



**AIATSIS**

# **Native Title** **NEWSLETTER**

Issue 1 | 2022



# WELCOME

## to the Native Title Newsletter 2022: *Healing Country*



For the past 30 years, the NTRU has focused on maximising the recognition of native title through improving information and coordination, actively engaging in law and policy reform and strengthening the voice of native title holders.

Over two editions each year, the Native Title Newsletter includes feature articles, community interviews, book reviews, research project reports, youth perspectives and other various articles.

Despite the changes to our lives and work brought about by the COVID-19 pandemic, in this edition we pay attention to how Aboriginal and Torres Strait Islander people are healing

Country around the continent in novel and innovative ways.

We explore the growing opportunities in carbon farming and delve into the evolving rights and interests of Aboriginal and Torres Strait Islander people in the carbon space. Indigenous led and focussed research is in the spotlight for this issue as we discuss the natural disaster initiatives created by the Galiwin'ku community and Aboriginal environmental stewardship programs in Walbanja Country.

We hear from Pabai Pabai on the class-action against the Commonwealth which alleges it failed to protect Aboriginal and Torres Strait Islander people from the

effects of climate change. We look over 30 years of cultural heritage protection management by the Guditjmarra People of the Budj Bim landscape.

Stay in the loop by [subscribing to the online Newsletter](#). If you would like to make a contribution, please contact us at [ntru@aiatsis.gov.au](mailto:ntru@aiatsis.gov.au)

Above: A blue-faced honeyeater captured in song, Kabi Kabi Country (Sunshine Coast), 2022. Photo: Dora Bowles

Cover: A swamp hen digging for food, Ngunnawal Country (Canberra), 2022. Photo: Dora Bowles

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AIATSIS acknowledges the funding support of the National Indigenous Australians Agency.

ISSN: 1447-722X

Editor: Dora Bowles, AIATSIS.

Design and typesetting: AIATSIS and eggplant communications.

Printed by: University Printing Service, ANU.

Aboriginal and Torres Strait Islander people are respectfully advised that this publication may contain names and images of deceased persons, and culturally sensitive material. AIATSIS apologises for any distress this may cause.



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Indigenous rights  
and interests in  
Carbon

# Rights-holders from Torres Strait sue Commonwealth over climate change

## Pabai Pabai, Gudamalulgal

My name is Pabai Pabai. I'm a proud Gudamalulgal man from the island of Boigu in Zenadth Kes (the Torres Strait). Together with my friend Paul Kabai, from the island of Saibai, I am taking the Australian government to court to protect our islands and our communities from climate change.

We are born to these islands, they are our mothers, our identities, who we are. For thousands of years, our warrior families fought off anyone who tried to take our homelands from us. But now we could lose the fight to climate change. If the

Australian government does not step up on climate change, we will be torn from our islands and cut off from our culture, our ancestors and our identities.

Boigu and Saibai are low-lying mud islands covered with mangroves and swamps. These islands supported our Ancestors for generations. We had a system that was learned from our Elders and passed on to younger generations. The seasons, the tides and the stars used to be the same year after year. But that is not the case anymore: everything is changing. Boigu and Saibai are going under the water.

Every year the seas take a bit more of our islands. During storms and king tides the sea water floods our roads, buildings, gardens – even the airstrips are being flooded. Our villages have sea on one side and swamp on the other. Water comes through the drainage system and fills the swamps up, so we get flooded from both sides.

There are places we grew up with that are gone completely, and we can't go there anymore because it feels too sad. Our cultural sites and cemeteries are being eroded. We have a cultural responsibility to look after these places but the



Pabai Pabai sitting with painting of his crocodile totem, Boigu Island. Photo: Talei Elu

rising sea is making it impossible and could mean they disappear forever. Losing them would be devastating for our communities now and for generations to come.

Our people are hunters, farmers and fishers. Our Ancestors lived off the food they grew and the fish and animals they hunted. But climate change is affecting the seas around us and making it harder for us to feed ourselves and our families. The seas are warmer, so the reefs are less healthy and there are fewer fish to catch. During storms, sand from the islands is dragged out to sea, covering the seagrass that dugong and turtles eat. So there are fewer dugong and turtles to hunt.

It is not just the seas that are affected: our gardens have been flooded by salt water too. The salt has poisoned the soil, so we cannot grow healthy food anymore. So instead of living off the land and seas we have to eat imported food, which is expensive and not healthy for us. People get diabetes and other illnesses that we never used to get.

Things are bad now, but they will get worse if climate change isn't stopped. Seasons will become more extreme: there will be more intense rain in the wet season and a longer, hotter, drier dry season. Malaria and dengue fever would spread, because warmer, wetter environments are perfect for mosquitoes to breed. And if sea levels keep rising, our islands will disappear completely. We will become climate change refugees, forced to leave our ancestral lands and go settle someplace else. Climate change is man-made, so if our islands are lost it would be a deliberate act of cultural genocide.



Pabai Pabai's garden during flooding, Boigu Island. Photos: Pabai Pabai

Torres Strait Islander Peoples have always fought for our rights. In 1936, our pearl divers went on strike against the colonial government and won better conditions for us all. In the 1970s, we campaigned against Prime Minister Gough Whitlam's plans to cut our islands in two and hand half to Papua New Guinea. From this fight we gained the Torres Strait Treaty, which guarantees our traditional way of life and livelihoods. And of course there is Eddie 'Koiki' Mabo, a Meriam man from Mer island, who defeated *terra nullius* and got our land rights recognised by the High Court of Australia.

So last October me and Paul took the Australian government to court. We are saying that the Australian government has a

duty of care to prevent climate change from doing any more harm to Torres Strait Islanders. Our case is the first climate change class action brought by First Nations people in Australia. It draws together two sources of knowledge: our people's lived experience of seeing the changes to our islands and the evidence of experts in climate change science. We're asking the court to order the government to cut greenhouse gas emissions and stop climate change before our islands are taken from us.

We are bringing this case on behalf of the generations to come. We want our grandchildren to grow up on our islands, to live the same lives that we lived. To have to leave our islands, to become climate

change refugees, is impossible to think about. Our islands are who we are. Even when families move to the mainland, they still draw strength, culture and identity from the islands. Without our islands we're nobody. How could you say you were from Boigu or Saibai if those islands are under the water?

