing advice on future acts, agreements, negotiations and all other matters relating to the core functions of the KLC. Due to continuing financial resource constraints no

Native Title officers have been located in Halls Creek or Fitzroy Crossing since May 2004. This continues to be a major concern in delivering a level of service to claims the KLC represents.

A number of central Kimberley claims are priority categories one and two, requiring KLC staff to spend extensive amounts of time in the field. There have also been a number of claims in dispute on the Dampier Peninsular, due partly to the large development pressures in the area. This has required extensive staff resources and has resulted in protracted litigation and mediation.

d) Outcome and Output Structure

Consistent with its statutory functions the KLC's primary activity objective continued to be the provision of professional services to Aboriginal people in pursuit of the recognition and protection of Native Title.

The KLC output structure is derived from NTRB functions, as per the NTA, and comprises:

- facilitation and assistance;
- certification;
- dispute resolution;
- agreement making;
- internal review; and
- other functions.

These functions underpin the development of the KLC Strategic Plan and the Operational Plan for each funding year. The KLC's Strategic Plan establishes the KLC Strategic Objectives by reference to its statutory functions. The Strategic Plan also establishes key performance indicators in relation to consultation, decision making and setting of priorities as required by s203D of the NTA.

The detailed 2009 – 2010 Operational Plan identified anticipated outcomes (results) by reference to prioritised activities.

e) Key Features of the Strategic Plan and Operational Plan

Strategic Plan

A strategic plan has always guided the overall direction of the KLC. A new strategic plan is currently being developed for the KLC's overall strategic direction for 2010-2015. This plan sets the direction for the organisation and identifies KLC's visions, values, and internal and external environments, whilst defining its overall strategies in its capacity as a Native Title Representative Body. For each NTRB function, the plan will set out KLC's strategic objectives, policies, strategies and KPIs.

Operational Plan 2009 – 2010

The KLC's Operational Plan, covering the period of this Annual Report (2009–2010), was a detailed outline of what the KLC intended to do in the short term. The Operational Plan followed on from the Strategic Plan and broke the 'big picture' down into identifiable activities. It was developed by reference to the KLC's Policy and Procedure Manual, and our statutory requirements, in association with our conditions of funding, in conjunction with the State and directions set down by the Federal Court.

The Operational Plan was therefore a tool for managing the KLC's Native Title activities, by identifying the detail of planned work, timelines for completion, and the staff and financial resources to be allocated to that work.

The 2009– 2010 Plan was arranged by activities, key objectives and costs (including estimated final costs over the life of the project).

The activities outlined in the 2009–2010 Operational Plan reflected the environment in which the KLC operates, the objectives established, and the priorities identified by the Board in preparing the plan. Whilst a new strategic plan is in development, there is always a direct link and relationship between KLC's Strategic Plan and the activities prioritised in the Operational Plan.

The 2009–2010 Operational Plan followed consistently from the previous Operational Plan. It showed clear and consistent progression of ongoing work and identified new

work to be taken on. The identification of both ongoing and new work was undertaken in accordance with the KLC's documented prioritisation process.

In formulating the Operational Plan, each activity was considered with reference to KLC Prioritisation policies; specifically:

- Level 1 –Main priorities
 - Litigation: matters before the court;
 - Consent Determinations: matters in mediation
 - New Claims: lodgment of claims over areas not under native title
 - Urgent Future Acts and negotiated agreements that effect Native Title rights and interests.
- Level 2 – Researching for connection: to progress claims towards mediation
- Level 3 – Commencing Research: to progress new claims

The prioritisation process is documented in the KLC Guidelines for Assistance in Native Title Claims, and the Policy and Procedures manual. The prioritisations adopted by the KLC's Board are documented appropriately.

Each outcome in the 2009–2010 Operational Plan was formulated in a Native Title environment characterised by the following key features:

- Cultural Strength of Indigenous Communities
- Federal Court Approach to Kimberley Native Title Applications
- Commonwealth Native Title Policy Framework
- State Native Title Policy Framework
- Demographics
- Resources
- Legal Environment

The financial and human resources available to the KLC are limited. The Operational Plan established a balance between demand and resources by identification of applications with a level of internal priority. The Operational Plan managed priorities by reference to budget and time.

2. Report on Performance

a) i Review of Performance During the Year in Relation To Strategic and Operational Plan, and By Function

In accordance with the KLC's Strategic Plan, the organisation's priorities in relation to the output structure in the reporting period were:

- the lodgement and finalisation of Native Title applications, including representation in litigation, progression of claims in mediation through preparation of connection material and preparation of new claims where appropriate;
- responding to future act notices;
- the negotiation of agreements; and
- activity to ensure the protection and recognition of Native Title by representing Native Title claimants.

These areas continued to represent the major demands upon the KLC. They constituted the most significant expectations Kimberley Traditional Owners have of the KLC, and priorities within the KLC's statutory functions.

More specifically, the priorities in the reporting period were to:

- progress appeals of native title applications in the litigation stream and where appropriate, concurrently participate in the mediation of claims in the litigation stream;

- engage in consultation with the State Government Office of Native Title to facilitate the preparation of connection material and agreement on connection as a precondition to mediation of consent determinations;
- development of new native title applications (which may include the merger of some current native title applications) based upon traditional boundaries or a cultural bloc model;
- assisting claimant groups with negotiations and agreements relating to native title rights and interests;
- discussion and negotiation of compensation and co-existence agreements in relation to major commercial developments (which include future acts) with the potential to provide substantial economic and social benefits to Traditional Owners;
- post implementation of previously finalised agreements;
- negotiation of land access agreements which provide economic and social benefits to Traditional Owners and;
- participation with the National Native Title Tribunal and the State Government Office of Native Title in a bi-annual regional planning process to set and review agreed priority claims for the Kimberley.

Performance According to Contribution to Outcome, Outputs and Targets

The KLC's outputs were generally completed in accordance with performance targets established in the Operational Plan. In some cases our targets were completed in advance of the target period.

In those areas where outputs were not completed in accordance with performance targets, a number of external factors interceded.

As in previous reporting periods, completion of performance outputs was significantly assisted when all parties adopted a position in favour of mediation and negotiation over litigation. Such an approach has reduced the level of litigation, with

exception of the two appeals to the Full Court of the Federal Court that have now been resolved in favour of traditional owners.

Mediation is the preferred approach; however in some instances the KLC has not met performance targets as a result of delays in the mediation process by third party respondents and the State. Delays have occurred when the State or third party respondents have submitted new information to the terms of the mediation or where the State have been unable to provide a position on the agreed terms. Further delay has occurred when the State have exceeded the timeframe for the assessment on connection.

Output 1 - Facilitation and Assistance

The major core function of the KLC continued to be the provision of facilitation and assistance to native title claimants, native title holders and registered Native Title bodies corporate in the preparation and progression of Native Title applications, including facilitating and providing representation in consultation, mediation and negotiation for agreements.

Significant developments occurred and outcomes achieved during the reporting period in relation to the facilitation and assistance function, were:

- the decision on the appeal of the Bardi and Jawi determination of native title to the Full Federal Court in February 2007 handed down on 18 March 2010 in favour of Bardi and Jawi. Exclusive possession Native Title recognised over an extensive areas of the claim with non exclusive rights recognised on remaining areas, including islands and sea country;
- In August 2008 the State applied for special leave to Appeal the Rubibi native title decision of March 2007 but discontinued their appeal the day before the matter was listed for hearing, on 30 July 2009.
- The KLC provided ongoing support to the Yawuru PBC in its 'global negotiations' over the settlement of outstanding issues relating to compensation and future development of the Broome township and surrounding areas.
- acceptance by the State of the connection of the applicants in the Balangarra #3 and Balangarra Combined native title application for the land and sea component.
- connection over the Dambimangari and Unguu claims was acknowledged by the State in October 2006 and finally accepted by the Commonwealth in 2008, which had asserted no right to claim native

Title beyond the 3 nautical mile limit. These claims moved into mediation over the terms of a consent determination however delays occurred in mediation when the State entered new land tenure information which required the KLC to hold further authorisation meetings resulting in lost time and resources. In relation to the Unguu claim the State then raised a new negotiating position in relation to Indigenous Land Use Agreements over invalid conservation reserves. The KLC asserts that this is an improper use of the State's negotiating position as the terms are not something which the State can legally insist on. The KLC does not see consent determinations as a barrier to negotiating ILUA's and this should not be held as negotiating point to accepting the terms of a consent determination.

- connection reports were provided to the State in relation to the Bunuba, Gooniyandi and Nyikina Mangala claims, in October 2008, November 2008 and January 2009 respectively. Despite the State's standard practice of responding within 6 months of receipt of the connection material the KLC did not receive formal acceptance on connection for Gooniyandi and Bunuba until 31 March 2010. Notwithstanding that the KLC and the Office of Native Title (through the State Solicitor's Office) agreed to connection in principle for the Nyikina Mangala claim in July 2009 we are still waiting for the State to respond formally.

- anthropological reports were prepared for the lodgement of a new claim for the Greater Jaru region.
- New claims were lodged for Nyul Nyul and the KLC received instructions to lodge the Yurriyangem Tamm (greater Kija country) at an authorisation meeting on 14-15 September 2009.
- A new claim (Yawinya) was lodged by the KLC in 2009 on behalf of the Karajarri peoples over disputed country between the Karajarri and the Nyangumarta People (represented by Pilbara Native Title Services). This has moved into court ordered mediation.
- KLC has been actively involved in the Goolarabooloo Jabirr Jabirr and the Djaberra Djaberra claim groups.
- The KLC has undertaken further research on Goolarabooloo Jabirr Jabirr and entered into mediation with the State on a Consent Determination however negotiations broke down after one of the named applicants refused to take instruction from the claim group and subsequently instituted proceedings in the Federal Court against the KLC acting on behalf of the claim group.
- Applications for facilitation assistance were accepted for Nimanburru and Jabirr Jabirr.

Output 1.1 — Claimant Applications

There were five (5) new native title claim applications in the reporting period (Martu #2, Jurnall Gidja #1, Jurnall Gidja #2, Jabirr Jabirr and Nyul Nyul). This makes a total of 38 separate native title applications in the Kimberley Native Title Representative Body area during the reporting period (refer Table 1). The Kimberley Land Council provided representation for 32 of the 38 applications.

As advised in the previous reporting period, consolidation or combining of claims continues to be an efficient way to manage limited resources. Several of the applications are grouped together and managed as single Native Title claims. In terms of claims management, and as a result of the 'grouping' process, the Kimberley Land Council separately managed 27 Native Title claims in the Kimberley during the reporting period. The 'grouped' claims are:

- the Bardi and Jawi claim, comprised of the Bardi and Jawi and Bardi and Jawi #2 (Brue Reef);
- the Rubibi claim comprised of the Rubibi and Rubibi #17 applications. (Rubibi #6 application remains separate);
- the Balanggarra claim, comprised of the Balanggarra #3 and Balanggarra Combined applications; and,

- the Wanjina/Wunggurr Wilinggin claim, comprised of the Ngarinyin, Wanjina/ Wunggurr-Wilinggin and Wanjina/Wunggurr Wilinggin #2 applications;

Four (4) of the Native Title claims represented by the KLC (Rubibi, Bardi and Jawi, Wanjina/Wunggurr Wilinggin, and Tjurabalan) were in the post determination implementation phase in relation to the establishment of prescribed bodies corporate and other matters required by the determination, including future acts.

Two (2) of the Native Title claims not represent by the KLC received assistance in the reporting period. This included assistance for Miriuwung Gajerrong regarding some future acts matters and assistance to members of the Noonkanbah claim group to oppose the registration of the PBC for that claim. All recognised native title holders of Noonkanbah are recognised to have membership rights to the PBC but the rules attempted to exclude certain members. The KLC successfully had the Noonkanbah PBC (the Yungngora AC) amend its rules in line with the native Title Determination.

At the end of the reporting period the KLC was under instruction to continue to represent and provide facilitation and assistance to 25 active and 11 emerging Native Title Determination Applications and 7 PBCs in the Kimberley.

Table 1: Status of Native Title Applications in the Kimberley 2009–2010

NNTT	Application name		Status @ 30 June 2010	Tribunal Reference	Federal Court Reference	Progress	KLC
1	Balanggarra #3	} <i>These two applications are managed together as the Balanggarra claim</i>	Active	WC00/6	WAD6004/00	Mediation	1
2	Balanggarra (Combination)		Active	WC99/47	WAD6027/98		
3	Bardi Jawi - Brue Reef	} <i>These two applications are managed together as the Bardi Jawi claim</i>	Finalised Full Determination	WC04/1	WAD6001/04	Assistance in relation to PBC and future acts.	2
4	Bardi Jawi		Finalised Full Determination	WC95/48	WAD49/98		

(continued)

Table 1: Status of Native Title Applications in the Kimberley 2009–2010 (continued)

5	Bunuba		Active	WC99/19	WAD6133/98	Mediation	3
6	Djaberra-Djaberra (represented by KLC from partway through the period)		Active	WC96/99	WAD6124/98	Mediation	4
7	Goolarabooloo - Jabirr Jabirr		Active	WC99/36	WAD6002/98	Mediation	5
8	Gooniyandi Combined # 2		Active	WC00/10	WAD6008/00	Mediation	6
9	Jabirr Jabirr		Active	WC10/5	WAD124/10	Not Registered	7
10	Jurnall Gidja #1 (not represented by KLC)		Active	WC10/6	WAD134/10	Not Registered	
11	Jurnall Gidja #2 (not represented by KLC)		Active	WC 10/7	WAD135/10	Not Registered	
12	Karajarri		Finalised Full Approved Determination	WC00/2	WAD6100/98	Assistance in relation to PBC future acts.	8
13	Koonjie - Elvire		Active	WC99/40	WAD6157/98	Mediation	9
14	Kurungal		Active	WC97/101	WAD6217/98	Mediation	10
15	Lambo		Active	WC99/20	WAD6095/98	Mediation	11
16	Lumugal		Active	WC06/1	WAD15/06	Mediation	12
17	Malarngowem		Active	WC99/44	WAD6182/98	Mediation	13
18	Martu (not represented by KLC)		Active	WC96/78	WAD6110/98	Mediation	
19	Martu #2 (not represented by KLC)		Active	WC10/08	WAD141/10	Not Registered	
20	Mayala		Active	WC98/39	WAD6255/98	Mediation	14
21	Miriuwung Gajerrong #4		Finalised Full Approved Determination	WC04/4	WAD124/04	Finalised. Assistance in relation to future acts.	
22	Ngarrawanji		Active	WC96/75	WAD6107/98	Mediation	15
23	Ngurrara		Active	WC96/32	WAD6077/98	Post determination implementation	16
24	Noonkanbah (not represented by KLC)		Finalised Full Approved Determination	WC98/9	WAD6229/98	Assistance in relation to PBC	
25	Nyangumarta People (not represented by KLC)		Active	WC98/65	WAD6281/98	Not in mediation	17
26	Nyikina and Mangala		Active	WC99/25	WAD6099/98	Mediation	18
27	Nyul Nyul		Active	WC10/3	WAD6003/98	Not Registered	19
28	Purnululu		Active	WC94/11	WAD6007/98	Mediation	20
29	Rubibi # 6		Finalised Full Approved Determination	WC95/28	WAD91/98	Assistance in relation to State negotiations	21
30	Rubibi	}	These two applications are managed together as Rubibi	Finalised Full Approved Determination	WC99/23	Assistance in relation to State negotiations	22
31	Rubibi #17			Finalised Full Approved Determination	WC04/6		
32	Tjurabalan		Finalised Full Approved Determination	WC95/74	WAD160/97	Assistance in relation to PBC and future acts.	23
33	Wanjina Wunggurr Dambimangarri		Active	WC99/7	WAD6061/98	Mediation	24
34	Wanjina Wunggurr Uunguu		Active	WC99/35	WAD6033/99	Mediation	25
35	Wanjina/ Wunggurr- Wilinggin	}	These three applications are managed together as Wanjina/ Wunggurr- Wilinggin	Finalised Full Approved Determination	WC99/11	Post determination implementation and assistance in relation to future acts	26
36	Wanjina/ Wunggurr- Wilinggin #2			Finalised Full Approved Determination	WC02/4		
37	Ngarinyin			Finalised Full Approved Determination	WC95/23		
38	Yawinya		Active	WC08/4	WAD280/08	Not Registered	27

Development of New Native Title Applications

The KLC policy to investigate, lodge and negotiate Native Title country claims continued in the reporting period. The investigation of new claims is primarily based upon the policy of developing either cultural bloc claims or claims which extend as far as possible across the traditional country of the relevant group.

The KLC continued work on 11 emerging claim applications of traditional country for Nyul Nyul, Nimanburru, Jabirr Jabirr, Yurriyangem Taam (Kija), Jaru, Ngurrara, Bunuba, Gooniyandi, Nyikina, Warawa, and Wanjina/Wungurr Speewah Valley.

Some of these 'new' claims being considered may result in the merger of current, smaller claims which were originally developed based upon pastoral lease boundaries. These include the emerging Kija claim (Yurriyangem Taam) and existing Kija native title applications (Malarngowem; Ngarrawanji and Purnululu), and the emerging Jaru claim and existing Jaru native title applications (Koonji Elvire and Lamboo).

