Handbook for Interns
A guide to internships at Indigenous sector organisations Australia-wide

2019
THE AURORA PROJECT
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- Queensland University of Technology
- Southern Cross University
- University of Adelaide
- University of Canberra
- University of Melbourne
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- University of Newcastle
- University of New South Wales
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- University of South Australia
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Disclaimer
The views expressed in this document are those of past interns and contributors and do not necessarily represent the views of the Australian Government or the Aurora Project. The information supplied in this document is intended to provide a general overview of some areas of native title and to provide you with general information that may assist you in your internship. You should not rely on any legal information provided in this Handbook to take action or make decisions about any specific situation or circumstance. No liability is accepted for use of, or reliance upon, any information in this document.

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Congratulations on being successfully placed as part of the Aurora Internship Program.
This publication is the culmination of a number of years of student and graduate internships. It contains insights into working in native title, policy and community development, advocacy, social justice, health policy, research and the broader Indigenous sector, at various Indigenous sector organisations including Indigenous organisations, government bodies, community groups and policy organisations.
We hope it will go a long way to helping you adjust to your new surroundings and get the most out of your internship experience.
Wherever you are placed, be reminded that this Program is unusual in that it is not primarily about you, but more about the over-worked and under-resourced Host organisations and your role in helping them in any way possible. Try to go with as few expectations as possible. Those who approach their placement with genuinely lower expectations, ready to roll up their sleeves and pitch in wherever needed, are likely to have a more rewarding time. Those who go out with a certain expectation of how the experience ‘ought to be’ are more likely to return disappointed.
Most importantly, be professional, be safe and have a positive, rewarding and enjoyable time!

Richard Potok
CEO

Kim Barlin
Placements Manager
The Aurora Project was established following the launch in April 2005 of the Report into the Professional Development Needs of Native Title Representative Body Lawyers (April 2005 Report). Over the years, it has grown to encompass other projects in the broader area of Indigenous education and Indigenous affairs more generally.

The overall aim of the Internship Program is to facilitate individual professional development by building career experiences and opportunities in the sector, and to strengthen the capacity of Indigenous sector organisations by attracting and retaining talented Indigenous and non-Indigenous people. We pride ourselves on having a transformational impact on the organisations we support and on the career aspirations of our internship alumni.

Initially a pilot program placed a small number of law students at a limited number of NTRBs. Following the Report, one of the key recommendations supported the continuation of what is now known as the Aurora Internship Program (the Program - formerly known as the Aurora Native Title Internship Program). Since then, the Program has been placing law students and graduates at NTRBs and other Indigenous sector organisations. The Program expanded to include anthropology students and graduates in 2006 and other social science students and graduates (including archaeology, community development, cultural heritage, environmental management, history, human geography, Indigenous studies and sociology) in 2007. Applications are also accepted from student and graduates with a background in business, health science/social welfare, education and media/communications.

In 2006 and then again in 2009, the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) engaged Monash University to deliver programs and services to NTRBs – the Aurora Project was then subcontracted to deliver these services. In June 2012, a further three-year agreement was finalised, this time directly between FaHCSIA and Aurora. At that time, the Program was primarily funded by Rio Tinto and this funding ceased in December 2014. Additionally, in June 2012, the Program received further funding from the Native Title Unit of the Attorney-General's Department to support the Program and this funding ceased in June 2015. The funding allowed the Placements team to expand the Program on a targeted basis to support NTRBs and PBCs in regional and remote Australia.

The Program then received funding from the Department of the Prime Minister and Cabinet (PM&C) via the Indigenous Advancement Strategy (IAS) for the ongoing delivery of the native title focussed work of the Internship Program. However, despite the lack of formal funding, the Program remained committed to continue to support other Aurora Host organisations working in the broader Indigenous sector.

As of April 2017, an agreement was reached with the Commonwealth to extend the Program through to the end of February 2019 supporting Indigenous organisations via the Jobs, Land and Economy Programme (JLEP). In addition to supporting Indigenous sector organisations, we now focus more on supporting Aboriginal and Torres Strait Islander students and graduates via internships as pathways to jobs in Indigenous organisations and other organisations working in the Indigenous sector. As part of the current contract, the Commonwealth will provide financial support via scholarships for Aboriginal and Torres Strait Islander interns under the Program. We are also able to place Indigenous interns at a wide range of organisations, outside of the sector, so long as the placements are relevant to candidates’ study and career aspirations. To date the Program has had only small numbers of Indigenous candidates due to us being unable to offer financial support. Interns will receive payments through scholarships for the period of their internships with Indigenous organisations and other organisations working in the sector. We will accept applications from Indigenous candidates who are preferably in their 2nd year of study or above or have graduated with an academic background in business, education, health science, law, media/communications, psychology, social work and some social sciences. There are also a handful of opportunities available to candidates with film, music and creative arts, as well as STEM related fields.

Other partners in the Program include Allens, Gilbert + Tobin and a number of universities state-wide. The Program is honoured to have the support of the John Skipper Kelly (JSK) Fund, a sub-fund of Sydney Community Foundation, funding two annual legal scholarship placements, to be undertaken by an Aurora Indigenous intern where possible. We are also please to collaborate with the National Native Title Tribunal via the Lisa Wright Internship, which supports regional/remote native title internships (one per round).

Both the April 2005 Report and further information on the Aurora Project are available on the website at: www.auroraproject.com.au or by contacting the Placements team on 02 9310 8412.
Introduction

This Handbook is designed to introduce you to issues that will impact on your work whilst on placement. It is intended to guide you through the important areas of your discipline and is not comprehensive, but complementary to your own research and enquiry. Be sure to familiarise yourself with your Host organisation’s website before commencing your placement.

The legal information is general in nature and should not be used as the basis for legal advice. You should always check with your supervisor before acting in any matter, even regarding something as simple as talking to people not known to you or going into a new situation.

The Handbook contains generic information for all interns – legal, anthropology and other social sciences, followed by specific information for each stream. You are encouraged to read all the discipline-related material in the Handbook as it may be relevant to your placement.

In summary, the Handbook includes chapters covering:

• an overview on communication, conflict management and dispute resolution
• some important advice on confidentiality, privacy and legal ethics
• the role of the Department of the Prime Minister and Cabinet (PM&C)
• roles and functions of native title and other Aurora Host organisations (including Indigenous organisations, government bodies, community groups and policy organisations)
• work undertaken by legal, anthropology and other social science interns including general resources
• a directory of Aurora Host organisations by location
• general housekeeping including insurance and emergency contact information.
• general Hints and Tips for interns (note that a valuable supplement to this chapter which includes detailed information by location, has been emailed to you separately and can be found on our website)

PLEASE NOTE: For those of you undertaking a native title focussed placement, please refer to the separate supplementary resource, Handbook for Interns, Native Title Specific Information.
Aurora Internship Commitment Statement
(Online)

ABOUT YOU

Name
Surname
Email address

INTERNSHIP COMMITMENT

FOR ALL INTERNS

As an Aurora intern you are required to undertake the following:
- provide weekly reports on the progress of the internship
- complete an online overview questionnaire at the end of the internship
- write a short reflective article (1 page) on the internship, and current students to source a relevant uni publication
- where possible, commit to attending a feedback session to prospective candidates on campus, or participate in a career fair to assist in promoting the Program.

I have read and I understand the Code of Conduct and Professional Ethics for Aurora Interns. I agree to abide by the expectations and obligations as laid out in the Internship Induction & Commitment Kit.

☐ I agree

PRIVACY

Previous interns have found it useful to keep in touch with one another during and after their internship. I authorise the Aurora Placements team to disclose your email address to other interns?

☐ Yes
☐ No

I would like to be added to the Aurora alumni mailing list to receive information about job opportunities and other information about Aurora initiatives?

☐ Yes
☐ No

IMAGE REPRODUCTION

Included in your induction and commitment kit you will find a Photo Release Form. This is to be used when you take still or moving images during your internship. Please ensure that you get written permission from anyone featured in your photographs and from your host organisation when photographing owned land. The release form allows Aurora to use your wonderful images to promote the program. In addition we request your permission as the photographer. If you select “yes” below, you agree to give Aurora permission to reproduce the images.

I give Aurora Programs and Projects Pty Ltd permission to reproduce any images I submit for promotion purposes?

☐ Yes
☐ No

PERMISSION TO USE WRITTEN MATERIAL

I give Aurora Programs and Projects Pty Ltd permission to reproduce my written material for promotion purposes?

☐ Yes
☐ No
CONFIDENTIALITY

I understand that I must not disclose any confidential, sensitive or personal information during or after my internship. I also understand that as an intern, I have similar obligations to that of an employee. I undertake to comply with all lawful directions of my supervisor or manager.

Select option if you agree

- I agree

INSURANCE

The Aurora Project has arranged travel and voluntary insurance cover with Accident & Health Insurance International for all interns undertaking an Aurora internship, for anywhere between four and eight weeks (or longer, if part-time).

Note: Requirements medical treatment: Interns are expected to use their Medicare card if they require a doctor or medical treatment. If you are a non-overseas candidate placed as an intern in Australia, you will be required to cover your own medical insurance in the event that you will need medical attention while on placement. This means that if you are not a resident of Australia, you will need to make arrangements for non-Australian citizens.

- Driving in and from your placement - Interns choose to drive to and from their placement, they are responsible for their own vehicle and roadside assistance and any vehicle expenses which might be incurred, including vehicle loss or damage. Interns will be responsible for mechanical repairs (including tolls). Note that each state has compulsory third party insurance for road injuries.

- Driving on placement - Aurora does not have a motor vehicle policy via our existing policy for interns. The Host organisation will be required to ensure that the driver has an acceptable Motor Vehicle Policy for all vehicles and that a daily, when required. Please check that this is the case if you are required to drive on placement.

- Air travel on placement - Interns are only covered by our policy when they fly on scheduled commercial flights. Private chartered flights or helicopters are not covered. Please check that your Host has the necessary cover if you are required to travel by air or a private chartered flight or helicopter, when going out bush or on an emergency.

Note: Interns may not drive 4WD and/or manual vehicles unless they have completed previous 4WD training and have a manual driver's licence.

Select if you agree

- I agree

EMERGENCY CONTACT DETAILS

In case of an emergency, please provide contact details (name, relationship to you, mobile and email address) of relevant person for our records.

Name

Relationship to you

Email address

Contact number
Code of conduct and professional ethics for Aurora interns

As an Aurora intern you are an ambassador for the Aurora Internship Program and the Aurora Project and should conduct yourself in a professional manner at all times whilst on placement. Interns are encouraged to embrace the unique focus of the Program which is to assist wherever possible and to feel privileged to be given the opportunity.

The activities below outline the behaviour, attitudes and appropriate protocol expected by Aurora interns. Any intern who violates this Code is subject to disciplinary action which may lead to the termination of the internship.

Conduct

As an Aurora intern, we ask that you:

• provide assistance to the Host organisation wherever needed and are expected to undertake tasks given to you by your supervisor and other staff members
• treat fellow staff members at your Host organisation as well as their clients and stakeholders with respect, integrity, kindness, dignity, trust, equity and acceptance
• maintain a high level of cultural awareness and sensitivity toward the Host organisation staff and their clients and respect and acknowledge the diversity and significance of Indigenous Australian culture, customs and beliefs
• not disclose any confidential, sensitive or personal information during or after your internship
• contact the Aurora Placements Manager, if you experience distress or have a grievance whilst on placement, so the problem can be rectified.
• fulfill the Aurora Intern Obligations to undertake the following:
  – provide weekly reports on the progress of the internship
  – complete an Overview Questionnaire at the end of the internship
  – write a reflective article on the internship and source a relevant uni publication
  – commit to arranging and speaking to prospective candidates on campus and/or attend a career fair in order to create awareness and assist with promoting the Program.

The following behaviour will not be tolerated whilst undertaking an Aurora internship (which includes out of office hours):

• abusive, offensive or discriminatory language towards Host organisation staff, their clients, other Aurora interns or any other person related to your internship activities
• bullying or taking unfair advantage of Host organisation staff, their clients, other Aurora interns or any other person related to your internship activities
• possession or use of alcoholic beverages or illegal drugs on Aurora property, or being under the influence of drugs or alcohol – please note that alcohol may be served at official Host organisation functions and if you consume alcohol, we request you do so in moderation and observe your Host organisation’s Occupational, Health and Safety policies
• use or possession of illegal drugs
• bringing on to your Host organisation’s property dangerous or unauthorised materials such as explosives, firearms, weapons or other dangerous items
• discourtesy or rudeness to Host organisation staff, their clients, other Aurora interns or any other person related to your internship activities
• verbal, physical or visual harassment of Host organisation staff, their clients, other Aurora interns or any other person related to your internship activities
• actual or threatened violence towards Host organisation staff, their clients, other Aurora interns or any other person related to your internship activities
• conduct endangering the life, safety, health or well-being of others
• failure to follow your Host organisation’s policies or procedures.
Professional Ethics

Interns are expected to provide assistance to the Host organisation wherever needed and are expected to undertake tasks given to them by their supervisor(s). You are reminded to go to the Host organisation with lower expectations and to understand that the internship is more about the over-worked and under-resourced Host organisation, than it is about the intern.

You should maintain a high level of cultural awareness and sensitivity toward the Host organisation staff and their clients and respect and acknowledge the diversity and significance of Indigenous Australians culture, customs and beliefs.

Before commencing your placement, you should contact your supervisor(s) to request background research material in preparation for your placement. You should familiarise yourself with all available information about your Host organisation - their website is a good place to start if they have one. You are also encouraged to visit the Aurora website for a summary of the type of work you may be involved in and also read what past interns have to say about their internship at your Host organisation. The work you undertake on placement may vary between organisations and is also dependent on whether you are placed as a legal, anthropology or social science intern.

Interns report directly to their supervisor(s), taking direction from their supervisor on work to be undertaken on placement. Where a supervisor is unavailable for a period of time, interns should show initiative by assisting other staff where needed or perhaps undertaking self-directed research on local issues relating to the Host organisation.

You should not disclose any confidential, sensitive or personal information during or after your internship. By doing so, you not only place yourself at risk of breaching your intern obligation, but you may also create potential risks for the Host organisations, their clients and stakeholders, as well as for the Aurora Project. (See chapter in the Handbook for Interns for further information on confidentiality, privacy and legal ethics).

Where the Host organisation covers your airfare and accommodation, you must liaise with the human resources representative or supervisor at your Host organisation to make the necessary arrangements. In the case where you are placed in shared housing provided by your Host organisation, interns need to respect one another’s privacy and personal belongings and should agree to any shared chores and purchase of supplies at the beginning of your internship. If you are billeted to the home of a staff member at your Host organisation, you must agree you are comfortable with the proposed living arrangements before the placement is confirmed as well as offer to contribute to your daily living expenses.

Where the Host organisation does not cover the airfares and accommodation of the intern but may provide a weekly stipend, you should liaise with the human resources representative at your Host organisation to arrange for payment of your weekly stipend.

In all cases, interns are responsible for daily living and travel expenses and are expected to work five days a week unless alternate arrangements have been made between Aurora and your Host organisation prior to the commencement of the internship, or where special or unforeseeable circumstances arise.

In the event an intern would like to have a friend or family member visit or stay in the accommodation provided by your Host organisation, you must seek approval from Kim Barlin, the Placements Manager, prior to making arrangements. Please note, out of respect for the Host organisation funding the accommodation, this is strongly discouraged.
Intellectual Property and Moral Rights
As an Aurora intern, you assign all rights, including Intellectual Property Rights, in any materials created by you whilst on placement, to the host organisation and waive your Moral Rights as an author of any materials you produce on placement unless otherwise negotiated and agreed in writing with your host organisation. You will be required to acknowledge that you do not hold any interest in any Intellectual Property of the host organisation or its stakeholders. This means that documents or other materials that you might produce or contribute to whilst on placement, belong to the host organisation and not to you.

Other important considerations
You may be required to provide external checks including but not limited to police check and/or working with children as requested by your Host organisation.

Insurance
The Aurora Project has arranged travel and voluntary insurance cover with ‘Accident & Health Insurance International’ for all interns undertaking an Aurora internship, for anywhere between four and eight weeks.

• Re: Requiring medical treatment – interns are expected to use their Medicare card if they require a doctor/medical treatment. If you are an overseas candidate placed as an intern in Australia, you will be required to cover your own medical insurance in the event that you will need medical attention whilst on placement. This is due to the fact that Medicare is not available to non-residents or non-Australian citizens.

• Re: Driving to and from your placement – if interns choose to drive to and from their placement, they are responsible for their own vehicle and roadside assistance and any vehicle expenses which might be incurred including vehicle loss or damage. Interns will be responsible for mechanical repairs (including towing). Note that each state has compulsory third party insurance for road injuries.

• Re: Driving on placement - Aurora does not have a motor vehicle policy via our existing policy for interns. The Host organisation will be required to cover the intern/s under their Motor Fleet Policy for both on-road and off-road activity, when required. Please check that this is the case if you are required to drive on placement.

• Re: Air travel on placement – interns are only covered by our policy when they fly on scheduled commercial flights. Private chartered flights or helicopters are not covered. Please check that your Host has the necessary cover if you are required to travel by air on a private chartered flight or helicopter, when going out bush or on country.

In the past Aurora interns have experienced issues with exclusions to insurance policies for certain types of damage to rental cars. It is important to note, in particular, most car rental companies (Hertz, Budget, Europcar, Thrifty etc) DO NOT provide insurance coverage for flood or water damage, roof damage or under carriage damage. (You will most likely find buried deep in the fine print in your hire contract a section that outlines these exclusions.)

In instances where you are renting a vehicle for personal use during an internship (including getting to and from your placement) please be aware Aurora will not be in a position to assist with the cost of repairs to a rental vehicle should you experience this type of damage. In addition, Aurora’s experience is that repairs for these types of damages can be very costly and run into the thousands of dollars or even tens of thousands of dollars.

We recommend you do not drive any vehicle while on placement that does not belong to you without first discussing with the owner of the vehicle (be it a hire company or other organisation or individual) and satisfying yourself as to your personal liability should an accident occur.
Pre-departure Induction talk for interns
(Transcript copy)

Congratulations on being placed as an intern via the Aurora Internship Program for the current round.

The purpose of this induction is to have certain protocols and expectations fresh in the minds of all our interns before you commence your placement, no matter where you are placed. Please read all the following information carefully.

Checklist

• Have you read the Code of conduct and professional ethics for Aurora interns and completed the online Intern Commitment Statement?
• Have you emailed your supervisor to make contact?
• Have you confirmed your logistical arrangements regarding airfare and accommodation?
• Have you reviewed a copy of the Handbook for Interns and the Hints & Tips for Interns by location?
• Have you familiarised yourself with the website of your Host organisation?

Obligations

We expect interns to fulfil a handful of obligations before, during and after their placement, including:
• Reading the Pre-Departure Induction transcript, and/or watching the video link
• Emailing a brief weekly update whilst on placement (see example included in the Handbook)
• Completing an on-line overview questionnaire at the end of the placement (10 mins.)
• Writing a short reflective article (1 page) for publication on completion of the placement
• Where possible, being involved in awareness-raising on campus by way of a short feedback session and/or attending a Career Fair on behalf of Aurora.

What should I do if anything stressful comes up on placement?

Should you be experiencing anything stressful on placement, whether personal or work related, it is good to try and resolve matters on the ground if possible, by talking to a supervisor or HR Manager — sooner than later. This will allow you to be as productive as possible throughout the relatively short time that you are on placement. The Internships team is also always available, so please get in touch, if need be, so that we can help you resolve the problem. The Internships Manager is available after hours where possible.