We are really proud to be helping our community fight for justice. We want to show people, especially the younger generations, that we can do something about climate change. We know it will be difficult, but that won't stop us. We owe it to our people, our culture and our land to keep going until our homelands are protected once again.



Left to right: Paul Kabai and Pabai Pabai standing on the boardwalk, Boigu Island. Photo: Talei Elu

# “Waka Ngurrkanhayngu”: Regenerating the existence of life

Reducing the risk of natural and social disasters – reviving and strengthening Indigenous law, culture and governance in remote Indigenous communities

## Waka Ngurrkanhayngu research team

Remote and very remote Indigenous communities are particularly vulnerable to climate change impacts including disasters due to colonisation. Yet, at the same time, Indigenous worldviews, knowledges and practices are the key for healing the causes of disasters and for adapting to climate change. Recognising this great value of Indigenous culture, the UN Sendai Framework for Disaster Risk Reduction (DRR) has been calling for reviving and strengthening Indigenous knowledges and adaptive capacities. This long-term initiative is answering this call in the Australian context.

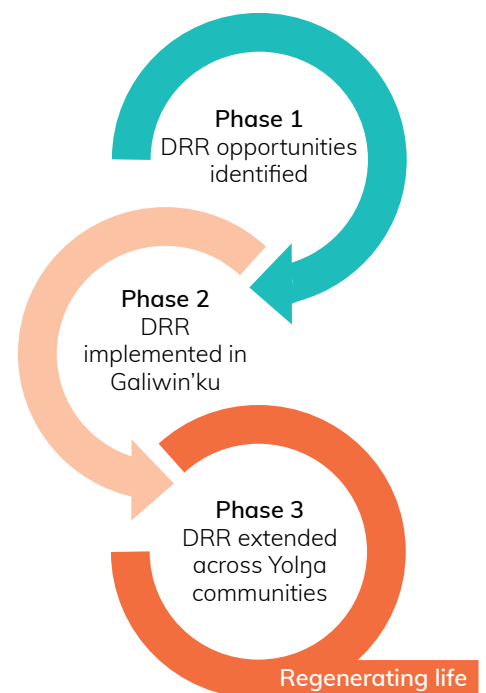
In 2015, two Category 4 cyclones hit Australia’s Northern Territory, in quick succession.



From left to right: A/Prof Petra Buergelt and A/Prof Elaine Lawurrpa Maypilama have been working together two-way since 2015

The remote Yolŋu community Galiwin’ku on Elcho Island was heavily impacted. Whilst nobody died or was injured, much nature was destroyed and Yolŋu living in Galiwin’ku were devastated. Two-thirds of the houses were destroyed or badly damaged, amounting to about \$80 million. Residents had no water and power for many days. 250 residents were still homeless a week after the cyclones. Worse, five years after the cyclones, over a third of the funding allocation to rebuild houses remained unspent, further worsening overcrowding and the multitude of associated detrimental impacts especially on mental and physical health.

To ensure that this devastating history does not repeat itself, Elaine Lawurrpa Maypilama, a Yolŋu elder, senior Yalu Aboriginal Corporation researcher, Adjunct Professor (University of Canberra) and A/Professor (Charles Darwin University), started a long-term community-based research initiative to ensure that Yolŋu are ready in the future. Building upon strong, long-term, respectful research relationships resulting from genuine two-way exchanges, in this initiative Yolŋu researchers and Western researchers work together two-way to revive and strengthen Indigenous worldviews, knowledges, law and cultural



practices to strengthen Yolŋu and to reduce the risk of natural and social disasters.

In phase one of this initiative, A/Prof Elaine Lawurrpa Maypilama and A/Prof Petra Buergelt (University of Canberra) co-lead a research team consisting of Indigenous researchers Yungirrnja Dorothy Bukulatjpi, Rosemary Gundjarranbuy and Stephen Maliku Dhamarrandji from Galiwin’ku’s Yalu Aboriginal Corporation; Prof Douglas Paton (Charles Darwin University, University of Canberra), Prof James Smith (Menzies School of Health) and PhD student Tahir Ali (Charles Darwin University). This scoping study was funded

by the University of Canberra's Collaborative Indigenous Research Initiative (CIRI).

Using a strengths-based approach, the research aimed at starting to holistically identify and understand the psychological, psychological, cultural, social, environmental, economic and political factors that interact over time to influence the disaster risk reduction (DRR) beliefs and practices prevailing in Galiwin'ku. In February 2020, Lawurrrpa, senior Indigenous local co-researchers Rosemary and Dorothy, junior researcher Stephen, and PhD student Tahir talked with and listened to 20 Yolŋu from diverse clan groups living in Galiwin'ku.

The conversations and yarning circles took place in their diverse clan languages, with Yolŋu co-researchers translating the stories into English.

The research revealed that before colonisation the sophisticated worldviews, knowledges and cultural practices of the Yolŋu reduced the risk of natural disasters and made Yolŋu strong. "Yolŋu had Yolŋu Rom [law and culture] and Yolŋu identity, which gave us Yolŋu power. We are Country and Country is us," said Lawurrrpa. "Yolŋu were healthy and strong. The sharing of the Dreaming Stories, songs, ceremonies, art, language and history explain how Yolŋu connections with

the environment make people strong." The clan group who are custodians of the burrmulala (cyclone) songline also sang and danced the burrmulala.

"The stories the Yolŋu shared, the songlines and dance show how burrmulalas are cherished because they are a natural part of Yolŋu and life," Lawurrrpa says. "Prior to colonisation, when people lived in connected and harmonious relationships with nature, burrmulalas were smaller and less intense. They didn't cause damage, but recycled life – they cleansed and purified everything, refreshed everything and gave new life." Tamara, who participated in the study, shared that "A natural event is a natural event. Back in the old days,



Indigenous researcher A/Professor Elaine Lawurrrpa Maypilama and Rosemary Gundjarranbuy having a yarn exploring research findings with community members. Photo: Tahir Ali



if a cyclone came in, slashed everything, it was a normal thing. It prevented the natural disaster itself. It is the recycling of life.”