Many of these 'new' claims follow on from the work the KLC commenced in 2008 resulting from the in principle acceptance of connection by the State over the proposed Ngurrara #2 emerging claim which led to the KLC holding a "Boundaries Meeting" in May 2008. The work involves the six claim groups which border the central Kimberley (Nyikina Mangala, Bunuba, Gooniyandi, Kurungal, Kija and Jaru). The KLC has been continuing the work by meeting with individual claim groups to finalise the various boundaries in the Central Kimberley. This has included field work and research on the Kurungal claim and the emerging Kija and Jaru claims. This work has assisted groups to resolve a number of boundary issues between the groups and fosters stronger inter-group relationships.

Similarly the KLC held large inter-claim boundary meetings between representatives from the various claim groups on the Dampier peninsular involving Goolarabooloo-Jabirr Jabirr, Djaberra Djaberra, Nyikina Mangala and the proposed Nyul Nyul, Nimanburru and Nyikina Warrwa claims.

Proposed Kija Native Title Application

An authorisation meeting was held on country in September 2009 and the KLC was instructed to lodge the Yurriyangem Taam claim. The claim was lodged for preliminary assessment. It is anticipated that the new claim will be lodged in the next reporting period.

Proposed Ngurrara #2 Native Title Application

The Ngurrara #2 application, although not yet lodged, has received support from the WA State Solicitors office and the Office and Native Title. The application process will

be progressed in the coming year looking to a Consent Determination in the following year. This has been delayed due to outstanding boundary issues and financial and resource constraints.

Proposed Jaru Native Title Application

Desktop research was undertaken during the previous reporting period. In this reporting period the KLC commenced significant field research and a draft preliminary connection report for the development of a Jaru native title application to be lodged over the areas east of the Lamboo application and south of the Purnululu application. The current Lamboo and Koonji Elvire native title applications are established in accordance with pastoral lease boundaries, rather than cultural boundaries. The applicants for both the Lamboo and Koonji Elvire applications have given instructions to be included in a future Jaru native title application. It is anticipated that this claim will be lodged in the next reporting period.

Proposed Nyul Nyul Native Title Application

A number of claim group meetings were held in the reporting period. This resulted in instructions to lodge a new claim over Nyul Nyul country. A consultant anthropologist has undertaken genealogy work and has finalised a preliminary registration report. An authorization meeting was held in the reporting period to complete the process to enable registration. Further anthropological work was required following the lodgement of the Form 1 for preliminary assessment. It is anticipated that the new claim will be registered in the first half of the next reporting period.

Proposed Warrwa Native Title Application

An agreement in principle was reached between the Nyikina Mangala people and the Warrwa people with the assistance of the KLC regarding a proposed new claim over the unclaimed areas between the existing Nyikina Mangala boundary and the Dambimangarri boundary to the north, the Bunuba boundary to the north-east, and the Ngurrara #2 boundary to the south-east. This area will include Derby township. Anthropological research has been undertaken in the current reporting period and will continue into the next reporting period. However, during the reporting period difficulties arose between the groups which has delayed the joint claim being lodged.

Proposed Djaberra Djaberra Native Title Application

The KLC received instructions to represent the Djaberra Djaberra claimants at a claim group meeting in February 2009 but has since been instructed by some named applicants to cease acting. The KLC is in the process of getting off the Court Record.

Priorities — Categories of Claims

The prioritisation of Native Title claims continued to be considered at regional planning meetings. Priorities were considered in consultation between KLC and the Office of Native Title (ONT) with the assistance of the National Native Title Tribunal. The Federal Court has also nominated 8 Kimberley claims as priority claims for the purpose of fast tracking the resolution of Native Title.

All claims in which KLC provides facilitation and assistance are important. However, as resources do not permit all claims to be progressed concurrently, claims are necessarily

prioritised by reference to the policies adopted by the KLC Board for establishing priorities, including but not limited to consideration of resources.

In the reporting period KLC developed a system of categorising priorities as follows:

Category A - Litigation

- Completion of all claims in litigation and post determination implementation requirements.

Category B - Mediation (in descending order)

- *Negotiation of consent determinations following agreement on connection*
- *Negotiation and agreement with the State on the scope of connection reports, assessment of existing material for inclusion in connection reports, finalisation of connection reports, and lodgement of reports with the State. (State Government policy provides that agreement on connection is a prerequisite for a matter to proceed to mediation for a consent determination.)*
- *Preliminary preparation and assessment of connection material.*
- *Resolution of claim boundaries in accordance with the scope and area of traditional country. This process is assisted by KLC Board and Special Advisors as well as Kimberley Aboriginal Law and Culture Centre executives.*

Category C - Protection of Native Title

Future acts: agreement-making to protect and preserve Native Title rights and interests and cultural heritage, to

assist proponents develop an appreciation for such, and settlement of socio-economic benefits to compensate for loss or impairment of Native Title rights and interests.

The KLC has been involved in extensive negotiations with the State regarding the expedition of community infrastructure over communities on ALT lands. The KLC has made a number of proposals to assist in this process including the concept of an over-arching ILUA to streamline the process. However, the KLC is still waiting for adequate funding from the State to enable this process to be rolled out across the Kimberley.

The activity levels of claim work programs generally reflect the agreement reached between the KLC and the State at the Regional Planning meetings in November 2009 and May 2010 in preparation of Regional call-overs before the Federal Court in December 2009 and June 2010 respectively. The National Native Title Tribunal continued its involvement of third-party respondents in the Regional Planning meeting. The KLC is not supportive of this development.

As claims are finalised the KLC Board will consider, subject to the availability of resources, the upgrading of the activity attached to other claims.

Report on Activities by Category**Category A - Litigation****Bardi and Jawi**

The Bardi Jawi appeal against the determination of 30 November 2005 was lodged on 10 July 2006. The appeal was heard in Perth in February 2007. The appeal sought to overturn the finding that no native title exists over part of the area claimed in the original application, including the islands and sea off Dampier Peninsular.

On 18 March the Full Federal Court allowed the Applicant's appeal and formally recognised that the Bardi and Jawi were one society at Sovereignty, thereby granting Native Title rights to the Jawi people as part of the Bardi Jawi claim. The parties then commenced negotiations regarding the terms of the final orders of the Court which were finally settled in the next reporting period.

Instructions were also given to develop an ILUA between the Bardi and Jawi PBC and the two community councils operating in the area subject to the native title determination. Assistance from the National Native Title Tribunal is being investigated to develop this ILUA. Instructions were also given to develop a formal agreement between the PBC and the KLC for possible assistance in relation to the PBC's responsibilities in relation to future acts.

Rubibi

On 28 April 2006, the Federal Court handed down its final decision in relation to the Rubibi native title application, together with a determination of Native Title in favour of the Rubibi native title holders. An appeal was filed by the State of Western Australia in June 2006, a defence and cross appeal filed by the Rubibi applicants on 22 June 2006 and a cross appeal filed the Walmun Yawuru respondents 23 June 2006.

The appeal was heard by the Full Court in March 2007 in Perth. The Full Court's decision was handed down in May 2008. The Full Federal Court dismissed the appeals of the State and the Walmun Yawuru. The Court allowed significant aspects of the Rubibi cross appeal which included

the determination of a greater area of Native Title than allowed at first instance. The State lodged an Application for Special Leave to Appeal to the High Court. The KLC lodged submissions in response to the State's appeal. The State withdrew its Application for Special Leave on 30 July 2009, the day before the matter was listed for hearing.

The Yawuru Native Title Holders Aboriginal Corporation has now been registered as the PBC for that claim group.

The Yawuru native title holders have also been involved in formal negotiations with the State Government for a comprehensive agreement to settle all land issues in the claim area ("the global negotiations"), discussed below in the section relating to agreements, and more fully at Section 10: Agreements / Regional Solutions. The KLC provided assistance in these negotiations.

Karajarri

As noted in previous Annual Reports, in 2002 and 2004 the Federal Court recognised native title over the area subject to the Karajarri native title application with the consent of all parties. Some outstanding post-determination issues remain.

As an element of the 2004 consent determination, the Karajarri and pastoralists agreed to enter into negotiations for a co-existence agreement. These negotiations broke down and were never finalised.

Two other matters arising from the consent determination remain outstanding in relation to commitments made by the State to transfer the ALT lands within the claim area to the Karajarri PBC and a joint management agreement with Department of Environment and Conservation over Dragon Tree Soak. Discussion with the ALT is progressing although, as with all hand over of ALT lands, it has been relatively slow. In relation to Dragon Tree Soak, an expert consultant was engaged by the KLC to draft the Dragon Tree Soak joint management plan. Negotiations with the State as well as a trip to Dragon Tree Soak were undertaken but progress has faltered.

By way of assisting the native title holders with the effective enjoyment of their native title, the KLC has also provided assistance in developing agreements with the State to facilitate the provision of services:

- an ILUA over the town of Bidiyadanga. Negotiations continued with the State regarding the terms of the ILUA. The parties agreed to terms for an urgent ILUA in October 2008 to deal with community housing and other public infrastructure works but are still awaiting a final document from the State to enable authorisation; and
- working closely with the Department of Planning and Infrastructure, and the Department of Housing and Works for a community layout plan for Bidiyadanga, which will ensure orderly development of the community and key services (such as extra housing, community facilities, sewerage ponds, rubbish tips etc); and

- working closely with the Department of Indigenous Affairs and the Aboriginal Lands Trust
- Negotiating on Native Title rights being asserted by the Nyangumarta claim group. This resulted in the matter being listed for Directions in October 2008. The KLC was directed to lodge a new claim over the Nyangumarta Part B area before December 2008. This was done and the parties have been in negotiation over the settlement of that matter. The parties, the Karajarri and Nyangumarta claimants, jointly briefed counsel to draft a proposed ILUA to establish their respective rights and interests. A proposal was put to the State and the respondent parties for consideration, but was rejected by the State. The parties have been attempting to resolve the issue by mediation. A meeting of the respective claim groups' anthropologists will be held in the next reporting period to attempt to reach common ground.

Category B - Mediation

Wanjina Wunggurr Uunguu & Wanjina Wunggurr Dambingarri

In this reporting period the parties have progressed the mediation for consent determinations considerably. A Consent Determination is mooted on country in both claims for the next reporting period. A major and significant hold up was the insistence by the respondent party, West Australian Fishing Industry Council, to information relating to the claimants 'catch and take' activities and also on 'occupation evidence' beyond what was agreed by the State and the Commonwealth. The KLC believed that the information sought was not a proper request for information and too detailed. WAFIC ultimately withdrew their objections which cleared the way for finalisation of the terms of the consent determination.

The KLC reached agreement with all of the Respondent parties the State and held authorisation meetings with the 2 groups to sign off on the terms of the consent determination. However the State then raised other tenure issues which required further authorisation meetings to be held. The State then raised issues concerning invalid conservation reserves and demanded the claim groups negotiate an ILUA over these areas before they would consent to a consent determination. Negotiations on this aspect are ongoing.

Noonkanbah

KLC was a respondent in this claim representing the rights and interests of a number of traditional owners who are recognized as Native Title holders in the determination.

Following the completion of joint field work and a joint anthropological report by the Applicant and the KLC, a consent determination was reached. The Federal Court formally ordered recognition of native title in accordance with the consent determination in a ceremony on country in April 2007. The Court ordered that the KLC provide assistance to the Applicant upon request in relation to the development of a PBC; however no request was received. Despite being a party to the proceedings, the Noonkanbah claimants sought numerous extensions of the time for lodgement of the PBC.

The KLC received complaints from a number of native title holders for the area that meetings were being held which appeared to disclose irregularities in the meeting notification procedures. On investigation the KLC also established that the proposed rules appeared to disadvantage a number of native title holders. The KLC intervened in the registration process and the matter was listed before the Federal Court and a mediation process was ordered by the Court. This

resulted in the PBC agreeing to amend its rules so as to accurately reflect the terms of the Native Title Determination.

Balanggarra #3 and Balanggarra Combined

In this reporting period, significant progress continued to be made towards mediation of a consent determination. The State agreed to connection for Balanggarra Combined in the previous reporting period but the State required additional material in relation to Balanggarra #3. This was completed by an expert anthropologist and provided to the State early in this reporting period. Connection was finally agreed by the State for Balanggarra #3 in February 2010.

The negotiations for a consent determination are progressing well and it is anticipated that there will be a consent determination on country during the next reporting period. However, as Balanggarra #3 sits over the township of Wyndham there are a large number of complex tenure issues which need to be resolved. This is very resource intensive and the State and KLC are experiencing difficulty in allocating sufficient resources to the task.

Ngurrara

Work has commenced on the development of a prescribed body corporate, which was anticipated to be finalised in by November 2009. The completion of the PBC was subject to an agreement with the State for them to hand back title over a special reserve to allow for exclusive possession Native Title. This would then be part of a further determination which was to be completed at the same time as the finalisation of the PBC. However due to the State's inability to easily change land tenure arrangements this time frame was not met. The KLC is now taking steps to have the PBC registered before the subsequent determination and we expect that the PBC will be finalised early in the next reporting period.

Meetings were held between the Ngurrara claimants and the various claim groups with shared boundaries to ascertain the full extent of the proposed new Ngurrara claim area. This has been ongoing and it is hoped to be finalised in the next reporting period to enable the lodgement and determination of the unclaimed areas.

The Ngurrara native title application has links with the Martu native title determination (which is the responsibility of the Central Desert Native Title Services). Discussions have commenced between the KLC and the Central Desert Native Title Services in relation to issues arising between the two representative bodies which affect both

claims, including shared community representations on the relevant prescribed bodies corporate and development of a consistent approach to the Canning Stock Route Permit system developed by the Central Desert Native Title Services. A large meeting of the Ngurrara, Martu, Ngurrupa, Tjurabalan and Kwirkkura claim groups resolved these issues and the lodgement of a new claim in the unclaimed areas which is surrounded by all of the above claims.

Ngarrawanji, Purnululu and Malarngowem

Little work has been undertaken on these claims in the reporting period. Meetings were held and some future act activity took place. The KLC engaged a consultant anthropologist to undertake field work in relation to the unclaimed Kija areas and how it inter-linked with these claims. A preliminary report on this work was submitted to the KLC in June 2009. An authorisation meeting for the unclaimed area resolved to lodge a 'greater Kija' claim, Yurriyangem Taam. It is anticipated that these 3 claims will be incorporated into the greater Kija claim in the future.

In relation to the Ngarrawanji Claim, negotiations with the State for housing development on the Moola Bulla Excisions Blocks continued in the reporting period, however there has been little progress toward establishing the terms of negotiations.

Nyikina Mangala

In the previous reporting period the KLC's submitted the draft consultant anthropologist connection report to the Office of Native Title. Following a preliminary assessment of the draft connection report by the State, additional material was presented by the consultant anthropologist to the Office of Native Title. The State raised concerns about the nature of the claim. A subsequent meeting of the legal representatives resolved these issues in principle. As stated above we are still waiting for the State to formally agree to connection, notwithstanding the KLC and the State have agreed to connection in principle. The parties will commence mediation for a consent determination in the next reporting period.

Goolarabooloo – Jabirr Jabirr

Research commenced on the Goolarabooloo Jarirr Jabirr claim in the reporting period. This claim has always been dependant on the outcome of the Rubibi claim. Other issues including research conducted for neighbouring claims and the possibility of lodging an extended claim or a combined claim incorporating the Djaberra Djaberra claim is being investigated. This claim has been complicated as a result of the large gas development proposed within the claim boundaries. The KLC held a number of meetings to resolve the issues but ultimately one of the named applicants brought proceedings against the KLC. This has utilised a great deal of staff time and KLC resources.

Mayala

This claim is closely linked and heavily dependent on the outcome of the discussions in the Bardi Jawi case. Field work has been undertaken to investigate the interests and extent of shared rights of Mayala claimants to the Dambimangarri claim, which share some common Apical ancestors. Extensive work on Mayala genealogies was undertaken in the reporting period.

Intensive negotiations in relation to a complex future act over a culturally sensitive island in the claim area have required considerable resources during the reporting period.

During the reporting period a small group of Mayala claimants have sought to obtain separate representation

for the claim group. This is not supported by the majority of claimants though it has caused a great deal of division within the claim group. The dissident group has retained legal advisers who have attempted to advise the claim group and sought to become the solicitors on the record. This has been instrumental in creating further conflict within the group.

Lamboos

As discussed above, progress continues to be made on the development of a Jaru cultural bloc claim which would include the Lamboos native title application (which currently follows the boundaries of a pastoral lease).

Kurungal

This claim is closely linked with the research conducted on neighbouring claims Gooniyandi and Ngurrara #2. Following the "boundaries" meeting for central Kimberley claims held in May 2008, a desktop review of existing material and issues for Kurungal was conducted. The claimants agreed in principal to reconfigure its boundary and to sort out how best to accommodate the various interests within the claim. The KLC engaged a consultant anthropologist who commenced research including field research to provide a connection report on this claim which we anticipate will be completed early in the next reporting period.

Gooniyandi

In the previous reporting period an expert anthropologist connection report was submitted to the Office of Native Title. This connection report covers the whole extent of Gooniyandi country. This is consistent with KLC policy to work toward extending native claims to include all areas of traditional country currently not under claim. Within this reporting period, the State completed an assessment on the connection report. The State finally agreed to connection in March 2010.

Similar to other claims in the region, the KLC has continued toward identifying the extended boundaries of the area and the areas are of shared interest with neighbouring claim groups. The KLC anticipates that subject to boundaries for the unclaimed area being settled it will be in a position to lodge a new claim over the unclaimed areas in the next reporting period.

Bunuba

In the previous reporting period an expert anthropologist connection report was submitted to Office of Native Title for assessment. This report covered both the current application area and the traditional boundary lines that form Bunuba country under traditional law. The State was required to provide a response to the assessment of the connection report for this claim by May 2008 but did not do so until 31 March 2010, when it accepted connection.

