

and obtaining approvals for weeds work. This includes appreciating the role of RNTBCs in holding native title and representing the decisions and interests of the community; cultural protocols; Indigenous ecological knowledge; and the history of relations between government and traditional owners.

#### Proper priorities

The process and criteria for declaring weeds at the State level is too narrow. Further work is needed on identifying Aboriginal cultural values that may be threatened by weeds – mapping cultural sites, developing ways of explaining or ‘measuring’ the cost of different weeds in different places, so that cultural values can compete for priority on the agenda.

#### Proper resourcing

There are a number of issues with current funding for weeds management, including insufficient funding, funding being tied to a narrow list of specific species, and funding being short-term and one-off. Funding to support the administrative and organisational capacity of RNTBCs was also highlighted as a key priority.

#### Integrated, holistic and coordinated efforts

Weeds sit within a complex web of interconnected issues, and recognising these interconnections can help with better management of all of those issues. Weeds management needs to be coordinated between all parties, with a proactive and holistic approach.

These five themes are discussed at greater length in the weeds workshop report, which will be available shortly online. If you wish to have an electronic copy emailed to you, please contact [jess.weir@aiatsis.gov.au](mailto:jess.weir@aiatsis.gov.au).

The Kimberley workshop has provided valuable contextual information to support our national research into weeds responsibilities and native title. The outcomes of our national research, including a legal analysis of whether native title holders are responsible for weeds management, will be reported on at the National Native Title Conference 2012 and in a project report in 2012.



Yawuru man Micklo Corpus with Yawuru Rangers project manager Dean Mathews, explaining threats to culturally significant species such as the gubbinge tree to workshop participants in Minyirr Park

## The Social Justice and Native Title Reports 2011

### Mick Gooda - Aboriginal and Torres Strait Islander Social Justice Commissioner

The Aboriginal and Torres Strait Islander Social Justice Commissioner (Social Justice Commissioner), Mick Gooda, is required by legislation to prepare two reports on Aboriginal and Torres Strait Islander peoples' human rights issues each year – the *Social Justice Report* and the *Native Title Report*.

Both Reports are tabled annually in federal Parliament and consider major issues in Aboriginal and Torres Strait Islander affairs. They include recommendations to governments that promote and protect the rights of Aboriginal and Torres Strait Islander peoples.

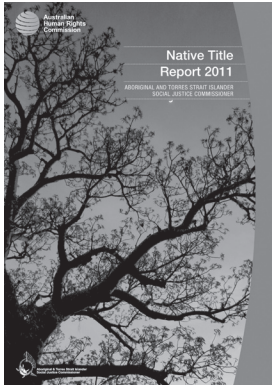
The 2011 *Social Justice and Native Title Reports* identify the key developments affecting Aboriginal and Torres Strait Islander peoples between 1 July 2010 and 30 June 2011. These include a broad range of issues such as:

- native title reform
- the National Congress of Australia's First Peoples
- constitutional reform and recognition
- the Northern Territory Emergency Response
- giving effect to the *United Nations Declaration on the Rights of Indigenous Peoples*
- the Indigenous Human Rights Network Australia
- the Close the Gap campaign
- the Australian Government's engagement framework and draft Indigenous Economic Development Strategy.



This year's *Social Justice and Native Title Reports* also start a conversation about lateral violence. Lateral violence, also known as horizontal violence or intra-racial conflict, is created by experiences of powerlessness. It plays out in families and communities through behaviours such as gossiping, jealousy, bullying, shaming, social exclusion, family feuding, organisational conflict and physical violence.

Both of the Reports outline examples of lateral violence in Aboriginal and Torres Strait Islander communities. The *Social Justice Report* looks at the historical and contemporary factors in Palm Island, cyber bullying, young people and bullying in schools, organisational conflict, workplace bullying, social emotional wellbeing and involvement in the criminal justice system.



The *Native Title Report* talks about how native title provides a system for lateral violence to be played out within Aboriginal and Torres Strait Islander families, communities and organisations. The Report notes that, although native title can generate positive outcomes for Aboriginal and Torres Strait Islander peoples, these outcomes

often do not occur because lateral violence fragments communities as they navigate the native title system.

Commissioner Gooda argues that lateral violence is a human rights issue and that the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration) provides the most promising overarching response to lateral violence. This is because the Declaration contains the following key principles: self-determination; participation in decision-making; non-discrimination and equality; and respect for and protection of culture. These principles underpin all human rights and guide Aboriginal and Torres Strait Islander peoples to build stronger relationships within their families and communities.

Using these principles, the *Social Justice Report 2011* and *Native Title Report 2011* set out options to establish strong structural foundations to address lateral violence including:

- Naming lateral violence as a process of raising awareness and education.
- Undertaking legislative review and policy reform to assist Aboriginal and Torres Strait Islander communities to create structures that promote healthy relationships within their communities and with external stakeholders.
- Creating environments of cultural resilience within Aboriginal and Torres Strait Islander communities.
- Creating cultural competency by governments, non-government organisations and industry who engage with Aboriginal and Torres Strait Islander communities.

## What's New

### Recent Cases

#### ***Delaney on behalf of the Quandamooka People v State of Queensland* [2011] FCA 741**

4 July 2011

**Federal Court of Australia, Stradbroke Island QLD**

**Dowsett J**

This judgment recognises, by consent, the native title of the Quandamooka people over land and waters at Stradbroke Island in Queensland.

Dowsett J outlined the legal principles, the historical background, the anthropological research and the evidence of claimant witnesses. His Honour found that the Quandamooka people are descended from a society of Aboriginal people who were in occupation of the land and waters of the determination area at the time of first assertion of British sovereignty. Those people formed a society, united in and by their acknowledgment and observance of traditional laws and customs. Through the observance of these traditional laws and customs, the Quandamooka people have maintained a connection with the determination area.

The determination recognises exclusive rights to possession, occupation, use and enjoyment of some areas. In other areas, the claimants have non-exclusive rights to live and be present on the area; take, use, share and exchange traditional natural resources for personal, domestic and non-commercial communal purposes; conduct burial rites; conduct ceremonies; teach on the area about the physical and spiritual attributes of the area; maintain and protect significant places; light fires for domestic purposes; be accompanied into the area by non-Quandamooka people required by traditional law and custom for the performance of ceremonies or cultural activities, or required by the Quandamooka people to assist in observing or recording traditional activities on the area. In other areas, more limited non-exclusive rights were recognised. In relation to water, the claimants were recognised as having the right to take and use traditional natural resources from the water for personal, domestic and non-commercial communal purposes; and to take and use the water for personal, domestic and non-commercial communal purposes. The rights and interests were recognised subject to certain other rights and interests of other parties.