Participants’ stories also exposed diverse ways in which historical and contemporary colonisation has been and remains the real disaster, because colonising practices have and still are weakening Yolŋu and increasing the risks of extreme natural events and disasters occurring. Participating Yolŋu emphasised that to reduce the risk of disasters, non-Indigenous peoples need to stop engaging in the diverse colonising practices that weaken and undermine Yolŋu, and instead create conditions that enable Yolŋu to revive and strengthen their ancient worldviews, knowledges and practices. Participating Yolŋu realised that they need to take back their inner power and values, revive their beliefs, strengthen their socio-cultural capabilities, and live according to their traditional worldviews and knowledges.

At the end of phase one, the research team engaged in two-way feedback sessions with the Local Authority (comprised of Traditional Owners and non-Indigenous Shire Representatives), Yalu Aboriginal Corporation and seven community groups. This research aspect was especially important as findings are unfortunately rarely fed back to the community, let alone via two-way dialogue. The collective story that emerged from the analysis of individual stories deeply resonated with, was validated by, and strengthened the over 50 Yolŋu who participated in these yarns. The story opened their hearts, minds and eyes, and lifted their



Taken during an AIATSIS visit to Quandamooka Country as part of the Youth in Governance project, February 2021. Photo AIATSIS

confidence, strengthening the community members. Rosemary shared that the collective big story started to open Yolŋu’s eyes to how colonisation has weakened them and how they can reclaim their power.

Through this research, Yolŋu started realising how the cyclones were an opportunity to reclaim their power and to become involved in reducing the risk of damaging cyclones to occur. “Cyclones wiped away the old thinking and allowed new grass shoots to come up – representing how Yolŋu get stronger,” Lawurrpa emphasises. “We need to get ready inside for the next disaster, for our kids and for the future by bringing back our power. We need to do something. We need to stand up and take power back. We have to start to open up the package [what the government says] ourselves. Women and men need to walk together side by side in this.”

Yunŋirra added that “one of the key messages that we got from this research is that that Yolŋu people are now seeing the things that need to be done here on the

ground in Galiwinku”. “This is the first time I am going to raise and discuss this in a Shire meeting. It is through this research that we will write this proposal. We want to see young Yolŋu being trained for emergencies and getting jobs in emergency services,” said participating community member Valerie Bulkunu Garrawura.

Building upon this scoping study, Lawurrpa and the other Yalu researchers initiated phase two of this long-term initiative. Together with A/Prof Petra Buergelt (University of Canberra), Prof Douglas Paton (University of Canberra), Dr Rowan Bedgood (Swinburne University) and Prof James Smith (Flinders University), they co-created an Indigenist community-based participatory action research that they called: “Waka Ngurrkanhayngu”: *Regenerating the existence of life.*

Phase two aims at:

- reviving and strengthening their Yolŋu law, knowledges, culture and governance to heal from and reduce the risk of natural and social disasters,



PhD student Tahir Ali, A/Professor Elaine Lawurra Maypilama, Dorothy Yungirra, Rosemary Gundjarranbuy and Stephen Dhamarrandji. Photo: Tahir Ali

- (re)building their Indigenous capacities that reduce the risk of natural and social disasters, and
- contributing to increasing the recognition of the value of Indigenous culture

Together they applied for the AIATSIS Research Exchange Program and were thrilled when they found out that AIATSIS selected them as grant recipient in 2022.

In April this year, the team will commence step one of this project. In this step, they will draw out deeper true stories of local Yolju knowledges and practices, and further reveal any additional Western knowledge areas required to complement existing local Yolju knowledges.

Based on the findings from step one, they will in step two co-create, co-implement and co-evaluate two-way transformative DRR knowledge sharing pilot programs that draw out and integrate DRR relevant Yolju and Western knowledges to revive and strengthen Yolju Indigenous knowledges and practices. The evaluation stories will be fed back to the community using two-way exchange yarning circles to ensure their accuracy, and facilitate two-way learning and co-creating of knowledges with the wider community. The knowledge created will be used to facilitate Galiwin'ku reviving and strengthening their Yolju law, knowledges and cultural practices and governance, to heal from disasters, (re)build

Indigenous adaptive capacities that reduce the risk of natural and social disasters, and to increase recognition of the value of Indigenous worldviews, knowledges and practices related to DRR. At the end of phase two, the researchers will explore jointly co-creating an ARC funding application to be able to finance phase three of this initiative, which has the ambitious goal of expanding the project to other Yolju communities.

We would like to express our deepest gratitude for the late chairperson of Yalu for being such a visionary leader and great supporter of our initiative. We will greatly miss him and are committed to make him proud with this initiative.

# Environmental Stewardship Resurgence in Walbunja Land and Sea Country

**Annick Thomassin (Australian National University), Tayla Nye (Australian National University and Mogo Local Aboriginal Land Council), Adam Nye (Mogo Local Aboriginal Land Council), Linda Carlson (Mogo Local Aboriginal Land Council), Janet Hunt (Australian National University), Kim Spurway (Western Sydney University), Jake Chatfield (Mogo Local Aboriginal Land Council), Jordan Nye (Australian National University), Karen Soldatic (Western Sydney University)**

For several decades, members of the Walbunja community have worked to strengthen their capacity to influence the development and environmental management decisions across their land, freshwater and sea territories. Located along the NSW South Coast, the lands and seas for which the Walbunja are the caretakers have been heavily transformed by settler colonial processes since early periods of invasion. Over time, the progressive urbanisation and privatisation of their Country led to further dispossession, limiting their movements and access to important sites, traditional food, medicine and material, heavily impacting the Walbunja community members' capacity to perform their ceremonies, economy and customary responsibilities. Today, Walbunja territories are facing increasing development pressures notably from urban expansion and gentrification, tourism, commercial fisheries and so on.

The devastating bushfires of 2019/2020 that deeply scarred Walbunja territories also led to a growing awareness in the settler population of the value of Indigenous knowledge and land management (especially cultural burning) practices to



From left to right: Annick Thomassin, Adam Nye and Tayla Nye on Walbunja Country. Photo: Jack Chatfield

prevent such disasters. Despite this increased awareness, genuine understanding in the wider settler population of how these management practices are intricately connected to First Nations standpoints, philosophies and aspirations, remains extremely limited. Moreover, the extent to which the public comprehends the need to significantly transform its way of relating to, and engaging with, the lands, waters, seas and non-humans is also unclear.