Similar to other claims in the region, the KLC has continued toward identifying the extended boundaries of the area and the areas are of shared interest with neighbouring claim groups. The KLC anticipates that subject to boundaries for the unclaimed area being settled it will be in a position to lodge a new claim over the unclaimed areas in the next reporting period.

Koonjie-Elvire

The Koonjie Elvire native title application follows the boundaries of a pastoral lease. Instructions still stand to include the claim in the future Jaru native title application (discussed above).

Category C - Protection of Native Title

The KLC's functions and activities in relation to protection of Native Title are performed concurrently through:

- pursuing recognition of native title rights and interests, through progression of applications for determinations of native title as described above
- utilisation of future act provisions and processes, including representation of Traditional Owners in future act negotiations
- civil litigation actions against third parties who transgress Native Title rights.

The KLC has progressed negotiations in a number of major agreements for the protection of native title rights and

interests during the reporting period. These agreements are reported in more detail below.

As in previous reporting periods, the KLC has also maintained representation of native title claimants' rights and interests in relation to the large number of notices for future act developments issued in the reporting period, and continues to pursue resolution of the issues surrounding such notices through agreement making. The KLC's performance in relation to future acts notices is reported in more detail below.

Furthermore, the KLC provided assistance to defend criminal charges on the basis of the defence of exercising Naive Title rights and interests.

Criminal Defences of Native Title

The KLC provided assistance in 2 separate matters to Traditional Owners to defend criminal charges. The KLC provided assistance on the basis that there were legitimate defences to the charges based on a proper exercise of Native Title rights.

Case 1

In the first matter a group of TOs were charged with "disorderly conduct in public". The facts were that a group of off duty policemen and their invited guests were having a barbeque on a beach when they challenged the behaviour of some TO's. An argument followed and the TO's were charged with being disorderly in public. The KLC is running the defence that the beach was not a public place and therefore no offence has been committed.

We say that the beach was not public for 2 reasons. The area is within a determined area and was exclusive possession native title land (above the high water mark). The beach was also within an area subject to an ALT Reserve created under Part III of the Aboriginal Administration and Planning Act 1972 (WA). Where a Reserve has been created for the use and benefit of Aboriginal people, a non Aboriginal person cannot enter this land without the authorisation of the ALT. On the first limb, exclusive possession Native Title land, the KLC maintains that where a Native Title Determination gives the Traditional Owners the right to possession of the land as 'against the whole world' then by definition it cannot be a public place.

Case 2

2 TO's were charged with assault and damage to property after they stopped 2 trespassers on their land. The facts were that 2 non Aboriginal people were driving through an area of land which recognised as exclusive possession land subject to a Determination of Native Title. The land was also an Aboriginal Pastoral lease owned and operated by the PBC for the Native Title holders. 2 senior TOs saw the 2 trespassers and called on them to stop. Instead the trespassers turned around and sped off in the direction of a significant cultural site. The TO's caught the 2 trespassers after they had entered the site. This caused the TOs a great deal of distress. When the trespassers stopped, the TO's hit them on the arms with a ceremonial stick. The TOs were charged with assault. The KLC is arguing that the actions of the TOs were justified on a number of grounds. Under their Determination of Native Title the TOs had the right to protect significant sites and also the right to exclude non Traditional Owners. Under the common law of Australia a property holder has the right to protect his or her property from attack or threatened damage, including using reasonable force if required. In the circumstances it was a reasonable use of force. The TOs had a cultural duty to protect the under their law and custom and it was possible that their failure to do so would have made them subject to punishment for failure to protect the site.

In this case we are not arguing 'tribal law' as a defence. We are arguing that a Determination of Native Title does allow TOs the right to protect their rights and to uphold the terms of the Determination. The cultural obligations is not a defence in itself but it does go to whether the actions of the TOs were reasonable in the circumstances.

Output 1.2 – Non-claimant Applications

No non-claimant applications were made in the Kimberley Land Council NTRB area in the reporting period.

Output 1.3 – Agreements

The role of agreement-making in the performance of NTRB functions

It continues to be KLC's experience that negotiated outcomes provide tangible benefits for Traditional Owners, proponents and the wider community. Negotiations generally occur at a far lower cost than litigation or other forms of disputation when measured in terms of resource allocation, social and community benefits and the cost to relationships between native title holders, proponents and the wider community.

Many future act negotiations require highly technical expert advice, particularly in relation to mineral resource development. The necessity for KLC to contract this expertise from outside the organisation has been an issue over a long period of time. While external assistance will continue to be required, particularly for more complex or technical matters, the KLC has moved significantly towards reducing external costs associated with agreement-making by developing its own internal expertise.

It remains KLC's practice to seek financial assistance from proponents to meet the costs of negotiation and agreement

making. This approach alleviates the strain on limited NTRB funding. Where third party funding cannot be secured and NTRB funds must instead be allocated for agreement-making to proceed, tension can be created between the need to respond fully and systematically to the future act matters and the need to progress Native Title applications. This tension is a major factor in a less than optimal response to progressing all future act negotiations. This shortfall in resource allocation remains a significant concern for the KLC and a significant frustration for third parties.

The KLC is also under considerable pressure to deal with State sponsored future acts, such as the construction of public works infrastructure, but the scope of works greatly exceeds our financial and logistical resources. The KLC has been in negotiation with the State since October 2008 for a significant level of funding to expedite this process. The KLC is often blamed for delays in works being commenced or completed in a timely manner. However, the KLC has consistently advised the State that we need greater notification of proposed works rather than having urgent matters put to us late in the project cycle. With better planning, notification and resources from the State the KLC would be better placed to respond.

Many future act proponents fail to appreciate that often delays are caused by the requirement under the NTA to obtain full claim group instructions (which is costly and difficult to arrange) and that there are often lengthy notification periods for the registration of any agreements (ILUAs) which may ultimately be negotiated.

Major Future Act Negotiations and Agreements

Because agreements relate to future acts or anticipated future acts, they are relevant to both Output 1.3 and Output 1.5. The Kimberley Land Council has initiated a distinct internal unit to deal with matters relating to agreements.

Agreements Unit

The Agreements Unit was formed in early 2009, to facilitate all agreement making other than the LNG negotiations with the State of Western Australia and Woodside Ltd. in relation to an LNG facility at James Price Point.

Part of the role of the Unit is to undertake negotiations for Heritage Protection Agreements, of which there were over 50 negotiated over the past year, and subsequently all Heritage Surveys (Work Programme Clearances). There are two legal officers and one para-legal officer involved in the negotiations for the Heritage Protection Agreements, and one anthropologist, four project officers and two field officers working on Work Programme Clearances. There have been 53 Work Programme Clearances undertaken over the past year, an increase of over 150%. Last year a large number of companies working in the Kimberley reduced their exploration programs because of the global economic recession. This is now not the case and exploration activity has increased. The main focus area this year has been in the Central Kimberley particularly in the Nyikina Mangala and Ngurrara traditional lands. This trend appears to be ongoing for the next financial year with many companies already meeting with Traditional Owner groups and outlining their exploration programs for 2010/11. The main interests in the Central Kimberley are coal and oil and gas. There has also been five companies exploring for uranium in the Tjurabalan traditional lands.

KLC has a new Heritage Protection Agreement in place for companies that want to explore for uranium. There have also been two meetings with Tjurabalan traditional owners in relation to uranium and KLC assisted by providing expert advice in relation to uranium exploration and mining. One

company has showed interest in exploring of uranium in the Nyikina Mangala claim area and there are long held interests in the Oobagooma area in the Dambimangari claim. KLC is undertaking discussions with the Dept of Defence who holds the freehold for the Yampi Defence Lands where this deposit is located.

This unit will also assist Traditional Owners with negotiations of any mining agreements, as well as agreements with government departments and agencies, and research bodies.

The negotiation of Indigenous Land Use Agreements with the State of Western Australia to facilitate the building of infrastructure in communities will form a large part of the new unit's workload. KLC is still in negotiations with the State about the final agreement but this should be finalised in the first half of 2010. This will increase the staffing numbers of the unit by an extra five positions.

Pluton Resources Ltd

In the 2009/10 reporting period, the KLC continued to engage with Pluton Resources Ltd on behalf of the Mayala Native Title Claim Group in respect of Pluton's proposed iron ore mine on Irvine Island, located in the Buccaneer Archipelago, northwest of Derby.

In 2010, the Mayala Traditional Owners undertook a heritage survey on Irvine Island. During this period, the KLC also engaged with Pluton with negotiations for a Studies Agreement and a Negotiation Protocol and the basis on which the Mayala Traditional Owners would engage with Pluton about a project-related agreement in the future. Two Negotiation meetings were held with the Mayala Negotiation Committee and Pluton. These negotiations will continue in 2010/11.

Pluton has also applied for exploration and prospecting tenements in the Dambimangari claim area. Discussions will begin with Dambimangari in 2010/11 in relation to these.

Inpex Browse Ltd.

Inpex Browse Ltd decided to locate their project out of Darwin rather than the Maret Islands in the north Kimberley.

The company is investigating a location for a marine supply base. There are two possible locations in the Kimberley – Broome or Point Torment north of Derby. KLC has assisted Warwa Traditional Owners to be part of the studies being undertaken at Point Torment in 2009 and 2010.

KLC is presently negotiating a Heritage Protection Agreement on behalf of the Traditional Owners.

Mount Gibson Ltd

KLC and Dambimangari Traditional Owners have negotiated further Heritage Protection Agreements for tenements on the mainland south of Koolan Island with Mount Gibson Ltd.

A Work Programme Clearance was undertaken on the western end of Koolan Island and the company has begun exploration in this area. Further clearances will be undertaken before drilling can occur.

Kimberley Nickel Mine

KLC continues to assist the Traditional Owners with their agreement with the Kimberley Nickel Mine. They have assisted with the employment of an Administrator to work full time on this project. He began in the 2009/2010 reporting period.

Ridges Iron Ore Project

The Kimberley Metals Group is a private exploration and

mining company based in Perth and purchased the Ridges Iron Ore Project (previously named Argyle Iron Ore Project) in February 2009.

KMG is carrying out a Feasibility Study of the Ridges Project with the aim of bringing the project into production by 2011.

The project is situated in the East Kimberley about 170km south of Wyndham.

Negotiations began in September 2009 and were completed in June 2010

The KLC with Lumugal Traditional Owners has secured a significant mining agreement that provides for education, employment and business development opportunities.

The Agreement is between the Lumugal people and the Kimberley Metals Group for an iron ore mine to be built near Pompeii's Pillar in the east Kimberley.

The signing of the agreement in June comes after more than eight months of negotiations. Although the agreement is commercial-in-confidence, it provides for significant benefits for the Lumugal people including mining royalties for the life of the project.

Other highlights of the agreement include:

Employment opportunities:

- A minimum of two Traditional Owner training positions or apprenticeships with provision of full-time work once completed;
- Lumugal Traditional Owners to be given first preference for any employment positions;
- Employment of Aboriginal Cultural Rangers;
- Employment of an Aboriginal mentor to assist Indigenous staff

Business Development:

- Kimberley Metals Group will assist Lumugal Traditional Owners in establishing businesses to provide services to the mine;
- The company will provide capital and business expertise to assist Traditional Owners in setting-up business opportunities;
- Kimberley Metals Group will provide business development sessions every week for up to four hours to help Traditional Owners set-up businesses and ensure they are successful; and
- Businesses owned by native title holders will be given first preference when awarding contracts.

Output 1.4 — Compensation Claims

No compensation applications for the loss of native title were made in the reporting year.

Output 1.5 — Responses to Future Acts

The appointment of a Future Act Officer, funded by the State Government Office of Native Title (ONT), was maintained during the reporting period. This State-funded position remains a fundamental part of the KLC's ability to respond to the very large number of future act notices it receives in each reporting period. However the KLC was notified that funding for this position will not be extended beyond the current reporting period which will significantly impact on the KLC's capacity to respond to Future Act matters.

The degree of response to future act notices by the KLC

Education:

- Significant on-going commitments to increase education opportunities for Lumugal Traditional Owners.

This agreement highlighted the strength of KLC in working with Kimberley Traditional Owners to secure important agreements that provided long-term benefits for Aboriginal people.

The Lumugal Traditional Owners worked together as one group to successfully negotiate this agreement which will provide positive outcomes for their people.

This agreement maintains the high standards of agreement making in the Kimberley.

The company will pay a considerable mining royalty rate but more importantly this agreement offers substantial education, employment and business development opportunities that will ensure a better future for Kimberley Aboriginal people.

Aboriginal Lands Trust

The KLC continued to work with the WA Department of Indigenous Affairs regarding the transfer of Aboriginal Lands Trust held land to identify priorities, although progress is relatively slow.

Progress has been made in relation to:

- commitments made by the State of Western Australia in relation to the Karajarri consent determination, regarding the transfer of ALT lands within the claim area;
- discussion on ILUAs to be rolled out across a number of Kimberley communities;

The KLC will continue to work with the ALT to speed up the process for transferring the ALT Kimberley estate to the Traditional Owners.

Broome Native Title Global Negotiations

During the reporting period the KLC and the Native Title holders continued negotiations with the State government. The Prescribed Body Corporate, the Yawuru Native Title Holders Aboriginal Corporation (the Yawuru PBC) which continued the negotiations with KLC's assistance, on behalf of the community of Native Title Holders. There were extensive negotiations with the State concerning a wide ranging number of issues including compensation, land tenure and commercial interests. There have also been discussions surrounding the protection of native title rights through land management arrangements with State departments.

is dictated by the available resources and subject to the priorities set by the Board. The KLC has adopted policies and procedures to ensure that, so far as possible, registered native title claimants are notified of any acts that may affect their Native Title rights and interests. This is done as a matter of principle and in accordance with the requirements of this function under the NTA. Internal procedures adopted by the KLC to maximise this response output include the entry of all future act notices on to a database and provision of those notices to respective native title claim groups for the purposes of notification.

The Future Act Officer continued to be responsible for streamlining the process by which the KLC responds to future act notices, in particular mining and exploration matters, and refining the data collection process and the database for reporting purposes. Streamlining of the future acts procedures, and further development of the future acts database and notification process will continue to be a priority in the next reporting period, notwithstanding the withdrawal of funding for this position.

Types of Future Act activities included:

- mineral tenement-related notices such as exploration, prospecting, mining and petroleum titles;
- compulsory acquisition notices for land to be used by a third party;
- compulsory acquisition by a government party for public purposes;
- water licenses;

- road building; and
- other purposes.

Each type of future act attracts a different procedural right for registered claimants.

In accordance with the Service Level Agreement between the State and the KLC, during the reporting period the KLC submitted to the State of Western Australia two (2) six-monthly Future Acts Officer Reports showing the number of future acts for which notices were received, by type.

The level of work in the future act area is shown in Table 2 (Future Acts). In the reporting period the KLC made, or otherwise facilitated the making of, responses to 305 future act notices. Of the 305 notices received in the reporting period, types of notices were: (228) exploration related applications, (14) prospecting related, (52) right to comment, (7) right to negotiate and (4) Notice of Intention to Take.

Other Future Act Activities

The KLC continues to be engaged in a high number of significant future act negotiations, whilst managing a broad future acts workload. During the reporting period:

- 158 objections were lodged,
- 113 objections were withdrawn or dismissed by the NNTT (27 of those were withdrawn/dissmised because of an existing HPA, 22 were withdrawn/dissmised due to parties coming to an agreement, 52 due to the Tenements being withdrawn, 2 following an excision on the tenement area to exclude Native Title and 2 objections were withdrawn due to lack of

evidence, 6 due to the Expedited Procedure being withdrawn by the NNTT and 2 were withdrawn due to the determination being handed down by the NNTT that the Expedited Procedure applies and the application is to proceed to grant)

- 155 agreements were in development during the reporting period
- 33 agreements were executed in the reporting period

Note: some figures may not correspond, as some notices received during the reporting period may be dealt with during the following reporting period.

Table 2: Future Acts

Type of future act	#	Type of future act	#
Aquaculture	1	Recreation Purposes (eg. parks)	1
Clear Native Vegetation	15	Reserve Creation/Management	1
Exploration	228	Road maintenance/works	2
Public Housing	2	Water Supply	8
Public Works	2	Tourism	2
Infrastructure (Mining)	1	Petroleum	7
Land Lease	1	Horticulture	1
Land Sale	2	Boat Ramp	1
Land Use	2	Geothermal Exploration	2
NOITT	4	Lease re-newal	1
Pastoral Lease Variation	2	Marine Seismic Survey	1
Pearl Oyster Farm Lease	1	Miscellaneous License	1
Prospecting License	14	Navigation Satellite	1
Sublease	1	TOTAL RECEIVED	305

Output 2 - Certification

Once work commences on the preparation of an application for determination of Native Title, KLC staff undertake the following tasks:

- ethnographic research to identify the basis of the community of Native Title holders, the area of land and/or sea to be claimed, and the membership of the claimant group;
- assistance to the community of Native Title holders to organise a series of inclusive and widely advertised meetings in relation to the application;

- provision of advice on the legal and other issues affecting the application;
- if requested, the provision of advice to the community in relation to the selection of the appropriate named applicants;
- making records of minutes of all meetings, and of the decision-making process undertaken within the meetings; and
- drafting application forms.