Expectations

As an Aurora intern you are an ambassador for the Program and for Aurora and are expected to conduct yourself in a professional manner at all times whilst on placement.
• You may become quite friendly with staff members at your Host organisation — but there is a fine line, so always be professional and adhere to the Aurora Code of conduct and professional ethics
• We encourage you to approach your internship with lower expectations regarding the work you might be given. By this we do not mean that you should expect to be standing at a photocopy machine and/or making coffee all day!
• Your Host will be expecting high calibre, capable, passionate interns keen to assist in whatever way possible. This is a highly competitive Program and it is kudos to you that you have been successfully placed. However, we encourage you to have an expectation of a healthy balance of some very interesting and challenging work, along with some more mundane administrative tasks, such as photocopying, database entry and filing. Embrace those tasks with a positive attitude as there is so much to learn from them, and the work is no doubt crucially important to your Host at that time.
• In the end, we would prefer for you to have your expectations exceeded rather than going in with loftier expectations.
• Don’t wait for the work to come to you. Be proactive! If you come to the end of a project and find that your supervisor is going to be out of the office for a few days, introduce yourself to other staff members and let them know that you are available to assist. In doing so, you’ll make a greater contribution to the Host and be exposed to more varied work.
• If all else fails, show initiative by undertaking self-directed research relating to your Host.
• Expect at times to be working within a stressful environment, so try to fit in seamlessly and be prepared to pitch in and help where you can.

Privacy and confidentiality
Please ensure that you have read this chapter in the Handbook for Interns. No matter where you are placed, it is very likely that you will have access to confidential and sensitive information. It is critical that you do not disclose any confidential, sensitive or personal information either during or after your placement. By doing so, you would not only place yourself at risk of breaching your obligations as an intern, but it also creates risks for your Host, their clients or stakeholders, and for Aurora. Be vigilant about what you share with friends, family and fellow Aurora interns – and remember, less is more.

Your obligations regarding privacy and confidentiality arise from your role as an intern, your professional obligations, and state and federal law, including relevant state and federal privacy acts, legal profession acts, solicitor’s rules, fiduciary obligations (that is, obligations arising from a position of trust), and contractual obligations. These obligations apply to you no matter what your academic background and what stream you have been placed in.

You should expect that your Host will require you to sign a Confidentiality Agreement at the commencement of your internship.

You must obtain written approval of your Host supervisor before writing and submitting any articles or papers relating to your placement, outside of your placement. Whatever information you create on placement remains the intellectual property of your Host.

Intern weekly reporting – legal professional privilege
As one of your most important Aurora obligations on placement, we ask that you be in touch with us by way of a weekly update. We are a small team and don’t have capacity to get in touch with you each week, however it is important that we keep in touch with you. Use this as an opportunity to keep a weekly journal to reflect on your week.

Please refer to the example of the weekly update at the end of the Kit, and include 2 short paragraphs, ensuring that you:

• label the subject of your email as specified so that at a glance we can see: who you are, where you are and what week of what week (the duration of your placement) you are in.
• email it preferably in the body of the email to placements@auroraproject.com.au
• copy in your supervisor unless they have asked not to be. If you have any personal issues to discuss with the team, please email us separately.
• check with your supervisor towards the end of your first week, as to whether they would like to read through your weekly update before sending it to Aurora. This is for confidentiality reasons
• include in paragraph 1 a little about how you are travelling personally, especially if you are away from home; how your accommodation is etc.
• include in paragraph 2 a brief account of the work you are involved in, paying special attention not to disclose any confidential information. Keep that paragraph anonymous – we don’t need to know the details of names and places, and if you are ever concerned that something may be confidential, please leave it out. Not everything you do will be confidential. In most cases, where you go, and the basic nature of your tasks will not be.
• send your weekly update on a Friday or over the weekend, but no later than Monday morning of the following week.
• if you are a Commonwealth funded intern, you need to send your weekly update by Thursday night each week or the latest on Friday by 9am Sydney time – so that your weekly payment can be processed.
Your safety
• Your safety is very important to us, so please be careful and wise whilst on placement.
• Err on the side of caution, especially going into a new environment.
• Don’t venture out at night alone if possible, especially in the more remote placements, and even in cities like Alice and Darwin.
• If you decide to do some recreational travel outside of your placement, be sure to do some thorough research beforehand, and preferably go with more than one person. We don’t want you to find yourself in a situation you later regret. Please be aware that whatever recreational activities you decide to partake in outside of your placement – you do at your own risk.
• Please inform your emergency contacts and Aurora if you are planning to be away and “off the radar” for both work or recreation.

Insurance
Aurora has arranged travel and voluntary insurance cover with ‘Accident & Health Insurance International’ for interns undertaking an internship, for anywhere between four and six weeks (or longer if part-time). However, please be aware that this insurance only provides partial cover. Your Host is responsible for providing some cover as well. Please be aware of the following in particular:
• Requiring medical treatment – interns are expected to use their Medicare card if they require a doctor/medical treatment. If you are an overseas candidate placed as an intern in Australia, you will be required to cover your own medical insurance should you will need medical attention whilst on placement. This is due to the fact that Medicare is not available to non-residents or non-Australian citizens.
• Driving to and from your placement – if interns choose to drive to and from their placement, they are responsible for their own vehicle and roadside assistance and any vehicle expenses which might be incurred including vehicle loss or damage. Interns will be responsible for mechanical repairs (including towing). Note that each state has compulsory third party insurance for road injuries.
• Driving on placement - Aurora does not have a motor vehicle policy via our existing policy for interns. The Host will need to cover the intern under their Motor Fleet Policy for both on-road and off-road activity, when required. Please check that this is the case if you are required to drive on placement.
• Interns may not drive 4WD and/or manual vehicles unless they have completed previous 4WD training and have a manual driver’s licence.
• Air travel on placement – interns are only covered by our policy when they fly on scheduled commercial flights. Private chartered flights or helicopters are not covered. Please check that your Host has the necessary cover if you are required to travel by air on a private chartered flight or helicopter, when going out bush or on country.

Details on our policy can be found at the back of the Handbook. If something should go wrong on placement, please get in touch with us.

Protocol when approached by a client/stakeholder of your Host
Please be reminded of the scenario question that you were asked in your interview i.e. should you be approached by a client of your Host with a question pertaining to the work that you are involved in.

It is important to be aware of the often complex, sensitive and sometimes political relationships that your Host may have with their clients – that have existed for many years prior to your arrival and will continue way after the time that you are on placement. It is easy for an intern to be drawn into situations especially because you are eager to help and are quite knowledgeable. However, something you say may not be incorrect but could easily be misconstrued or misunderstood by the client and have negative repercussions for your Host, even way past the time that you have completed your placement.
Pre-departure Induction talk for interns
(continued)

What to do
• Politely explain your role up front which is as a short-term intern/volunteer and therefore let them know that in this role, you are NOT qualified to be able to give them information.
• Take down a few points (don’t get drawn into the details as this gives an expectation that their story has been heard).
• Take down their contact details.
• Explain that you will be deferring their enquiry to your supervisor and that someone from the Host will be getting back to them (in due course – perhaps not even that day).
• Make this your default protocol no matter if you are currently studying, have recently graduated or are a mature aged student with several years of work experience.
• Of course, if your supervisor gives you permission to give out information to a client, that is fine and we at Aurora have no control over that.
• Remember you are there to protect your Host.

Protocol regarding internal politics at your Host
We understand that sensitive and confidential information will be shared with Aurora interns to facilitate their understanding of the work that their Host does, and to enable interns to contribute in a meaningful way. With this in mind, we ask that interns take special care not to be drawn into the internal politics of their Host, as it is often difficult for interns to assess differences of opinion between work colleagues and/or clients, and this can cause undue stress and confusion in their efforts to please and assist.

Aurora and Host supervisors have a duty of care to ensure that interns can learn and contribute to their Host in a healthy environment. If you find yourself in this sort of situation, please discuss this with your supervisor and feel free to get in touch with the Internships team if need be, so that we can help you navigate this.

On country/community visits
Please read Chapter 1 of the Handbook for some useful insights on cross cultural communication. We are aware that much of this information is generically written and that every community is unique.

It is best to have a low expectation that you will be given an opportunity to attend an on country or community meeting/bush court, however feel free to express an interest. This is not something that our Hosts can guarantee for many reasons. However, if you are fortunate to be invited to do so, be sure to ask your supervisor(s) questions before you go such as – what the appropriate protocols are regarding, for example: how to address an Indigenous elder (male or female) of that community; or how to dress for the meeting etc. This will allow you to be appropriately and professionally prepared.

Photographs
Interns are encouraged to take photographs of interest whilst on placement. However, it is important to ensure that you have been granted written permission by your Host and/or community and/or individuals to take any photographs of people and/or scenery whilst on placement. Please complete the Photo Release Form in the Handbook should you decide to send Aurora photos to be included in our promotion or to use them elsewhere.

Remember
• You are expected to work in an unpaid capacity, full-time, 5 days/week, usually 9am to 5pm, unless a part-time placement has been negotiated.
• In some cases, you may be receiving Commonwealth funding via Aurora or your Host is providing a stipend.

END OF TRANSCRIPT
Weekly Report - example

Reports are due no later than the Monday after your first week on placement and then ongoing, copying in your supervisor(s) and sent to placements@auroraproject.com.au.
Funded Indigenous interns must have reports in by Friday morning each week.

Jane Smith [EXAMPLE ONLY]

From: Jane Smith
Sent: Monday, 06 July 2015 12:25 PM
To: placements@auroraproject.com.au
Subject: CONFIDENTIAL:Smith Jane - ABC Organisation - Week 1 of 6

ABC Organisation

WEEK 1 REPORT
I am really enjoying myself at ABC organisation and in Cairns, the people and the place are amazing and the experiences that I am getting are wonderful. I can see myself wanting to work here when I graduate.

Work
Everyone was very welcoming when I arrived. After being introduced and shown around, I was given reading about the Wild Rivers Case. It’s not something that has been as prominent in the NSW media as it has in Queensland, so there was a bit for me to catch up on. It’s extremely interesting work, I feel privileged to be given the chance to be involved. I’ve been given work on a project related to the case, which should keep me busy into next week. I also got to attend the Federal Court judgment in relation to the Torres Strait Island Land Sea Claim this morning - it was excellent to be there in person.

Accommodation
I’m staying in a sharehouse about a ten minute walk from the office, so the location is amazing (and just around the corner from the big shopping complex). I have my own room, it’s clean, has internet access and I can cook for myself. The house itself is a bit old and unfinished, but not too different from student sharehouses I’ve lived in before. I’m sharing with four others who work in hospitality and tourism – the house has a bit of a fluctuating population, and I expect it will eventually fill up to eight people while I’m here. One of my flatmates runs diving tours, and the other works for a horse-riding and ATV tour company, so I’m sure they can suggest some good things for me to do in Cairns.

Recreation
I’ve been going for walks around Cairns after work each day to get to know the place. The Esplanade is particularly pretty, and great for people-watching. There’s a lively backpacker culture, not too close to where I’m staying but nearer the Esplanade. There’s a few secondees around Cairns at the moment who are meeting up every so often – I might join them this weekend. I’m also looking forward to the weekend markets – and apparently Cairns has a ukelele festival happening as well. Not entirely sure what to expect, but I’m going to check it out. Other plans while I’m here include a trip to Green Island and to the Tablelands. I’m also meeting up with some of the Aurora interns this weekend for coffee.

This first week has flown by, and I’m loving being in Cairns, particularly while it’s so cold in Sydney!

Thanks,
Jane Smith

06/07/2015
Photo Release Form

Aurora Project and Programs Pty Ltd
Photo Release Form

By signing this document you hereby give permission for all photographic images/videos/audio recording containing you to be reproduced and used by The Aurora Project and Programs Pty Ltd for promotional purposes in its publications including on our websites, newsletters and reports.

I ____________________________________________________________

Of __________________________________________________________

____________________________________________________________________________

hereby give approval for all still photography /video/ audio recording (delete any that do not apply) depicting myself to be reproduced and used by The Aurora Project and Programs for its publications including its website, newsletter and annual report.

My signature below signifies my approval for The Aurora Project and Programs to publish my photo, possibly with my name in any of its materials for publication.

* Parent, guardian or community member must give consent (sign) for children under 18 years of age.

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Office Use

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Aboriginal lived reality goes far beyond generalisations and performances or displays of contemporary black orthodoxy. It is in fact a complex, diverse, fluid and often contradictory framework of Law, relations, knowledge and practice that defies simplified definitions and guidelines. Our relationships to people, Law, land and place shape our obligations, ethics and boundaries regarding what we say and how we interact with both insiders and outsiders. Our responses to these relationships, including asymmetrical relations with colonising powers, agencies and individuals, determine what we know, how we know it and what we can do with that knowledge. The Aurora Project is committed to establishing an ethic of constant negotiation and learning in engaging authentically, not tokenistically, with these complex lived realities, through a responsive ethic that builds meaningful relationships.

Relational Responsiveness provides a theoretical framework for building intercultural understandings beyond the simplistic notions that often stem from training and materials about cultural awareness, tolerance and sensitivity. It demands that you bring your highest knowledge and values alongside the highest knowledge and values of the individuals and communities you work with, rather than just blindly following generalised rules about things like eye contact. Essentially, it involves adapting operational processes (methodologies) that extend your intellectual processes (epistemologies) in response to expanding relational processes (ontologies).

“Relational process” is at the heart of “being” – in Aboriginal worldviews an entity cannot exist unless it is in relation to something else, and so our ontology (way of being) is a process of relating to the world. This is shaped by our epistemology – our process of knowing and thinking, which is in turn shaped by our operating process or methodology. Whatever metaphor you use as an Indigenous or non-Indigenous person to describe these layers of relatedness – doing, knowing, being; hands, brain, heart; methodology, epistemology, ontology – there is something missing. The missing layer is valuing/spirit/axiology.

This is the most basic expression of Law, and the foundation of Indigenous lived realities. You have to work backwards in this process, from Law to relations to knowledge to practice. Spirit to heart to brain to hands. Axiology to ontology to epistemology to methodology. So that first step is always respect. After you have shown this respect, then you are ready to connect, reflect and direct. The table below shows these four processes as stages in building responsive relationships, with some different kinds of metaphors that might be used to understand them. These processes could also been seen as stages of a learning cycle that could be applied in any community or organisational context.

In most Programs delivered in Indigenous communities, axiology and ontology are usually implicit, unspoken, unquestioned, assumed. However, in Relationally Responsive approaches, the core business is Law and relations. So it is important to prioritise these first two stages of the process. If the first two stages have integrity, they inform the second two, which then emerge appropriately and authentically.
Section 1: General information for all interns
Chapter 1: Communication, conflict management and dispute resolution

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The protocols implicit in this process ensure that the agent’s responsibility is to increase relatedness. The process provides built-in mechanisms for community ownership and benefit of knowledge production, ensuring obligations to the community are met beyond the life of the Program. The agent assumes genuine accountability for the way the Aboriginal knowledge they are using is positioned and used in the Program and beyond.

Relational Responsiveness demands that you work with local knowledge to produce intercultural communication processes. Most importantly, Programs must be made to fit the cultural field, rather than the culture being manufactured to fit the Program.

Token cultural items inserted like book-ends at the beginning and end of a project do not constitute collaboration or consultation. Your culture is not what your hands touch – it is what moves your hands. Your hands must not be guided by someone else’s rationality, but by your own relationality. If you follow this way, responding to authentic relationships, you will be able to read the warning signs that will prevent you from overstepping, offending and transgressing. Even better, you will be able to co-create the shared meanings and language needed for genuine (and productive) inclusion of Indigenous community input.

Your methodology, the work of your feet as you begin to “walk your talk”, comes back full circle to spirit – to the values, the axiology, the Law that limits and defines exactly what you can do as an agent in an Indigenous Program. This is nourished from your layers of axiology, ontology and epistemology (spirit, heart, mind) as you draw metaphors from the field (and your own culture of origin) to build your methodology or practice (feet). This element is all about positioning, sharing and adapting your highest knowledge in response to the other three elements, while remembering that a tree has many roots, and yours is just one of them. None of these elements can exist without constant interaction with community and country.

Relationships and tasks developed without this kind of interaction can be dangerous and highly stressful, due to historical factors that must be faced and overcome. The destructive impact that colonisation is having on human existence must be acknowledged and dealt with before Programs with integrity can be developed. Cultural awareness and generalised protocols for interaction usually prove to be inadequate and tokenistic, with most practitioners facing Hostility and apathy from the colonised community until their Programs ultimately fail.

The standard response then is to choose a side within a false political dichotomy – assimilatory approaches that promote only western knowledge in the name of “closing the gap”, or liberal approaches that celebrate and include Aboriginal cultural “items”, but ultimately maintain the status quo. Both of these ways are unproductive.
Alternatively, a Relationally Responsive approach seeks dialogue, synergy and innovation in the respectful interaction of different cultural systems. From a position of integrity, you need to negotiate pathways, metalanguages and shared understandings within local knowledge frameworks and protocols, and then police those choices. People and groups who rigorously negotiate this cultural interface become immensely productive and innovative, as long as they confront the problematic issues of colonialism that stifle connectedness with local people and places. But those who avoid the undeniable reality of their colonial relationships are inevitably limited by them. At the same time, it is also true that those who focus on colonial relations to the exclusion of all else can become irretrievably disconnected from the world.

The key is to challenge and free yourself from colonial definitions of Aboriginality, and use your new understandings to decolonise your practice. Current definitions and assumptions position us as primitive or tribal cultures that are somehow unable to engage with the outside world, and current Programs reproduce this mythology by limiting our engagement with global knowledge systems. Relationally Responsive Programs must engage with and lay claim to fields beyond the parochial definitions of Aboriginality that have recently been imposed by colonists. Aboriginal intellectual traditions have always enfolded interactions between local and non-local, and our customary ways of doing this can be a source of enormous innovative potential.

Aboriginal knowledge can provide more than interest and entertainment. It can provide the systems, structures and solutions for resolving sustainability issues in any organisation. Relational Responsiveness can be implemented by Aboriginal and non-Aboriginal agents alike. Everything you need to know about the way to achieve this is in the process outlined previously, as shown in the table. If you follow those four steps, always ensuring you do the first two at the start, then you will be working in a relationally responsive way. You will be responding to the relationships established through your respectfulness and connectedness. You will learn from these relationships.

Respect, Connect, Reflect, Direct – in that order. Most Programs in Indigenous communities fail because they start directing, then reflect on their mistakes once they fail, then connect with community to seek assistance, then try to build respectful relationships to heal the damage they have done. By then it is too late. Save massive amounts of time and resources, and always begin with respect.
Introduction

Successful work in a Native Title Representative Body (NTRB), or a Native Title Service Provider (NTSP), or any other organisation that involves dealing with Indigenous people and issues requires an understanding of how local Indigenous people interact, how they evaluate people, situations and events, what issues are important to them, and many other aspects of their ways of seeing the world. These are all part of culture. There is no single Indigenous culture in Australia, and no individual is entirely determined by their culture. There are many different ways of being Indigenous, and individuals’ thoughts and actions are constantly influenced by many complex factors.

Aboriginal societies throughout Australia do share many features of culture, and these often reflect continuities from the times before European invasion and settlement. Some of these features are recognised quite widely in non-Indigenous Australia in the twenty-first century – for example, the widespread Aboriginal taboo on saying the name of a recently deceased person. Other features, while also widespread, are much less recognised in non-Indigenous Australia, but they can have considerable importance in intercultural communication – for example, the frequent productive use of silence in Aboriginal interactions.

In a similar way there are many shared features of culture among Torres Strait Island societies, whether in the islands or on the mainland. Torres Strait Island societies have many differences from Aboriginal societies, as well as some shared features. Given my lack of experience and knowledge about Torres Strait Island culture and communication, and the limited literature on this topic, this contribution deals mainly with Aboriginal culture, and with intercultural communication between Aboriginal and non-Aboriginal people. Non-Indigenous readers working with Torres Strait Islanders might use this chapter as a point of departure for sharpening your sensitivity to areas of possible cultural difference. Remember too that many Torres Strait Islanders who now live in mainland cities and towns may to some extent be using Aboriginal ways of communicating, because of prolonged contact and intermarriage with Aboriginal people, and the degree of shared identification as fellow Indigenous people.