Walbunja's everyday sovereignty is being progressively activated

through, among other things, the actions of a small environmental ranger team attached to the Mogo Local Aboriginal Land Council (LALC). With the support of their land council, the ranger team is working tenaciously and with little resources to restore their environmental custodianship responsibilities and reinscribe Walbunja lifeways, place names, stories, values and aspirations across the region's land-, sea- and urban-scapes. Lack of secured funding means that a large part of their work has consisted of

providing mainstream ecological services such as water quality testing, weed removal and pest control to subsidize other custodianship responsibilities.

The *Environmental Stewardship Resurgence in Walbunja* (Yuin Nation) Land and Sea Country initiative led by Mogo Local Aboriginal Land Council (LALC) funded in 2020 through the initial AIATSIS Indigenous Research Exchange scheme is a collective action research effort toward making Walbunja practices, philosophies and connections to Country visible. It is based on a partnership between the Mogo LALC, ANU's Centre for Aboriginal Economic Policy Research (CAEPR) and Western Sydney University's Institute for Culture and Society (ICS). This project builds on the grassroots Seachange pilot initiative (2015-2019): an earlier action-research partnership between the Mogo LALC and CAEPR.

The Seachange pilot focused on co-developing training material and upskilling the rangers to co-design and conduct a survey documenting the cultural significance and biodiversity of their coastal environment.

The current project is providing opportunities for our Walbunja community researcher team members to enhance their mapping, surveying, analytic and reporting capacities, further expanding their toolkit to document, restore, reclaim and enact their stewardship practices.

Throughout this project, the team has interviewed local Elders and other key community members. Working with community members, the team has produced sketch maps of sites of significance to Walbunja's interconnected cultural history and spirituality. Some filming and audio recordings have also been conducted to complement

the sketch maps. The projects' questionnaires were developed by the team and adapted to different interlocutors. Most of the interviews were realised by Walbunja team members, and a few others by or with our academic colleagues.

As Walbunja Elder Uncle Keith Nye explains, there are names, stories, and connections with every headland, every bay, beach and paddock. This project's findings highlight the significance of Walbunja's contemporary engagement with their land and sea for their livelihood and wellbeing, despite the multifaceted challenges posed by ongoing colonial processes. By making such engagement visible, we are participating in demonstrating the strong connections between Walbunja peoples and Country, and the need to manage their territories holistically in a manner that is inclusive of its custodians.



From bottom left to bottom right: Kim Spurway Jake Chatfield, Adam Nye, Adam McCarron, Sherrie Nye McCarron and Janet Hunt sketch mapping at MogoLALC temporary office. Photo: Annick Thomassin

Cherokee Professor Jeff Corntassel (2012) argues that the processes of everyday resurgence are inscribed in daily actions to maintain, revive and reimagine meaningful life projects and environmental custodianship responsibilities. The project thus weaves together aspirations to genuinely increase Walbunja's participation in the governance of their territories and supports their everyday resurgence through environmental stewardship practices articulating work on Country and Walbunja philosophies.

This research offers an important opportunity for our team of younger Walbunja colleagues to spend time with many of the regions' Elders. Hence, this project strongly focuses on intergenerational transmission of knowledge, something the younger Walbunja value enormously, appreciating the opportunity to learn and record the stories for future generations. For the non-Walbunja members of the team, this project consistently reminds us of the privilege of deepening our understanding of the relationships among Walbunja Country and people.

As mentioned above, one of the key objectives of this research is to develop tools to help shift non-First Nations peoples' understanding of Country and

their own responsibilities they hold towards it, and the non-humans constituting it. To get a sense of what the current level of understanding of Walbunja culture and Country is among the wider region's population, the Walbunja researchers have also prepared a questionnaire and have been interviewing members of the non-First Nations community.

We hope to continue to document the benefits offered and challenges posed by collaborative mapping and digital storytelling to support the resurgence of environmental custodianship in Walbunja land and sea Country. Through follow up interviews with non-Walbunja residents, government representatives, and visitors to Walbunja Country we want to explore whether the articulation and interaction of these complementary digital platforms can shift the settlers' and visitors' understanding of the South Coast's land and sea and the responsibilities they also hold towards Country. Can the knowledge shared through this project enable non-Indigenous inhabitants and visitors to the South Coast to start feeling and understanding the region as Walbunja Country? By sharing the research findings with non-First Nations peoples who also call Walbunja Country home, we hope that this project will open their eyes and enable

new relationships to emerge – so that Walbunja can renew connections with areas of Country that have become out of bounds because of the privatisation of the land. As landholders begin to understand the enormous loss of knowledge and relationships such exclusion means to Walbunja, we hope new opportunities will open up to restore such relationships.

After what has been nearly two years of a very tumultuous period for both the community and the research project, we are now slowly wrapping up. Some of our project's outcomes will be presented at the AIATSIS Summit in May 2022. An enticing multimedia online storytelling platform is also currently being created and will be made available online later this year.

### **Acknowledgements:**

Our team is generously supported by funding from the Australian Institute of Aboriginal and Torres Strait Islander Studies' Indigenous Research Exchange Grant Scheme.

### **Cited reference**

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A family of ducks navigating their entry into the water, Ngunnawal Country (Canberra). Photo Dora Bowles

# Spotlight on Carbon at New National Indigenous Carbon Forum

**Cissy Gore-Birch, Co-Chair, Indigenous Carbon Industry Network  
Jaru/Kija nation with connections to Balangarra, Nyikina and Bunuba country**

Indigenous groups from around Australia came together in February to hear the latest on the carbon industry at the first-ever **National Indigenous Carbon Forum**, which was held online due to COVID risks and hosted by Federal Parliament and Olympian Nova Peris.

The Indigenous Carbon Industry Network (ICIN) was proud to organise the event.

A national forum has been a long-held dream of Indigenous land-owners and managers from the north. Traditional Owners have been driving recognition of Indigenous rights and interests in carbon and developing opportunities for Aboriginal people to actively manage their country for many years.



Indigenous-owned carbon projects across northern Australia are making a huge difference to our lives through creating jobs and supporting opportunities for Indigenous people to care for country.

The network wants to give Indigenous groups interested in

becoming involved in the carbon industry the chance to meet with those already working in this space – so we can all share stories, information and experiences.

