

PBCs were provided with a range of information at the meeting about potential sources of Commonwealth and State Government funding by Department representatives.

PBCs noted however, that to make the necessary submissions for funding, they require administrative assistance and resources. PBCs will continue to meet to build on the discussions and issues identified in this meeting with the next meeting proposed for early 2008.

## Native Title and Ecology

By Jessica Weir, Research Fellow, NTRU

At the AIATSIS Conference 2007, NTRU research fellow Jessica Weir convened the session 'Native Title and Ecology: political/legal transformations and sustaining ecologies' to discuss the management of native title lands. Gunditjmara Elder Kenny Saunders and Andy Govanstone from the Victorian Department of Sustainability and Environment presented on the re-activation of the eel fishery on Gunditjmara native title lands. Projects currently being undertaken include a Kooyang (Eel) Aquaculture Feasibility Study, biodiversity benchmarking study of Lake Condah and Darlots Creek, the Lake Condah water restoration project, and sustainable tourism. Jessica gave a paper on the fundamentally different conceptualising behind environmental management vis a vis caring for country. These two approaches have a lot of common ground, as evident in Indigenous peoples' targeted engagement with environmental management institutions and programs, however the different conceptual approaches make such collaborations a complex engagement. A third paper was prepared for the session by Benjamin Richard Smith from the Australian National University, discussing how decisions about how best to recognize Aboriginal traditional and customary connection to country have articulated with different contemporary relationships between 'home' and 'diaspora' families and

the country with which they identify, leading to a series of conflicts which have focused on competing plans for management of particular homelands. The papers are now being re-drafted as part of a forthcoming publication about native title and ecology.

## National Parks Initiative and Native Title

Department of Environment and Conservation, Western Australia

In November 2007, the State Government welcomed Western Australia's twenty-first native title determination. The determination, over the largest claim in the Kimberley region, recognised that the Ngurrara claimants hold native title over about 76 000 square kilometres of land. It was the thirteenth such consent determination negotiated by the Gallop and Carpenter Labor Governments and put Western Australia at the forefront of native title in Australia.

There is a strong interest by Aboriginal people in being involved in the management of conservation lands and strengthening cultural ties with the land.

Working together with Aboriginal people to care for the land is beneficial to the preservation of natural and cultural heritage, as well as enriching cross cultural awareness.

The State Government is supportive of joint management arrangements for many parts of the conservation estate with traditional owners, particularly in terms of reconciliation and providing long-term secure employment for Indigenous Western Australians.

The integration of traditional land management practices is critical to managing sensitive areas, including in the arid zone such as the Goldfields and Pilbara and in the tropical Kimberley region.

For these reasons the State Government continues to work towards the development of a policy and possible amendments to the *Conservation and Land Management Act 1984* (WA), which might enable joint management arrangements on conservation and Aboriginal-held lands, irrespective of the status of native title.

The management of the State's conservation lands and waters by the Department of Environment and Conservation (DEC) is providing new training and employment opportunities for Aboriginal people throughout the State.

Partnerships with Aboriginal communities demonstrate a commitment to work together with Aboriginal people to achieve long-term, sustainable outcomes for Aboriginal people and also for conservation, particularly in the booming Kimberley region.

The State Government, through DEC, will continue to work closely with other Government and non-Government organisations to ensure its training and employment strategies contribute towards the process of reconciliation and the recognition by natural resource managers that Aboriginal people have much to offer.

## Case Note

### *Gudjala People 2 v Native Title Registrar* [2007] FCA 1167

By Tran Tran, Research Officer,  
NTRU

Registration is the preliminary threshold that must be satisfied before claimants can advance a native title claim. In order to be registered, parties need to satisfy both section 190B, which deals mainly with the merits of the claim and section 190C, which deals with procedural and other matters. The *Gudjala People 2 v Native Title Registrar*<sup>1</sup> decision involved an application for review of a decision by the Native Title Registrar not to accept an application

for registration. In reaching his decision, Justice Dowsett considered the requirements of the NTA to register a decision. His Honour focused on the content of the application and in particular:

- how the persons in the native title claim group are named in the application; or whether the persons in that group are described sufficiently clearly so that it can be ascertained whether any particular person is in that group.<sup>2</sup>
- Whether the description or list of the claim group is sufficient to allow the native title rights and interests claimed to be readily identified.
- Whether the factual basis on which it is asserted that the native title rights and interests claimed exist is sufficient to support the assertion. In particular:
  - that the native title claim group have, and the predecessors of those persons had, an association with the area; and
  - that there exist traditional laws acknowledged by, and traditional customs observed by, the native title claim group that give rise to the claim to native title rights and interests;
  - that the native title claim group have continued to hold the native title in accordance with those traditional laws and customs; and
  - that at least one member of the native title claim group currently has or previously had a traditional physical connection with any part of the land or waters covered by the application; or previously had and would reasonably have been expected currently to have a traditional physical connection with any part of the land or waters but for things done (other than the creation of an interest in relation to land or waters) by the Crown, statutory authority or lease holder.

The claimants argued that:

the fact that their application satisfied the Delegate in 2005 with respect to the same group, for the same country with the same traditional laws and customs represented by the same individuals as Applicant contributes to the unfairness of the decision that in the following

<sup>1</sup> [2007] FCA 1167.

<sup>2</sup> NTA, s 62(2)(d).