As part of the process of certification, a memorandum is prepared detailing the decision-making process by which the claimants select and authorise the applicants. If the KLC is satisfied that there has been a proper and fair process to authorise the named applicants by the claimant group, that all reasonable efforts have been made to identify all persons

who hold or may hold Native Title rights and interests in the relevant land and waters, and that the application properly identifies the Native Title claimant group, then the Chief Executive Officer may certify the application.

In this reporting period, no new native title applications or ILUAs were certified.

Output 3 - Dispute Resolution

KLC dispute resolution functions are based on a philosophy that emphasises mediation and negotiation within the community of Native Title applicants, and seeks to identify one cohesive Native Title holding group prior to the lodgement or progressing of Native Title applications.

The process undertaken to assist in developing agreement between and within groups generally comprises of four parts.

- Development of a comprehensive profile of the relevant Native Title community through detailed anthropological, historical, cultural and linguistic research, in order to guide facilitation and mediation strategies.
- Convening inclusive community meetings that attempt to identify any relevant differences and disagreements between people. Depending on the

gravity of a dispute, a community member of high standing or an impartial person of high standing from outside the community (such as the KLC Chairman, Deputy Chairman or Special Advisors) may be asked to chair the meeting. The KLC will assist the community to propose their own solutions to the relevant issues.

- Where necessary, individual meetings may be held with concerned people to provide information and advice.
- If no progress is made through internal attempts at dispute resolution, assistance may be requested from various formal institutions in relation to mediation. Such institutions include the Kimberley Aboriginal Law and Culture Centre, the National Native Title Tribunal and the Federal Court.

Output 3.1 — Disputes relating to Native Title applications

It is the KLC's policy to endeavour to resolve disputes relating to Native Title applications by consultation at claimant meetings and in the course of claim preparation.

Mayala

During the reporting period a small group of Mayala claimants have sought to obtain separate representation for the claim group. This is not supported by the majority of claimants though it has caused a great deal of division within the claim group. The dissident group has retained legal advisers who have attempted to advise the claim group and sought to become the solicitors on the record. This has been instrumental in creating further conflict within the group. There were 2 main areas of concern within that disaffected group.

- There is a perception that the KLC has taken too long to resolve the group's native title determination and consider that we do not adequately keep them informed. The KLC's position, as has been advised to the group on a number of occasions, was that this claim was closely associated with the Bardi Jawi decision. The issues are very similar as they both relate to sea and island country. The Full Federal Court handed down its decision in favour of the Bardi Jawi people in March 2010. The KLC and the State immediately commenced negotiations to resolve the Mayala claim, however, this has been put on hold due to the division within the group. The KLC also held 8 meetings with the Mayala people in the reporting period (including some joint meetings with the neighbouring Dambimangari claim group). The KLC also met with some members of the disaffected group on 2 separate occasions. The KLC has attempted to resolve the issues at these meetings and has had the support of the majority of the claim group but this has not resolved the issues with the disaffected group.
- Members of the disaffected group assert that the neighbouring Dambimangari claim overlaps Mayala

country. This does not accord with an agreement reached between the 2 claim groups in 1998 and 2001. The KLC has also attempted to mediate this dispute through joint claim group meetings and 3 meetings of senior people from both sides. The KLC held a meeting at which the NNTT attended as observers. The meeting was for those people who speak for the disputed country from both claim groups. The disaffected group attended but walked out of the meeting. The remaining people present voted to retain the existing boundaries as agreed previously.

Goolarabooloo Jabirr Jabirr

This claim is made up of 2 separate groups; the Goolarabooloo and the Jabirr Jabirr. There has always been tension between the 2 groups but this has come to a head over the proposed gas hub at James Price Point which within the claim area. Whilst there are no set lines, the Goolarabooloo group is generally opposed to the gas hub whilst the Jabirr Jabirr are generally in favour of it. In this reporting period the KLC received instructions to enter into a heads of agreement with the State and the proponent regarding a regional benefits package. This was challenged, unsuccessfully, in the Federal Court by a member of the Goolarabooloo people. That matter is currently under appeal. During the course of those proceedings it was alleged that the KLC had a conflict of interest as it had previously acted for both groups. Accordingly, the KLC gave undertakings that it would take no further steps to progress the Native Title claim until the issues had been settled.

An authorisation meeting was held in April 2010 to replace the named applicants. The KLC went to great lengths to have attendees register before coming into the meeting to ensure that only true claimants could vote and participate. However this was sabotaged by certain members of the claim group who opened a side door allowing many people who would not otherwise have been authorised to attend the meeting.

During this meeting the Jabirr Jabirr people resolved to split from the claim and lodge their own claim. This was subsequently done.

The KLC is planning a full authorisation meeting in the next reporting period to replace the named applicants.

Output 3.2 — Disputes relating to ILUAs, rights of access and other matters

Nyikina Mangala Shire of Derby West Kimberley ILUA

In the previous reporting period a meeting was held between the Nyikina Mangala and Warrwa groups, conducted by the KLC with the assistance of the NNTT. An agreement was reached at that meeting in which the Warrwa agreed to remove its objection to the Nyikina Mangala – Shire of Derby ILUA and the lodgement of a new claim over certain unclaimed areas. In this reporting period further mediations were held by the KLC between the two groups resulting in the objection being lifted.

Kandiwal Aboriginal Corporation

In July 2007, KLC offered to fund an independent third party mediator to assist Kandiwal Aboriginal Corporation and Wunambal Gaamberra Aboriginal Corporation resolve a dispute relating to ALT leases. The KLC is not and has never been a party to this dispute, but has made numerous attempts to assist the parties to resolve it in a mutually acceptable manner. This offer of mediation assistance was refused by Kandiwal Aboriginal Corporation for at least eight months after it was made, and has now been withdrawn by the KLC.

Djabera Djabera /Nyul Nyul

This is a dispute between 2 neighbouring groups about overlapping claims. The KLC has held joint meetings in an attempt to resolve these issues. The KLC will also be undertaking extensive field work in the next reporting period to add to our understanding of the issues.

At the request of Kandiwal traditional owners and Wunambal Gaamberra Aboriginal Corporation, in December 2007 the KLC met with both parties and explained its view of the legal and practical issues relating to the transfer of the ALT leases. At the time all parties appeared satisfied with the recommendations made by KLC.

There have also been unsubstantiated allegations against the KLC in relation to consultative processes over the LNG proposal. These allegations were reported to have been made by or on behalf of Kandiwal traditional owners. This is despite documented evidence that demonstrates not only that the Kandiwal Traditional Owners been actively involved in the consultations but have also directly benefited from compensation arising from the matter.

Over at least the past three years the KLC CEO and staff have made themselves available at considerable expense in order to ensure that Kandiwal Traditional Owners concerns about country are recognised and incorporated into any native title decision making processes in the region.

KLC staff again met with representatives of Kandiwal AC in early 2010 and outlined the proposed terms of consent determination and answered some of their concerns.

Output 4 - Notification

The KLC has adopted policies and procedures to ensure that, so far as possible, registered Native Title claimants are notified of any acts that could affect their Native Title rights and interests. This is done as a matter of process and in accordance with the requirements of this function under the NTA.

KLC's performance against this function is reported in detail in the section above dealing with future act notices.

Output 5 - Agreement Making

Output 5.1 — Number of ILUAs affected

The KLC continued negotiations on (5) ILUAs in the reporting period:

- Looma Multifunction Police Station on Nyikina Mangala country;
- an Eco-Resort on Balangarra country;
- Public works ILUA at Bidadanga on Karajarri country;
- Public Works ILUA at Warmun on Kija country;
- Yawuru area agreement;

The NNTT registered (1) ILUA (Yawuru area agreement).

The KLC also continued negotiations on template ILUA's with the State regarding a number of community layout plans across the Kimberley. The KLC proposed a means of stream lining Government processes for building houses and related

infrastructure throughout the Kimberley. This required the KLC being properly funded to set up the necessary team and to ensure a uniform roll out of the Government building program. It has taken over 2 years for the State to finalise the funding agreement. Notwithstanding this the KLC has attempted to be as flexible as possible has allowed interim arrangements to be put in place. Despite this the State has still not managed to produce to a final stage any of the required documents.

The KLC also continued negotiation on template ILUA's with the Pastoral and Graziers Association. The template proposes a means to stream line negotiations on ILUA's between relevant claim groups and pastoralists. Mediation with third party respondents such as pastoral lease holders regarding determinations of native title can be assisted by assurances that rights and interests can be recognised and enhanced through the process of ILUA's.

Output 6 - Internal Review

There were no internal reviews during the reporting period.

The KLC has two separate review policies relating to the exercise of KLC NTRB functions. One relates to decisions of the NTRB Grants Committee Application for Assistance in

Native Title matters and the other relates to decisions of the KLC generally in the performance of our functions or exercise of powers.

Review of KLC NTRB Grants Committee Decisions — Reasons for Decision

Open and transparent policies have been adopted and implemented by the KLC over a number of years in relation to the decision making and review processes of its Grants Committee. The KLC's Guidelines for Assistance in Native Title Matters sets down the following procedure in cases where the Grants Committee determines that assistance should not be provided.

- If the Grants Committee rejects an application for assistance, the KLC provides the applicants with written reasons for the decision. The applicants are informed of their right to have the decision reviewed.
- If applicants are dissatisfied with any aspect of the decision, and they give the KLC written notice that they wish to have the decision reviewed, then a review is conducted by a KLC NTRB Review Committee. The Review Committee consists of the KLC Chairperson and four nominees. This review committee cannot include any member of the Grants Committee that made the original decision, and members must declare any conflict of interest and absent themselves from the committee in the case of any such conflict.

In reviewing the decision, the NTRB Review Committee considers whether:

- (a) any breach of natural justice has occurred;
- (b) the decision was in any way induced or affected by

fraud;

- (c) there was insufficient material presented to justify the decision;
- (d) an irrelevant consideration was taken into account;
- (e) a relevant consideration was not taken into account;
- (f) there was any element of bad faith in the decision making process;
- (g) proper consideration was not made of the merits of the case before the decision was made;
- (h) the decision was an unreasonable one; and/or
- (i) the decision was arbitrary.

Once a decision is made, the NTRB Review Committee provides written reasons to the applicants for the decision. If the applicants are still not satisfied, they have the right to have the decision reviewed under the Administrative Decisions (Judicial Review) Act 1977 (Cth). Applicants also have the right to seek a review of a decision under s203FB of the NTA.

The availability of this process of internal review is publicised through the following mechanisms:

- in writing at the time of informing applicants about the initial NTRB Grants Committee Decision;
- in community meetings; and
- at KLC Board meetings, in accordance with KLC guidelines for assistance.

KLC Grievance Resolution Policy

The grievance resolution policy is applicable where a member of the KLC is dissatisfied with a decision of the KLC Chief Executive Officer, a Sub-Committee of the Board, a delegated decision, or any act of a member of KLC staff. This policy excludes decisions of the NTRB Grants Committee.

The complainant is required to notify the Chief Executive Officer of their complaint. If the matter relates to a member of staff, it is referred to that staff member's supervisor and an internal investigation commences. If the grievance relates to a decision or act of the Chief Executive Officer, the matter

is referred to the Chairman and an internal investigation takes place. The complainant is notified in writing of the outcome of the complaint.

This procedure is communicated to the community through appropriate measures.

Six complaints were received in the reporting period 2009-2010- see 'Section b) Narrative Discussion and Analysis of Performance Trend Information - Performance against service charter/standards, complaints data, and the KLC's response to complaints' below.

Output group 6.1 & 6.2 — Number of Reviews Pending and/or Completed

There are no reviews pending or completed for the reporting period 2009-2010.

Output 7 - Other Functions

Output 7.1 — Educational Resources

The KLC has a two-person community relations team that works to inform our members and the public about matters of interest relating to the KLC.

During the reporting period, the KLC produced five newsletters which highlighted important issues in native title, land and sea management, agreement-making and legal matters as well as upcoming events and meetings. Our newsletters also include updates on Government policies as well as key Indigenous initiatives that could affect our members. Hard copies of the newsletter are posted to 53 Indigenous communities and organisations within the Kimberley, as well as Executive Board members. The newsletter is also emailed to the media, government departments, project partners and organisations within Broome, Western Australia and Australia.

The KLC has been involved in providing the media with information about KLC activities through numerous briefing

sessions, media releases and press conferences. KLC Executive Director Wayne Bergmann, Deputy Director Nolan Hunter and various Kimberley Traditional Owners have been involved in speaking to the media about a wide range of topics including native title, development, tourism, land management strategies, ranger projects and government proposals.

The KLC also initiated a 20-minute weekly radio segment on National Indigenous Radio Service which promotes our activities. The KLC has promoted its activities and highlighted Indigenous issues in the media – of which hundreds of stories have been published in local, state and national media outlets. The KLC monitors all media clips and distributes these to relevant people within our organisation.

The KLC launched a revitalised website at the start of 2010, which has provision for video clips and photo galleries. It also provides information on all departments within the

organisation, highlights projects, lists media releases, news updates and has links to reports.

KLC Executive Director Wayne Bergmann has been the keynote speaker at several events and conferences including the 'Aligning Indigenous land management with conservation' conference in Darwin and the National Native Title Conference in Canberra. KLC employees and Kimberley Traditional Owners regularly attend and present at international, national, state and regional conferences and forums about the work and activities the KLC is involved in.

An information booklet was produced for the public and media on the role of the KLC as a way to help them understand our functions and responsibilities as a Native Title Representative Body. Information sheets and media workshops were produced and delivered to ranger groups, facilitated by the KLC.

Numerous power point presentations have been produced and presented to the KLC Executive Board, KLC members and Kimberley Traditional Owners, as a way to inform them of matters relating to their native title claim groups.

The KLC is proactive in informing its members and native title claimants on issues relevant to them so they can make informed decisions. As a result, the KLC regularly organises on-country meetings for native title claimants. The KLC's Chairman, Deputy Chairman, special advisers and Executive Board members are present at many of these meetings.

The KLC Executive Board has met six-times in the reporting period. A member from each native title group is elected to the board and is responsible for representing the views of their claim group. The KLC Executive Board is the driver behind decision-making and policy within the KLC and sets the future direction of the organisation.

Output 7.2 — Agreements with Other Representative Bodies

The KLC has two formal agreements with other NTRBs.

- An agreement (Alliance of Western Australia Aboriginal Land Councils) made under section 203BJ and 203BK(1) of the Native Title Act, is in place with all WA NTRBs (Ngaanyatjarra Council, Goldfields Land And Sea Council, Yamatji Marlpa Land And Sea Council, South West Land And Sea Council, and the Kimberley Land Council) to work together and create efficiencies.
- The National Native Title Council was established in the last reporting year. The Council is an alliance of NTRBs throughout Australia primarily tasked with providing an effective national response to policy issues affecting native title from the point of view of native title claimants/holders. The KLC remains an active participant in this organisation. In early 2010 KLC Deputy Director Nolan Hunter was elected

chairperson to the NNTC.

- Discussions are ongoing between the KLC and the Central Desert Native Title Services to create a Memorandum of Understanding in relation to issues arising between the two representative bodies which affect common claim areas, including shared community representations on the relevant prescribed bodies corporate and development of a consistent approach to the Canning Stock Route Permit system developed by the Central Desert Native Title Services.
- The KLC is a partner in the Northern Australia Indigenous Land and Sea Management Alliance, (NAISMA) between the Land Councils of Northern Australia being KLC, NLC, Carpentaria and Cape York (Balkanu).

Output 7.3 — Identification of Claimants and Holders

During the reporting period the KLC conducted ethnographic research across several regions. The results of this research are held within the KLC's records management systems. This research also contributes to the substantial holdings of the KLC's library. Current data retrieval records are updated to ensure all information is captured and accessible.

Governance and Administration

The KLC maintains appropriate accountability and management systems which result in unqualified audit reports. The system provides timely and high-quality information to support governance decision making and accurate and meaningful information to users on a regular basis. This ensures adequate financial controls are in place to responsibly manage the resources of the organisation.

Consultation (203D)

In compliance with its statutory functions of consultation about matters relevant to the operations of the NTA, the KLC consults as extensively with its members as resources permit.

As a community-based organisation, the KLC employs various consultative mechanisms. The primary means of consultation is through Native Title claimant group meetings, which are held as regularly as resources permit. These meetings provide a community and claim group-based forum where Traditional Owners are advised on the legal framework of Native Title, and recent court decisions

relevant to the progress of their Native Title applications and/or agreement negotiations. These meetings also provide a forum for the taking of instructions in relation to specific future act or Native Title claim developments, as necessary and appropriate.

The degree of consultation with any particular claim group reflects priorities set by the Board. The KLC Board recognises that the priorities will shift in the next reporting period following the anticipated completion of current matters in litigation (save for any possible further appeals) as they have done so in previous years.

Decision Making and Review (203D)

It is KLC policy to make orderly and transparent decisions in accordance with the organisation's Guidelines for Assistance in Native Title Matters. The KLC continues to review, improve and publicise the KLC's decision making policies to ensure that they are effective, with appropriate and efficient internal review processes.

Priorities (203D)

The KLC continued to progress claims and applications prioritised according to the principles and categories outlined and in the KLC Guidelines for Assistance in Native Title Claims, including:

- the finalisation of Native Title cases currently before the courts;
- the advancement of Native Title applications in the

- mediation process by preparing connection reports; and
- the maintenance of other Native Title applications in the mediation stream by further claim research

and assisting claimant groups with side negotiations and agreements relating to Native Title rights and interests.

a) ii Summary data on outputs

Set out below in tabular form is a summary report of the KLC's performance against output targets in the reporting period. The information in Table 3 summarises the more

detailed report on performance in the above sections of the Annual Report.