Intercultural interaction

In situations of intercultural interaction, it is common for a person from a minority or dominated socio-cultural group to have an awareness of the culture of the person from the majority or dominant group. The reverse is much less common. Thus, many Aboriginal people are well aware that non-Indigenous people like to ask lots of questions, and expect immediate answers. But many non-Indigenous people are unaware of the less direct ways in which Aboriginal people often find out important information, even if they have worked with Aboriginal people for some time.

Bilingual people can talk in two (or more) languages and bicultural people can interact in two (or more) cultures. Many Indigenous people are bicultural and can switch – consciously or unconsciously – between Indigenous ways of interacting and non-Indigenous ways, depending on the context, the people involved, and the goal to be accomplished. As a general rule, bicultural Indigenous people have had significant long-term participation in non-Indigenous education and/or employment and/or residential, family and leisure domains. Indigenous people who have not had these kinds of participation in non-Indigenous domains are less likely to be bicultural.

Intercultural communication is complex and dynamic, and often involves people from two or more different cultural backgrounds making compromises and adjustments in order to achieve some interactional goal(s).
Many situations of intercultural communication involve complicated power relationships. In the immediate interaction, an Indigenous participant may have some degree of control over the non-Indigenous worker. For example, an Indigenous CEO has authority over other workers, Indigenous and non-Indigenous. On the other hand, a non-Indigenous worker can be seen to represent the dominant society which continues to have considerable control over Indigenous people. Such complex power relationships can sometimes be a hindrance to communication.

The situation is made worse by ignorance about Indigenous ways of communicating, or lack of respect for cultural differences. But awareness and respect for cultural differences, and a joint commitment to achieving specific goals, can often mitigate the negative effects of power imbalances.

It is impossible to provide advice about cultural awareness and intercultural communication without making generalisations. But generalisations can be dangerous, if they are taken to describe rigid patterns of behaviour. My main intention in providing the generalisations below is to outline important aspects of Aboriginal culture which may be helpful for non-Indigenous employees in their communication with Aboriginal people. I also hope that this chapter may be helpful for Indigenous employees to learn about aspects of Aboriginal cultures which non-Indigenous workers may be unaware of, or may find challenging, in carrying out their work in the organisation.

Some widespread features of Aboriginal culture

Family and family relationships are central to identity, obligations, responsibilities and loyalties. The importance of family relationships and responsibilities can be seen in the priority attached to going to funerals, even if this involves a family connection which might seem quite distant in non-Aboriginal terms. Family responsibilities also often involve children being raised in an extended family – parents are not necessarily the primary caregivers. And in many of the more traditionally-oriented communities, it is expected that certain relatives would not take part in the same conversation, for example a man and his mother-in-law. The details differ around Aboriginal Australia.

Points to consider:
- Pay attention to the family relationships and kin networks of the people you are working with (even if this does not seem to be an immediate requirement of your work for the NTRB).
- Consider ways in which the Indigenous people you are working with can see that you are also part of a family – for example, photos of some of your relatives on your desk.
- Spend some time in building your own relationships with people you are working with. In working for an Indigenous organisation, you are becoming part of local Indigenous society to some extent.

Land is also important to identity for most Aboriginal people

The importance of land or ‘country’ is a feature of Aboriginal culture that anyone working in Indigenous affairs will be aware of!

Points to consider:
- Your work in assisting Indigenous people to assert and document their relationship to specific country will help you to understand their identity. It also demonstrates your willingness to engage in meaningful interaction with them.
- When sharing information about yourself, your geographical origins and recent affiliation(s) may be as important to Indigenous people as your academic and employment credentials. This is not to say that non-Indigenous attachment to land can be compared with Indigenous relationships to land. Rather, having a geographical background, as well as a family background, gives people some ways of thinking about who you are.
Section 1: General information for all interns

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Developing and maintaining good social relationships is often more important than adhering to a particular time commitment.

In Anglo societies “time is money”. Work pressures often compel non-Indigenous people to prioritise getting things done to a particular time schedule. These pressures can be at odds with Indigenous priorities of developing and maintaining good social relationships. There can be a tension between “just sitting and yarning” on the one hand, and “getting things done” on the other. Mutual recognition of this tension can provide a basis for culturally-sensitive compromises. And remember that in many Indigenous contexts, “getting things done” might look to outsiders like “just sitting and yarning”.

Aboriginal ways of communicating

Confidentiality and secrecy

Not all knowledge about Aboriginal country and law is publicly accessible. This contrasts in many ways to basic assumptions about public access to historical, legal and religious knowledge in Anglo society. Local Aboriginal and anthropological expertise may need to be sought in relation to specific details. (See Neate 2003, pp 43-54).

Rights to speak

Just because a person knows about something, this doesn’t mean they can necessarily speak about it. Particularly on important topics related to country and religion, there may often be restrictions on who has the right to speak. These restrictions can be related to such factors as seniority, gender, knowledge and particular associations with particular areas.

Taboo relationships

In some of the more traditionally-oriented Aboriginal communities, people observe a taboo on direct contact – including conversation – between a man and his mother-in-law. In such societies, people in this relationship generally cannot sit, stand, talk, eat or travel together. When organising group interviews or meetings, be guided by local sensitivities about which people can be brought together.

Silence

Silence is often a productive part of conversations, especially on important topics. It should not be taken to mean that a person has nothing to say. In general, non-Aboriginal people who are working with Aboriginal people should be aware of the importance of letting Aboriginal people speak in their own time. This means that conversational silences should not always be filled by non-Aboriginal people.

Questions

Indigenous people often ask background questions about people and places – for example, “where he from? where you going?” But there are many topics about which Aboriginal people use less direct ways of finding out information – for example, by yarning around a topic. But questions (as well as interviews and questionnaires) are central to many of the roles filled by non-Indigenous people in their work in Indigenous societies. Non-Indigenous people are often described by Indigenous people as asking too many questions. If your work with the NTRB involves you finding out information from Aboriginal people: think about how to tell people what you need to know, without putting them on the spot. For example, you can say “These are the things I need to find out about, so that I can write the report: ...” and then list some of the topics of investigation. It is also good to acknowledge that you might need to ask a lot of questions, and give people time and space to provide the information needed.
Gratuitous concurrence

Gratuitous concurrence is the tendency to say “Yes” in answer to a question (or “No” in answer to a negative question), regardless of whether the intention is to agree with what is being questioned. It is a common Aboriginal response to repeated pressured questioning, and can be used even if the question has not been understood. It should not be taken to always mean agreement. It can sometimes be difficult to know whether a Yes answer is an answer of genuine agreement or gratuitous concurrence. Thus, when asking questions on important topics, it is best to provide ample opportunity for people to talk about the issues in their own words. This is better than limiting people’s talk to answers to questions.

Asking “Do you understand?” is not a good way to find out if someone has understood your explanation. It is preferable to invite people to explain their understanding of your explanation in their own words.

Shame

The concept of shame is a powerful and complex aspect of Aboriginal cultures. To briefly summarise it, Aboriginal people feel shame in a wide variety of contexts, where non-Aboriginal people may or may not feel embarrassed. In intercultural situations, people have an uncomfortable feeling of shame when being singled out, whether for criticism, or praise, or to provide information. To avoid making someone feel shame, don’t select an individual to perform a task. It is better to let people decide for themselves if anyone should take the lead, or stand out from the group, and if so, who should do it.

Eye contact

Avoidance of direct eye contact is seen as respectful behaviour in many communities, especially in interactions which involve a gender difference, or a significant age difference.

Taboos after a death

In many Aboriginal societies, there is a general prohibition on saying the name of a deceased person for some time after their death. The person can be referred to in terms of relationships – for example, “Harry’s second son”.

‘Four-letter words’

In many Aboriginal societies there are fewer restrictions in informal contexts on the use of what can be called swear. Further, there is typically no gender-related dimension to the use of such language. Women swear as much as men and swearing is not generally considered worse if it comes from a woman.

Language and dialect

There are more than 200 distinct Indigenous languages throughout Australia. Many of these are no longer spoken on an everyday basis, although words and phrases may remain important in the communities where kinds of English are the main language varieties spoken.

Where Indigenous people speak a traditional language as their first language, NTRB workers need to work with an interpreter. See Cooke (2002) for a comprehensive summary of important relevant issues.

In many communities in the Kimberley region of W.A., the Barkly Tableland region of the N.T, and the Gulf country of Qld, people speak a creole language, called Kriol. Although it sounds like English, Kriol is a distinct language, which has developed with influences from English (particularly in its vocabulary) and the local Aboriginal languages (particularly in its grammar). If you don’t know Kriol, you will need an interpreter in working with Kriol speakers. If you assume that you can understand Kriol because it sounds like English, this can lead to many communication problems. The same applies to Torres Strait Creole (TSC, also known as Blakman Tok, or Broken), which is a creole language spoken in the Torres Strait and in some communities in north Queensland. As well as being influenced by English and the Indigenous languages of the Torres Strait, TSC has some influences from Tok Pisin (spoken in Papua New Guinea), Bislama (spoken in Vanuatu), and Solomon Islands Pijin.
Varieties of Aboriginal English are spoken in many communities throughout Australia. ‘Light’ Aboriginal English has many overlaps with other kinds of Australian English, while ‘Heavy’ Aboriginal English has more in common with traditional languages, and in some regions with one of the creole languages. While Aboriginal English is a kind of English (technically a dialect), it differs from other Australian English dialects in systematic ways. These differences are often quite subtle, but have the potential to lead to miscommunication. For further information, see Eades (1992), Arthur (1996).

A few examples contrast
General Australian English (GAE) with Aboriginal English (AE)

**Sounds**

Words in GAE which begin with h, often start with a vowel in AE:
GAE: Auntie Helen
AE: Auntie Elen

And for some speakers, the reverse is also true: words in GAE which begin with a vowel can begin with h in AE:
GAE: Auntie Ellen
AE: Hauntie Helen

If such differences in pronunciation cause confusion, you can clarify with more information:
That’s the old lady who lives next to the Greens?

**Word meaning**

Some English words have a different meaning in AE:
AE: deadly = fantastic
(cf GAE = fatal)
AE: carry on silly = often implies violent behaviour while drunk
(cf GAE = making a fool of oneself, performing antics)
AE: mob = group of people
(not derogatory)
AE: you mob = you (to more than one person, not derogatory)

**Grammar**

In Heavy AE, both GAE he and she are often translated as e.
It is also common for varieties of AE to not require the GAE verb ‘to be’ – for example, is, are, am, were, in many instances:
AE: E small girl, that one =
GAE: She’s a little girl
AE: They still living out there =
GAE: They’re still living out there OR They were still living out there.

As such subtle differences in grammar can cause confusion; you can clarify by checking further:
We’re talking about when you were a kid!
Learner’s English

Learner’s English (or interlanguage) describes the English spoken by people who have not fully learnt English, but who use some English in intercultural communication. It has influences from the speaker’s traditional language(s) and shows some common patterning. Cooke (2002) points out that a common feature of Aboriginal Learner’s English in the NT is the use of the expression ‘don’t have’ to mean GAE ‘must’.

Summary

It is impossible to make hard-and-fast guidelines about intercultural communication. But it might be helpful to remember that respect for Aboriginal people often involves giving people interactional ‘space’. The over-enthusiastic, speedy, ‘in-your-face’ directness of some non-Indigenous people can be perceived as rude behaviour or lack of respect in many Aboriginal communities.

If communication does not seem to be working …

- try talking less, and listening more
- try not to feel uncomfortable with silences – think of your silence as your respect for other ways of getting things done
- tell people that your questions don’t need to be answered today – they might like to think about things, and you can come back another time
- try asking fewer questions, and questions that are more open-ended
- do not interrupt a speaker with questions – listen to the ways in which local people tell their stories
- use ordinary English, not technical language
- talk to a local Indigenous person who has bicultural expertise about the communication difficulties you are experiencing.

Writing in plain English: a few hints and examples

1. Are there any technical words? If so, they probably need to be explained or replaced. The glossary on the National Native Title Tribunal website may be helpful for some of these words: www.nntt.gov.au/What-Is-Native-Title/Pages/Key-terms.aspx

2. Are there any other words which may not be clear to the reader? Use everyday words where possible. (Why use “big words” if you don’t need to?)

   replace: variation
   with: change

   replace: prior to
   with: before

   replace: initiate
   with: begin OR start

   replace: Prior to completing the report …
   with: Before you finish the report …

3. Where possible, write directly to your audience, and make the document personal: use we and you, and names of organisations and groups.

   replace: The meeting will explain the current status of the claim.
   with: At the meeting, we will explain what is happening with the claim.

   replace: The claimants will be asked about …
   with: We will ask you about … OR The lawyers will ask you about …
Section 1: General information for all interns
Chapter 1: Communication, conflict management and dispute resolution

4. Avoid using the passive. The next two example sentences convey the same message:

The Land Council will organise a meeting. (this sentence is in “active voice”)
A meeting will be organised by the Land Council. (this sentence is in “passive voice”)

In both of these sentences, the “agent”, or the person doing the action, is the Land Council. You can use a passive sentence without mentioning the agent:

A meeting will be organised. (by ???)
The issues were discussed. (by ???)

Passive is quite useful
• if the “agent” is irrelevant, or unimportant to the reader
• if you don’t want to say who the “agent” is
• if you want to focus on someone or something apart from the “agent”

But in all other cases, it is better to use the active rather than the passive. It often makes sentences clearer. And people like to know who they are dealing with.

replace: The rent is to be paid by the Minister into the account.
with: The Minister has to pay the rent into the account.

replace: Any variation, amendment or renewal of this lease has to be agreed to by the Land Council.
with: No-one can change this lease or add to it or renew it unless the Land Council agrees. Also note that I have replaced variation with change – see Hint 2 above, and I have replaced amendment and renewal with add to and renew – see Hint 5 below.)

5. Where possible, use verbs rather than derived nouns (these are nouns which are formed by adding an ending such as –ion or –ment to a verb).

replace: action
with: act

replace: requirement
with: require

replace: decision
with: decide

replace: assistance
with: assist OR help

replace: consideration
with: consider

replace: for the avoidance of doubt
with: to avoid doubt

replace: The Land Council is responsible for the preparation of plans for the management of lands.
with: The Land Council has to prepare plans about managing the lands.

OR
The Land Council has to make plans about looking after the lands.

replace: Any renewal of the lease after 2034 must be for at least another 30 years.
with: If the lease is renewed after 2034, it must be for at least another 30 years.
6. Use no more than one negative word in each sentence.

   replace:  not unusual
   with:     common

   replace:  not infrequent
   with:     often

7. Try to shorten long, complicated sentences:
   • sort out the different ideas
   • have only one or two ideas in each sentence, wherever possible
   • start with the main idea

   replace:  In accordance with a preference for the recognition of native title through a mediation process
             rather than a litigated process, the State wishes to establish and maintain a dialogue with native
             title claim groups, their representatives and experts commissioned to research and write their
             connection report. Given the significant costs involved in the preparation of connection reports, open
             and transparent discussions between an author of a connection report and officers of the Native
             Title Connection Unit in the initial stages of preparing a connection report may prove beneficial.

   with:     Many people prefer that the process of recognising native title is done through mediation
             rather than through the courts. For this reason, the State wants to have continuing
             communication with native title claim groups, as well as their representatives and the experts
             who research and write their connection report. It is very expensive to prepare a connection
             report. Because of this it can be helpful for the person writing the connection report to have
             open and detailed discussions with officers in the Native Title Connection Unit.

   replace:  The rent to be paid by the government each year for these lands is $30,000 but other clauses
             say how it is to be adjusted each year and reviewed each five years.

   with:     The government has to pay $30,000 rent each year for these lands. The government has to
             adjust this amount each year and review it each five years. Other clauses explain how this
             happens.

Sometimes Plain English uses more words than unclear English. And sometimes when you explain things
more clearly, and avoid big words, you replace short unclear sentences with longer, clearer sentences.
Section 1: General information for all interns

Chapter 1: Communication, conflict management and dispute resolution

Selected reading

- Sutton P, (1994) ‘... About the gist of what was said’: Communication in the context of Native Title,” In Native Title: An Opportunity for Understanding, F. McKeown (ed.), Perth: National Native Title Tribunal.

Longer reference list

Cross-cultural communication information
Materials kindly provided by North Australian Aboriginal Justice Agency (NAAJA), Darwin.
### Section 1: General information for all interns

#### Chapter 1: Communication, conflict management and dispute resolution

<table>
<thead>
<tr>
<th>Rule</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Avoid using negative questions.</td>
<td>Instead of saying “is he the boss?” say “You never did that before, did you?”</td>
</tr>
<tr>
<td>2. Avoid using auxiliary verbs.</td>
<td>Instead of saying “He finished work then he felt hungry.” say “He felt hungry when he had finished work.”</td>
</tr>
<tr>
<td>3. Define words that are not familiar to the audience.</td>
<td>Instead of saying “Government court.” say “This is a crown land, which is land that the Government owns.”</td>
</tr>
<tr>
<td>4. Avoid multiple clauses in a sentence.</td>
<td>Instead of saying “The police gave you bail, which means you promised to come back to court next time.” say “You have been given bail.”</td>
</tr>
<tr>
<td>5. Use the word “then” when there is a short descriptive statement.</td>
<td>Instead of saying “I’m sure it’s true.” say “What I say now is true.”</td>
</tr>
</tbody>
</table>

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*The government wants to make communities safe places. This can happen if people resolve disputes quickly. Mediation is one way to resolve disputes.*
### Pronunciation Guide for most Aboriginal Languages in the Top End

**Dr Marilyn McIellen—ARDS**

<table>
<thead>
<tr>
<th>Yolŋu</th>
<th>Most others</th>
<th>How to say it</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Vowels</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a</td>
<td>a</td>
<td>as in &quot;about&quot;</td>
</tr>
<tr>
<td>á</td>
<td>aa</td>
<td>Aussie 'ar' with no 'r' pronounced – as in cart.</td>
</tr>
<tr>
<td>i</td>
<td>i</td>
<td>i as in &quot;bit&quot;</td>
</tr>
<tr>
<td>e</td>
<td>ii</td>
<td>ee sound as in &quot;feet&quot;</td>
</tr>
<tr>
<td>u</td>
<td>u</td>
<td>u as in &quot;put&quot;</td>
</tr>
<tr>
<td>o</td>
<td>uu</td>
<td>oo as in school or &quot;or&quot; as in port (Aussie way)</td>
</tr>
<tr>
<td>ø</td>
<td></td>
<td>some have ø as in frog</td>
</tr>
</tbody>
</table>

| **Consonants** | | |
| b | b or p | as in the English 'book' |
| p | | p as in 'pull', but with less air than in English |
| m | m | m as in English 'meal' |
| d | d or t | like d in English 'dip' |
| t | | like t in English 'tip' but with less air. |
| n | n | as in English 'no' |
| l | l | As in English 'law' |
| ch | dh or th | keep tongue between teeth and say 'd' |
| th | | th as in English 'this' NOT as in 'through' |
| nh | nh | keep tongue between the teeth and say 'n' |
| dj | dj or j or lj | j as in judge (or near enough) |
| tj | | like 'ch' as in chirp (or near enough) |
| ny | ny or nj | nya as in Aussie way of saying 'new' |
| ly | | a little like the 'l' in 'llama vine' |
| d | rd or rt | curl the tongue back and say 'd' |
| l | | curl tongue back and say 'l' |
| n | m | curl tongue back and say 'n' |
| l | rl | Curl tongue back and say 'l' |
| g | g or k | g as in good |
| k | | k as in kila, but with less air than in English |
| ng | | as in the English 'sing' but often starts a word. |
| ngg | | ng sound followed by hard g sound |
| r | | like an American 'r' |
| rr | r (Pitjantjatjara) | trilled like Scottish English or Indonesian |
| w | w | w as in English |
| y | y | y as in English |
| r | h | glottal, like the break when we say "uh oh" |
Section 1: General information for all interns
Chapter 1: Communication, conflict management and dispute resolution

A guide to plain English

1. Use active voice, avoid passives
   Change a passive statement to an active statement by supplying an actor [the door]. If the actor is unclear use 'they' or 'somebody'.