Our recent scoping work shows that there are currently around 35 Indigenous-owned



Nova Peris OAM hosts the 2022 National Indigenous Carbon Forum. Photo: ICIN

savanna fire management projects, as well as several Indigenous-owned Human-Induced Regeneration vegetation carbon projects registered in Australia through the Federal Government's Clean Energy Regulator. The projects are predominantly located across north Australia, and collectively abate or store around 1.2 million tonnes of greenhouse gases each year.

This is an important achievement, but there's room for growth to enable more First Nations people to benefit from these opportunities.

It's time for First Nations people to come together, to understand more about opportunities in the carbon industry, particularly around their rights and interests.

### **Indigenous Carbon Industry Network Launched**

Indigenous organisations from across Australia launched the Indigenous Carbon Industry Network (ICIN) at the forum as Australia's first independent Indigenous-owned not-for-profit company owned by Indigenous producers of carbon credits.

This is a significant milestone in the evolution of this Indigenous-owned and Indigenous-led industry and in supporting more Indigenous groups to benefit from opportunities emerging in carbon markets and carbon methods.

It is a huge achievement and demonstrates the growth and leadership of Indigenous people in the carbon industry.

The network aims to provide a voice for the Indigenous carbon industry and to enable more groups to gain a seat at the table of important industry and policy discussions.



Cissy Gore-Birch addressing the National Indigenous Carbon Forum. Photo: ICIN

Dozens of Indigenous organisations with carbon projects across Australia have been working together over many years to form this network. Our next step was to become a fully independent entity and this year we celebrate this achievement during the national forum.

It's great to see the carbon industry growing so quickly and we want to make sure that Balanda (non-Indigenous people) don't leave us behind.

In particular, the network would like to acknowledge the support Warddeken Land Management has provided in hosting ICIN, and thank its chair Dean Yibarbuk, who is now also ICIN's fellow co-chair together with me.

The Indigenous Carbon Industry Network is owned by its full members, being Indigenous groups that directly produce carbon credits across Australia, making it Australia's first peak industry body for the Indigenous carbon industry. It is overseen by a Board of seven Aboriginal people appointed by members, including myself and Dean. Indigenous groups with an interest in carbon are encouraged to join the network

as Associate Members to keep informed about the industry.

CEO of the Northern Land Council, Mr Joe Martin-Jard, said the land council was proud to be both a founding member of ICIN and Gold Sponsor of the Forum.

"As the Gold Sponsor of the National Indigenous Carbon Forum the NLC continues to recognise the importance of the innovative work done by the Indigenous Carbon Industry Network and its partners.

"We congratulate everyone involved in savanna fire projects, the ICIN and all those who have contributed to the design and development of this unique network.

"We are especially proud of the NLC ranger groups, who are at the tip of the spear of our war on carbon – these include Yugul Mangi, Numbulwar, Garawa, Waanyi-Garawa, Timber Creek, Wardaman and Wagiman Rangers, to name a few.

"We look forward to participating in a productive forum this week and to our continued engagement with ICIN and the continued success of Indigenous-led carbon initiatives."

## Forum highlights growing opportunities in a carbon market boom

**Anna Boustead, CEO, Indigenous Carbon Industry Network (Balanda/European heritage)**

Australian Government Clean Energy Regulator's Jennifer Bradley told the forum about the Federal Government's priorities for creating new methodologies that assess and award carbon credits, including new Savanna Fire Management methods and a new Integrated Farm Management method to support method stacking across the landscape. The Regulator also recently developed new methods for Blue Carbon, measuring the benefit from tidal restoration resulting from removing a barrier to the natural tide, and to measure Soil Carbon benefits from better land management.

The Carbon Market Institute and Market Advisory Group spoke of

a positive outlook in the national and global carbon market, where the price of carbon on the voluntary market has tripled in the past year to around \$53 per tonne, but since fell to around \$30 a tonne in March after the government announced it would allow some contracts to be released from the government market, the Emissions Reduction Fund.

Market Advisory Group's Lachlan Ince explained how Indigenous-owned ACCUs are a highly-sought premium product. "These credits are in demand due to the additional co-benefits they offer – from management of country, fire prevention and biodiversity outcomes."

Indigenous Land and Sea Corporation CEO Joe Morrison said that Aboriginal people are making a significant contribution to the reduction of greenhouse gas emissions in Australia.

"Indigenous projects account for 75 per cent of the emissions

abatement from the savanna sector at 1.2 million tonnes," Mr Morrison said.

"That's roughly 8 per cent of Australian carbon abatement – and it's growing.

"It's an incredible contribution given indigenous people comprise 3.3 per cent of the Australian population.

The forum also heard of Indigenous-led science aimed to develop methods to earn credits for broader land management, including the removal of feral buffalo and pigs.

Mimal Land Management CEO Dominic Nicholls said a collaboration with ranger groups and NAILSMA facilitated by ICIN has led to the draft of a wild herbivore management carbon method.

"It's one of our priorities for our land management activities, trying to find a solution to one of our biggest problems," Dominic Nicholls said. "Feral animals



Tyronne Garstone addressing the National Indigenous Carbon Forum. Photo: ICIN



are a massive threat that is devastating landscapes on a large scale.”

### **Recognition of Indigenous Rights and Interests in Carbon is Critical**

ICIN co-chair Cissy Gore-Birch told the forum that as groups begin to enter the market and as new opportunities come online, it's important to get the right information and to protect Indigenous rights.

“When you think about the story it's a win-win situation, you can't really lose out on this,” Ms Gore-Birch said. “It's really important to really think about where you are as Traditional Owners, understanding your rights and interest in this space, and making sure you get the right people and the right information.”

“The role that ICIN is playing in this space is to really get the information out to our members and to other Indigenous group about your rights and interest in the carbon space, to be able to advocate on our behalf to the federal government, to work in partnership with land councils and other groups.”

The forum also heard from Kimberley Land Council CEO, Tyronne Garstone – also a Director of ICIN – who said industry and governments must ensure that groups were not locked out of important opportunities to earn revenue by caring for their country.

“While carbon projects offer significant opportunities, without proper consultation and appropriate checks and balances, and a commitment to seeking ongoing free, prior and informed

consent, there is a risk of third-party projects contributing to the disempowerment of Indigenous people.”