Table 3: Outputs Summary

Outputs	Number
Facilitation and assistance	
1. The Claims Experience	
Claimant Applications	
Active claims represented at 30 June 2009	31
Plus Claims Filed this year by NTRB	2
Less Claims Determined 2009- 10	5*
Less Claims Dismissed 2009- 10	0
Less Claims Withdrawn 2009- 10	0
+ or - Other disposition (describe)	3#
Active Claims represented at 30 June 2010	25
-Number of these registered by NNTT	22
- PBCs	7
Claims in Development	11
Non-Claimant Applications	0
(as relevant)	
Compensation Claims	0
(as relevant)	
2. The Agreements Experience	
Future Act Notices received	305
Responses to Future Acts	305
Agreements Concluded	33
Agreements in Development	155
ILUAs concluded and registered	0
ILUAs in Development	5
Complaints and Disputes	
Complaints	
- Received	6
- Resolved	5
- Pending	1
Disputes relating to Native Title Applications	0
Disputes relating to ILUAs, rights of access and other matters	0
Requests for Review of decisions not to assist	
- Requests Received	0
- Reviews Completed	0

* Includes Bardi Jawi, Bardi Jawi Brue Reef, Rubibi, Rubibi #6, Rubibi #17.

Includes Tjurabalan, Miriwung Gajerrong #1, and Miriwung Gajerrong #4, reported in previous period, as PBCs)

b) Narrative Discussion and Analysis of Performance Trend Information

The KLC was, generally, able to manage its workload in accordance with the Operational Plan in relation to both time and budget.

Factors, events or trends influencing performance

Factors which influenced the KLC's performance were generally external and beyond KLC's control. Significant external factors that impacted directly on the KLC's ability to maintain its objectives and priorities within desired timeframes include the following:

- The approach taken by the State Government, Commonwealth Government and other parties to the settlement of Native Title claims by agreement and the consequent resort to litigation.
- Amendments to the Native Title Act 1993
- Repeal of the Aboriginal Councils and Associations Act and the passing of the Corporations (Aboriginal and Torres Strait Islander) Act 2006
- The management of Native Title applications by the Federal Court, including the timetables directed by the Court and time taken to consider and deliver judgment.
- Resource constraints (including the capacity to attract and retain suitably qualified staff)

Legal Environment

There appears to be a trend towards mediation as opposed to litigation of native title claims. In light of developing High Court and Federal Court jurisprudence, there is increasing certainty as to how native title operates in relation to interests in land and water.

The KLC has adopted a more consultative approach with the State and meets regularly with the Office of Native Title to discuss issues relating to current applications, particularly in relation to connection material.

These general legal requirements have been augmented by detailed judgments on specific fact situations in cases both at a Federal Court and Full Federal Court level. The development of increasing legal certainty will provide a more secure basis for all parties to enter into negotiated rather than litigated settlements of Native Title.

However, as the appeals in the Rubibi and the Bardi and Jawi case indicate, the law cannot be said to be settled in a number of areas. The application of the law by individual judges will also always create some level of uncertainty in each litigated outcome.

The major impediment to a more efficient system of obtaining Native Title is the continued participation of Third Party respondents. The KLC considers that at times some third party respondents abuse the powers afforded them under the NTA and seek to obtain rights beyond which they legally entitled to. The NNTT now requires Applicants to meet with third party respondents to attempt to mediate issues before consent determination discussions commence. This has added a further layer of cost and administrative burden on the KLC which is disproportionate to the perceived advantage to be gained.

However during the last reporting period the State has consistently delayed signing off on connection and have not entered into any Consent Determinations even though all of the terms have been decided. The State is also now insisting on the Claim groups in Dambimangari and Uunguu to agree to terms which they have no right to insist on and which were introduced after the terms of the consent determination

had been agreed. We note that this trend is across the whole of the State, not just the Kimberley region.

The KLC's priorities and activities were consistent with the increasing policy trend towards economic and social development in Indigenous communities. The Commonwealth indigenous policy framework in relation to indigenous issues takes a whole of government and outcomes-focused approach to resolving entrenched economic, social, political and cultural concerns within many Indigenous communities. Within this Commonwealth policy framework, native title is a necessary foundation for the development of effective and durable economic and social systems. Consistent with KLC policy, this framework provides the KLC with the opportunity to further develop the links between economic and social development within Indigenous communities and the recognition of traditional ownership of country, and of traditional laws and customs and traditional representative and governance structures.

The KLC Operational Plan prioritises the agreement making functions, including future acts and Indigenous Land Use Agreements, reflecting the policy of the KLC to continue to deliver sustainable economic development underpinned by recognition of Native Title.

The KLC continued its strong commitment to working with all parties to achieve negotiated and agreed Native Title outcomes, to ensuring the expedited resolution of all claims, and to negotiating sustainable economic development outcomes. As such the Operational Plan reflected the Commonwealth's commitment to a fair, stable, and effective Native Title system through whole-of-government co-ordination.

The KLC's commitment to agreement making has provided a strong basis for the KLC's effective response to high level and complex potential economic developments in the Kimberley, including gas exploration and the development of Broome as an economic and regional centre.

Regional Planning

As has occurred in previous reporting years, the trend towards agreement on the prioritisation of Native Title claims continued in the reporting period. Regional Planning meetings were held with the NNTT and the State Government Office of Native Title. The meetings considered the status of each Kimberley claim, identified the claims which could realistically be advanced in the 2009-2010 reporting period, and the assistance to be provided by the NNTT.

The NNTT submitted mediation reports for the Federal Court Directions Hearings identifying the status of each of the applications and referring to major Future Act negotiations. The mediation reports identified priorities and activities agreed at Regional Planning Meetings and established in the Operational Plan. The reports provided an update on progress and made recommendations in relation to future activities. The NNTT praised the KLC for its ambitious research and claims targets set during the reporting period and beyond.

The process has facilitated agreement between the KLC and the State on the prioritisation of claims and provided the basis of agreed submissions to the Federal Court on the programming of claims by the Court.

Regional Planning meetings were held in November 2009 and May 2010 in preparation of Regional call-overs before the Federal Court in December 2009 and June 2010 respectively.

The Approach Taken by Other Parties

It remained the policy of the KLC to seek settlement of native title claims by agreement where possible. Success in achieving this goal is dependent on the willingness of the other parties to negotiate fair agreements.

Positions adopted by the Western Australia Office of Native Title (ONT) reflected a developing commitment to address native title through negotiation rather than litigation. The KLC is committed to consultation with the Office of Native Title. The KLC is hopeful that, through the consultative process, opportunities for negotiated settlements of remaining Kimberley native title applications will be enhanced. The KLC has enjoyed a closer and more cooperative relationship with ONT during the reporting period than it has in the past.

The policy governing negotiation of Native Title claims is established in the State of Western Australia's Guidelines for the Provision of Information in Support of Applications for a Determination of Native Title. Compliance with the Guidelines is a precondition to commencing consent determination negotiations. During the reporting period it remained the policy of the State Government to require comprehensive connection material prior to entering into settlement discussions with the Native Title claimants. The State has indicated a greater preparedness to enter into ILUAs as part of the overall strategy for resolving Native Title matters.

Notwithstanding the willingness of ONT to clarify and discuss its connection requirements, significant resources were required to prepare connection material. This requirement remained a significant factor affecting the KLC's ability to progress more than a limited number of Native Title claims at any one time.

Resource Constraints

The Kimberley covers an area of approximately 412, 451 square kilometres, divided into four local government areas, with six major towns and some 200 Aboriginal communities. Native title has been recognised over almost 50% of the Kimberley region. Kimberley land tenure includes national parks (6%, with plans for further 4%), Aboriginal reserve (11%), pastoral leasehold (52%, with half held by Aboriginal interests) and unallocated Crown land (15%). The Kimberley economy is driven by the mining, resources, tourism, agriculture, pastoral, pearling and fishing industries, together with the community services and public administration sectors.

The KLC's 2009-2010 Operational Plan sought to establish a balance between demand and resources. However the resources, human and financial, available to the KLC were limited. The KLC's capacity to progress all claims and to respond to all issues, including land access, was governed by resources. Any reduction in resources affects KLC's performance.

Effectively, each office must service an area in excess of 200,000 square kilometres. The organisation as a whole, including its Board and management staff, service an area in excess of 412,000 square kilometres. As an example, travel between Broome and Kununurra for Board meetings involves two days' driving.

This significantly adds to costs, and has a marked effect on human resources.

Ensuring that constituents and third parties have realistic expectations of the KLC's capacity, and understand workload pressures, remains an ongoing issue.

While the KLC continues to progress those matters in

the litigation stream, and find a balance between other competing priorities, the financial and human resources available to progress other matters in mediation, and to respond to future acts, remained limited during the reporting period. KLC's staffing levels in the reporting period are low in comparison to work demands. This has placed extremely high workload pressure on the organisation's staff.

An ongoing issue for the KLC is the strong demand on the labour market created by the ongoing growth and development of industries in the Kimberley region, in particular industries associated with the mining and resources boom in Western Australia. The KLC is not in a position to compete in the current labour market with other employers, primarily because it cannot offer salary packages which are commensurate with those offered in both the public and private sectors to experienced and less experienced professional staff. This lack of competitiveness is exacerbated by the high cost of living, including rental accommodation, in the Kimberley.

The KLC's physical office accommodation remains below standards that are conducive to efficiency, safety, and productivity. This continues to negatively affect the organisation's outputs and performance.

Federal Court Approach to Kimberley Native Title Applications

The Federal Court continued to case manage Native Title applications at six monthly Directions Hearings during which the Court reviewed and monitored the progress of all KLC applications in the mediation stream. If the Court considers that mediation is unlikely, or that insufficient progress has been made, the matter may be referred to hearing.

The Federal Court continued to take a rigorous approach to progressing Native Title applications in the reporting period.

Significant changes in the nature of principal KLC Functions/Services

There were no significant changes in the nature of the KLC's principal functions and services. Resource allocation remained heavily weighted towards the facilitation and assistance function.

Performance against service charter/standards, complaints data, and the KLC's response to complaints

The KLC does not have an explicit service charter or customer service standards.

A process of management of complaints is used. Written complaints are referred to the Chief Executive Officer, or delegate, who assesses them. In cases where it is appropriate to respond, the Chief Executive Officer refers them to an appropriate person to manage the complaint resolution process, allocates a priority response time, and either directly manages or case manages responses required to deal with the complaint.

Six complaints were received during the reporting period.

Of these complaints, three were Native Title related. One is ongoing, and two have been resolved. One complaint related to alleged discrimination on the part of the KLC and was resolved. One complaint related to LSMU activities and was resolved through mediation. One complaint related to the agreements unit and is on-going.

KLC responded to all these complaints in accordance with the complaints procedure process detailed in the Policy and Procedure Manual.

c) Discussion and Analysis of the NTRB's Financial Performance

The actual income from Grants and activity generated income was on par with the budget. The project staff salaries were underspent, but was off set by higher corporate services

costs in travel, communications and repairs and maintenance costs.

Table 4: Operational Plan Expenditure

NTRB Functions	Actual 2008/09 (\$'000)	Budget 2009/10 (\$'000)	Actual 2009/10 (\$'000)	Variation (\$'000)
Expenditure				
- Capital	54	55	55	0
- Activities	2,888	3,553	3,018	(535)
- Corporate	2,954	2,967	3,380	413
Total	5,896	6,575	6,453	(122)
Income				
- FaHSCIA Funding	5,782	5,242	5,242	0
- Activity Gen Income				
- Other Income	591	1,333	1,215	(118)
Other Income				
Interest	10	0	40	40
Rental Income	58	0	69	69
Total	6,441	6,575	6,566	(9)
Surplus / (Deficit)	545	0	113	113

d) Developments Since the End of the Financial Year That Have Affected or May Significantly Affect the Kimberley Land Council's Operations or Financial Results in Future

Funding

The KLC have entered in to a three year funding agreement with FHSCIA from 1st July 2010. Another significant change was that The Office of Native Title ceased to continue

funding of a Future Acts Officer on the 30th June 2010; this will put further significant pressure on current staff.

3. Corporate Governance

Statement of the Main Corporate Governance Practices in Place

The Corporate Governance of the KLC takes place in accordance with its incorporation under the Corporations (Aboriginal and Torres Strait Islander) Act 2006. Governance practices are set out in the KLC's Rules. To the extent allowed under this framework, the elected Board makes decisions from time to time about governance practices. The Board appoints a Chief Executive Officer to manage the affairs of the KLC on a day to day basis. The Chief

Executive Officer is also a member of the Board. The Chief Executive Officer is the interface between the Board and the staff of the KLC. The Chief Executive Officer and senior management provide regular reports to the Board, but the Board takes no direct role in staff management or the day to day operation of the KLC. The KLC is managed through a delegations framework and in accordance with the policy and procedures set by the Board.

a) Name of the Senior Executive and Their Responsibilities

The Chairman and the Deputy Chairman are elected by the Board to represent the members, the Board, and the organisation. They provide leadership and direction to the Board and the organisation, ensure that the KLC operates properly and fairly for all its members, speak on behalf of the KLC and its members, sign off on legal documents, and chair KLC meetings.

Mr Tom Birch is the Chairman of the KLC (elected 1998, current). The responsibilities of the Chairman are to ensure the that the KLC runs successfully by making sure meetings

are held, and that they are run properly, managing meeting agendas, allowing all Board members to participate in decision making, ensuring they understand all decisions made by the Board, and signing to confirm accuracy of meeting minutes.

The Chairman provides leadership to the KLC, the Board, the Chief Executive Officer, and staff and acts as KLC spokesman and interface between the KLC and the broader community.

Mr Frank Davey is the Deputy Chairman of the KLC (elected 1998, current). The responsibilities of the Deputy Chairman are to work closely with the Chairman, and to take the place of the Chairman when necessary. The Deputy Chairman shares the responsibilities of the Chairman in guiding the committee and ensuring the smooth running of the KLC.

Mr Wayne Bergmann is the Chief Executive Officer of the KLC (appointed June 2001, current). The responsibilities of the Chief Executive Officer are the overall day-to-day operational and administrative management of the KLC, including overseeing the operations of the corporate services, financial, legal, and Native Title services units. The Chief Executive Officer is the interface between the Board and the staff of the KLC. The Chief Executive Officer is supported by a Deputy CEO, Mr Nolan Hunter [5/6/07 on] who assists the Chief Executive Officer in managing the day-to-day operations of the Land Council.

The Chief Executive Officer and Deputy CEO are assisted by a management team consisting of:

- Principal Legal Officer Mr Robert Powrie [23/5/06 on]

- Finance Manager Mr Rohan De Silva [7/2/08 on]
- Native Title Services Unit Manager Ms Erika Blades [29/2/2008 on]
- Executive Unit/Corporate Services Manager Ms Rachel Townes Vigh [20/5/2009 on] (formerly Senior Finance Officer 2007-09)
- Regional Solutions Unit Project Manager Christine Robinson [20/5/2009/ on] (formerly Corporate Services Manager (4/4/03-20/5/09)
- Agreements Unit Manager Ms Athlea Sullivan [May 2009 on] (formally Native Services Manager [Nov 2005-Feb 2008], and Regional Gas Manager [Feb 2008-May 2009])
- Land and Sea Management Unit Manager Mr Gary Kairn [19/01/09 to 30/04/10] and Mr Daniel Oades [1/5/10 on]

The management team meet on a regular basis to determine operational and administrative matters. Managers conduct meetings, as required, with staff in their areas of responsibility.

b) Senior Management Committees and Their Roles — Separation of Powers

The Board meets a minimum of four times per year to make decisions about the direction and activities of the organisation and other appropriate matters including the Strategic and Operational Plans.

The Board has no direct role in the day to day administration and operation of the KLC. Specifically, they do not have a direct role in staff recruitment and management, or in

financial management. The role of the Board is to set the direction of the organisation, establish priorities, and direct the development of the Strategic and Operational plans. The Board delegates implementation of its decisions, including implementation of the Strategic and Operational Plans, to the Chief Executive Officer, and through him to the staff of the organisation.

KLC Directors and Attendances for 2009-2010

The Directors for this reporting period, and meetings they attended, are listed in Table 5, following.

Joe Brown, Irene Davey, John Watson and Joe Davey acted as Special members or Special Advisers to the Board. The Special Members and Special Advisers may attend any scheduled meetings.

Wayne Bergmann continued as Chief Executive Officer during the reporting year. As a community-controlled organisation, all major decisions are made by the Board and then implemented by the Executive Director.