   Instead of:
   
   - 'He was arrested.'
   - 'If you tease the dog you will be bitten.'
   - 'You will be paid extra for overtime work.'
   - 'He broke the law so he was jailed.'
   - 'His money was stolen.'

   Try:
   
   - 'The police arrested him.'
   - 'If you tease the dog he will bite you.'
   - 'If you work overtime they will pay you more money.'
   - 'He broke the law so they put him in jail.'
   - 'Somebody stole his money.'

2. Avoid abstract nouns
   Replace abstract nouns with verbs (doing words) or adjectives (describing words). An abstract noun is something that is intangible, like an idea or feeling, and cannot be detected with the senses.

   Instead of:
   
   - 'It has no strength.'
   - 'That was due to his good management.'
   - 'His patience has run out.'
   - 'His anger led him to violence.'
   - 'He enjoys going for a run.'

   Try:
   
   - 'It is not strong.' (adjective used)
   - 'He managed things properly, so that happened.' (verb used)
   - 'He will not be patient any more.' (adjective used)
   - 'He was angry. That made him violent.' (adjective used)
   - 'He likes running.' (verb used)

3. Avoid negative questions
   Instead of:
   
   - 'Isn't he the boss?'
   - 'You never did that before, did you?'
   - 'So you didn't report the trouble?'

   Try:
   
   - 'Is he the boss?'
   - 'Have you ever done this before?'
   - 'Have you reported the trouble?'

4. Define unfamiliar words
   Use the word, then attach a short descriptive statement.

   Instead of:
   
   - 'This is crown land.'
   - 'You have been given bail.'

   Try:
   
   - 'This is crown land, which is land the Government owns.'
   - 'The police gave you bail, which means you promise to come back to court next time and not get into any trouble while you're waiting for court.'

5. Put ideas in chronological order
   Instead of:
   
   - 'Prior to leaving the hotel, you had a drink.'
   - 'You’re scheduled to move into the house next week, but you haven’t signed the tenancy agreement.'
   - 'Today we need to decide whether you’re going to have surgery, based on your test results from last week.'

   Try:
   
   - 'You had a drink at the hotel. Sometime after that you left the hotel. Is that true?'
   - 'First you have to sign the tenancy agreement. Then you can move into the house next week.'
   - 'You came in last week and we checked [your blood]. Today I want to tell you about that blood test, and then we can decide what to do next.'
6. Avoid multiple clauses in a sentence (one idea, one sentence)

Instead of:
- "Early resolution of disputes, especially through mediation, which contributes to building safer community environments, is encouraged."

Try:
- "The government wants to make communities safer. That can happen if people solve arguments quickly. Mediation (talking about problems) is one way to solve arguments."

7. Be careful when using words like ‘if’ and ‘or’ to talk about hypothetical events which have not happened yet

Instead of:
- "If the corrections officer approves, you can go to the football game."

Try:
- "You must ask the corrections officer about going to the football game. Maybe he will say that you can go. Maybe he will say you cannot go. You must do what he says."

8. Place cause before effect

Instead of:
- "You're going to be imprisoned for three weeks because you didn't comply with your orders."

Try:
- "You were angry due to him insulting your sister? He insulted your sister and this made you angry. Is this true?"

9. Indicate when you change topic

For example, try:
- "I've finished asking about your job. Now I need to ask you about your family."

10. Avoid relying heavily on prepositions to talk about time

Propositions are words like to, from, on, at, under.

Instead of:
- "The program will operate from Wednesday to next Tuesday."

Try:
- "The program will start on Wednesday and then finish next Tuesday."

11. Avoid figurative language

Instead of:
- "Fight for your family."

Try:
- "Work hard to keep your family together."

Some content adapted from "Helpful hints for cross-cultural communications in the Top End," a joint publication by the Australian Society for Indigenous Languages (AusIL) and the Northern Australia Aboriginal Justice Agency (NAAJA), 2011. Used with permission.

www.nt.gov.au/ais
### Guide to Aboriginal languages in the Northern Territory

#### Most widely spoken languages

<table>
<thead>
<tr>
<th>Language</th>
<th>Region</th>
</tr>
</thead>
<tbody>
<tr>
<td>East Sidi/West Side Knil</td>
<td>Katherine</td>
</tr>
<tr>
<td>Yolngu Matha</td>
<td>Top End</td>
</tr>
<tr>
<td>Warrpiri</td>
<td>Katherine, Tennant Creek, Alice Springs</td>
</tr>
<tr>
<td>Pjitjantjara +</td>
<td>Alice Springs</td>
</tr>
<tr>
<td>Murrinh Patha</td>
<td>Top End</td>
</tr>
<tr>
<td>Anindilyakwa</td>
<td>Top End</td>
</tr>
<tr>
<td>Eastern/Central Arram, Western Arram +</td>
<td>Alice Springs</td>
</tr>
<tr>
<td>Kurwunjku</td>
<td>Top End</td>
</tr>
<tr>
<td>Burana</td>
<td>Top End</td>
</tr>
<tr>
<td>Modam Tiwi</td>
<td>Top End</td>
</tr>
<tr>
<td>Luritja/Pintupi +</td>
<td>Alice Springs</td>
</tr>
<tr>
<td>Gurindji</td>
<td>Katherine</td>
</tr>
<tr>
<td>Maung</td>
<td>Top End</td>
</tr>
<tr>
<td>Alyawarn/Arrmatyerr +</td>
<td>Alice Springs, Tennant Creek</td>
</tr>
<tr>
<td>Warnumungu</td>
<td>Tennant Creek</td>
</tr>
</tbody>
</table>

* Western Desert family  
+ Arandic family

Language families are indicated where there is a degree of mutual understanding between language speakers.

The Northern Territory is one of the most linguistically diverse areas of the world. This information is not intended to be exhaustive of all languages and dialects spoken in the Territory. For comprehensive information about Aboriginal languages of the Northern Territory visit [www.alatsis.gov.au](http://www.alatsis.gov.au).
WHY WARRIORS LIE DOWN AND DIE

EXECUTIVE SUMMARY

The book "Why Warriors" looks at why the Yolŋu (Aboriginal) people of north-east Arnhem Land face the greatest crisis in health and education since European contact. Of course it is easy to point to problems but hard to find answers, as the following statements and quotes from the book reflect;

How have the Yolŋu dreams of self-determination and self-management of the 1970s turned into a nightmare in the 1980s and 1990s?

As one community leader said, 'I sometimes get headaches thinking about how the situation has turned around for me and for the community, and inevitably get bedridden for several days from the pain this causes.'

Why are many Yolŋu professionals like teachers and health workers able to spell and use words such as 'liability', 'bacteria' and 'virus' but not know what they mean?

'I've been a health worker for twenty-five years, but I still don't know what bacteria are. I have all the names for them in my mind but I don't know what they are.'

How is it that the grieving mother of a dead child knew the names of the medication (like Panadol and Amoxil) given to her for her sick child but did not give the medication to her child she knew was dying? I asked her if she knew what Amoxil was. She said. 'Yes, it's an antibiotic.'

I continued, 'Do you know how antibiotics work or how they can make you better?'

'No, it's Balanda (European) medicine,' she said. 'I know its name and all that, but I don't know how it works.'

'Did you give him the Amoxil?' 'No, because he was so sick. I didn't know what it would do to him.'

Her child died in her arms as she carried him to the health clinic. This mother spoke good English, so what went wrong?
How can another Yolŋu patient who spoke, read and wrote English very well, spend 13 years trying to understand what the medical personnel were trying to tell him about his kidney and heart condition? Then a twenty-minute interview allows him to understand and comply with the doctor's instructions and change his lifestyle - but too late to save his life.

*David had no more questions. We left the clinic and went back to his office. He was quiet and I asked him if there was anything wrong.*

*‘They've been telling me about my kidneys for thirteen years and only today have I understood what they meant,’*

An analysis is needed to understand why so many things are not working. And analysis is difficult in a cross-cultural/cross-language situation. This book attempts to do that analysis.

Why Warriors uses history, narrative and case studies to give a glimpse of life from the other side of the cultural and language divide. Initially it speaks of some of the history of Arnhem Land. It tells of four wars spanning a period of about fifty years. Through these wars many Yolŋu clans were decimated, with some wiped out or on the edge of extinction and their traditional economy in ruins.

Then came a period of mixed blessings during the mission and welfare era. *The physical wars stopped, but this ‘peace’ was marred by a new, more subtle battle, a battle in which Yolŋu fought against all odds to remain independent.*

*In this fight many tried to remain on their homeland estates while others turned to mission or settlement life and learnt new trades, hoping to be accepted in the white man's world. Yolŋu thought they had finally made it in the 1970s when ‘self-determination’ and ‘land rights’ were talked about. These English words sounded like independence to them, but they meant something completely different to the Balanda (Europeans) who used them.*

The past was hard on Yolŋu but surely things have changed for the better in this 'enlightened age'? Yolŋu know they have not. *By 1991 Yolŋu were suffering a death rate five times the national average. To find the reasons why, we need to look at life through Yolŋu eyes and catch a glimpse of the daily reality that Yolŋu face in this modern world. When we do so, it quickly becomes clear that Yolŋu have lost control of their lives and their contemporary living environment.*
Many factors contribute to this loss of control. They range from poor communication thorough to psychosocial phenomena such as 'culture shock', 'future shock' and the 'multigenerational legacy of trauma.

Others factors include:

* the diminished authority of traditional leaders;

* an almost total loss of employment during the 1980s and 1990s;

* untrained resource staff;

* welfare now being their central economic activity;

* massive confusion among Yolŋu about how the modern world around them operates;

* the insecurity Yolŋu have about the tenure of their estates;

"the non-recognition of their ancient law, that once brought peace and prosperity, leaving Yolŋu in an seemingly uncivilised, lawless crisis.

Information is power. Yolŋu live in a community that is deprived of information from the modern outside world; a world that now shapes and controls their lives.

The European Economic Community currently requires its doctors when moving from one country to another to learn the language of the host country, yet the same is not considered necessary for medical staff who work with Yolŋu. Almost all doctors, sisters, teachers and community resource personnel come to Arnhem Land without any language training. Nor do they have any other special training as to how to communicate, without the people’s language, across the cultural and language barrier.

Most Australians do not even understand that this communication crisis exists. In fact, many times it is dismissed as ‘humbug’ with statements like 'The people should just learn English' or 'I can make them understand me using English'. Unfortunately Yolŋu do not think in English so they have difficulty communicating and constructing knowledge in English. In reality it is yet another war that Yolŋu are being forced to fight- a war of words and misunderstandings.
Poor communication leads to dangerous, life-threatening misunderstandings between medical professionals and the people. It turns education into a farce and makes economic development almost impossible.

Everyday diseases and sickness are not understood by the Yolŋu patients and sometimes even Yolŋu health workers. This results in the Yolŋu communities become more and more dependent on outside medical services as the confusion about new diseases and medical condition increase. Yolŋu also find it impossible to comply with instructions that make little or almost no sense to them. This war of words leaves Yolŋu casualties suffering from poor health and premature deaths.

Teachers and trainers arrive in Yolŋu communities unable to communicate effectively with the people they have come to teach and empower with knowledge. Their teaching or training experience soon turns into a nightmare and they are not sure why, many blame themselves for the situation.

Yolŋu on the other hand, become tired of schooling and training where they learn almost nothing. Comprehensive English to Yolŋu Matha (the people's language) dictionaries do not exist. Therefore Yolŋu cannot self-learn or understand what the hard or “secret English” terms mean. Nor do Yolŋu professionals and adults have a dictionary to assist them to understand the technical terms in the many letters and communiqués they receive. This war of words cuts them adrift in a sea of uncharted language without a paddle or a map to guide.

For any group of people to understand or learn they must have access to information which makes good sense to them. The information needs to be communicated in a language in which the people think and construct knowledge. It must be built on their "cultural knowledge base" and explained through their world-view. Otherwise it will make no more sense than a Japanese classroom would make to an English speaking Australian born and bred child. Yet the Yolŋu are blamed for not learning and understanding in an Australian classroom where English is the language spoken and the "cultural knowledge base" and world-view being used is from an almost totally foreign mainstream Australian culture.

Economic development also becomes virtually impossible as Yolŋu committees and boards flee meetings before decisions are made because communication has become "like a bomb thrown in front of them". At other times they just say "yes" to almost anything that is put to them, having committed themselves to a conversation in English that they find they cannot understand. Embarrassment sets in and the
people just want to flee, hoping nothing important is being said to them. The war of words leaves them economically, intellectually and emotionally shattered.

The cost of being different! Yolŋu also suffer because they come from a different cultural group. That is, within their own culture they had their own doctors, midwives, teachers and professors, but they were seen by dominant culture Australians as primitive or even evil.

Yolŋu economic, legal and education systems were also not recognised by those who arrived on their lands because due to this idea that they were primitive and simple people without these developed systems. The cost of being different has destroyed or damaged the very systems and social fabric that Yolŋu need to function as a cohesive and progressive group of people.

Addressing the causes or the symptoms? "Why Warriors" goes on to analyse the primary causes of "this crisis" and the symptoms that stem from them. Through this analysis it seems that most of the present programs are designed to deal with the symptoms not the underlying causes. No matter how good the intentions of the program developers and their implementers are, treating the symptoms and not the primary causes leads to a compounding of the problems and a waste of government money. Maybe we are spending good money to make the problem worse!

The way forward. When the primary causes are identified programs can be developed that will return real control into the hands of the people. When Yolŋu receive real knowledge and information that they understand, they will create their own intervention strategies to deal with particular problems.

These interventions and strategies will:

* suit their cultural way of life and their particular environmental conditions making them sustainable and ongoing because the people design and therefore 'own' them;

* be cost negative, in many cases, to government because the most valuable resource of all, the Yolŋu citizens; will have been released to initiate, innovate and construct their own future.

From the outside the problem will just seem to disappear, as the people will be in control of their own lives and living environment once again.

If the approaches that Why Warriors suggests are implemented we can avert an even greater crisis than the one that is occurring right now. With new-world
knowledge the Yolŋu of Arnhem Land can stand shoulder to shoulder with other Australians, proud of their history and traditions and be djambatj mala (great warriors) once again.

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Email; wwaccounts@whywarriors.com.au

Why Warriors Pty Ltd provides free support services to remote Aboriginal people, and provides cross-culture training to mainstream personnel. Why Warriors aims to empower Yolŋu people to live out their full potential, and build capacity and understanding between Indigenous peoples and the Dominant Culture.
Things I’m glad someone told me (or wish someone had) when I started.

Whether you get your start in the desolate, isolated chaos of Bourke or the apparent, but false chic of Newtown, there are many things about this profession that are useful to know but you don’t always get told about. What follows is a list of things I have learned both the easy way and hard way over the last few years that I regularly try to remind myself of.

Views expressed in this paper are of course mine alone, and though you may think it comes across as didactic (which it does), and though you might think of me as a hypocrite (which I am), and though you have oppositional defiant disorder (which you do – you are an ALS lawyer), I hope you will find it useful anyway as you plunge head first into the depths of this wonderful, paradoxical, and bemusing world of criminal defence.

1. Don’t do this for the thanks. You will both win praise from, and get criticised by, clients when it is totally and utterly unwarranted. True satisfaction can only come from within – when you know you have given all that you can and have done the work with as selfless an attitude as possible. Doing this job for the thanks is a mug’s game.

2. Don’t try to save the world. You cannot. You are not the master of the universe. The sooner you realise this the better. The social problems underlying the criminal behaviour of your clients existed long before you got here, and will continue to exist long after you leave. Which isn’t to say you shouldn’t try your best for each client – you should, and indeed you must. But don’t try, for instance, to get a client to do D&A counselling if they’re not keen to do so. Don’t take it personally when all your efforts to get a client a bed in rehab, or a suspended sentence etc. get laid to waste by further offending. It is inherent in the social problems we deal with that the blunt instrument of the criminal law is ultimately an imprecise and often misguided means of trying to “rehabilitate” an individual or a community. The inability to “save” them is not your fault. And it never will be.

3. Do not compromise your ethics. There will be opportunities and there will be temptations, often borne out of a genuine and understandable sense of injustice at your clients’ plight. Don’t. No one client and no one matter is worth your practicing certificate. Know your role, and operate within the bounds given to you.

4. Do not allow yourself to be bullied. There are people who work within the system, including but not limited to, correctional officers, police officers, sheriffs, police prosecutors, court staff, and yes, even magistrates, who think of our role as being inconvenient at best, and illegitimate at worst. There is then a tendency on their part, whether intentional or inadvertent, to bully you into being meek
and compliant with the way they want you to do things. It is most marked in
country practice where we come across the same people week in and week out.
It is generally insidious and not directly perceptible, but discernable nonetheless
in some of the following things: attempts to get you to rush client conferences, or
put undue pressure on your clients to plead guilty to everything as charged/not
run defended hearings; it will sometimes manifest itself in snide remarks about
your ethics or even morals, a refusal to involve you in conversation at morning
tea, "friendly" advice to not take yourself or your job too seriously. Bear in mind
that a good relationship with all these different parties is essential to running an
effective practice for our clients, so do not pick fights with any of them save in
the most exceptional circumstances. But do not allow such subtle forces to guide
your forensic decision making. Our clients deserve better than that.

5. You are not your client’s mouthpiece. Don’t allow yourself to simply relay
information from your client to the court or other parties such as police or
probation and parole. You must subject your instructions to your critical
thinking. In appropriate circumstances, you should cross-examine your client in
conference and/or insist upon independent verification of an assertion before
accepting it as something you can put to the court. If the client seems confronted
or alienated by this, it is worth explaining that this is simply a precursor to what
could happen in court, so it’s better that it comes from you than from a
magistrate or prosecutor. A lot of our clients seem to think that if they can pull
the wool over our eyes, we will somehow be able to pull the wool over everyone
else’s eyes for them. The classic example of this is the “explanations” often
provided for why an offence took place. It is amazing how so many practitioners,
even after years of practice, continue to take their client’s instructions at face
value and end up irritating the bench to such a degree with ridiculous
explanations for offending behaviour that what little good submissions they have
got drowned out. This is terrible advocacy, does clients a terrible disservice and
should be avoided.

6. Be completely across all the material in your file. Nothing is more likely to
win a client’s confidence than a lawyer who is clearly on top of the case. Never
conference a client without having read every single piece of paper in the file
beforehand. For fresh custodies, it means total mastery of the facts and record
before you enter the cells. In a defended hearing, it is mastery over the full police
brief of evidence. This will allow you to take charge of the conference and
extract all relevant information from the client efficiently.

Whilst you’re at it, it’s always a good idea to take brief instructions about current
subjectives (where the client is living, any new courses or employment they’re
doing etc.) – we often get asked these sorts of questions by magistrates and
excusing our backs constantly during the proceeding to get this information we
should really know is not awe inspiring advocacy. Similarly, “I don’t know, it’s
not my matter, my colleague has carriage of this” are some of the most pathetic
words you’ll ever hear in court. Watch how magistrates react every time you
hear a lawyer say that. Try to ensure you never have to utter those words. Know
your file.
7. Always refer back to the elements of the offence and have a quick look at the commentary on the section when trying to assess the strength of the prosecution case – even for offences that you have become familiar with. You never know what ideas can come up.

8. Read case law relevant to a matter that you have. Some say you should read a case a day. And you should, if you can. But if you can’t commit to that, read cases relevant to some issue you are trying to figure out as you go along. This will ensure you have a frame of reference when trying to understand the case, and you will be less likely to forget those principles the next time you encounter the same issue.