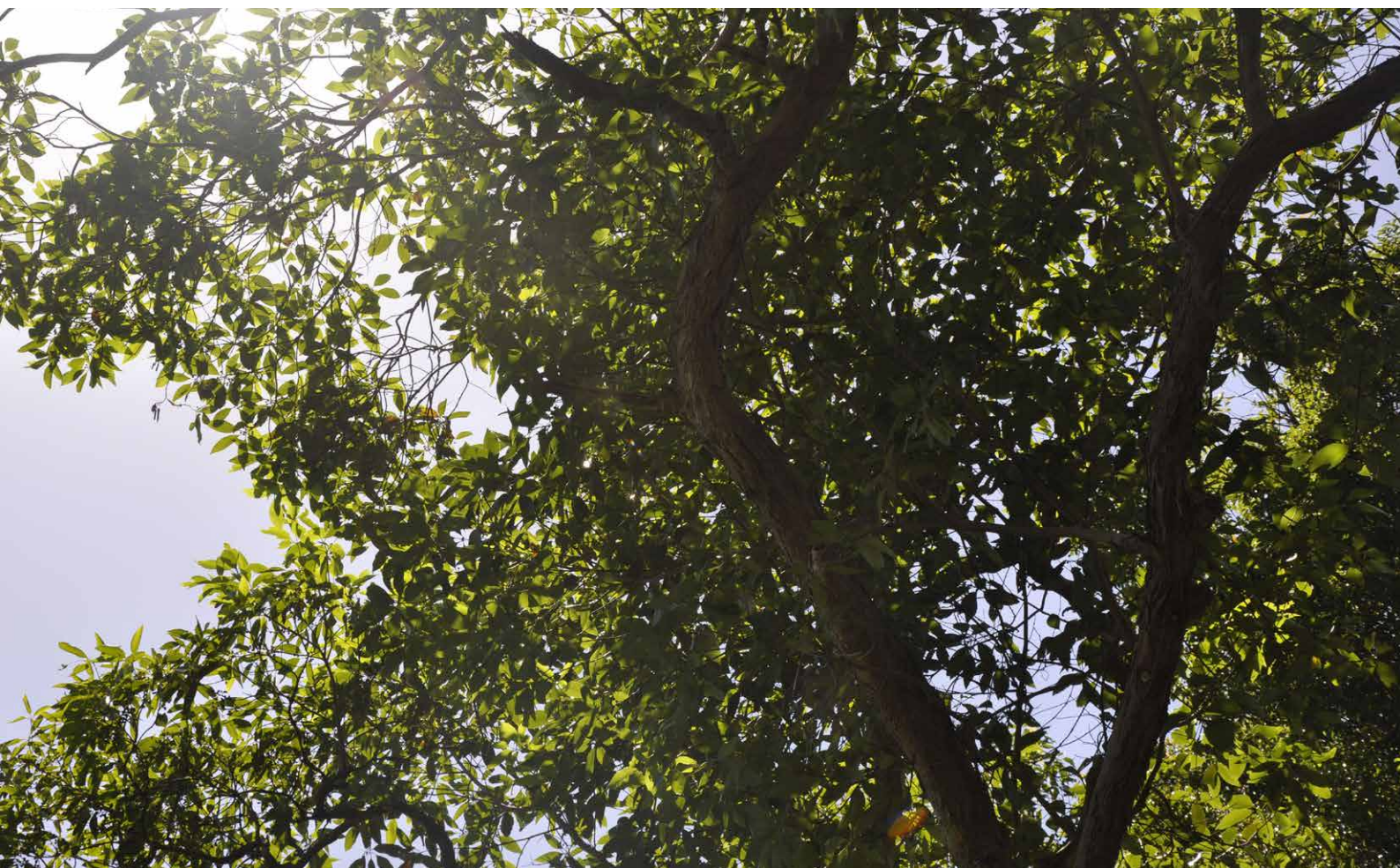
“We need industry and policy-makers actively working to protect Native Title rights and interests, and ensuring access to these economic opportunities for Traditional Owners – in method development, consent considerations, and pricing discussions – to put Traditional Owners in the driving seat.”

#### **Further information**

See [www.icin.org.au](http://www.icin.org.au) for more information about the Indigenous carbon industry.

See [www.savannafireforum.net](http://www.savannafireforum.net) to view forum presentations and videos.

Sun shining through the trees, Kabi Kabi Country (Sunshine Coast). Photo Dora Bowles



# Indigenous rights and interests IN CARBON

## ICIN

Under the Carbon Credits (Carbon Farming Initiative) Act 2011 (the CFI Act), there are provisions for two key rights of interest to Indigenous people impacted by a carbon project registered by the Clean Energy Regulator, including provision for:

1. **Legal Right.** The proponent of a carbon project must be able to demonstrate that they have the legal right to own the carbon project.

Determining whether or not you have the legal right to do a project, and/or what is required to get the legal right will depend on the type of land in question; the type of land interest you have; and the type of activity you want to do.

Indigenous people may have a legal right to conduct the project activity over the project area or in relation to the resource in question, and as such must be engaged to give permission for the assignment of their legal right to the project developer under a negotiated legal agreement.

2. **Eligible Interest-Holder Consent.** Indigenous people may be identified as Eligible Interest Holders and have a right to consent to the project under the CFI Act. This applies to all Native Title determination areas.

This provides an important point of leverage for any Native Title group.

Although the CFI Act allows for conditional registration of carbon projects from 2 up to 7 years depending on the type of carbon method applied, ICIN strongly advocates for the Free, Prior and Informed Consent of Native Title holders or claimants to be demonstrated *before* the project is registered with the Clean Energy Regulator. This benefits both Indigenous groups and any non-Indigenous proponent by:

- Ensuring that the project is genuinely supported by Indigenous groups, providing greater certainty to the project.
- Providing Recognised Native Title Body Corporates (RNTBCs) or Native Title claimants with a veto right, or a right to say no to the carbon project, prior to registration avoids the risk of accruing costs that may be difficult to recover later if consent is not granted.
- Supporting observation of the fair and equitable treatment of Indigenous people as articulated in the UN Declaration of the Rights of Indigenous People
- Enabling both parties to realise opportunities that can be supported through a partnership, such as co-ownership of the project, or supporting other 'co-benefits' that could be supported through the project activity (including healing country, employment, access to country, education, bush foods etc.)
- Ensuring the proponent is operating in line with best practice standards, in accordance with the voluntary Carbon Market Institute's Code of Conduct and market expectations.

