

## **Native Title in Cape York** by Michael Chan, Clayton Utz

A five week internship with Cape York Land Council, working on native title claims in the Cape York region.

### The Internship

During the winter university break of 2008 I took time off from Clayton Utz to do an internship at the Native Title Representative Body which covers the Cape York region - the Cape York Land Council (CYLC). My internship was at the CYLC, but was arranged through a program called the Aurora Project. Since Native Title Representative Bodies are notoriously under-resourced, the Aurora Project arranges for law and anthropology students to assist native title lawyers during the winter and summer university holiday periods. During my internship, I had the opportunity to be intimately involved in a number of native title claims in the Cape. The legal experience that I gained during the internship was invaluable, but it was also a great holiday escape to the tropical weather of Cape York.

I arrived in Cairns on a 27 degree 'winter's day', with little idea about what to expect from the five week internship that I was about to start. Cairns is the last major city in northern Queensland before Cape York begins, and so many organizations that are involved in Cape York have offices there. It was the furthest I had ever been up the coast of Queensland, and I knew little about the area beyond the tourist ads that I had seen on TV with pictures of the Great Barrier Reef, crocodiles, rainforests and sunny beaches. I didn't really expect to be able to see very much on a short five week internship, so I was quite surprised when I had the opportunity to travel extensively around Cairns and parts of the Cape while I was there.

There are ten Native Title Representative Bodies (NTRBs) and five Native Title Service Providers across Australia, which represent and support the indigenous communities of Australia in relation to native title matters. The CYLC is one of the NTRBs, and it represents many of the indigenous communities of Cape York where native title issues have arisen. The CYLC is based in Cairns, although the area covered by the land council actually begins further up the Cape near Cooktown.

There are currently some thirty ongoing native title claims in Cape York, some of which have been continuing for over five years. During my internship I worked on only five of those claims, and I quickly realised the enormity of attempting to resolve each claim. The Native Title Act 1993 (Cth) is a complex and lengthy piece of legislation, which attempts to regulate the relationship between traditional indigenous connection to land, and more contemporary uses of the same land by the non-indigenous community like individual ownership, mining leases, pastoral leases, fishing and national parks. Having studied native title at university, I thought I had a fairly good grasp of native title issues. However, when I began work at the CYLC I was not prepared for the complexity of being practically involved in native title, and so the first week of my internship was a huge learning curve.

During my internship I attended a meeting with traditional owners at the National Native Title Tribunal in Cairns, and also a negotiation with representatives from the State of Queensland (which is normally the main respondent in native title claims). I undertook research on a wide range of issues, from mining and the environment, to more non-legal issues like mapping of claim areas. More practically, I helped draft an Indigenous Land Use Agreement (ILUA) and was involved in briefing a barrister in order to get an advice.

#### On-Country Trip to Kowanyama

However the greatest part of my five week internship was the time that I spent 'on-country'. Since many of the indigenous communities represented by CYLC are so remote, it is often necessary for CYLC lawyers to travel to the communities to give information and receive instructions. I had the opportunity to visit a community called Kowanyama, which is in the Cape, near the Gulf of Carpentaria. Since it was the dry season, we were able to drive to the community. This basically meant driving from the east coast to the west coast of the Cape overnight. We left Cairns in the afternoon, slept overnight in swags next to a river, and then arrived early the next morning and went straight into a meeting. This meeting was with Commonwealth and State government representatives, and members of the local community.

During my time in Kowanyama I had the opportunity to meet many members of the local community, and experience life in a remote indigenous community. Since I had worked extensively on the native title claim relating to Kowanyama, it was rewarding to be able to see the area covered by the claim, and meet the people affected. We spent two days in Kowanyama, holding meetings with traditional owners and also organising a barbeque for the whole community to attend. I visited the community with two lawyers from CYLC. My role was to support the lawyers by preparing documents, arranging presentations and taking notes. However I also helped with the barbeque, changed a flat tyre and drove the 4-wheel drive as we travelled too and from the township.

The variety of work that I undertook during my internship in Cape York was certainly far beyond that which I expected to perform. My internship involved extensive cross-cultural communication, challenging legal issues and wide variety of non-legal tasks. This made it a great personal experience, as well as valuable legal practice.

#### The Weekends

The CYLC arranged for my accommodation in a long-stay sharehouse right in the centre of Cairns. The house was full of overseas travellers, and so I managed to live the life of a tourist while also doing a great internship. The State of Origin was also on while I was on my internship, but I made sure not to cheer too loudly for NSW.

The tropical climate of Cairns in the winter months meant that on the weekends I was able to do all the tourist stuff that Cape York is famous for. Although I only had four weekends, I managed to visit the beaches of Cape Tribulation, the Daintree Rainforest, go diving on the Great Barrier Reef and swim in the lakes around the Atherton Tablelands.

Both the Daintree rainforest and the Great Barrier Reef are famous for their wildlife, and while I was there I was lucky enough to see crocodiles, turtles, sharks and even a cassowary.

#### Personal Experience

Although it was only a five week internship, I gained an incredible amount of legal experience. I also returned to Sydney feeling like I had been on a holiday, especially since I had escaped the cold winter of NSW. It was great to leave Cairns feeling like I had actually contributed to tangible developments in indigenous land and housing issues in the Cape. It has certainly made me more confident as a law student and as a future lawyer. During my time at CYLC I became involved in a number of native title claims, and I returned to Sydney feeling quite attached and involved in the outcome of these matters. I still keep in contact with a number of the lawyers at the CYLC, to keep updated on how the claims are progressing.