9. Know more about your case than every other person in that court room or do not stand up. This won’t happen for at least the first six months of your practice but it is something to aspire to. Out-researching and out-investigating the prosecution is not as hard as you might imagine. One example of how to do this is (time permitting of course) is to have a view of the scene of the alleged crime. You will, without exception, learn something new about your case, or see it in a different light. Watch effective lawyers in action – they are invariably more on top of the case than everyone else in court. No surprise then as to why they are so effective.

10. Be across the law and ethical rules that apply to convenience pleas. Convenience pleas should in principle be avoided wherever possible but it is a reality of ALS practice that a significant number of your clients’ pleas of guilty are on a convenience basis. Let’s be honest— almost always, our clients are not actually agreeing to plead guilty to something they didn’t do – they are refusing to admit guilt to something they did do but for various reasons (denial, embarrassment etc.) won’t to their legal representatives or the world at large, and we as lawyers accommodate this charade by taking the plea on a “convenience” basis. See Peter Hidden’s paper “Some Ethical Problems for the Criminal Advocate” and ensure you know Wong v DPP (2005) 155 A Crim R 37 and Meissner v The Queen (1995) 184 CLR 132 - both well summarised by Johnson J in R v Wilkinson (No. 4) [2009] NSWSC 323 (21 April 2009).

This is a tricky area, and it is essential that you understand the ins and outs of it— what consequences it has for your clients, the need for clear signed instructions, the efficacy of a full pre-sentence report where a client is not admitting guilt, what submissions you can and can’t make in such circumstances, what evidence you can and can’t call etc.

11. Manage your clients’ expectations. You are not a magician. The clients need to know this. People have funny ideas about what it is that we do, probably from watching too much TV or reading or hearing things in the media where it seems that you can buy acquittals by the quality of legal representation you can afford. There’s no doubt that effective legal representation can make a big difference in a case, even a spectacular difference, but these are the exception and not the rule. Regular doses of reality checking is essential to keeping a client happy and reducing the likelihood of a complaint.
12. Complaints are inevitable and unavoidable. It is the nature of the type of law we practice and the kinds of people we deal with that we are soft targets when things go wrong. Don’t take it personally. But cover your backside by being professional at all times. Keep good file notes, and get signed instructions when and where possible.

13. Develop an interest in improving your advocacy. There’s no use knowing any of this stuff if you are unable to translate it into advocacy in court. The good news is that virtually all advocacy books and courses tell us that it is a skill that can be improved with practice. It is analogous to cooking – you can learn the basics from books, watching others, and getting pointers from those more experienced. But after that, you need to actually do it, stuff it up, do it again, stuff it up again, and so on until you get it right. And you will get it right – but it needs time, it needs thought and plenty of effort. Despair not.

14. Do not raise your voice at the bench. It almost always gets you nowhere. I learned this the hard way, though I have to say, nothing is more likely to win your client’s total confidence than a good old-fashioned stoush with a magistrate. That said, don’t back down from a submission that you have constructed after careful consideration – chances are, you are right, and if (and only if) it is crucial to your case, ask the magistrate to state reasons if they disagree with it. Similarly, err on the side of pressing an objection and asking for a ruling rather than withdrawing it if a magistrate or prosecutor seems to be bullying you into backing down and you are not persuaded that you are wrong. But you must not, under any circumstances, be anything but polite and courteous, even and especially when the bench is being anything but.

15. There is no such thing as a stupid question. Truly there isn’t. When you start, it is often the simple procedural things that are the most daunting – when do I sit down and when do I stand up? When do I make submissions? When do I get to call my client? Much of this you learn simply by doing and almost all magistrates are forgiving enough to tolerate little procedural errors in your first few months. However, there is no harm in asking your colleagues these sorts of questions before you walk into court.

Senior lawyers often have been around for so long that they forget how much anxiety little things can cause junior lawyers. Thus they simply don’t think to tell you about them. All that means is that the onus is on you to seek out the answers to these questions. The same goes for questions on legal issues, or how to manage a client or family member, or how to approach a prosecutor to negotiate a plea and so on. There is nothing more worrying for a supervising lawyer than a junior solicitor who doesn’t ask questions. Don’t be afraid to ask them.

16. Workshop your defended hearings and trickier sentence matters with colleagues. Even from other offices. You will almost always get better ideas on forensic decision making and tactics from discussing your case with someone else. I suspect other organisations in our profession do not have the same level of collegiality that we have and it is there for you to take advantage of and
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contribute to. The more you discuss your cases with others, the more people will want to discuss their cases with you too – this exchange of information and ideas is probably the most satisfying and interesting part of our job. Many a 2 AM on a weekday of mine has been spent on the phone with a colleague in an office hundreds of miles away analysing some esoteric aspect of the Evidence Act for an upcoming defended hearing. Those are my favourite memories of my ALS experience thus far and have brought me some of my closest and most important friendships.

16. Always have a case theory. Doesn’t matter if what you’re doing is a bail application, a forensic procedure application, a sentence submission or even just a mention. Know what you want, why you want it, and how you propose to get it. On the topic of mentions, remember that a mention is never just a mention. All sorts of things can happen when a matter is “just a mention”. Just ask anyone who has asked for a PSR without preparing for sentence in Dubbo on a day when a matter was “just in for mention”.

17. Ensure you own the following three books: the latest edition of Odgers’s Uniform Evidence Law, the latest edition of Howie and Johnson’s Criminal Practice and Procedure, and a recent edition of David Ross’s Ross on Crime. If you are really keen, get Pearce and Geddes’s Statutory Interpretation in Australia. We paid thousands as uni students for ridiculous textbooks we never used. Surely, even on the meagre salary we are on we can afford these. Tax deductible as well mind you. Ross on Crime incidentally is highly entertaining in its own right. Read it for fun. I’m being deadly serious.

Make sure you also have the Legal Aid Criminal Law Solicitor’s Manual and/or the NSW Young Lawyers’ The Practitioners Guide to Criminal Law (now a bit out of date). Both these texts are available online to be printed free of cost and they are goldmines of practical tips.

18. The bench sees nothing until you have had a chance to see it first and raise an objection if necessary – PSRs and Justice Health reports excepted of course but even there you have the right to object to material contained therein. Train everyone in court including the court officer, prosecutor and magistrate to know that you will insist on seeing each and every single document handed up to the magistrate. Eventually, they will adjust their ways. It matters not whether it is a Queensland record you were unaware of, a subpoena to give evidence or a facts sheet on a sentence matter – if it doesn’t cross your eyes first, it does not go up.

19. Use the Legal Aid library to help you find obscure cases or other materials if they are not readily available on our LexisNexis subscription or traditional shelf resources. The library staff are the unsung heroes of Legal Aid - consummate professionals and thoroughly helpful, even at very short notice. They are remarkably quick too. A wonderful resource – only a phone call (9219 5844) or email (library@legalaid.nsw.gov.au) away.
20. Think carefully before writing representations. It is always beneficial to all parties involved in a criminal prosecution if a plea agreement can be reached by negotiation. However I personally err on the side of not writing representations, unless I am satisfied that: a) the proposal I have in mind is the outcome that I in fact want; b) it is the only sensible way of procuring it. It is important to understand the official process of how representations are dealt with by the prosecution. It is often the case that a prosecutor will consider his hands tied on the day if representations have been considered and rejected. But equally, it is often the case that a headstrong officer in charge will get told what’s what by a Crime Manager or Senior Police Prosecutor if reasonable representations are put in. However, be aware that the official process is sometimes superseded by local custom depending on where you are practicing. Plea negotiation is often most fruitful in a circuit court on a Friday morning when there are several hearings listed and there is nothing wrong about taking advantage of this fact if you are acting within your ethical boundaries. In all circumstances however, do not ever disclose your instructions when writing representations, and always consider whether or not your representations could cause the police to fix a weak case by having their weaknesses pointed out to them.

21. Spend some time gaining mastery over the following areas of law: s 32/33 and fitness to plead; call-up of s 9 and s 12 bonds – most practitioners and prosecutors, and many magistrates do not understand these areas well, and it is your responsibility to do your best to educate all those involved during the course of the proceeding on how they work.

Also, ensure that you understand thoroughly both limbs of the “Bourke Defence”. You will hear lots of people advise you that if a witness does not turn up in a hearing, then it is game over for the prosecution. Often, that is indeed the case. But it is not a given. You need to understand the different things that can happen if a witness does not turn up or does turn up but is unfavourable to the prosecution. See Tom Quilter’s paper “Dealing with Absent and Unfavourable Witnesses”.

22. You will make mistakes. Lots of them. Even twenty years from now. Get used to it. Use them as opportunities to reflect and get feedback, and try harder next time.

23. You are not expected to know everything and be a perfect practitioner within a few months of practice. This is an absurd expectation. The profession is diverse and interesting enough to sustain a lifetime of learning. It is as challenging or boring as you make it. Life experience more than anything seems to dictate how quickly someone catches on in this profession. We all have to learn at our own pace. Our clients on the whole would much rather have an enthusiastic, but attentive lawyer with little experience, than a knowledgeable
but disinterested lawyer with more experience. So would I. Your inevitable lack of knowledge in your first few months is not the handicap you think it is.

24. Be open to new experiences both within and without the law. As mentioned, life experience is essential. As you take on more responsibility with indictable cases, it becomes increasingly crucial that you are able to know what's going to wash and what's not going to wash with a tribunal of fact. Step outside your comfort zone and learn a bit about yourself and the world around you.


26. Know that this profession is full of crazy people and addicts. Look around you. Can you name yourself ten people who have been in this profession for more than twenty years who are not in some way insane? I can count them on one hand. In all seriousness, whether this is correlative, causative or both is anyone's guess, and obviously what you do in your personal life is a matter for you. It's not my place to lecture you, or anyone else for that matter, on how to behave and what to consume, but there can be little doubt that the criminal defence community is rife with people who drink too much, smoke too much and/or have dysfunctional personal lives in one way or another. More than just occasionally, I have walked away from court or come to the end of a particularly gruelling week, and thought to myself that I could use a rather stiff drink or seven and a bunch of smokes thrown in for good measure. Fortunately thus far, it has not become a habit. But a habit is never far away if you're not watchful. None of us are immune.

27. You are not alone. Help is but one phone call away. Criminal defence lawyers are a small community and are by and large keen to lend you their time. This can be a stressful and lonely experience. It doesn't have to be. Whether your problem is legal, personal or otherwise - do not be shy to ask for help.

28. Don't count your wins and losses. This is a completely meaningless exercise. I counted my win/loss record for the first six hearings because I lost all of them. But in time, you realise that there are innumerable variables, most of which are beyond your control, that go into a win or loss. When you analyse most wins or losses closely, you'll find that in the end you probably had very little to do with the ultimate outcome. Some cases win themselves, some cases lose themselves – there's little point getting too proud or too cut when a matter wins or loses. Win or lose, after any hearing, ask yourself if you could have done anything differently or better. The answer to this question will be much more telling than the simple fact of the win or loss. That said, it probably does pay to observe a general trend (assuming that you have a fair minded magistrate who has a doubt) - if you win almost all your hearings, you are probably not running enough, and if you're losing a great deal, maybe you're running too many.

On a similar note, you will on occasion have to run a dead loser because your client simply will not plead in the face of an overwhelming case. As long as the
client is making an informed decision and you find this is not happening to you all the time, there's nothing wrong with this. You are much less likely to draw a complaint from a client who loses a defended hearing, than a client who is dissatisfied with a sentence after pleading guilty. And besides, you never ever know what might happen in a defended hearing. Quite literally, anything can happen.

29. Try to not let your ego dictate whether or not you do something. This probably applies to everything you ever do in life, but as a lawyer, I mean specifically the decisions you make to cross-examine a witness, or lodge an appeal, or argue for a suspended sentence etc. Notions like “if I do it, will I look like a turkey?” or “what if my colleagues will read the transcript?” are not sound bases for decision making. Equally, it is ill advised to run a matter because you think it might be fun, or you want to stick it to a prosecution witness. Your client's best interests must always be your paramount concern.

30. Don’t run anyone down. This includes clients, prosecutors, colleagues, other lawyers, magistrates— anyone. From a purely pragmatic point of view, you just never know who knows who, and who might get insulted. And you just never know who might come in handy for you one day when you need their help — be that an emergency listing for bail, an adjournment application, or help locating a client. As Dale Carnegie says in How to Win Friends and Influence People: “If you want to gather honey, don’t kick over the beehive.”

31. Keep good files. This isn’t hard. Fill them out whilst the magistrate is mentioning all the unrepresented matters or calling through the AVO list and you’re stuck at the bar table. We all know that feeling of gratitude when picking up someone else’s file that has been well noted up and you can figure out what’s going on in a matter within seconds. It doesn’t take much to return the favour. Also keep legible file notes so your colleagues don’t have to scratch around taking hopeless instructions on bail and looking for access to bench papers to see if there’s a 22A issue. Good, concise file notes can make a remarkable difference to our clients’ confidence in us when a new lawyer comes into a matter and doesn’t require the client to repeat the instructions already given.

32. Don’t feel compelled to drive at odd hours or at less than safe times. This applies mainly to the country practitioners. People have different opinions about this, but I think it’s better to stay a night in a dodgy motel somewhere rather than run the risk of being scraped off the Mitchell Highway after hitting a roo like so many ALS lawyers have been before us. You’re no good to your client tired. You’re even less good to your client dead. The ALS is not so devoid of funding these days that you can’t apply for travel allowance in the appropriate circumstances.

33. Get to court early. Even though your clients may not. The time between 09:00 – 09:30 is the most valuable you have at court. Whether it is because of the registrar’s call over on a list day, the availability of the prosecutor to negotiate a plea agreement on a hearing day, the opportunity to clarify your
instructions or simply get a bit organised – the earlier you get there, the less stressful your day is likely to be.

34. Always know what you want to say in closing, but know that things rarely ever go according to plan in a defended hearing. When preparing for a hearing, after having mastered all the materials in the file and the relevant case law, you should start with writing out your closing argument. Only when you know what you want to stay in closing can you possibly know what to cross-examine on and what evidence to call yourself if any. You should keep refining your closing during your preparation until you have a game plan that you know can carry the day. Yet, you ultimately need to be flexible enough to drop your game plan if necessary during the course of the hearing if, as it inevitably does, something unexpected happens. This confidence can only come with experience, but thorough preparation and extensive consultation with your colleagues should ensure that you are not completely off track when you start out.

One useful technique when preparing a hearing is to map out what you would argue as a prosecutor at the close of the case. This will make the weaknesses and strengths of the prosecution case evident to you, and thus also the obverse – the strengths and weaknesses of the defence case. Knowing the parameters of why a case is strong or weak is essential to being able to persuade a magistrate that he or she should have a doubt and is essential to being flexible when the unexpected happens and the case you’ve prepared to meet changes.

Incidentally, none, and I really mean absolutely none, of the conventional wisdom, contained in advocacy books and courses, applies to domestic violence hearings. Domestic violence hearings occur in an inverted world of their own.

35. Consider the viewpoint of the person you want to persuade. Be it a magistrate on penalty, a prosecutor in fact negotiations or a client on a plea offer—having the empathy to understand where another person is coming from is half the battle in figuring out what to say, if anything, on a given topic. Remember, no one ever really does anything unless they want to do it. Your job as a professional persuader is to figure out what it is that another person wants, and tailor what it is that you want, to appear to fit within what it is that they want. For example, a client might instruct you to offer a certain residential address on bail, or make a particularly provocative submission about a victim on sentence, that you, through your good common sense, have determined is a counterproductive. Most clients will accept your judgment on this if you can get them to understand that it is not in their interests to get the magistrate offside. "Think of it from the magistrates point of view..." is a fairly safe way of dissuading a client from strongarming you into a ludicrous submission.

36. Attitude is everything. Much of this paper has been about attitude. Your experience of this profession, like much else in your life depends on the attitude you bring to it. People who are successful in this profession, and by successful, I mean, motivated, competent, empathetic and not cynical even after having done it for many years, are without exception people who approach their work and their life with the right attitude. The world you experience is nothing but an echo
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Additional reading

Further suggested cross-cultural materials (click on hyperlink):

- Aboriginal Resource and Development Services, ‘An Absence of Mutual Respect’
- David Ross, ‘Defending Aboriginal people’
- Desert Knowledge CRC, ‘Ngurra Kurlu – A way of working with Warlpiri’
- Diana Eades, ‘Aboriginal English’
- Diwurrwurrjaru Aboriginal Corporation, ‘Some skin names and moiety names of the Katherine region’
- Dr Michael Cooke, ‘Anglo/Aboriginal communication in the criminal justice process: A collective responsibility’
- Dumoo v Gardiner (1997), Unreported Judgments NT
- Hort v Verran (2009) FLC 93-418 – Anthropological and cultural evidence should be brought by “an appropriately qualified person”
- James Pilkington, ‘Recommended Reading List’ [from a past Aurora intern placed at NAAJA]
- Kim Mahood, ‘Kartiya are like Toyotas’
- Northern Territory Government, Aboriginal Interpreter Service, ‘Steps for deciding if you should work with an interpreter’
- Northern Territory Law Society, ‘Indigenous protocols for lawyers in the Northern Territory’
- Summary of Mutual Respect Agreement between Yuqil Manqi Group of Elders and the NT Police
- Thalia Anthony and Will Crawford, ‘Northern Territory Indigenous community sentencing mechanisms: An order for substantive equality’
- The Hon Justice Dean Mildren, ‘Redressing the imbalance against Aboriginals in the criminal justice system’
- The Anunga Rules.
THE SATISFACTION TRIANGLE

A Simple Measure for Negotiations and Decision Making

When setting up negotiations or decision making processes people have three interdependent needs that must be carefully considered in order to achieve agreements and decisions that will last. These three needs are represented in the following diagram termed the Satisfaction Triangle.

**PROCEDURAL**
How people talk about things

**EMOTIONAL**
How people feel about things

**SUBSTANTIVE**
The things people are negotiating or making decisions about

**Key Points:**

**Procedural Needs are about:**

- the opportunity to have a “fair go”
- the opportunity to put forward own point of view
- the opportunity to both listen and be listened to
- having confidence in information, protocols and meetings.

**Emotional Needs are about:**

- personal and emotional aspects people bring to the negotiating table
- how people feel about what is being negotiated for
- how people feel about themselves during and after the negotiations.

**Substantive Needs:**

- the material things and issues people are negotiating about
- can be both tangible, e.g. money, time, rights, possessions; or intangible, e.g. respect, consideration. People are very often just focused on what they need to negotiate and the how of how to negotiate isn’t seen as really that important.


AIATSIS acknowledges the work of Chris Moore from Community Dispute Resolution Associates, Boulder, Colorado, the South Australian Aboriginal Legal Rights Movement and Rhian Williams in the development of this resource.
People may often say things like “We’ve got to get some runs on the board”, “We’ve got to deliver some outcomes”, “We need to be seen to be doing something”. This places an immense amount of pressure on people to get down to business and reach agreements. Yet if people’s emotional and procedural needs aren’t also considered and dealt with, agreements will break down, or in many instances won’t be achieved. Taking time to get the process right and to consider the emotional impact is a sensible use of time and resources.

Getting agreements or outcomes is reasonably easy – getting them to last and to work is the real trick. And getting them to last and work depends on addressing people’s substantive and emotional and procedural needs.

**Procedural Issues**

The procedures and protocols for a negotiation or decision making process will affect how those involved feel about the process and how they see the issues being considered.

**Case History**

An organization is tasked with developing a fact sheet about a proposed negotiation process. They decide the information is on eleven other fact sheets and that it is too much work to develop one fact sheet that summarises the information. They put the information on the web but when asked to mail it out to people send all eleven fact sheets.

Whose needs is this organization considering?