### **The role of agreements in carbon projects**

Some Indigenous people may choose to enter into an Indigenous Land Use Agreement (ILUA) to support such an agreement with non-Indigenous landholder/s or carbon project developers. This can include provisions around, access to country, employment of local Aboriginal or Torres Strait Islander people, support for traditional land management practices, a percentage royalty or ACCU share from carbon credits created from the project, provisions for how and can also include a plan to transition ownership of all or part of the project or anything else negotiated by both parties. This agreement is very important given that the project may be a commitment from 10 up to 100 years and should include terms for review.

ILUAs can provide a high degree of certainty to both proponents and Indigenous groups impacted by a carbon project on their country.

In particular, Indigenous groups should keep in mind that carbon projects which can demonstrate direct and genuine benefits created from the project, including Indigenous employment or support for Indigenous land management practices, are likely to attract a premium price on the market for carbon credits produced. Therefore the agreement should detail how these 'co-benefits' are marketed, if at all, by the proponent, as well as protections to ensure that any images, videos or stories of Indigenous people or details of the group's story are not shared without that group's free, prior and informed consent.

For example, Indigenous-owned carbon projects can attract a significant premium in recognition of the benefits of supporting self-determined outcomes through Indigenous owned and managed carbon projects. How these outcomes are articulated is ultimately up to each Indigenous proponent in negotiation with a buyer of Indigenous carbon credits, and may not necessarily be included as part of a sale of Indigenous carbon credits.

Please note that the above information is intended as general information only and not as legal advice. ICIN recommends that any group impacted by a carbon project seek independent advice from a qualified professional specific to your circumstances.

For Further Information, see the ICIN Best-Practice Guidelines to Seeking the Free, Prior and Informed Consent of Indigenous Communities for Carbon Projects, available at [www.icin.org.au/resources](http://www.icin.org.au/resources)



Maraga Building, Ngannawal Country (Canberra), 2021. Photo: AIATSIS

# 2022 NTRB Legal Workshop save the date:

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The 2022 NTRB Legal Workshop will be hosted by AIATSIS in collaboration with the National Native Title Council.

This year's workshop will be held in Naarm (Melbourne) on Tuesday 30th August – Thursday 1st September.



National  
Native Title  
Council

# Martuwarra Plenary

**Marlikka Persidast, Nyikina Warrwa & Wangkumara Barkindji**

The following text is an excerpt from Marlikka Persidast's presentation to the 2021 AIATSIS Summit held on Kuarna Country in Adelaide. During the presentation, she showed a number of short films.

Marlikka Persidast is a Nyikina Warrwa and Wangkumara Barkindji woman. She is also a digital storyteller and researcher with the Martuwarra Fitzroy River Council, an alliance of Traditional Owners who have come together to stand with One Mind and One Voice as a united Council of Senior Elders from Traditional Owner Groups of the King Sound, Fitzroy River, and its Catchment.

**Firstly, I said that this is Kaurna land. So I'd like to thank the Elders who have welcomed us here and remind everybody that that is actually an invitation to develop your relationship with country while you're here. I also said in my language that I am a woman who belongs to the Fitzroy River. Now that is a relationship that I have inherited from my ancestors.**

Along with that, I've been fortunate to inherit the laws, science, and philosophy. I was lucky enough to grow up on the Western edge of the Northern Savannah, surrounded by culture, cowboys, and academics. When I got older, I went to get my Western education and I was there able to learn the value of First Law, the laws that we have all developed living in our country, living in our regions, which took a lot of time to develop. And that is what we need to survive and to thrive...

[Watch Marlikka's presentation at the Summit](#)

'Some people may have a favourite beach, a park, a family farm, somewhere where you feel at home and company. So when you

have that relationship, the duty falls on you to continue building it and continue developing it because we have to love country and country loves us. I'll now play the third video.

In First Law, everybody is given a Jadiny. Jadiny is a totem, which teaches you to care about things beyond what is simply human. My Jadiny is the crocodile, so I have a relationship with them. I have respect for them, and I have a duty of care to protect them. Different people are given different animals or plants.'

This deep and harmonious relationship shows that there's gotta be a balance in society and removal of the hierarchy. And it teaches you as a young person that you are equal to and share respect with a non-human being, it creates accountability, compassion, responsibility, and it is a lifelong project.

Many Indigenous people do have a totem, but that's not to say that you can not have a totem. The only thing is that you do not pick something that you think is cute or something that you want to necessarily just have an affection

with. It is something that you will take on for a lifelong project to protect until the day you die.

I think I also use the image of the Boab tree there [in the video] to show that these trees are living longer than us. So why do we feel the right to destroy? These videos came about as a completely self-funded project. I had never made film before I can't operate a camera. And it was just this instant urge to get something out there on social media.

So I saved a bit of money for myself and I paid for the fuel and I paid for a bit of the equipment and I'd passed on the editing to a non-indigenous friend. And, they didn't edit it in the way that I wanted. And so I watched them for about four hours and when they left the house, I quickly jumped on and started editing all of it together, even though I'd never done editing.

And so I think it's really important for Indigenous people to start to take control of your narrative, see how you want to be framed and make sure you're part of that process. For me, I really value First Law. And with First Law, it's law of the land, not lore of man. It has become from the land to teach us how to live with that ecosystem where we were based.

So one of the examples when I use First Law is about the Madjulla tree. Now the Madjulla tree is filled with antiseptic, antibiotic, analgesic properties, and as new going to people, we can also use it for a hundred. So we can put it in the water and we can take the oxygen out of the water, the fish rise, and we do sustainable harvest after we've collected what we want.

We remove the Madjulla and the sawfish that lives in the river urinates and creates more oxygen. This ecosystem is living in a symbiotic relationship and it's so important to maintain that we can take one thing. And as a little girl, I used to think, well, what part do we, as human beings have in this ecosystem?

And the old people told me that we keep Country company, we sing to it. We dance. We look after it. And in any other form you have passed this life. You will not have the same privilege to look after Country in the same way.

I've also heard a lot of friends of mine say, but why does this fall on Indigenous people? We do not have all of the resources that the mainstream Australia has. Why do we have to bring them on the

journey? And the thing is that we have a duty of care to Country. We have the philosophies, laws, and science.