Table 5: KLC Board of Directors Record of Attendance at Required Meetings

DIRECTOR	JUL 09	SEP 09	AGM 09	DEC 09	APR 10	MEETINGS ATTENDED
Tom Birch	Y	Y	Y	N	Y	4 of 5
Theresa Barker	N	Y	Y	Y	Y	4 of 5
Stan Brumby	Y	Y	Y	Y	Y	5 of 5
Rosie Lala	Y	N	N	Y	Y	3 of 5
Rita Augustine	Y	Y	Y	Y	Y	5 of 5
Phyllis Gallagher	Y	Y	Y	Y	Y	5 of 5
Pearl Gordon	Y	Y	Y	Y	Y	5 of 5
Patsy Bedford	Y	Y	Y	N	Y	4 of 5
Mervyn Steet	Y	Y	Y	Y	Y	5 of 5
Lorna Hudson	N	Y	Y	Y	N	3 of 5
Lennie Hopiga	Y	Y	Y	N	N	3 of 5
Josie Farrer	Y	Y	Y	Y	Y	5 of 5
Inga Pederson	Y	Y	Y	Y	Y	5 of 5
Hanson Boxer	Y	N	N	Y	N	2 of 5
Gregory Tate (28/9/09)	N/A	N/A	N	N	Y	1 of 3
Gordon Smith	Y	Y	Y	Y	N	4 of 5

(continued)

Table 5: KLC Board of Directors Record of Attendance at Required Meetings (continued)

Frank Sebastian	Y	Y	Y	Y	N	4 of 5
Frank Davey	N	Y	Y	Y	N	3 of 5
Evonne Birrell (28/9/09)	N/A	N/A	N	Y	Y	2 of 3
Edna O' Malley	Y	Y	Y	N	N	3 of 5
Butcher Wise	Y	Y	Y	Y	N	4 of 5
Anthony Watson	N	Y	Y	Y	Y	4 of 5
Albert Peumora	N	Y	Y	Y	N	3 of 5
Albert Dann	N	N	N	N	N	0 of 5
Alan Bin Salleh	N	N	N	N	N	0 of 5
Esther Waina (7/4/2010)	N/A	N/A	N/A	N/A	N	0 of 1
Wayne Bergmann	Y	Y	Y	Y	Y	5 of 5
Nolan Hunter	Y	Y	Y	Y	Y	5 of 5
Special Advisors						
Joe Brown	Y	Y	Y	Y	Y	5 of 5
Joe Davey	N	Y	Y	Y	Y	4 of 5
Irene Davey	Y	Y	Y	Y	Y	5 of 5
John Watson	N	Y	Y	Y	N	3 of 5

Training Arrangements for Board Members

- In June 2010 the Chairman, Deputy Chairman and eight Directors attended the NTRB national conference in Canberra where they took part in a variety of sessions on the current issues and trends in Native Title.
- During the reporting period information sessions were also provided by staff to the Board on planning and prioritisation of claim work activities, reforms to the Native Title Act, compliance with the Privacy Act, and directors' duties in relation to governance and conflict of interest.

c) Corporate and Operational Planning and Associated Performance Reporting and Review

The KLC conducted one all staff workshop in the reporting period. The purpose of the workshops was to discuss and implement Regional Teams for the purpose of sharing and utilising resources efficiently and effectively across the Kimberley.

In additional multiple regional planning meetings took place as well as various corporate and operational planning sessions within functional and cross functional units.

d) Financial and Operational Risk Management

The KLC has maintained and applied stringent financial and operational procedures to ensure that adequate information is available for the effective management of the organisation. The KLC employs a Financial Manager to manage the financial affairs of the organisation. The Financial Manager is a qualified Chartered Accountant, and forms part of the KLC's senior management team.

The senior management team meets regularly to review progress, and identify upcoming issues. Financial and operational reports are presented to these meetings, and any issues or potential issues requiring attention are dealt with. The management group is pro-active in identifying financial and operational risk, and invariably adopts a cautionary position.

The Chief Executive Officer and senior staff provide financial and operational reports to the Board meetings, and assists the Board in identifying potential risks and appropriate courses of action to minimize or exclude those risks.

The KLC retains an Auditor who assists the organisation with financial management, compliance, and risk analysis.

The Chief Executive Officer and Deputy CEO maintain a watching brief on all the activities of the KLC, and keep the Chairman and Deputy Chairman regularly apprised of operational and financial matters.

e) Ethical Policy and Standards

The work of the KLC staff is conducted in accordance with ethical standards relevant to their particular disciplines or professions, to professional codes of conduct, and in line with the KLC Policy and Procedures manual.

The KLC Board and staff are also covered by a KLC Code of Conduct.

f) Remuneration of Senior Staff

Remuneration of senior staff is negotiated in relation to market factors, and resources and other recruitment issues

for the organisation. Seven employees received salaries of more than \$100,000 during the reporting period.

4. External Scrutiny

Significant Developments in External Scrutiny

a) Judicial Decisions and Decisions of Administrative Tribunals

There have been no judicial or administrative tribunal decisions in relation to the KLC during the reporting period,

other than legal decisions that affected Native Title matters generally.

b) Evaluation and/or Audit Reports — Findings and Responses

The KLC Financial Statements to the end of June 2010 were independently audited. Details of this audit can be found in the Financial Statements section of this Annual Report.

c) Other External Review

There were no external reviews of the KLC during this reporting period.

5. Management of Human Resources

Assessment of effectiveness in managing and developing human resources to achieve NTRB objectives

a) Workplace Planning, Staff Retention and Turnover

The KLC recognises the importance and value of the Board and staff contribution to workforce planning.

Managers conduct regular planning sessions with staff in their units. Information from these sessions informs and reviews both staff and management. Planning is undertaken by the senior management group on a monthly basis.

Staff from the various offices meet regularly to discuss workplace issues. The Native Title Services Unit and Legal Unit meet on several occasions to report on progress of activities to the Operational Plan and develop strategies for the progression of activities.

The Board also provides advice and support to workplace planning processes.

The KLC experienced a turnover of approximately 20% during the reporting period across all NTRB functions. One NTRB staff member returned from maternity leave within the 12 month period to 30 June 2010. The turnover figures include, secondments, study leave and terminations

However, the KLC still struggles to recruit and retain more experienced professionals as we are unable to compete in terms of remuneration with other NTRB regulatory bodies and industry players. In addition the pool of experienced NT lawyers and professional staff appears to be diminishing overall creating a highly competitive marketplace.

The KLC has also experienced significant growth in the reporting period with an increase of more than 37% in staff across the organisation. Such increases can have significant consequences for existing staff in terms of the pressure of inducting, mentoring, training and supervision of new staff.

Performance management

The KLC continues to utilise and refine its performance management procedures and activity based reporting. Staff performance is reviewed formally on an annual basis and informally as required throughout the year.

b) Training and Development Undertaken and Its Impact

The KLC values its staff members and recognises the importance of skills development. The KLC Training Register reflects a mixture of internal and external training. External training is sourced from across a range of service providers and features both industry specific training and individual professional skills development.

During the reporting period staff attended training organized by the Aurora Project in Foundations of Native Title, Future Acts, Agreement Making, Understanding ILUA's, NTRB Legal Masterclass, Management & HR Workshop and Negotiating Skills. Staff also participated in other training opportunities including the Office of Native Title Future Acts seminar, FaHCSIA CFO, SPO & CEO Conference and

Native Title Field Officers workshop.

In addition all KLC staff were offered OHS and First Aid Training. Four wheel drive training is offered to all staff required to travel off-road as part of their duties. Internal training included but was not limited to new staff inductions, information technology training and on-going training focussing primarily on KLC policies, procedures, planning and processes.

Six KLC directors and fourteen staff also attended the NTRB conference facilitated by AIATSIS in Canberra in June 2010.

The KLC encourages staff to be pro-active in pursuing opportunities for professional development. The benefits to

staff of attending industry specific training are immeasurable and overcome issues associated with working in remote areas in highly specialised fields. The KLC also organises regular internal training sessions to increase staff skills

and understanding of KLC policy and processes. The KLC looks for a diverse range of training activities to both benefit staff individually and to collectively increase skills and organisational performance.

c) Impact and Features of Certified Agreements and AWAs

Employment at the KLC is covered by the KLC Enterprise Agreement (2004). This agreement includes provisions covering employment and remuneration, rates of pay and their adjustment, leave and allowances, workplace relations, organisational change and human resource management.

The agreement provides for certainty and transparency in staff employment conditions, defining the role and activities of the organisation in staff management.

This has improved employment security and simplified staff management. In 2008 the KLC commenced discussions with staff on a new workplace agreement. The new KLC Enterprise Agreement will be implemented in the second half of 2010. The new Fair Work Act 2009 will guide the process of the new Enterprise Agreement.

d) Occupational Health and Safety Performance

While KLC offices comply with the basic occupational health and safety requirements, the KLC is concerned to improve standards in this regard. However, in the absence of adequate funding and alternative premises, it is difficult to achieve best practice in this area. Every effort continues to be made to ensure that staff work in a safe working environment at all times, whether in the office or the field.

During the reporting year staff were offered OHS, stress management and first aid and four-wheel-drive driver training. The KLC also engaged an external service provider to implement an Employee Assistance Program. This program has been successful and utilised by a number of staff in varying circumstances. It is part of the KLC's overall commitment to staff well-being.

e) Statistics on Staffing

The KLC staff is comprised of Indigenous and non-Indigenous personnel and includes lawyers, anthropologists, environmental and land management officers, Native Title officers, librarians, and financial and administrative

personnel. At the end of June 2010, 118 staff were employed by the KLC on permanent, permanent part-time or fixed term basis. 69 positions were funded through project grants other than FaHCSIA's NTRB funding.

Table 6: Staff Profile as at 30 June 2010

KLC Staff at 30 June 2010			
Female	62	Male	56
Indigenous	54	Non-Indigenous	64
NTRB	49	Non-NTRB	69
Total: 118			

f) Indemnity and Insurance Premiums for Officers

The officers of the KLC are covered for professional indemnity under the policy of Aboriginal Association Liability Insurance (Professional Indemnity) to the value of \$10M.

6. Consultants, Tendering, & Contracting

Competitive Tendering and Contracting Practices

The KLC uses a register of consultants. Consultants are required to submit fixed fees for each financial year, which makes for competitive tendering.

The practice of contracting consultants to provide expertise is less than ideal for the KLC. In 2008 – 2009 and 2009-2010, the NTRB reduced its dependency on external consultants to progress Native Title claims. This was the result of reduced litigation and improved in-house capacity.

However the increase of Work Programme Clearances and complex commercial negotiations increased the number of consultants employed to give expert advice to the KLC in other areas. It is KLC policy that consultant contractors work closely with staff, to facilitate transference of skills and expertise. This approach will help to develop and retain capacity within the organisation.

Number and Expenditure – Consultancy Services

The KLC let 17 NTRB consultancy service contracts in 2009-2010. Nine were related to legal counsel services, 7 to anthropological services and 1 to other services.

The total costs to the KLC for NTRB consultancy services in the reporting year were:

Table 7: Consultancy Services Costs

TYPE	\$	#
Legal	\$129,250	9
Anthropological	\$143,767	7
Other	\$9,962	1
TOTAL	\$282,980	17

Appendix 2: Audit Report

FINANCIAL REPORT for the Year Ending 30 June 2010

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DIRECTOR'S REPORT

KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION (ICN 21) DIRECTORS' REPORT

Your directors present this report on the entity for the financial year ended 30 June 2010.

Directors

The names of each person who has been a director during the year and to the date of this report are:

Rita Augustine
Theresa Barker
Patsy Bedford
Esther Waina appointed (7/04/2010)
Alan Bin Salleh
Tom Birch
Evonne Birrell appointed (29/09/2009)
Hansen Boxer
Stan Brumby
Albert Dann
Frank Davey
Josie Farrer
Phyllis Gallagher
Pearl Gordon
Lennei Hopiga
Lorna Hudson
Rosie Lala
Edna O'Malley
Inga Pederson
Frank Sebastian
Gordon Smith
Mervyn Street
Anthony Watson
Butcher Wise
Gregory Tate appointed (28/04/2010)
Nolan Hunter
Wayne Bergman
Joe Brown
Irene Davy
John Watson
Joe Davy

Directors have been in office since the start of the financial year to the date of this report unless otherwise stated.

Company Secretary

The following person held the position of entity secretary at the end of the financial year:

Nolan Hunter

Principal Activities

The principal activity of the entity during the financial year was:

The Corporations's principal activities during the year were the provision of Native Title Representative Services and environmental land management support services.

No significant changes in the nature of the entity's activity occurred during the financial year.

Operating Results

Operations resulted in a net deficit of (\$128,569) after providing for \$ 800,000 contribution to establishment costs of a proposed not-for-profit foundation for the purposes of supporting long term unemployed, disadvantages and impoverished Indigenous persons to full-time mainstream employment. The sources of these funds were surpluses generated from fee-for-service incomes from negotiation representations with mining companies. None of the funds were allocations from grants.

Dividends Paid or Recommended

No dividends were paid or declared since the start of the financial year. No recommendation for payment of dividends has been made.

Review of Operations

A review of the operations of the entity during the financial year indicated that changes in grant funding led to a 40% increase in grant revenue.

Significant Changes in State of Affairs

No significant changes in the entity's state of affairs occurred during the financial year.

After Balance Date Events

The Directors are not aware of any matter or circumstance that has arisen since the end of the year that has significantly affected or may significantly affect the Corporations operations, results and the state of affairs in future financial years.

INCOME STATEMENT

KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION (ICN 21) INCOME STATEMENT FOR THE YEAR ENDED 30 JUNE 2010

	Note	2010 \$	2009 \$
Revenue	2	23,943,475	17,118,121
Other income	2	3,882,807	3,015,310
Employee benefits expense		(10,897,465)	(7,731,815)
Depreciation and amortisation expense	3	(223,192)	(170,635)
Finance costs	3	(159,462)	(141,414)
Doubtful debts expense	3	-	(14,302)
Rental expense	3	(979,933)	(599,365)
Supplier Expenses	3	(15,694,799)	(10,734,857)
Share of net surplus of associates and joint ventures		-	-
Surplus before income tax	3	(128,569)	741,043
Income tax expense			
Surplus for the year		<u>(128,569)</u>	<u>741,043</u>
Surplus attributable to members of the entity		<u>(128,569)</u>	<u>741,043</u>

The accompanying notes form part of these financial statements.

STATEMENT OF COMPREHENSIVE INCOME

KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION (ICN 21) STATEMENT OF COMPREHENSIVE INCOME FOR THE YEAR ENDED 30 JUNE 2010

	Note	2010 \$	2009 \$
Surplus for the year		(128,569)	741,043
Other comprehensive income:			
Other comprehensive income for the year, net of tax		-	-
Total comprehensive income for the year		<u>(128,569)</u>	<u>741,043</u>
Total comprehensive income attributable to members of the entity		<u>(128,569)</u>	<u>741,043</u>

The accompanying notes form part of these financial statements.

STATEMENT OF FINANCIAL POSITION

KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION (ICN 21) STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2010

	Note	2010 \$	2009 \$
ASSETS			
CURRENT ASSETS			
Cash and cash equivalents	4	12,219,950	7,032,240
Trade and other receivables	5	1,272,401	1,797,113
Other assets	6	972,772	33,462
		-	-
TOTAL CURRENT ASSETS		<u>14,465,123</u>	<u>8,862,815</u>
NON-CURRENT ASSETS			
Property, plant and equipment	7	5,946,494	5,847,277
Other non-current assets		-	-
TOTAL NON-CURRENT ASSETS		<u>5,946,494</u>	<u>5,847,277</u>
TOTAL ASSETS		<u>20,411,617</u>	<u>14,710,092</u>
LIABILITIES			
CURRENT LIABILITIES			
Trade and other payables	8	13,241,194	7,485,252
Borrowings	9	26,334	23,598
Short term provisions	10	-	-
TOTAL CURRENT LIABILITIES		<u>13,267,528</u>	<u>7,508,850</u>
NON-CURRENT LIABILITIES			
Trade and other payables	8	-	-
Borrowings	9	1,959,327	1,985,542
Long term provisions	10	278,270	180,639
TOTAL NON-CURRENT LIABILITIES		<u>2,237,597</u>	<u>2,166,181</u>
TOTAL LIABILITIES		<u>15,505,125</u>	<u>9,675,031</u>
NET ASSETS		<u>4,906,492</u>	<u>5,035,061</u>
EQUITY			
Retained earnings		(128,568)	741,045
Reserves		5,035,060	4,294,016
TOTAL EQUITY		<u>4,906,492</u>	<u>5,035,061</u>

The accompanying notes form part of these financial statements.

STATEMENT OF CHANGES IN EQUITY

KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION (ICN 21) STATEMENT OF CHANGES IN EQUITY FOR THE YEAR ENDED 30 JUNE 2010

	Retained Earnings \$	Revaluation Surplus \$	Assets Reserve \$	Total \$
Balance at 1 July 2008	2,358,799	1,890,217	-	4,249,016
Surplus attributable to the entity	741,044			741,044
Total other comprehensive income for the Revaluation Increment		45,000		45,000
Balance at 30 June 2009	3,099,843	1,935,217	-	5,035,060
Surplus attributable to the entity	(128,568)			(128,568)
Balance at 30 June 2010	<u>2,971,275</u>	<u>1,935,217</u>	<u>-</u>	<u>4,906,492</u>

For a description of each reserve, refer to Note 17.

STATEMENT OF CASH FLOWS

KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION (ICN 21) STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2010

	Note	2010 \$	2009 \$
CASH FLOW FROM OPERATING ACTIVITIES	1(m)		
Receipt of Grants		25,625,573	-
Other receipts		3,144,352	-
Payments to suppliers and employees		(23,260,407)	-
Interest received		193,451	-
Finance costs		(159,462)	-
Net cash provided by/(used in) operating activities	15(b)	<u>5,543,507</u>	<u>(2,141,918)</u>
CASH FLOW FROM INVESTING ACTIVITIES			
Proceeds from sale of property, plant and equipment		-	345,000
Payment for property, plant and equipment		(355,797)	(2,002,722)
Net cash provided by/(used in) investing activities		<u>(355,797)</u>	<u>(1,657,722)</u>
CASH FLOW FROM FINANCING ACTIVITIES			
Proceeds from borrowings		-	1,400,000
Repayment of borrowings		-	(344,864)
Net cash provided by/(used in) financing activities		<u>-</u>	<u>1,055,136</u>
Net increase/(decrease) in cash held		5,187,710	(2,744,504)
Cash and cash equivalents at the beginning of the financial year		7,032,240	9,776,744
Cash and cash equivalents at the end of the financial year	4	<u>12,219,950</u>	<u>7,032,240</u>

NOTES TO THE FINANCIAL STATEMENTS

KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION (ICN 21) NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2010

Note 1 Summary of Significant Accounting Policies

Basis of Preparation

The Corporation has elected to early adopt the pronouncements AASB 1053: Application of Tiers of Australian Accounting Standards and AASB 2010-2: Amendments to Australian Accounting Standards arising from Reduced Disclosure Requirements to the annual reporting period beginning 1 July 2009.

