Native Title Anthropologists Grants Program 2012-13

The Attorney-General's Department is seeking applications for the third round of funding under the Native Title Anthropologists Grants Program. The Program, which was established in 2010, is designed to attract a new generation of junior anthropologists to native title work, and encourage senior anthropologists to continue to contribute to the native title system. The Australian Government is providing $1.4 million in funding for the Program over three years. Approximately $541,000 will be available as part of the 2012-13 funding round.

Anthropologists are vital to the successful operation of the native title system. Native title claimants rely on experienced anthropologists to provide high quality expert connection evidence to support their application. Government parties also need anthropologists to help assess connection evidence in relation to particular native title claims. As the native title system matures, anthropologists are also increasingly involved in the negotiation of complex native title agreements.

The critical shortage of experienced anthropologists currently working in native title has the potential to lead to further delays in the resolution of claims and impact on the quality of native title outcomes for all parties.

The Native Title Anthropologists Grants Program targets three priority areas of need. Applicants will need to demonstrate how their initiative targets one or more of these areas:

- training and development for anthropologists to smooth the transition from study to native title field work
- professional development and support for anthropologists working in the native title sector, and/or
- strengthening linkages between academic and applied anthropological work.

Each application will be assessed against these three priority areas as well as two essential criteria:

- the proposed activity does not replicate existing programs, and
- the proposed activity demonstrates value for money (i.e. the cost of the proposal is proportionate to the work involved and expected outcomes).

Applications are invited from consultants, organisations, educational institutions and other interested parties working directly with anthropologists in the native title sector. Applications for the 2012-13 funding round will close on 30 March 2012.

There were five successful applicants in the 2011-12 funding round, which were announced by the former Attorney-General on 3 June 2011. The successful applicants included:

- **ANU School of Anthropology and Archaeology:** the project continues the development of a Centre for Native Title Anthropology incorporating student field placements, short-term writing fellowships, workshops, and a new post-graduate course.
- **Cairns Institute:** this initiative involves development of a professional short course for graduate and early career anthropologists using industry experts to focus and direct skills and methods in native title projects.
- **University of Adelaide** (project 1): the project involves development of a course on "Society and Governance in native title anthropology" including workshops and publications.
- **University of Adelaide** (project 2): the project establishes study leave fellowships for native title anthropologists at various career stages.
- **University of Sydney:** this initiative provides on-the-job training for junior practitioners and encourages academic debates on issues of significance to native title anthropology with a focus on addressing the particular challenges of native title in settled Australia.

Further information on the Native Title Anthropologists Grants Program, including the application form for the 2012-13 funding round, is available at http://www.ag.gov.au/Indigenouslawandnativetitle/NativeTitle/Pages/default.aspx. Information can also be obtained by contacting the Attorney-General's Department on (02) 6141 3428 or native.title@ag.gov.au.

What's New?

Recent cases

***Turner v South Australia* [2011] FCA 1312**
18 November 2011
Federal Court of Australia, Barmera
Mansfield J
This is a consent determination for land extending to the eastern border of South Australia, claimed by a group called the First Peoples of the River Murray and the Mallee Region. The determination was accompanied by the execution of an Indigenous land use agreement (ILUA) between the South Australia State Government and the claimants, which provides for the manner of exercise of native title rights in the determination area, the exercise of traditional rights in other designated areas of the claim area, compensation benefits for any native title holders in relation to the claim area and a process for the undertaking of future acts by the state in the claim area. Under the ILUA, the claimants agree to withdraw their claim over certain portions of the claim area, and agree that all benefits provided by the ILUA are full and final settlement of any compensation liability.

Mansfield J emphasised that through this determination, the claimants' rights are being recognised on behalf of all the people of Australia as the Aboriginal Peoples who inhabited this country prior to European settlement. His Honour underlined that the Court does not grant the claimants their status as traditional owners; it declares that the status exists and has always existed at least since European settlement.
Mansfield J observed that the parties had no doubt approached the negotiations in a sensible way, and that the Court should encourage the resolution of claims by giving effect to the agreement of the parties where it is appropriate to do so. His Honour was satisfied that in this case the requirements of s 87A *Native Title Act 1993* (Cth) had been satisfied and that it was appropriate to make the determination sought. He considered that the state had had competent legal representation and had considered the interests of the community generally in agreeing to the consent determination. The state had conducted a rigorous assessment of the available evidence, broadly in accordance with its published guidelines. The state and the claimants had made joint submissions to the Court about the material that supported the case for native title. The state's approach was thorough and careful, involving considerable anthropological evidence by experienced professionals. On the basis of all of the evidence about the process followed, Mansfield J was satisfied that the claimants are a recognisable group or society that presently recognises and observes traditional laws and customs in the determination area. His Honour was satisfied that there was a society united in and by its acknowledgement and observance of a body of traditional laws and customs, and that acknowledgement and observance had continued substantially uninterrupted since the assertion of British sovereignty. He went into the evidence in some detail.

The rights and interests recognised were non-exclusive rights including access, camping, hunting and fishing, gathering and using natural resources, sharing and exchanging subsistence and traditional natural resources, taking natural water resources (limited to domestic use in respect of water from watercourses), cooking and lighting fires not for land-clearing, conducting ceremonies and cultural activities, teaching, maintaining and protecting important sites.

***Rose on behalf of the Gunai / Kurnai and Boonerwrung People v Victoria* [2011] FCA 1538**
8 December 2011
Federal Court of Australia, Melbourne
North J

In this judgment, North J ordered a joint application of the Gunai/Kurnai People, the Kurnai, and the Boonerwrung to be struck out.

The basis for striking the application out was that the composite applicant group had been unable to cooperate to progress the claim. The Court had indicated at previous directions hearings that this inability to work together would make a strike-out appropriate. At the hearing leading up to the present judgement, representatives of the Boonerwrung and Kurnai accepted that the application in its present form could not be moved on, and agreed that the application should be struck out (there was no appearance for the Gunai/Kurnai).

***Doyle on behalf of the Kalkadoon People #4 v Queensland (No 3)* [2011] FCA 1466**
12 December 2011
Federal Court of Australia, Mount Isa
Dowsett J

This was a consent determination for land covering some 38,270 square kilometres in the area of Mt Isa and Cloncurry in north-western Queensland. There were a large number of respondents, and negotiations were long and complex.

Dowsett J emphasised that a consent determination has implications for everybody, not just the parties