We need to re-legitimize ourselves to them in order to protect Country. And when I talk about First Law, I specifically spell it as L A W not L O R E because I do not want to continue using the colonisers language to delegitimise our culture. I've also prepared a one-minute video, which is very different to these.

It uses archive footage to communicate how much we can really tell in a minute. And I think the simplicity of this, in comparison to something that goes for half an hour is really quite profound, and it shows the importance of what we can do in a minute in this modern society. Play the last video and then I'll have a bit more of a discussion- [Watch Marlikka's presentation at the Summit](#)

'Rivers must have a right to life. And that contribution to all other life must be protected. Some are fearful

that the humans lead their own extinction. I have hope in human beings for living water lives within them. It's their life they must save if they are to continue living on mother earth; mother earth covered in living waters, cradled beneath the sky.

I keep on singing as I believe, a coalition of hope is coming. I sing this to you. Singing the river laws song for people and Country.'

That video was made with archive footage from the State Library of Western Australia. And I was able to get my brother to do the voiceover, so you can see how every one of us has got different assets that we can use to continue this sharing of knowledge, because it is all about sharing stories. I think when I talk about re-legitimising ourselves as well, I want to look at the word dreaming and dreaming.

Because the dream time, although for some people is folklore, was actually a way for us to communicate our science, our laws, and our philosophy. My auntie who's recently passed, took me to a swimming hole when I was little. And it was there that I debunked this myth that we all kind of have been told. And there, she told me the story about a one-eyed snake.

She told me that the snake was actually mutated by uranium. And it was the first time as a child that I understood that these stories have so much more value and that we have to debunk the propaganda that mainstream Australia has been told. We need to stand up for ourselves and we need to revalue ourselves and legitimize ourselves in our Country for our Country.



Marlikka Perdrisat presenting at the plenary of Day 5 of the AIATSIS Summit 2021, Kurna Country (Adelaide). Photo: AIATSIS

# Gunditjmara Budj Bim

## PROTECTION

**The UNESCO World Heritage Listed Budj Bim Cultural Landscape is an extensive and technologically sophisticated aquaculture system within the Budj Bim lava flow. It's one of the world's largest and oldest aquaculture systems located in Southwest Victoria that dates at least 6,600 years ago.**

The aquaculture system was created by Gunditjmara who manipulated and modified local hydrological regimes and ecological systems to sustainably harvest and farm large quantities of the migrating Kooyang (short, finned eel) by manipulating seasonal flooding through the creation of stone channels. Today Gunditjmara cultural traditions, knowledge and practices continue to be part of the six-millennia long connection with the Budj Bim Cultural Landscape.

Gunditjmara's connection to Country along with land ownership and active management enables Gunditjmara to continue to care for Country. Gunditj Mirring Traditional Owners Aboriginal Corporation, the Budj Bim Ranger Program and project partners deliver a range of caring for Country programs to support this. With the aim to enhance the health and protection of Country and its natural and cultural values. Which includes cultural heritage management, native flora and fauna management, cultural fire, building and

maintaining tracks, water management including cultural flows, weed and feral animal control, monitoring, nature-based tourism and more.

The Budj Bim Cultural Landscape is protected and managed through an adaptive management framework, respecting its customary and legal rights and obligations of Gunditjmara Traditional Owners.

Gunditjmara currently own and manage approximately 3000 hectares of land along the Budj Bim lava flow and most of these properties are declared and managed as Indigenous Protected Areas (IPAs).

The Budj Bim Cultural Landscape in July 2019 was inscribed on the UNESCO World Heritage List purely for its Aboriginal Cultural Values, following a rigorous process spanning over 20+ years;

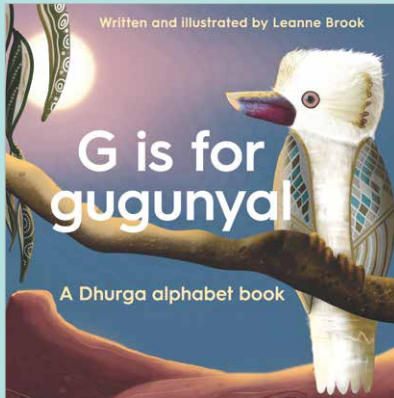
'The Budj Bim Cultural Landscape bears an exceptional testimony to the cultural traditions, knowledge, practices and ingenuity of the Gunditjmara. The extensive networks and antiquity of the constructed and modified aquaculture system of the Budj Bim Cultural Landscape bears testimony to the Gunditjmara as engineers and kooyang fishers. Gunditjmara knowledge and practices have endured and continue to be passed down through their Elders

and are recognisable across the wetlands of the Budj Bim Cultural Landscape in the form of ancient and elaborate systems of stone-walled kooyang husbandry (or aquaculture) facilities. Gunditjmara cultural traditions, including associated storytelling, dance and basket weaving, continue to be maintained by their collective multigenerational knowledge'

Gunditjmara worked on several developments that got them to this point, which began in the late 1970s with the Onus v Alcoa High Court case. Although, more recently this included the development of the Lake Condah Sustainable Development project that achieved many of its objectives. This involved having the Budj Bim Cultural Landscape inscribed onto Australia's National Heritage List in 2004 as well as the return and restoration of Tae Rak (Lake Condah) in 2010.

By combining deep time traditional practices that have been handed down for thousands of generations and westernised natural resource management practices, Gunditjmara continue to care for and heal their Country just as their ancestors have for thousands of generations.

# Recent releases from Aboriginal Studies Press

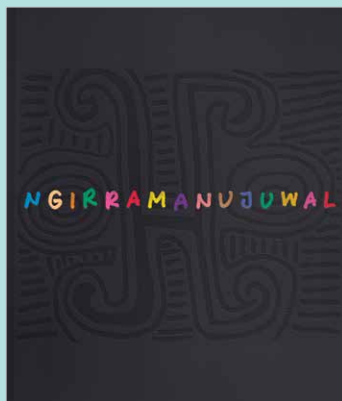


## G is for Gugunyal

A Dhurga alphabet book

Dhurga is one of four traditional languages of the south coast of New South Wales.

**Author & illustrator: Leanne Brook**



## Ngirramanujwal

The Art and Country of Jimmy Pike

In Walmajarri, Ngirramanujwal is one who adds colour.

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