The financial statements are a general purpose financial report that has been prepared in accordance with Australian Accounting Standards (including Australian Accounting Interpretations) and the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

Australian Accounting Standards set out accounting policies that the AASB has concluded would result in financial statements containing relevant and reliable information about transactions, events and conditions. Material accounting policies adopted in the preparation of these financial statements are presented below and have been consistently applied unless otherwise stated.

The financial statements have been prepared on an accruals basis and are based on historical costs, modified, where applicable by the measurement at fair value of selected non-current assets, financial assets and financial liabilities.

Accounting Policies

(a) Revenue

Grant revenue is recognised in the statement of comprehensive income when the entity obtains control of the grant and it is probable that the economic benefits gained from the grant will flow to the entity and the amount of the grant can be measured reliably.

If conditions are attached to the grant which must be satisfied before it is eligible to receive the contribution, the recognition of the grant as revenue will be deferred until those conditions are satisfied.

When grant revenue is received whereby the entity incurs an obligation to deliver economic value directly back to the contributor, this is considered a reciprocal transaction and the grant revenue is recognised in the statement of financial position as a liability until the service has been delivered to the contributor, otherwise the grant is recognised as income on receipt.

Donations and bequests are recognised as revenue when received.

Interest revenue is recognised using the effective interest rate method, which for floating rate financial assets is the rate inherent in the instrument. Dividend revenue is recognised when the right to receive a dividend has been established.

Revenue from the rendering of a service is recognised upon the delivery of the service to the customers.

All revenue is stated net of the amount of goods and services tax (GST).

(b) Inventories

Inventories are measured at the lower of cost and current replacement cost.

Inventories acquired at no cost, or for nominal consideration are valued at the current replacement cost as at the date of acquisition.

(c) Property, Plant and Equipment

Each class of property, plant and equipment is carried at cost or fair values as indicated, less, where applicable, accumulated depreciation and impairment losses.

Property

Freehold land and buildings are shown at their fair value based on periodic, but at least triennial, valuations by external independent valuers, less subsequent depreciation for buildings.

In periods when the freehold land and buildings are not subject to an independent valuation, the directors conduct directors' valuations to ensure the carrying amount for the land and buildings is not materially different to the fair value.

Increases in the carrying amount arising on revaluation of land and buildings are recognised in other comprehensive income and accumulated in the revaluation surplus in equity. Revaluation decreases that offset previous increases of the same class of assets shall be recognised in other comprehensive income under the heading of revaluation surplus. All other decreases are charged to the statement of comprehensive income.

As the revalued buildings are depreciated the difference between depreciation recognised in the statement of comprehensive income, which is based on the revalued carrying amount of the asset, and the depreciation based on the asset's original cost is transferred from the revaluation surplus to retained earnings.

Any accumulated depreciation at the date of the revaluation is eliminated against the gross carrying amount of the asset and the net amount is restated to the revalued amount of the asset.

Freehold land and buildings that have been contributed at no cost, or for nominal cost are valued recognised at the fair value of the asset at the date it is acquired.

Plant and equipment

Plant and equipment are measured on the cost basis less depreciation and impairment losses.

The carrying amount of plant and equipment is reviewed annually by directors to ensure it is not in excess of the recoverable amount from these assets. The recoverable amount is assessed on the basis of the expected net cash flows that will be received from the assets employment and subsequent disposal. The expected net cash flows have been discounted to their present values in determining recoverable amounts.

Plant and equipment that have been contributed at no cost, or for nominal cost are valued and recognised at the fair value of the asset at the date it is acquired.

Depreciation

The depreciable amount of all fixed assets including buildings and capitalised lease assets, but excluding freehold land, is depreciated on a straight-line basis over the asset's useful life to the entity commencing from the time the asset is held ready for use. Leasehold improvements are depreciated over the shorter of either the unexpired period of the lease or the estimated useful lives of the improvements.

The depreciation rates used for each class of depreciable assets are:

Class of Fixed Asset	Depreciation Rate
Buildings	0%
Plant and equipment	20% - 40%
Leased Motor Vehicles	33%

The assets' residual values and useful lives are reviewed, and adjusted if appropriate, at the end of each reporting period.

Asset classes carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount.

Gains and losses on disposals are determined by comparing proceeds with the carrying amount. These gains or losses are included in the statement of comprehensive income. When revalued assets are sold, amounts included in the revaluation reserve relating to that asset are transferred to retained earnings.

(d) Leases

Leases of fixed assets, where substantially all the risks and benefits incidental to the ownership of the asset, but not the legal ownership, are transferred to the entity are classified as finance leases.

Finance leases are capitalised, recording an asset and a liability equal to the present value of the minimum lease payments, including any guaranteed residual values.

Leased assets are depreciated on a straight-line basis over their estimated useful lives where it is likely that the entity will obtain ownership of the asset. Lease payments are allocated between the reduction of the lease liability and the lease interest expense for the period.

Lease payments for operating leases, where substantially all the risks and benefits remain with the lessor, are charged as expenses on a straight-line basis over the lease term.

Lease incentives under operating leases are recognised as a liability and amortised on a straight-line basis over the life of the lease term.

(e) Financial Instruments

Initial Recognition and Measurement

Financial assets and financial liabilities are recognised when the entity becomes a party to the contractual provisions to the instrument. For financial assets, this is equivalent to the date that the Corporation commits itself to either purchase or sell the asset (ie trade date accounting is adopted).

Financial instruments are initially measured at fair value plus transactions costs except where the instrument is classified 'at fair value through surplus or loss' in which case transaction costs are expensed to surplus or loss immediately.

Classification and Subsequent Measurement

Financial instruments are subsequently measured at either fair value, amortised cost using the effective interest rate method or cost. *Fair value* represents the amount for which an asset could be exchanged or a liability settled, between knowledgeable, willing parties. Where available, quoted prices in an active market are used to determine fair value. In other circumstances, valuation techniques are adopted.

Amortised cost is calculated as

- (i) the amount at which the financial asset or financial liability is measured at initial recognition
- (ii) less principal repayments
- (iii) plus or minus the cumulative amortisation of the difference, if any, between the amount initially recognised and the maturity amount calculated using the *effective interest method*; and
- (iv) less any reduction for impairment.

The effective interest method is used to allocate interest income or interest expense over the relevant period and is equivalent to the rate that exactly discounts estimated future cash payments or receipts (including fees, transaction costs and other premiums or discounts) through the expected life (or when this cannot be reliably predicted, the contractual term) of the financial instrument to the net carrying amount of the financial asset or financial liability. Revisions to expected future net cash flows will necessitate an adjustment to the carrying value with a consequential recognition of an income or expense in surplus or loss.

- (i) Financial assets at fair value through surplus or loss

Financial assets are classified at 'fair value through surplus or loss' when they are held for trading for the purpose of short-term surplus taking, or where they are derivatives not held for hedging purposes, or when they are designated as such to avoid an accounting mismatch or to enable performance evaluation where a group of financial assets is managed by key management personnel on a fair value basis in accordance with a documented risk management or investment strategy. Such assets are subsequently measured at fair value with changes in carrying value being

(ii) Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market and are subsequently measured at amortised cost.

Loans and receivables are included in current assets, except for those which are not expected to mature within 12 months after the end of the reporting period, which will be classified as non-current assets.

(iii) Held-to-maturity investments

Held-to-maturity investments are non-derivative financial assets that have fixed maturities and fixed or determinable payments, and it is the entity's intention to hold these investments to maturity. They are subsequently measured at amortised cost.

Held-to-maturity investments are included in non-current assets, except for those which are expected to mature within 12 months after the end of the reporting period.

If during the period the company sold or reclassified more than an insignificant amount of the held-to-maturity investments before maturity, the entire held-to-maturity investment would be tainted and reclassified as available-for-sale.

(iv) Available-for-sale financial assets

Available-for-sale financial assets are non-derivative financial assets that are either not capable of being classified into other categories of financial assets due to their nature, or they are designated as such by management. They comprise investments in the equity of other entities where there is neither a fixed maturity nor fixed or determinable payments.

Available-for-sale financial assets are included in non-current assets, except for those which are expected to be disposed of within 12 months after the end of the reporting period.

(v) Financial liabilities

Non-derivative financial liabilities (excluding financial guarantees) are subsequently measured at amortised cost.

Fair value

Fair value is determined based on current bid prices for all quoted investments. Valuation techniques are applied to determine the fair value for all unlisted securities, including recent arm's length transactions, reference to similar instruments and option pricing models.

Impairment

At the end of each reporting period, the entity assesses whether there is objective evidence that a financial instrument has been impaired. In the case of available-for-sale financial instruments, a prolonged decline in the value of the instrument is considered to determine whether an impairment has arisen. Impairment losses are recognised in the statement of comprehensive income.

Derecognition

Financial assets are derecognised where the contractual rights to receipt of cash flows expires or the asset is transferred to another party whereby the entity no longer has any significant continuing involvement in the risks and benefits associated with the asset. Financial liabilities are derecognised where the related obligations are either discharged, cancelled or expired. The difference between the carrying value of the financial liability, which is extinguished or transferred to another party and the fair value of consideration paid, including the transfer of non-cash assets or liabilities assumed, is recognised in surplus or loss.

(f) Impairment of Assets

At the end of each reporting period, the entity reviews the carrying values of its tangible and intangible assets to determine whether there is any indication that those assets have been impaired. If such an indication exists, the recoverable amount of the asset, being the higher of the asset's fair value less costs to sell and value in use, is compared to the asset's carrying value. Any excess of the asset's carrying value over its recoverable amount is expensed to the statement of comprehensive income.

Where the future economic benefits of the asset are not primarily dependent upon on the asset's ability to generate net cash inflows and when the entity would, if deprived of the asset, replace its remaining future economic benefits, value in use is determined as the depreciated replacement cost

Where it is not possible to estimate the recoverable amount of an assets class, the entity estimates the recoverable amount of the cash-generating unit to which the class of assets belong.

Where an impairment loss on a revalued asset is identified, this is debited against the revaluation surplus in respect of the same class of asset to the extent that the impairment loss does not exceed the amount in the revaluation surplus for that same class of asset.

(g) Employee Benefits

Provision is made for the company's liability for employee benefits arising from services rendered by employees to the end of the reporting period.

Employee benefits that are expected to be settled within one year have been measured at the amounts expected to be paid when the liability is settled. Employee benefits payable later than one year have been measured at the present value of the estimated future cash outflows to be made for those benefits. In determining the liability, consideration is given to employee wage increases and the probability that the employee may not satisfy vesting requirements. Those cash outflows are discounted using market yields on national government bonds with terms to maturity that match the expected timing of cash flows.

Contributions are made by the entity to an employee superannuation fund and are charged as expenses when incurred.

(h) Cash and Cash Equivalents

Cash and cash equivalents include cash on hand, deposits held at-call with banks, other short-term highly liquid investments with original maturities of three months or less, and bank overdrafts. Bank overdrafts are shown within short-term borrowings in current liabilities on the statement of financial

(i) Goods and Services Tax (GST)

Revenues, expenses and assets are recognised net of the amount of GST, except where the amount of GST incurred is not recoverable from the Australian Taxation Office. In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of expense. Receivables and payables in the statement of financial position are shown inclusive of GST.

Cash flows are presented in the statement of cash flows on a gross basis, except for the GST component of investing and financing activities, which are disclosed as operating cash flows.

(j) Income Tax

No provision for income tax has been raised as the entity is exempt from income tax under Div 50 of the *Income Tax Assessment Act 1997*.

(k) Intangibles**Software**

Software is recorded at cost. Software has a finite life and is carried at cost less any accumulated amortisation and impairment losses. It is assessed annually for impairment.

(l) Provisions

Provisions are recognised when the entity has a legal or constructive obligation, as a result of past events, for which it is probable that an outflow of economic benefits will result and that outflow can be reliably measured. Provisions recognised represent the best estimate of the amounts required to settle the obligation at the end of reporting period.

(m) Comparative Figures

Where required by Accounting Standards comparative figures have been adjusted to conform with changes in presentation for the current financial year unless it is not practical to do so and the presentation of the financial statements will not be materially affected.

When an entity applies an accounting policy retrospectively, makes a retrospective restatement or reclassifies items in its financial statements, a statement of financial position as at the beginning of the earliest comparative period must be disclosed.

(n) Trade and Other Payables

Trade and other payables represent the liability outstanding at the end of the reporting period for goods and services received by the company during the reporting period, which remain unpaid. The balance is recognised as a current liability with the amounts normally paid within 30 days of recognition of the liability.

(o) Critical accounting estimates and judgments

The directors evaluate estimates and judgments incorporated into the financial statements based on historical knowledge and best available current information. Estimates assume a reasonable expectation of future events and are based on current trends and economic data, obtained both externally and within the company.

Key Estimates**Impairment**

The freehold land and buildings were independently valued at 30 June 2009. The valuation was based on the fair value less cost to sell.

The critical assumptions adopted in determining the valuation included the location of the land and buildings, the current strong demand for land and buildings in the area and recent sales data for similar properties.

At 30 June 2010 the directors reviewed the key assumptions made by the valuers at 30 June 2009. They have concluded that these assumptions remain materially unchanged, and are satisfied that carrying value does not exceed the recoverable amount of land and buildings at 30 June 2010.

Provision for Impairment of Receivables

The entity assesses impairment at each reporting date by evaluating conditions specific to the entity that may lead to impairment of assets. Where an impairment trigger exists, the recoverable amount of the asset is determined. Fair value less costs to sell or current replacement cost calculations performed in assessing recoverable amounts incorporate a number of key estimates.

The financial report was authorised for issue on 22 September 2010 by the directors of the Corporation.

Note 2 Revenue and Other income

	Note	2010 \$	2009 \$
Revenue from Government Grants and Other Grants			
— State/federal government grants		23,750,024	16,897,944
		<u>23,750,024</u>	<u>16,897,944</u>
Other Revenue			
Interest received on financial assets		193,451	220,177
		<u>193,451</u>	<u>220,177</u>
Total Revenue		<u>23,943,475</u>	<u>17,118,121</u>
Other Income			
Rental income		75,220	58,060
Other		3,807,587	2,957,250
Total Other Income		<u>3,882,807</u>	<u>3,015,310</u>
Total Revenue and Other Income		<u>27,826,282</u>	<u>20,133,431</u>

Note 3 Surplus for the Year

	2010 \$	2009 \$
(a) Expenses		
Depreciation and Amortisation		
— land and buildings	-	-
— motor vehicle	81,379	20,692
— furniture and equipment	141,813	149,943
Total Depreciation and Amortisation	<u>223,192</u>	<u>170,635</u>
Interest expense	159,462	141,414
Doubtful debts expense	-	14,302
Loss on disposal of non-current assets	-	-
Rental expense on operating leases		
— minimum lease payments	979,933	599,365
— contingent rentals	-	-
Total rental expense	<u>979,933</u>	<u>599,365</u>
(b) Significant Expenses		
The following significant expense items are relevant in explaining the financial performance:		
Services	9,290,693	6,608,009
Travel	2,169,635	2,080,854
Meetings	2,097,611	728,110
Supplies	808,591	502,962
Motor Vehicle Expenses	723,774	726,983
Capital Items	211,703	(10,231)
Repairs & Maintenance	178,135	83,868
Other	214,656	14,299
	<u>15,694,798</u>	<u>10,734,854</u>

Note 4 Cash and Cash Equivalents

	2010 \$	2009 \$
CURRENT		
Cash at bank	12,209,000	7,020,090
Cash on hand	10,950	12,150
	<u>12,219,950</u>	<u>7,032,240</u>

Cash at Bank is a "restricted asset" in that amounts representing unexpended grants may only be applied for the purposes specified in conditions of

Note 5 Trade and Other Receivables

	Note	2010 \$	2009 \$
CURRENT			
Trade receivables		1,272,401	1,797,112
Provision for impairment		-	-
		<u>1,272,401</u>	<u>1,797,112</u>
Other receivables		-	1
Total current trade and other receivables	16	<u>1,272,401</u>	<u>1,797,113</u>

Note 6 Other Assets

	2010 \$	2009 \$
CURRENT		
Accrued Income	947,256	-
Prepayments	25,516	33,462
	<u>972,772</u>	<u>33,462</u>

Note 7 Property, Plant and Equipment

	2010 \$	2009 \$
LAND AND BUILDINGS		
Land & Buildings at fair value:		
— Directors valuation 2010	5,311,798	-
— Independent valuation 2009	-	5,311,798
Less accumulated depreciation	-	-
Total buildings	<u>5,311,798</u>	<u>5,311,798</u>
Total land and buildings	<u><u>5,311,798</u></u>	<u><u>5,311,798</u></u>
PLANT AND EQUIPMENT		
Plant and equipment		
At cost	582,494	1,093,877
Less accumulated depreciation	(292,023)	(640,551)
Less accumulated impairment losses	-	-
	<u>290,471</u>	<u>453,326</u>
Leased and owned motor vehicles		
At cost	459,675	102,845
less accumulated depreciation	(115,450)	(20,692)
	<u>344,225</u>	<u>82,153</u>
	<u>-</u>	<u>-</u>
Total plant and equipment	<u><u>634,696</u></u>	<u><u>535,479</u></u>
Total property, plant and equipment	<u><u>5,946,494</u></u>	<u><u>5,847,277</u></u>

Movements in Carrying Amounts

Movement in the carrying amounts for each class of property, plant and equipment between the beginning and the end of the current financial year:

	Land and Buildings \$	Plant and Equipment \$	Total \$
2009			
Balance at the beginning of the year	3,971,798	343,391	4,315,189
Additions at cost	1,640,000	362,723	2,002,723
Additions at fair value	-	-	-
Disposals	(345,000)	-	(345,000)
Revaluation increment	45,000	-	45,000
Depreciation expense	-	(170,635)	(170,635)
Carrying amount at end of year	<u>5,311,798</u>	<u>535,479</u>	<u>5,847,277</u>
2010			
Balance at the beginning of the year	5,311,798	535,479	5,847,277
Additions at cost	-	355,797	355,797
Additions at fair value	-	-	-
Disposals	-	(33,388)	(33,388)
Depreciation expense	-	(223,192)	(223,192)
Carrying amount at end of year	<u>5,311,798</u>	<u>634,696</u>	<u>5,946,494</u>

Asset revaluations

The freehold land and buildings were independently valued at 30 June 2009. The valuation was based on the fair value less cost to sell. The critical assumptions adopted in determining the valuation included the location of the land and buildings, the current strong demand for land and buildings in the area and recent sales data for similar properties. The valuation resulted in a revaluation increment of \$45,000 being recognised in the Revaluation Surplus for the year ended 30 June 2009.