- the need of people who don’t have internet access;
- the need of people who want the information accessible in one simple easy to read fact sheet;
- the need of people to feel they are being dealt with openly and transparently;
- the need of the organization to save work in the short term.

It is highly likely that the organization is generating a climate of mistrust by making it hard for people to get information. The process they have adopted for getting information to people generates a strong emotional response – people feel the organization is unfair, deceitful, making it hard for them and they are unlikely to trust any substantive outcomes produced or recommended by the organisation.

The types of concerns about process and procedure that might people have, include:

- Is there adequate preparation time?
- Who determines the time frames?
- Who sets the agenda?

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• Is all the information available to everyone at the same time?
• Are all groups resourced to participate?
• Are appropriate people at the table? - your group and other groups?
• Where are the meetings to be held, e.g. on country or at the company’s offices – what impacts might this have?
• If representatives are used is there enough time to allow them to consult with those they represent?

All these questions and more will be considered by people. They all lead to a sense of whether the process is fair or not. Reliable protocols and rules amongst all the parties are necessary for people to feel confident that things are really fair and that they will be treated fairly and that they can be confident in the results of the negotiation or decision-making process.

Procedural issues produce EMOTIONAL issues

... will influence how people see SUBSTANTIVE issues

PROCEDURAL ISSUES
How people feel about how things are talked about and dealt with …

EMOTIONAL ISSUES
If people feel the procedures and terms of the negotiation don’t seem fair.

SUBSTANTIVE ISSUES
Can people negotiate about things if these questions and feelings aren’t sorted out to their satisfaction

… will influence how people see SUBSTANTIVE issues

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### Emotional Issues

Everything that happens in a negotiation or a decision making process communicates messages to everyone involved. It may also communicate unintended messages and this will have consequences for the substantive negotiations.

### Case History

Lawyer Y was responsible for heading up a legal team that successfully opposed Group X’s rights and interests. A year later Group X is in negotiation with Group B about a completely unrelated matter. Group B employ Lawyer Y to negotiate with Group X on their behalf. Group X decide not to negotiate.

How was Group X feeling?
- insulted that Group B had chosen Lawyer Y?
- angry that Group B were so insensitive?
- doubtful that the negotiations would be in good faith?

People’s emotional concerns and personal feelings about the things being discussed in negotiations will affect how they see issues of procedural fairness and accountability, and how they approach the issues being negotiated.

The range of emotional concerns that people may bring includes:
- Are the discussions honest and in good faith?
- Are people being recognised and respected
- Are other stakeholders trying to understand how each group or individual sees things
- Feelings about previous relationships and interactions.

Emotional issues are not useless baggage that hinders agreement making. They are a vital part of the substantive concerns being brought to the negotiating table. How they are dealt with communicates the level of respect and recognition accorded to the people involved.

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For negotiation and decision making processes to be successful it is important to keep asking the following questions:

- What are the procedural needs?
- What are the emotional needs?
- How are these needs impacting on the substantive discussions?
- How can these needs best be dealt with and addressed?
- How well do the ways in which these needs are being dealt with and addressed, meet the needs of the people involved?
- What more would be helpful?

Remember:
How people perceive things to be, is often as important, if not more important, than how things actually are.

The Satisfaction Triangle is a on-going cycle

It is important to recognise that emotional, procedural and substantive issues continue to impact on and affect each other throughout the negotiation and decision-making process. Emotional issues will produce procedural concerns, how those procedural concerns are dealt with may alleviate or exacerbate people’s initial emotional concerns, all of which will affect how they see the substantive negotiations. Likewise, procedural issues will continue to have ramifications throughout the process, particularly if people feel the process is lacking in transparency or fairness. If they feel this way then they are unlikely to feel that any substantive outcomes produced are fair. The implications of this for those involved in managing negotiation or decision-making processes is that there needs to be an opportunity to continually review and reflect upon the procedural and emotional issues that are raised by or affecting stakeholders. To get agreements that last all aspects of the Triangle, or rather all the needs that people bring to the table, must be managed and addressed.

AIATSIS acknowledges the work of Chris Moore from Community Dispute Resolution Associates, Boulder, Colorado, the South Australian Aboriginal Legal Rights Movement and Rhiân Williams in the development of this resource.
Chapter 2:
Confidentiality, privacy and legal ethics

Confidentiality and legal professional privilege

Privacy and confidentiality

Regardless of what type of organisation you are placed at it is likely you will have access to confidential and sensitive information. It is critical that you do not disclose any confidential, sensitive or personal information either during or after your placement. To do so would not only place you at risk of breaching your obligations as an intern and/or an employee, but also creates risks for your Host organisation, their clients or stakeholders and the Aurora Project.

Your Host organisation may ask you to sign a confidentiality agreement at the commencement of your internship.

Your obligations regarding privacy and confidentiality arise from your role as an intern, your professional obligations, state and federal law (including relevant state and federal privacy acts, legal profession acts, solicitor’s rules, fiduciary obligations etc), any applicable codes of conduct and contractual obligations. Ensure that you do not include any confidential or sensitive information in your weekly reports to the Aurora Project. You must copy in your supervisor when emailing the Placements team your weekly reports. Also be sure not to include confidential or sensitive information in any articles/material you write outside of your Host organisations workplace. This includes work you may do later on assignments for Uni or publications.

You must obtain written approval (email) from your supervisor at your Host organisation before publishing any articles or papers relating to your placement.

Lawyers and confidentiality

A duty of confidence, or confidentiality, is the duty of a lawyer to keep information provided by their client confidential unless instructions to disclose are received. The client may be your employer (as in the case of in-house lawyers) or an external client.

Confidentiality is distinct from legal professional privilege (described below) in that it is an obligation to the client to maintain information received as confidential unless instructed otherwise (rather than a privilege against disclosure). The obligation of confidence will also be binding upon you as an agent or employee of a lawyer and will continue after the time you leave your internship. Accepting this obligation is a condition of your accepting a position as an intern.

This duty is owed even to former clients; the obligation is to ensure that no information of a former client is disclosed adversely to the interest of the client, say by the lawyer later acting against the former client in new proceedings (Bolkiah v KPMG [1999] 2 AC 222).

Legal professional privilege

Legal professional privilege protects certain communications between lawyers and their clients from disclosure in the ordinary course of legal proceedings. For example, discovery in civil proceedings does not require a lawyer to disclose any documents that are subject to legal professional privilege.

Legal professional privilege applies to all communications between lawyers and their clients, where the dominant purpose of the communication is for the purpose of:
• allowing a client to get, or a lawyer to give, legal advice, or
• legal proceedings that are on foot or where the client is considering commencing proceedings (Esso Australia Resources Ltd v Federal Commissioner of Taxation 1999 201 CLR 49).
Chapter 2: Confidentiality and legal ethics

The privilege also applies to litigation-related communications by a client or lawyer with a third party if the litigation is on foot or under consideration at the time of the communication. Again, the dominant purpose test applies (Esso Australia Resources Ltd supra).

A lawyer-client relationship must exist for legal professional privilege to arise. The privilege does not protect communications that facilitate, or are made for, the commission of a crime, fraud and related wrong doing. A golden rule of legal professional privilege is that it is the privilege of the client and not the lawyer. Therefore, it can only be waived by the client.

Given that most native title proceedings are Commonwealth proceedings, it is the Evidence Act 1995 (Cth) part 3.10 division 1 (client legal privilege) that will be most relevant to your work. The most significant issue for you is that communications attracting legal professional privilege include communications to the employees and agents of a lawyer (Evidence Act 1995 (Cth) section 117(1), definition of ‘lawyer’).

Relevance to intern reporting

Your intern obligations will involve you describing various aspects of your activities as an intern. Keep your confidentiality obligations in mind in every circumstance where you report or comment on your internship as it is critical that you do not disclose any confidential information.

In most cases, where you go and the basic nature of your tasks will not be confidential (e.g. travel to communities, attendance at meetings, general legal or anthropological research, etc.). Simultaneously meet your obligations and protect the privacy interests of your Host organisation and its staff and clients by making your reports about activities anonymous. For example ‘travelled to community’ rather than to a specific place, ‘met with clients’ rather than give names (individual or collective), ‘assisted with taking instructions’ rather than any information about the content of instructions. If you are in doubt, leave the information out.

For legal interns: ‘In-house’ lawyers and legal ethics

Lawyers are not like other employees – they are bound by professional duties to clients, the courts and the public – duties that courts will, if necessary, uphold. As the Victorian Law Institute ethics web page1 puts it:

“Legal practitioners have to balance duties to the law, the court and the client.

• Duty to the law: Legal practitioners are part of the administration of our legal system. They may not agree with some of it, and are entitled to lobby for its reform, but they must obey the existing laws.

• Duty to the court: Legal practitioners must act with honesty, integrity and candour and must discharge all duties owed to a court or tribunal, including undertakings.

• Duty to the client: Legal practitioners must act with due skill and diligence, reasonable promptness and courtesy, while maintaining a client’s confidences and avoiding conflicts of interest.

Sometimes it is hard to fit these obligations together.”

It can be even more difficult to juggle these obligations where your employer is an organisation other than a law firm. This role of ‘in-house counsel’ can be difficult enough where your client is the organisation itself: for example, where the organisation’s management proposes to breach the law or act otherwise than in the organisation’s interest. This problem does not only arise in Indigenous organisations, it arises daily in corporations, universities, joint ventures and many other entities.

Things can get even more complicated where the (statutory) role of the organisation is to deliver legal services to a client base which is distinct from the organisation itself, as is the case for NTRBs. There is potential for these clients’ interests to conflict with management priorities, leaving the lawyer stuck in the middle.

1 See: www.liv.asn.au/regulation/ethics/about/ethics-Introduc.html
There is also the potential for lawyers to feel slightly divorced from their (bush or town camp) clients, and more at home in the (office) management team. In such situations, while it is important for lawyers to be ‘team players’, it is important that they do not allow their sense of professional ethics to be overcome by workplace dynamics. This might be particularly important in situations where an NTRB is (at risk of being) perceived by its Indigenous client base to be captive to particular Indigenous family or sectoral interests – a common dynamic in Indigenous politics.

One thing which NTRB lawyers should keep their eyes on is the extent to which the organisation is complying with Part 11 of the *Native Title Act 1993* (Cth).

Good lawyers should be sensitive to the limitations of the laws under which they work. It is important not to ‘over-sell’ native title or other options to clients. Lawyers must take instructions from their clients, however, they must also be frank and fearless in the advice they provide. This includes advising clients about the chances of success, likely outcomes etc. so that clients can make an informed decision when giving instructions. Although NTRBs’ clients do not put their own money into their solicitors’ trust accounts, they should be treated as if they do: any lawyer who takes their ethical responsibilities to a client seriously must always ask whether the client will benefit from any proposed strategy, and if not, advise the client accordingly.

Almost everything you hear and work on whilst at an NTRB is subject to legal professional privilege. This includes what you write in your reports to us, and for the work you may do for your university. NTRBs are sensitive about information. Hence, it is wise to be very careful.
Section 1: General Information for all interns
Chapter 2: Confidentiality and legal ethics
This section includes a brief look at:

**Australian Government policy and funding**

The Australian Government is committed to improving the lives of Indigenous Australians.

On 1 July 2014, the Indigenous Advancement Strategy replaced more than 150 individual Programmes and activities with five streamlined Programmes which reflect the priorities of the Government:

- Jobs, Land and Economy Programme
- Children and Schooling Programme
- Safety and Wellbeing Programme
- Culture and Capability Programme
- Remote Australia Strategies Programme

The aim of the Jobs, Land and Economy Programme under which the Internship Program funding sits is to get adults into work, foster viable Indigenous business and assist Indigenous people to generate economic and social benefits from land and sea related rights, particularly in remote areas.

The objective of the Internship Program is to provide work opportunities and career pathways targeting Indigenous university students and graduates who wish to work in Indigenous organisations or the Indigenous sector more generally. The Internships must target candidates from a diverse range of academic backgrounds that match the aspirations of the candidate.
Section 1: General Information for all interns
Chapter 3: Administration and funding of the Internship Program
Chapter 4: 
Work undertaken by past legal interns

The work you undertake as a legal intern will vary depending upon whether you are placed at a NTRB, PBC or an Indigenous policy organisation or other Host organisation.

To get the most out of your internship, it’s crucial that you are prepared to roll up your sleeves and pitch in wherever needed. This could involve anything from photocopying, filing or other administrative duties to undertaking substantive legal and/or policy/research work. Whether you are writing a report, compiling a brief or sifting through files left in a corner from the last wet season, it is all valuable work which frees up a solicitor’s time to move matters forward.

Set out below is a general description of the types of work undertaken by former interns:

• creating and implementing a filing system
• setting up Court diary systems
• general filing and administrative work
• preparation of plain English guides/summaries to legal documents, legislation and cases
• preparation and drafting of legal documents and correspondence
• legal research in support of claims, ILUAs and policy advocacy
• preparation of case and legislation summaries
• assistance in collection of evidence from Indigenous claimants
• observation and note-taking of mediations
• attendance at strategy and case management meetings
• preparation of submissions to government
• attendance and participation at meetings (claimant and with other parties) – taking minutes at meetings and speaking at meetings to explain work completed
• attendance at directions hearings and determination hearings
• assistance in collecting signatures for ILUAs – visiting and interacting with communities
• undertaking file reviews and histories
• researching and generating media releases, drafting web site material and speech writing
• commercial and tax-related legal work
• drafting briefing papers
• preparation of case notes
• submitting draft rules for Prescribed Bodies Corporate
• future act notifications
• assistance in the development of policy
• helping prepare for events and functions Hosted by the placement organisation.

Articles written by past interns are the best source of information about specific tasks likely to be undertaken at particular Hosts. Please refer to the Aurora website at www.auroraproject.com.au and click on ‘What interns say’ to read the various articles written by past legal interns.
Chapter 5:
General legal resources

The Native Title Resource Guide

The Native Title Resource Guide, published by AIATSIS, is an online research resource for accessing information about native title. It includes information about and links relating to:

• native title legislation and case law
• Federal, State and Territory Governments’ native title policies and procedures
• NTRBs, registered native title bodies corporate, government agencies and other organisations involved in native title
• native title applications and determinations
• Indigenous Land Use Agreements (ILUAs), future acts and other native title related agreements
• land rights legislation
• Indigenous Land Corporation land acquisitions, Indigenous land management and Indigenous Protected Areas
• Indigenous population profiles
• related research resources.


The Native Title Representative Body website

This website is a useful resource directory with links to many other sites as well as positions vacant at NTRBs and NTSPs. It also has NTRB/NSTP contact details and a map of NTRB areas. www.ntrb.net

The National Native Title Tribunal (NNTT) website

The NNTT website contains information about native title applications and determinations, ILUAs and future acts processes. It contains up-to-date information on recent resolutions concerning native title lands and waters, as well as information on the role played by the NNTT in those resolutions. www.nntt.gov.au

The site also has an excellent collection of regularly updated maps on native title determinations across Australia. It is strongly recommended you take a moment to view the maps that give a good illustration of where native title exists across Australia, and where the major cases and determinations are located.


The site also allows for people to search by representative organisation (i.e. NTRB) to find out what claims are currently ongoing. Students placed with an NTRB would find this useful to explore before their placement begins.

The Federal Court of Australia website

The Federal Court’s website also contains information about native title, including the role played by the Court in determining native title claims.

Section 2: Information for legal interns
Chapter 5: General Legal Resources

Publications on law firm websites

Many law firms publish native title related articles and updates in the ‘Publications’ sections of their websites as developments occur. These will include references to new or amended legislation, relevant case law, and commentaries on the potential impact of any major changes. Here are a couple of the more extensive ones:

- Allens Linklaters: www.allens.com.au/pubs (then go to ‘native title’)
- Herbert Smith Freehills: www.herbertsmithfreehills.com/insights
- Chalk & Behrendt: www.chalkbehrendt.com.au

WorldLII subject indexes

WorldLII includes subject-matter based guides, and the Aboriginal and Torres Strait Islanders Guide is extremely useful: www.worldlii.org/catalog/101.html.

The Indigenous Law Resource Guide, found within the WorldLII category is particularly useful:

- www.worldlii.org
  then go to: ‘Catalog’ and click on ‘Subjects’
  then: click on ‘Indigenous Law’
  then: click on ‘Australian Aboriginals and Torres Strait Islanders’
  then: select from a range of resources and links

Other websites

The Agreements, Treaties and Negotiated Settlements (ATNS) project is an Australian Research Council (ARC) Linkage project examining treaty and agreement-making with Indigenous Australians and the nature of the cultural, social and legal rights encompassed by past, present and potential agreements and treaties. www.atns.net.au

The Office of the Registrar of Indigenous Corporations (ORIC) website contains useful information on the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (known as the CATSI Act) including fact sheets on popular topics. Also included are comprehensive FAQs and access to the public Register of Aboriginal and Torres Strait Islander corporations which enables you to search by corporation name, suburb, postcode or state and view public documents lodged with the Registrar e.g. Certificate of Incorporation, Corporation’s Rule Book etc. www.oric.gov.au

AIATSIS has an online native title law resources guide, which includes useful links to those organisations involved in native title see: www.aiatsis.gov.au/ntru/resources.html

The Parliamentary Library has an Aboriginal and Torres Strait Islander affairs resources page: www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/Browse_by_Topic

News publications

Various news publications such as:

- IndigOz
- National Native Title News
- Koori Mail
- National Indigenous Times
- The Australian
- The Australian Financial Review
- The Sydney Morning Herald
Section 2: Information for legal interns
Chapter 5: General Legal Resources

• The Age
• The West Australian
• Alice Springs News.

Lead texts

General texts
• Langton M et al (2004), Honour amongst Nations: Treaties and Agreements with Indigenous Peoples, MUP.
• Ritter D (2009), Contesting Native Title From controversy to consensus in the struggle over Indigenous land rights, Allen & Unwin.

Journal articles
• Ritter D and Garnett M, (1999) Building the Perfect Beast: Native Title Lawyers and the Practise of Native Title Lawyering, Issues paper, Australian Institute of Aboriginal and Torres Strait Islander Studies, Native Titles Research Unit, no. 30.
Section 2: Information for legal interns
Chapter 5: General Legal Resources


Articles are available in the usual legal databases and resources. These 2 journals would be the first ‘port of call:
- Indigenous Law Bulletin:
- Australian Indigenous Law Review:
  www.ilc.unsw.edu.au/publications/ailr

Other resources
You may also want to read the following literary works:
- Behrendt L, Indigenous Australia for Dummies
- Lowe P, (1997), Jimmy and Pat Meet the Queen, Blackroom Press, Broome. A quick read that uses plain language to explain complex ideas.
- Rowse T, (2012), Rethinking Social Justice: From ‘peoples’ to ‘populations’

Suggestions from past interns
- The articles on native title in Noel Pearson’s “Up from the Mission” (2009)... I found it incredibly useful to read through his writings chronologically, to gain an impassioned perspective on the progress (and otherwise) of Native Title since MABO.
- C Sumner, ‘Getting the most out of the Future Act process’, posted on the NNTT website is an interesting discussion of the future acts process, relevant to all interns (placed at NTRBs or policy organisations). See: www.nntt.gov.au/News-and-Communications/Speeches-and-Papers/Pages/Getting_the_most_out_of_the_future_act_process.aspx
- Re-evaluating Mabo, the case for Native Title Reform to remove Discrimination and promote Economic Opportunity, Shireen Morris. This paper is available on the AIATSIS at http://www.aiatsis.gov.au/ntru/issuesspapers.html.
- There is a great resource for writing case notes available on the ANU website, which legal interns may find useful at https://academicskills.anu.edu.au/node/125.
Chapter 6:
Anthropology background reading

This first article in this chapter is ‘Self-determination or ‘Deep Colonising’: Land Claims, Colonial Authority and Indigenous Representation” by Dr John Bradley and Kathryn Seton from Unfinished Constitutional Business?: Rethinking Indigenous self-determination (edited by Barbara Hocking, 2005, Aboriginal Studies Press, pp. 32-46). This article presents discussions and ideas that you may find interesting from an anthropological perspective.