At 30 June 2010 the directors reviewed the key assumptions made by the valuers at 30 June 2009. They have concluded that these assumptions remain materially unchanged, and are satisfied that carrying value does not exceed the recoverable amount of land and buildings at 30 June 2010.

Note 8 Trade and Other Payables

	2010 \$	2009 \$
CURRENT		
Trade payables	2,560,605	2,483,092
Other current payables	1,683,470	782,233
Employee benefits	947,796	893,439
Unexpended Grants	8,049,323	3,326,488
	<u>13,241,194</u>	<u>7,485,252</u>

8(a)

	2010 \$	2009 \$
Note		
(a) Financial liabilities at amortised cost classified as trade and other payables		
Trade and other payables		
— Total Current	13,241,194	7,485,252
— Total Non-Current	-	-
	<u>13,241,194</u>	<u>7,485,252</u>
Less deferred income		
Less annual leave entitlements	(707,614)	(548,795)
Financial liabilities as trade and other payables	<u>12,533,580</u>	<u>6,936,457</u>

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Note 9 Borrowings

	Note	2010 \$	2009 \$
CURRENT			
Lease liabilities	11	26,334	23,598
		<u>26,334</u>	<u>23,598</u>
NON-CURRENT			
Lease liabilities	11	14,352	40,567
Bank loan secured		1,944,975	1,944,975
		<u>1,959,327</u>	<u>1,985,542</u>
TOTAL BORROWINGS	16	<u><u>1,985,661</u></u>	<u><u>2,009,140</u></u>

Lease liabilities are secured by the underlying leased assets.

Note 10 Provisions

		2010 \$	2009 \$
CURRENT			
Balance at 30 June 2010		-	-
NON-CURRENT			
Long-term Employee Benefits			
Opening balance at 1 July 2009		180,639	162,614
Additional provisions raised during year		97,631	18,025
Amounts used		-	-
Balance at 30 June 2010		<u>278,270</u>	<u>180,639</u>
Analysis of Total Provisions			
Current		\$ -	\$ -
Non-current		278,270	180,639
		<u>278,270</u>	<u>180,639</u>

Provision for Long-term Employee Benefits

A provision has been recognised for employee entitlements relating to long service leave. In calculating the present value of future cash flows in respect of long service leave, the probability of long service leave being taken is based on historical data. The measurement and recognition criteria relating to employee benefits has been included in Note 1 to this report.

Note 11 Capital and Leasing Commitments

(a) Finance Lease Commitments			
Payable – minimum lease payments		2010 \$	2009 \$
— not later than 12 months		29,411	29,411
— later than 12 months but not later than 5 years		14,884	44,176
— greater than 5 years		-	-
Minimum lease payments		<u>44,295</u>	<u>73,587</u>
(b) Operating Lease Commitments			
Non-cancellable operating leases contracted for but not capitalised in the financial statements			
Payable – minimum lease payments		2010 \$	2009 \$
— not later than 12 months		733,969	564,713
— later than 12 months but not later than 5 years		564,520	430,508
— greater than 5 years		-	-
		<u>1,298,489</u>	<u>995,221</u>

The property lease commitments are non-cancellable operating leases contracted for but not capitalised in the financial statements with a five-year term. Increase in lease commitment may occur in line with CPI.

Note 12 Events After the Reporting Period

The Directors are not aware of any matter or circumstance that has arisen since the end of the year that has significantly affected or may significantly affect the Corporations operations, results and the state of affairs in future financial years.

Note 13 Key Management Personnel Compensation

	2010 \$	2009 \$
Key management personnel compensation	513,905	513,204
	<u>513,905</u>	<u>513,204</u>

Note 14 Related Party Transactions

Transactions between related parties are on normal commercial terms and conditions no more favourable than those available to other persons unless otherwise stated.

Note 15 Cash Flow Information

	Note	2010 \$	2009 \$
(a) Reconciliation of cash			
Cash at bank		12,209,000	7,020,090
Other cash		10,950	12,150
	4	12,219,950	7,032,240
(b) Reconciliation of cash flow from operations with surplus after income tax			
Surplus after income tax		(128,569)	741,043
Non cash flows			
Depreciation and amortisation		223,192	170,635
Carrying value of assets disposed		33,387	-
Change in assets and liabilities			
(Increase)/decrease in trade and other receivables		(414,599)	(822,269)
Increase/(decrease) in trade and other payables		978,750	(220,398)
Increase in provisions		151,988	286,642
Increase/ (Decrease) in Lease Liability		(23,479)	34,295
Increase/ (Decrease) in Unexpended Funds		4,722,837	(2,331,866)
		5,543,507	(2,141,918)

Note 16 Financial Risk Management

The company's financial instruments consist mainly of deposits with banks, local money market instruments, short-term and long-term investments, accounts receivable and payable and leases.

The totals for each category of financial instruments, measured in accordance with AASB 139 as detailed in the accounting policies to these financial statements, are as follows:

	Note	2010 \$	2009 \$
Financial Assets			
Cash and cash equivalents	4	12,219,950	7,032,240
Loans and receivables	5	1,272,401	1,797,113
Total Financial Assets		13,492,351	8,829,353
Financial Liabilities			
Financial liabilities at amortised cost			
— Trade and other payables	8(a)	12,533,580	6,936,457
— Borrowings	9	1,985,661	2,009,140
Total Financial Liabilities		14,519,241	8,945,597

Note 17 Reserves

a. Revaluation Surplus

The revaluation surplus records the revaluations of non-current assets. Where revaluations are deemed to represent surplus of a permanent nature, dividends may be declared from this surplus.

b. Financial Assets Reserve

The financial asset reserve records revaluation increments and decrements (that do not represent impairment write-down's) that relate to financial assets that are classified as available-for-sale.

DIRECTORS' DECLARATION

KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION (ICN 21) DIRECTORS' DECLARATION

The directors of the entity declare that:

1. The financial statements and notes, as set out on pages 3 to 16, are in accordance with the Corporations (Aboriginal and Torres Strait Islander) Act 2006:
 - (a) comply with Australian Accounting Standards; and
 - (b) give a true and fair view of the financial position as at 30 June 2010 and of the performance for the year ended on that date of the entity.
2. In the directors' opinion there are reasonable grounds to believe that the entity will be able to pay its debts as and when they become due and payable.

This declaration is made in accordance with a resolution of the Board of Directors

Director

L Brind

Dated this

22

day of

Sept

2010

INDEPENDENT AUDIT REPORT

KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION (ICN 21) INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION (ICN 21)

We have audited the accompanying financial statements of Kimberley Land Council Aboriginal Corporation (ICN 21), which comprises the statement of financial position as at 30 June 2010 and the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year ended on that date, a summary of significant accounting policies and other explanatory notes and the directors' declaration.

The Responsibility of the Directors for the Financial Statements

The directors of the company are responsible for the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards (including the Australian Accounting Interpretations) and the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*. This responsibility includes designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor's Responsibility

Our responsibility is to express an opinion on the financial statements based on our audit. We conducted our audit in accordance with Australian Auditing Standards. These Auditing Standards require that we comply with relevant ethical requirements relating to audit engagements and plan and perform the audit to obtain reasonable assurance whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by the directors, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Independence

In conducting our audit, we have complied with the independence requirements of the CATSI Act 2006. We confirm that the independence declaration required by the CATSI Act 2006, provided to the directors of Kimberley Land Council Aboriginal Corporation (ICN 21) on 16th August 2010, would be in the same terms if provided to the directors as at the date of this auditor's report.

Auditor's Opinion

In our opinion, the financial statements present fairly, in all material respects, the financial position of Kimberley Land Council Aboriginal Corporation (ICN 21) as at 30 June 2010, and its financial performance and cash flows for the year then ended in accordance with the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* and the Australian Accounting Standards (including Australian Accounting Interpretations).



R N Richards
Fong Richards CPAs
PO Box 328, Ravensthorpe, WA 6346

Dated: 2nd September 2010

FHCSIA GRANT ACQUITTAL

FONG RICHARDS
Certified Practising Accountants

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KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION

INDEPENDENT AUDIT REPORT 2010

Native Title Funding Program

To Department of Families, Housing, Community Services and Indigenous Affairs,

We have audited the grant acquittal statement of the Corporation for the year ended 30th June 2010 set out in the attached. The Directors are responsible for the preparation and presentation of the financial statements and the information they contain. We have conducted an independent audit of the financial statement in order to express an opinion on it to the Members of the Corporation and the funding agency.

Independence

In conducting our audit, we followed applicable independence requirements of Australian professional ethical pronouncements.

SCOPE OF AUDIT

The audit has been conducted in accordance with Australian Auditing Standards to provide reasonable assurance as to whether the financial statements are free from material mis-statement. Audit procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements, and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with Australian accounting standards and statutory requirements so as to present a view which is consistent with our understanding of the Corporation's financial position and the results of its operations. The audit opinion expressed in this report has been formed on the above basis.

OPINION

In accordance with the terms of the funding agreement between the Corporation and the Australian Government, in our opinion:

- i. the grant acquittal statement provides a true and fair representation of the financial transactions and is based on proper accounts and records;
- ii. except for variations disclosed in the grant acquittal statement, actual expenditure is in accordance with the approved budget.
- iii. the balance sheet of the corporation indicates that it is able to pay all its debts as and when they fall due and has sufficient resources to discharge all its debts at the end of the financial year.



Ronald Norman Richards
Fong Richards CPA's
Registered Company Auditor [13374]

28th September 2010

KIMBERLEY LAND COUNCIL ABORIGINAL CORPORATION

DIRECTORS' CERTIFICATION STATEMENT 2010

[General Terms & Conditions for Funding Agreements Relating to Indigenous Programs]

We hereby certify to the best of our knowledge, information and belief that:

- (a) the accompanying Grant Acquittal Statement for the year ended 30th June 2010 has been prepared in accordance with Accounting Standards and other mandatory professional reporting requirements in Australia, from proper accounts to present fairly the financial transactions for the period;
- (b) all Funding received was spent for the purpose of the Activity and in accordance with the Funding Agreement and the Corporation has complied with the Funding Agreement;
- (c) salaries and allowances paid to persons involved in the Activity are in accordance with any applicable award or agreement in force under any relevant law on industrial or workplace relations;
- (d) unless the Project Period has expired or the Funding Agreement has been terminated, the unspent portion of the Funds (if any) is available for use within the next Reporting period;
- (e) the financial information is presented in accordance with any other financial Reporting requirements;
- (f) where an Asset has been acquired with the Funds, the Corporation:
 - (i). maintains all appropriate insurances to their full replacement value noting the Commonwealth's interest and will provide satisfactory evidence of this on request; and
 - (ii). maintains an Assets Register in the form described in the Schedule;
- (g) at the time the Report or the Financial Statement is provided the Corporation is able to pay all debts when they fall due and has sufficient resources to discharge all debts at the end of the current Financial Year.

Signed by authority of the Board of Directors

Director's Signature

NOLAN HUNTER
Print Name

4 Oct 2010
Dated

Kimberley Land Council Aboriginal Corporation [ICN 21]
Grant Acquittal Statement
for the year ended 30 June 2010

FaHSCIA Native Title Grant

	Budget	Actual	Variance
INCOME			
Other Other Project Est Recovery	\$710,592	\$701,768	-\$8,824
Other Other Project Other Future Acts Officer	\$78,000	\$78,000	\$0
2008-09 B/Fwd confirmed at acquaintance	\$544,913	\$544,913	\$0
FaHSCIA Funding			\$0
Capital	\$55,000	\$55,000	\$0
Operational	\$5,187,000	\$5,187,000	\$0
TOTAL INCOME	\$6,575,505	\$6,566,681	-\$8,824
EXPENDITURE			
Capital			
Software & Capital Up-grades	\$55,000	\$54,924	-\$76
Total Capital	\$55,000	\$54,924	-\$76
Salaries			
CEO/GM or equivalents	\$152,748	\$174,803	\$22,055
Corporate staff (eg Accounting admin.)	\$1,331,602	\$1,318,765	-\$12,837
Project staff(legal, anthro, field) Corporate	\$0	\$0	\$0
Project staff(legal, anthro, field) Attributable	\$1,948,135	\$1,705,692	-\$242,443
Services			
Accommodation	\$139,000	\$155,256	\$16,256
Motor Vehicles Corporate	\$200,000	\$204,650	\$4,650
Motor Vehicles Attributable	\$222,774	\$214,386	-\$8,388
Repair and Maintenance Buildings	\$63,000	\$110,497	\$47,497
Bank Charges	\$4,000	\$6,401	\$2,401
Audit Fees	\$25,000	\$26,855	\$1,855
Consultants Corporate	\$55,000	\$71,139	\$16,139
Consultants Attributable	\$248,240	\$229,457	-\$18,783
Communications Telephones, Fax and IT	\$110,000	\$149,464	\$39,464
Insurance Other	\$30,307	\$53,774	\$23,467

Other Services Corporate Printing	\$30,000	\$29,438	-\$562
Other Services Corporate Recruitment and Relocation	\$75,000	\$80,989	\$5,989
Other Services Corporate Postage and freight	\$10,000	\$9,088	-\$912
Other Services Attributable Advertising	\$45,100	\$42,294	-\$2,806
Other Services Attributable Printing	\$0	\$6,674	\$6,674
Training & Development			
Staff	\$125,000	\$133,779	\$8,779
Meetings			
Governing Committee	\$75,000	\$154,978	\$79,978
Members (Meetings)	\$25,000	\$188,623	\$163,623
Claimants (Meetings)	\$184,150	\$157,404	-\$26,746
Other Meetings Corporate Staff meetings	\$5,000	\$3,161	-\$1,839
Travel & Allowances			
Chairperson	\$9,500	\$5,094	-\$4,406
Other Governing Committee members	\$80,000	\$18,685	-\$61,315
Claimants (Travel)	\$373,326	\$216,361	-\$156,965
Staff (Travel) Corporate	\$130,000	\$154,075	\$24,075
Other Travel Attributable Staff and Consultants	\$177,316	\$184,246	\$6,930
Other Travel Attributable Chairperson	\$3,506		-\$3,506
Other Travel Attributable Governing Committee	\$8,976		-\$8,976
Supplies & Consumables			
Corporate Minor Equipment and Office Supplies	\$142,000	\$177,325	\$35,325
Attributable Minor Equipment and Field Expenses	\$54,550	\$35,806	-\$18,744
Other			\$0
Corporate - All Insurances	\$65,000	\$47,681	-\$17,319
Corporate - FBT Tax	\$25,000	\$23,998	-\$1,002
Corporate - Computer Services	\$60,000	\$75,026	\$15,026
Attributable - Bardi Jawi Contested Litigation	\$35,375	\$29,205	-\$6,170
Attributable - Contested Litigation Defence of NT Rights	\$71,900	\$81,144	\$9,244
Attributable - Rubibi High Court Appeal	\$30,000	\$11,761	-\$18,239
Attributable - PBC Support - Bardi Jawi	\$50,000	\$29,250	-\$20,750
Attributable - PBC Support - Karajarri Traditional Lands	\$50,000	\$44,765	-\$5,235
Attributable - PBC Support - Wanjina-Wunggurr	\$50,000	\$35,923	-\$14,077
Total Operational	\$6,520,505	\$6,397,912	-\$122,593
TOTAL EXPENDITURE (Capital + Operational)	\$6,575,505	\$6,452,836	-\$122,669
Unexpended Grant C/Fwd		\$113,845	\$113,845

This financial statement should be read in conjunction with the General Purpose Financial Report of the Corporation including notations.



Kimberley Land Council

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