The second article, Anthropologist as expert in native title cases in Australia by Dr Kingsley Palmer (2011, Native Title Research Unit Resource) details the role of the anthropologist as expert. Dr Kingsley Palmer has worked extensively in native title for many years.

For other native title resources go to http://aiatsis.gov.au
Self-determination or ‘Deep Colonising’:
Land Claims, Colonial Authority and
Indigenous Representation

John Bradley and Kathryn Seton

Decolonising Institutions or ‘Deep Colonising’
Decolonisation refers to moving away from policies of control of Indigenous peoples, developed in the so-called interests of the state, towards policies of self-determination for Indigenous people. The Council for Aboriginal Affairs formulated this strategy and the central premises were that ‘Aboriginal organisations would both deliver services in more appropriate ways and develop enterprises through which communities could become economically independent’.1 The vision was that control over Aboriginal arenas would be placed back into the hands of Indigenous people themselves. While such moves appear to be self evident in the creation of Land Councils and the Aboriginal and Torres Strait Islander Commission, these decolonising institutions have been, in the end, limited in their scope.

Whilst acknowledging relationships between Indigenous people in Australia and the colonising state have changed over the last few decades, there are still practices embedded within decolonising institutions that are meant to reverse the colonising process but, in fact, sustain it. These are the same decolonising institutions that have been legislated to manage processes such as land claims and negotiate for, and with, Indigenous people for any proposed developments on their country. Indigenous people are effectively caught in a double bind, wishing to use legislation to achieve land rights (which can equal economic rights), whilst having to continuously confront the colonial issues that are embedded deep within these institutions. Thus, we have a situation of what could be called benign conquest and contestation, a situation that will continue as long as the final arbiter of the legislation is based within white parliamentary structures.

Post-Colonial Problematics
There is a wider area of discussion that presents Australia as both a colonial and a de-colonising nation, or perhaps more accurately a nation that is colonising and de-colonising at the same time. There is also literature,
particularly in the world of cultural studies (for example Gelder and Jacobs 1998), which now proclaims Australia as post-colonial. However, the term post-colonial is neither appropriate or accurate, for in relation to a settler society like Australia, there is no clear moment of de-colonialis-ation and many Indigenous people continue to speak of colonisation as an ongoing process. For instance, the Yanyuwa people we work with have undertaken three separate land claims over a period of 26 years. Only the first of these claims has been finalised with land hand back falling short of that claimed by the Yanyuwa. This has lead to further carving up of Yanyuwa country and the continuing lodgment of land claims for country not yet granted or available for community access. The result has been ongoing meetings and negotiations for many years, leading various Yanyuwa claimants to comment that they are ‘weary and frustrated’ (Leonard Norman) with the process, that they have not been ‘paid back’ (Jimmy Pyro) for their work in demonstrating their links to country and that whitefellas are ‘trying to steal our minds’ (Annie Isaac and Dinah Norman). Thus, we are suggesting in this chapter that the process of land claims and the registration of landowners continues this process under the guise of legislation that is said to be beneficial to Indigenous people.

‘Deep Colonising’

Through a discussion of two land claim case studies\(^2\), we argue that regardless of the seemingly benign intent of the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALRA) legislation, that is, as a process for Indigenous people to obtain land, the legislation and the land claim process are still artifacts of a colonial system. We borrow a term espoused by Rose (1996a:6) — ‘deep colonising’ — to elucidate the process of conquest that remains embedded within institutions and practices (such as land claims) aimed at reversing the effects of colonisation. Rose uses this term with particular reference to the erasure of women from the process of claiming lands. Whilst we agree with Rose (1995, 1996a) on this process, particularly in earlier claims, we present a case study where women were in control and demonstrate how this control lead to the incorporation of previously dispossessed Indigenous people as claimants.\(^3\) This incorporation, insisted on and orchestrated by Aboriginal women, demonstrates an instance of self-determination at a local level, whilst extending the meaning of ‘deep colonising’ beyond gender issues to the general inequalities engendered by land rights legislation. However, it can only be considered an ‘instance’ of self-determination when viewed in light of the whole claims process and the legislative requirements embodied in the ALRA.

**Land Rights Northern Territory Style**

The *Aboriginal Land Rights (NT) Act 1976* (ALRA) has provided an avenue for Indigenous people in the Northern Territory to come to a
court and give evidence to a Commonwealth appointed judge, known as the Land Commissioner, as to why he should ‘find them’ the traditional owners of certain tracts of Crown land. While acknowledging that people have achieved rights under this Act, this same piece of legislation should not be seen to be beyond critique. The practical administration of this Act is a potent blend of anthropology, law, Indigenous, State and Federal government bureaucracies. It is in this setting that Indigenous people give evidence and where more intimate issues, such as memory and remembering, become critical aspects in the desire for a successful outcome.

There is extensive literature on anthropological and legal issues associated with, and stimulated by land claims under the ALRA. Much of this literature offers us competing views on how anthropological models of land tenure and social organisation must, or might be understood. There are also some publications, though in the minority, that offer an Indigenous voice on these issues. Further, there is also a remarkable diversity of public debate on the issues of land rights, much of it, however, is uninformed about the injustices of the Act towards Indigenous people.

**Traditional Owners Under the Act**

Section 24 of the ALRA requires Aboriginal Land Councils to compile and maintain a Register setting out:

- the names of the persons who, in the opinion of the Council, are the traditional owners of Aboriginal land in the area of the Council; and
- in relation to each group of traditional Aboriginal owners, a map or other references showing the sites belonging to them in so far as can be done without breach of Aboriginal usage.

The Act made provision for certain areas, listed as Schedule 1, to be transferred immediately to Aboriginal Land Trusts without requiring the traditional owners of those areas to be named. The best example of Schedule 1 land is North East Arnhem Land. The Act also set up the machinery whereby individuals might seek to establish their status as traditional owners of other areas through a land claim process. Section 24 applies to traditional owners both of land listed as Schedule 1 and of land granted on the recommendation of the Aboriginal Lands Commissioner. In the latter case, the Land Councils have available to them the names of claimants judged to be the traditional owners by the Commissioner. In the former case, however, they lack such a basis. Traditional Aboriginal owners of Schedule 1 land become identified and ‘registered’ on a need basis usually associated with mining exploration proposals, road developments and other economic considerations.

In effect then, there are two distinct kinds of traditional Aboriginal owners: those who must arrive at such status via the land claim process and those who already have their land declared via the Schedule 1 grants.
but whose identities may be unknown. Traditional owners of Schedule 1 land have not had to undergo the land claim process of proving their traditional claims in a court of law. Thus, from the outset, it could be said that the ALRA created two groups: to use the colloquial, these are the ‘haves’ who do not have to contest their claims as traditional owners, in an external forum—the court (though their status may at times be contested internally) and the ‘have nots’ or ‘yet to have’ who have had to contest, or are in the process of contesting, their rights to be acknowledged as traditional owners by the Land Commissioner.

The Land Claim Process

Land claims are prepared on behalf of Indigenous claimants by Land Councils tantologically enacted under the ALRA. Land Councils employ anthropologists to prepare extensive documentation on such matters as: how the claimant group(s) relate to the land in question; the extent and the composition of the group, done by extensive genealogies; the nature of their rights to the land; their knowledge of the land in terms of named locales and spiritual significance; and the history of the contact between the Indigenous people and the newcomers into the area. Preparation for the claimants’ case is a co-operative venture by anthropologists, lawyers and knowledgeable Indigenous people, many of whom give evidence before the hearing.9

While the lawyers for the claimants take evidence from the Indigenous witnesses and argue points of law, it is the anthropologist who acts as a bridge between the claimants, who often have little knowledge of Western law, and the lawyers who may have difficulties in understanding what the claimants are telling them. There are other parties too (for instance, pastoralists, commercial and recreational bodies, mining interests, etc) who have interests in the land under claim and they are usually represented by lawyers. Over all this the Land Commissioner, or judge, sits as the final arbiter. As Rose (1987: 185–186) comments:

The Aboriginal Land Rights (NT) Act 1976 produces an event in which a European judge (to date all male) decides whether or not a set of Aboriginal people are who they say are. The Aboriginal people in question must produce for examination and cross-examination an identity that meets the requirements of an Act produced by Europeans. The onus is on Aboriginal people to ‘prove’ their identity according to an alien means of determining truth and falsehood.

Surely neither justice nor reason (to use Gumbert’s (1984) words) can be said to prevail under a system that offers ‘rights’ only in the context of power: power to create a discourse of authenticity, to require conformity...
to that discourse, and to make final determination on authenticity. It is difficult to conceive of a more cruel and elegant expression of cultural domination.

In a later publication, Rose modified her stance, drawing out some of the subtle ways Aboriginal people gain a measure of control in land claims. Rose (1996b:51) concluded that a land claim hearing is a ‘hybrid event that allows for multiple systems of knowledge and meaning to engage with each other without being annihilated’. However, these events also need to be situated within the larger regional and national political contexts in which they are created and sustained. Whilst ‘hybrid events’, it is less certain how these aspects of local autonomy can be sustained, when negotiating interests and rights to Indigenous country and resources at regional and national levels. It is against some of these comments that we wish to present a case study that demonstrates the colonial traits embedded within such endeavours as land rights and one which brings the activities of the anthropologist, lawyers and barristers assisting the claimants, and ultimately the role of the Land Commissioner and the Minister, into the same arena.

**Borroloola Land Claims**

The first land claim in which John Bradley acted as senior anthropologist for the claimants was a repeat claim over the Sir Edward Pellew Group of Islands. The Yanyuwa people lodged this repeat claim after they found out the results of their initial claim over the area. This initial claim was undertaken in 1976 and, the then Land Commissioner, Justice Toohey, made recommendation for a partial grant of the land initially claimed by traditional Aboriginal owners. It is worth noting this was the first land claim hearing under the ALRA. It is also worth noting that between the period of Justice Toohey’s first decision and the rehearing in 1993, the Northern Territory Government engaged in two acts that were improper under Australian law as it relates to land under claim; whether this be an original or repeat claim. The first was to proclaim a township over the two major islands (Centre and South West Islands), which were lost in the first claim. The second was to subdivide Camp Beach on Centre Island into housing allotments for sale on the open market (Gray 1997). The primary intent of these actions, it could be argued, was to foil any further attempts at land claims over these islands (Ludwig 1983).

**Warnarrwarnarr-Barranyi Claim**

The repeat claim came to be known as Borroloola 2 or the *Warnarrwarnarr-Barranyi* claim. Land Commissioner Justice Gray heard the claim in 1992. After both the traditional evidence and the detriment evidence had been heard, Justice Gray reached a decision in 1996 in which he stated that the actions of the Northern Territory Government were improper, and that he found the Yanyuwa people to be the traditional owners of the
land that they claimed. Justice Gray made his recommendation to the Commonwealth Government. The then Minister for Aboriginal Affairs refused to make the grant of land until the issues of the beach allotments had been solved. There have been, and continue to be, numerous meetings at which the recognised traditional Aboriginal owners have requested the land back, without the beach, so that it can be dealt with as a separate issue. The Commonwealth Government has not agreed. It believes that the people who brought the blocks in good faith will suffer detriment. It could be argued that it is not the Indigenous people making the detriment, but rather it has been the actions of the Northern Territory Government, yet it is the Indigenous people who are being created as the troublesome group. One is left with feelings that suggest both the Northern Territory Government and the Commonwealth Government wish the traditional owners would just give the land up—after all it is only a little beach—surrounded, however, by some very important sites.

At a meeting with the Minister for Indigenous Affairs in June 2000, the Yanyuwa people were told that the Minister, while sympathetic to their plight, could not interfere. Firstly, it should be mentioned that this Minister is in charge of the legislation and it is in their power to make the grant, however the Minister continued to speak of processes of law over which they have no power. As discussed earlier, claimants have stated their ‘frustration’ with the land claims process and expressed sentiments of ‘tiredness’, being ‘tricked’, and ‘not paid back’ in connection with the claims process. The distinct impression is that this is a process of wearing down the Indigenous people.

We suggest, what is in practice are embedded marginalising processes that seek to continue the portrayal of Indigenous people as ‘problematic’. What is also present are two systems of law—Aboriginal Law and the law of the Commonwealth of Australia. We are finding, with few surprises, that in some respect these ‘two laws’ are incommensurate. While Indigenous people would like to believe they gain some form of power through the winning of land, they can see that this authority is limited by both their legal representation (embedded as it is in the Land Councils), the authority and actions of the Commonwealth Government as the controllers of the Act, and other representative bodies such as ATSIC. As one of the young claimants commented after meeting with the Minister: ‘It is like taking us back to the days of welfare...we are names in a book for nothing’ (Graham Friday). This comment reflects the powerless situation of a people who have found themselves as registered owners of land by law, but are having to deal with legal issues that are not of their making and over which, prior to the land claim, they had had no dealings.

**Lhukannguwarra Claim**

Undeterred by these government actions, the same group of Indigenous people, the Yanyuwa has undertaken another hearing for 120 kilometres of the littoral zone. This land claim hearing involved two claims, the
Unfinished Constitutional Business?

McArthur River Region Land Claim (Claim No. 184) and part of the Manangoora Region Land Claim (Claim No. 185), and came to be known as the Lhukamnguwarra (People of the Mangroves) Claim. It is ‘unique’ in two aspects: It is the first claim made where (a) a part of the intertidal zone (the area that lies seaward of the high water mark and landward of the low water mark of the coast) and the bed and banks of a river have been claimed, and (b) the claimed areas do not border Aboriginal land or land under claim (thus, the detriment to bordering areas needs to be considered). This claim was also heard in a climate when there was (and still is) anger and frustration that the Minister has not yet handed title back to the community for their island country. In this claim, John Bradley again acted as the senior anthropologist. During the fieldwork required before the land claim hearing, the Indigenous people involved in the claim requested that members of the Stolen Generation be incorporated back into the land owning groups. The very term, ‘Stolen Generation’, in the Australian political climate is cause for passionate debate.

The Stolen Generation

Colonialism is a process through time and space where Indigenous people are not only dispossessed of their lands but also of their distinct histories (Fabian 1983 and Brough 1989). In the late 1800s and early 1900s, Indigenous people in Australia had been labeled as ‘stone age survivors’ and a ‘dying race’, though after the Second World War it was regarded an official policy that they should be assimilated into the dominant white society. This had two dimensions: being on the one hand a biological policy, envisaging the loss of distinct identity through intermarriage and mixed race children, and on the other, it was a social and religious policy of making Aboriginal people think, act, and worship in the same way as white people.

The removal of children is now the best-known dimension of this attempt to turn Aboriginal people into non-Aboriginal people. It was a policy aiming (among other things such as ensuring a supply of domestic labour) to destroy Aboriginal identity through education of children in white institutions and foster homes. Not all of these removed people lost contact with their home communities and Yanyuwa people wanted to bring such people and their descendants back onto their country—to make things straight, to create order where order had been taken away. This incorporation process in itself is not difficult. It requires, however, the reinvention of a fathers line (patriline) so that people can be given paternal rights to country, which in this area is the primary right of ownership (though balanced against rights to mother’s country). In all the cases involving these removed people and their descendents, there is a maternal line, but for the Act this is not enough—there needs also to be a paternal line.
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Making Things Straight

It is interesting that this claim was dominated by a number of senior women as, since the last claim, a majority of senior men had died. It was these women who demanded the inclusion of the Stolen Generation into the genealogies and began a process of teaching the respective people so they could know something of the landscape or, in this instance, the littoral zone. With these underpinnings, the nature of the claim meant that women dominated the case and showed themselves to be capable owners of land, and eloquent speakers for the spiritual value of the land and their responsibilities towards it. In many respects, this claim is probably also quite unique in the history of land claims under the Act in terms of the predominant and powerful presence of women.

It is the women who first create the order for a land claim by constructing and working through genealogical information. The process of investing children of mixed race marriages with country has a long history in this area of Australia, regardless of whether the father stays in the relationship. The individuals who were ‘stolen’ from their communities and their descendants are seen by the community to be Yanyuwa, and that they have certain rights to country is also not denied. The issue is how they are given rights of the kind that allow them to stand as claimants in a land claim. The women follow this simple rule: the relationship that existed between the woman and her partner is treated as if it was straight, that is, it is socially correct according to the internal workings of the kinship structures of the community. If this is the case, the children of the marriage/relationship will be incorporated into the group that, if their father had been of Yanyuwa descent, they would belong too. Such people when mapped into society like this are also given a ‘traditional’ name that links them intimately with a certain tract of country. Importantly such actions are a demonstration that no social structures can ever be taken for granted. They can be manipulated with a degree of fluidity that does not destroy their foundational structures and, because they deal with transcendent properties of the cosmos such as ritual and Dreaming, these social processes are important points of discussion. Thus, any identification with country is a process that must be actualised and accepted by others through negotiation. For the Indigenous people concerned, the processes of investing Stolen Generation people and their descendants with land is a necessary response to a specific situation; one which is transparent and, to the outsider, is a visible demonstration of the negotiability of people with their own law and outside structures.

For the Indigenous community, there was no serious issue about bringing such people into the claim and hopefully having them registered as land owners; it was after all about a philosophy of ‘making straight’, of bringing separated families back together again. Hence, one senior claimant, Hilda Muir, who was removed from her family at age seven, was incorporated into the claims process even though she had not been
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back to her country for 72 years. Whilst Hilda remembered her mother’s country, to be ‘made straight’ she had to be incorporated into an adoptive father’s country, although she still retained important rights in her mother’s country. This process had to take place ‘if she was to be officially recognised as having any country at all’ (Muir in press) under white jurisprudence. The Land Council labeled the attempt as an ‘issue’ and ‘problematic’. When asked why, they suggested they had no problems with the people concerned but it was more of a ‘generic issue.’ It would appear institutions such as the Land Council have a set idea about what a land owner should be, and educated Indigenous people were or are in a sense problematic (even if their education of Indigenous matters was also quite substantial).

Colonial Authority and Indigenous Representations

For the outsider, such as government officials, lawyers and members of the Land Council, one could suggest that the issues are about degrees of assimilation and how much a person has been incorporated into another society. However, for the Indigenous community these issues are relatively unimportant and acculturation is not an issue in determining the status of any one individual in relation to family, descent and landedness. There has, however, been debate about these issues prior to this claim. Not so much about the issue of the Stolen Generation, but rather about what are considered essentially urban Indigenous people being listed as potential owners of country. At the last land claim hearing attended by John Bradley, the Northern Territory Government lawyers stated from the outset that they would contest the inclusion of such people; this is not unusual given other documented cases. For instance, Walsh (1995) raises the issue of ‘tainted evidence’, and this was a term raised by both lawyers representing the Indigenous community in the Kenbi claim under discussion.

Tainted evidence’ is a term that raises a number of problems, all of which were undercurrents in the Kenbi claim. The primary question often raised (even if implicitly) by legal council for the Government is ‘are such people indeed Indigenous?’, given that they are embedded within urban cultures that are dominantly Anglo-Australian. Questions are also speculated upon about the relationship of traditional knowledge and literacy; it is a fundamental underpinning of the land claim process that knowledge must come from the head regardless of how educated a claimant may be. This has some unfortunate outcomes. A legal adviser for the Northern Territory Government is on record as saying:

Your Honour would no doubt take judicial notice of the fact that Aboriginal tradition is an oral tradition. The language has gone and in our submission, so too has the tradition (Northern Territory Government (1990:61) in Walsh (1995:97)).
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Such a comment belies the complexity of the issues, and indeed many so-called traditional people are educated, have degrees and qualifications and are in a position to sense quite clearly the ideological differences between Indigenous and non-Indigenous people. It needs to be said that the time is yet to come when Indigenous people involved in land claims can articulate with ease their views, using literacy, to speak of identity and traditional knowledge without fear of rebuke and disdain from certain quarters.

Degrees of Acceptability and Contestation
Walsh (1995) also analyses the degrees of acceptability of Indigenous witnesses in courts of law. Walsh finds that generally the degree of acceptance is based upon stereotypes of ‘traditionality’ and that so-called ‘bushies’ or ‘real Aboriginals’ (that is being dark skinned), even though their methods of communication are not really comprehensible to lawyers, are accorded a high degree of acceptability. Claimants who are classed as ‘townies’, ‘half castes’, or ‘really white’ are accorded a low acceptability.

Underpinning all of this is a continued contestation with the choice made by the Indigenous community to include such people as claimants and as potential landowners. Ultimately we are repeatedly presented with ethical dilemmas that are derived from a legal standard that is not yet flexible enough, or perhaps does not want to be flexible enough, to include social, political and cultural arrangements for different groups of Indigenous people who are making claim to land. This is matched with the reality that the land claim process is without question an adversarial system of justice and it raises issues which question the reality of how any balanced, neutral account can ever be produced in such a politically divided situation.

This division leads to lawyers using forensic anthropology to create a distortion of what is really going on in any one community, and the trial (land claim hearing) becomes the focus of attempting to prove who people say they are. It becomes a contest between literate and oral forms of knowledge and one is left with a nagging certainty that after the Indigenous people have given evidence which is reduced to transcript, this written archive is accorded more value than anything that may have transpired in the court or in the field. The judge retires and makes a decision; this judge alone is the final arbiter of tradition, identity and the process of history that people have lived.

Memory and Remembering
Amongst this discussion we are left with a system of courts that can reflect or disregard Indigenous peoples’ memories and the wider understanding of the past. There are real consequences at play that concern access to power or material benefits, either in relation with whites or
within their own community. Such is the case with land claims where only some claimants are judged by the court to be ‘real landowners’ and the others suffer the humiliation of being left landless. Memory and remembering become critical points of this process. It is memory which becomes judged, and this is problematic because we know that remembering is not a steady state, it is perhaps as Barthes (1981:70) says ‘a frequent waking out of forgetfulness.’

Working with Indigenous people who are preparing information for land claims is to see that memory as a process; it is not an object to be frozen. This is, again, an issue with land claim documentation that wishes to see tradition on paper. Words on paper, made though they are out of human experience and human emotion, present us with an illusion of solidity which denies and conceals the original demands behind their origins, and that these demands are an external force. Land claims do not ultimately allow for a steady, careful transmission of knowledge with all its attendant intricacies, for in instances such as land claims, memory becomes frozen as evidence. Instead of each generation discovering the history of its parents and grandparents for themselves, there becomes one history trapped and encapsulated. The court demands that we deal with certainties without ever acknowledging who judged and made the certainty. However, much Indigenous knowledge is never certain and therein lays its power.13 Such documentation as is created by the land claim process becomes the scripts of a theatre that also become important and powerful to Indigenous people.

Conclusion

There has never been a point in the 20-year history of the Land Rights Act where we have been able to sit back and enjoy the recognition of our rights as we should (Yunupingu 1994:9-10).

If self-determination is linked to ‘an attempt to move away from strong paternalistic central control’ (Fletcher 1999:342), the land claims process in the Northern Territory, part of the legislative and administrative apparatus developed to underpin this attempt at decentralisation, has been ineffective. Whilst we have demonstrated ‘instances’ of self-determination in this chapter, the ability of Aboriginal people and communities to make decisions that affect their lives are constantly being challenged and subjected to scrutiny by outside forces. Indigenous people are continuously contesting constructions from outside agencies, however, there are on-going tensions that challenge both their ability to retain distinctive cultural identities, lifestyles, values and laws, and achieve ‘greater social and economic equality as against the majority of the Australian Community’ (O’Neill and Handley 1994:400) — as self-determining peoples and communities. There have been some important gains for Indigenous
people under the ALRA, and other forms of legislation. However, decolonising institutions, perhaps set up with the vision of creating a ‘postcolonial’ Australia, remain embedded in practices underpinned by ‘deep colonising’ processes, where colonial authority can still define Indigenous reality through the creation of classes such as the ‘haves’ and ‘have nots.’ The entire land claims process could be read as one whereby the Land Rights Act has created a theatre of tragic farce for Indigenous people; knowing they are required to produce a particular type of Aboriginality, and if they fail to do so, or maybe unable to do so, they fail in their attempt to become a registered land owner under the Act.

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Notes


2. These case studies are derived from two separate land claims where one of the authors, Dr Bradley, was senior research anthropologist for the claimants.
3. There are a number of other publications dealing with issues of women and land claims, including Gale (1980); Rowell (1983); Bell (1984/5); Lilley (1989); Langton (1997); Brock (2001).
4. ‘He’ is used here as, to date, no Land Commissioners have been women. See Keely (1996); also Toussaint, Tonkinson & Trigger (2001: 163-64)) for a discussion of the need for female Land Commissioners to deal with circumstances of restricted female evidence.
5. Goodall (1992: 104–5) alludes to these issues when she states ‘the process of memory, the way in which individuals recall and reanalyze the past, and then recount their understandings in relation to an audience, are all complex aspects of the way societies create cultural meaning.’
7. Both Gale’s (1980) and Yunupingu’s (1997) edited collections stand out in this regard.
8. Whilst land councils may have regard to any findings of traditional ownership made by a Commissioner, they are not bound by these findings. Indeed, as Justice Olney (2002: 4) observed, ‘with the passage of time, the Commissioner’s findings will inevitably become progressively irrelevant.’
9. From an anthropological point of view, this co-operative venture is far from unproblematic. Rosen (1977), Maddock (1989), Rigsby (1995) and Rumery (1995) all discuss various aspects of anthropological bias and objectivity in land claims and the differing roles anthropologists play (i.e. expert witnesses, Land Commissioner advisors, claimant anthropologists, etc.) in these processes.
10. The Yanyuwa (see Cavadini, Strachan and the Borroloola Community (1981)) have themselves made a movie surrounding this intersection of legal systems which they term ‘two laws.’
12. The concept of ‘forensic anthropology’ has been applied to the increasing body of anthropological knowledge that has grown out of the land claim process (i.e. anthropological knowledge used in legal pleadings) and Sutton (1995) provides an interesting analysis of the implications this growth has for anthropologists operating in judicial and administrative settings.
ANTHROPOLOGIST AS EXPERT IN NATIVE TITLE CASES IN AUSTRALIA

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Abstract
Anthropologists play an important role in native title cases in Australia, providing expert evidence in the form of reports and sometimes testimony to the court for both applicant and respondent parties. I outline some of the difficulties faced by anthropologists as well as those who commission them for this role. I set out some of the fundamental requirements that develop from the Native Title Act and subsequent court decisions and how this should determine the questions an anthropologist should be asked to consider. Since anthropologists often base their expert views on field data, the nature of field work and the relationships and their implications developed during its conduct are discussed. The role of expert also evokes ethical issues on occasion while the use of early texts and their application to native title questions raises further practical matters. As evidentiary material, the writing of an expert report requires consideration of issues relevant to its admissibility and thus its ultimate usefulness to the court. Finally, I examine how anthropologists may be involved and contribute to non-litigated native title outcomes.

Introduction
Anthropologists play an important role in relation to applications made under the federal Native Title Act. At the time of writing (2011) a substantial portion of applied anthropology in Australia related to native title inquiry. Freckelton comments in this regard that, 'in Australia, anthropologists’ evidence figures most prominently in native title hearings where it has become a mainstay' (Freckelton 2009, 1099). This engagement has brought to the fore a number of theoretical, procedural, methodological and ethical issues which should inform practice. The successful use of anthropological experts in native title cases continues to demand that attention be paid to the particular nature of anthropological inquiry.

The basis of the anthropologist’s expert view is field data gained usually (though not invariably) over a period of fieldwork with those making application for the recognition of native title. This necessarily involves developing close working relationships with those studied, being a key feature of the anthropological method. This raises questions relating to the admissibility of the evidence when opinion is based on field data, particularly with respect to the hearsay rule. It also may incline experts to adopt (even unwittingly) an advocacy role. The nature of the ‘facts’ upon which anthropological evidence is provided are sometimes subjective and indefinite in the sense that they deal not with quantifiable phenomena like measurements of distance or head counts, but rather with interpretations of cultural phenomenon. Moreover, as an emerging jurisprudence native title is subject to progressive change as legislation and case law modifies aspects of the proofs required by the court or respondents. Such considerations provide a challenging context within which to utilise the services of an anthropologists, particularly in native title cases.

1 See Palmer 2007, 6-7.
3 Daniel v Western Australia [2003] FCA 666 at [233].
Anthropologists have in the past been critical of some aspects of the relationship between their profession and native title law and its practitioners. Those seeking the services of anthropological experts should seek an understanding of the special and sometimes complex issues that surround the use of expert anthropologists as well as sound understanding of the role of anthropology, particularly in native title cases. This may go some way towards avoiding pitfalls which may render such expert evidence either irrelevant or inadmissible.

There are comparatively few senior anthropologists available for native title work which is, in part as a consequence of the issues set out above, both physically and mentally demanding. Thus, at present at least, demand far exceeds supply. Since many native title anthropologists are committed a year or more ahead

The law and the expert

The principal section of the Native Title Act 1993 (Cth) relevant to the expert opinion of an anthropologist is 223(1). This defines the expression ‘native title’ and ‘native title rights and interests’.

The expression native title or native title rights and interests means the communal, group or individual rights and interests of Aboriginal peoples or Torres Strait Islanders in relation to land or waters, where:

a. the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal peoples or Torres Strait Islanders; and

b. the Aboriginal peoples or Torres Strait Islanders, by those laws and customs, have a connection with the land or waters; and

c. the rights and interests are recognised by the common law of Australia.

Under Section 225 the Act requires the Federal Court to determine whether or not native title exists in relation to the area over which the application is made and, if it does exist, to determine who holds those rights and their extent.

The words, ‘the traditional laws acknowledged, and the traditional customs observed’, extracted as they are from legislation, refer to matters of law rather than anthropology. However, since they provide a likely basis for framing a case (What were the laws? How do these relate to land and water? What common law rights develop from them?) they are also terms that will be relevant to the manner whereby an anthropologist situates his or her expert views. Like the term ‘society’ which I discuss below, this has the potential to yield confusion since the terms ‘custom’, ‘tradition’, ‘traditional’ and ‘law’ are also terms of anthropology which may not have the same meaning as that implied or defined in law.

The High Court stated that a custom was ‘traditional’ if it had been passed on from generation to generation, usually by word of mouth and common practice. Further, the origins of its content are required to be evident in the normative rules of the indigenous peoples that existed before sovereignty so that it is a part of the normative system (a body of law and custom) that has had a continuous existence and vitality since sovereignty.

Gleeson CJ, Gummow and Hayne JJ wrote that as a consequence in a native title proceeding,
it will be necessary to inquire about the relationship between the laws and customs now acknowledged and observed, and those that were acknowledged and observed before sovereignty, and to do so by considering whether the laws and customs can be said to be the laws and customs of the society whose laws and customs are properly described as traditional laws and customs7.

The use of the term ‘society’ serves to emphasise the relationship between the people and the laws and customs of that group. There is then a nexus between the ‘society’ and the laws and customs of that society.

Law and custom arise out of and, in important respects, go to define a particular society. In this context, ‘society’ is to be understood as a body of persons united in and by its acknowledgment and observance of a body of law and customs8.

Gleeson CJ, Gummow and Hayne JJ go on to state that there is a relationship between rights, customary laws and a society.

To speak of rights and interests possessed under an identified body of laws and customs is, therefore, to speak of rights and interests that are the creatures of the laws and customs of a particular society that exists as a group which acknowledges and observes those laws and customs. And if the society out of which the body of laws and customs arises ceases to exist as a group which acknowledges and observes those laws and customs, those laws and customs cease to have continued existence and vitality. Their content may be known but if there is no society which acknowledges and observes them, it ceases to be useful, even meaningful, to speak of them as a body of laws and customs acknowledged and observed, or productive of existing rights or interests, whether in relation to land or waters or otherwise9.

The nature and extent of a ‘particular society’ whose members acknowledge and observe laws and custom is a matter that requires consideration in the context of an application made for the recognition of native title. Legal commentator Lisa Strelein has noted that the need to establish the existence of a ‘coherent and continuous society’ has ‘emerged as a fundamental threshold question for native title claimants (Strelein 2009, 80, 98).

The relationship between anthropological concepts of ‘society’ or ‘community’ and the legal requirements of the native title legislation is complex since these terms may not command the same meaning in anthropology as they do in law (see Palmer 2009, 3-5 for a discussion). Nevertheless the requirements of the Native Title Act and decisions that have developed from it set definite areas that are likely to benefit from anthropological expertise. These include a consideration of the nature of the society at the time of the assertion of sovereignty by the British and the content of the laws and customs of that society at or about that time. Anthropologists of course do field work and collect data as contemporary activity: they cannot record laws and customs of the past except in so far as they are recalled by those with whom they work. While such necessary reconstruction is based to some extent on oral tradition it is more substantially derived from the accounts of early ethnographers, diarists, commentators and other archival materials. This brings with it its own problems which I discuss below.

7 214 CLR 447 [56].
8 214 CLR 445 fn [94].
9 214 CLR 445 [49].
10 214 CLR 422 [56].
Mansfield J wrote\textsuperscript{11} that the High Court’s decision in \textit{Yorta Yorta} required continuity for the Aboriginal society as well as the continued observance of its traditional laws and customs. Thus if the society ceased to exist,

\[\text{[T]he rights and interests in land to which these laws and customs gave rise, cease to exist. If the content of the former laws and customs is later adopted by some new society, those laws and customs will then owe their new life to that other, later, society and they are the laws acknowledged by, and customs observed by, that later society, they are not laws and customs which can now properly be described as being the existing laws and customs of the earlier society. The rights and interests in land to which the re-adopted laws and customs give rise are rights and interests which are not rooted in pre-sovereignty traditional law and custom but in the laws and customs of the new society.}\]

The degree to which laws and customs may change or have suffered some interruption is also pertinent. Some degree of change, adaptation or interruption, ‘will not necessarily be fatal to a native title claim’. However, it is also a question of how much is too much.

The key question is whether the law and custom can still be seen to be traditional law and traditional custom. Is the change or adaptation of such a kind that it can no longer be said that the rights or interests asserted are possessed under the traditional laws acknowledged and the traditional customs observed by the relevant peoples when that expression is understood in the sense earlier identified?\textsuperscript{13}

What is required then is evidence of the perdurance over time and up to the present of those customs as well as the society wherein they were enmeshed. Here the anthropologist as student of the society making application can assist the court by providing his or her views, based on data collected in the field, of the laws and customs of that society. So too can the expert provide a view of the continuity of the laws and customs based on a comparison between the reconstructed or orally recalled past and the present. The assessment of the degree of change and at what point it might prove fatal has been subject to appeal\textsuperscript{14}.

This comparative approach would appear to lie at the heart of the anthropologist’s involvement as an expert in applications for the recognition of native title. Expert evidence that advances no view as to the customary system and how the contemporary laws and customs can be understood to be substantially rooted in and derived from them will be of very limited assistance to the court\textsuperscript{15}.

The usefulness of anthropologists to the native title process has been recognised by the court.

\textsuperscript{11} Risk v Northern Territory of Australia [2006] FCA 404 at [56].
\textsuperscript{12} 214 CLR 422 at [53].
\textsuperscript{13} 214 CLR 422 (83).
\textsuperscript{14} Bodney v Bennell (2008) 167 FCR 84 [74]. See Strelein 2009, 100-105 for a discussion.
\textsuperscript{15} ‘However, in the present case, no attempt has been made to identify a pre-sovereignty society, the laws and customs which such a society may have acknowledged and observed in connection with rights and interests in land and waters, any connection between the apical ancestors and such society, or any connection between pre-sovereignty and current laws and customs of the relevant kind. The question is whether the applicant has stated the factual basis of its claim to the extent required by the Act. If it offers no explanation as to how the claim group’s laws and customs can be sourced to those of a society existing prior to first European contact, then that obligation has not been discharged. In the present context, I cannot see that Mr Hagen [anthropologist], any more than the applicant or its deponents, can simply re-state the claim so that such restatement becomes the factual basis of the claim.’ Dowsett J. Gudjala People #2 v Native Title Registrar [2009] FCA 1572 at [77].
Mansfield J\textsuperscript{16} was of the view that anthropological evidence could provide a framework for understanding Aboriginal evidence\textsuperscript{17}. He considered that anthropologists also had a contribution to make with respect to the issue of continuity.

Not only may anthropological evidence observe and record matters relevant to informing the Court as to the social organisation of an applicant claim group, and as to the nature and content of their traditional laws and traditional customs, but by reference to other material including historical literature and anthropological material, the anthropologists may compare that social organisation with the nature and content of the traditional laws and traditional customs of their ancestors and to interpret the similarities or differences\textsuperscript{18}.

The focus of the anthropological research and the substance of the expert’s views need to be directed towards these native title questions. In particular, the anthropologist should be competent to provide to the court an account of the claimants’ laws and customs that characterise the claimant society and attest to a normative system that codifies rights to country. It is, however, the customary bases of these laws, customs and normative referents that provide the essential forensic component. Oral testimony may assert that current laws are formed from time beyond reckoning but recollections may be shallow, conspire to endorse the normative system and lack independent corroboration. The weight that may be afforded to such evidence is likely to be limited. The court may then benefit from an expert view as to how a society and its laws and customs may have looked at the time of sovereignty and how the continuity of these laws and customs may be best understood.

**Native title research**

**Fieldwork and familiarity**\textsuperscript{19}

Anthropologists expect to do fieldwork to gain their raw data. The body of theory used by anthropologists then provides a basis for the analysis of culture, based on a consideration of the primary field data. Researchers may anticipate committing time to the field work endeavour. This is because a fundamental tenet of the anthropological method is some degree of immersion in the society being studied. This provides for an appreciation and comprehension of the nature of the social relationships and structures of the society that is unavailable to those whose experience of it is cursory and consequently superficial. This manner of undertaking anthropological research, known as ‘participant observation’ was pioneered by the anthropologist B. Malinowski (1922, 18). The application of a body of theory-like knowledge to primary field data meant that ‘ethnography’ was no longer simply recording and categorisation, with doubtful speculation, but comprised a more rigorous intellectual process.

For native title research the question frequently asked is, ‘how long does the researcher need to spend in the field?’ A separate but related question has to do with the degree of familiarity the researcher may have with those studied as a result of past work in the

\textsuperscript{16} Alywarr, Kaytetye, Warumungu, Wokaya Native Title Claim Group v Northern Territory (2004) 207 ALR 539 at [88].

\textsuperscript{17} In relation to communication difficulties see Jango v Northern Territory (No. 4) [2004] FCA 1539 at [40]. See also Ward v Western Australia (1998) 159 ALR 483 at 511 per Lee J; Risk v Northern Territory of Australia [2006] FCA 404 at [465] per Mansfield J.

\textsuperscript{18} Alywarr, Kaytetye, Warumungu, Wokaya Native Title Claim Group v Northern Territory (2004) 207 ALR 539 at [88].

\textsuperscript{19} An examination of the methods of anthropology and how they are clearly differentiated from other forms of evidence adduced in the native title process is provided in Palmer 2007, 4-6. I also there discuss issues relevant to the time needed in the field and the relationship between time in the field, prior familiarity and experience (ibid., 6-7). This paper should be read in conjunction with the account provided there.
Classic anthropological field work of the sort undertaken for a doctorate would most probably extend over a period of nine to twelve months. Over this period the anthropologist would learn the language (if different to his or her own), develop relationships of trust with those studied, participate in the quotidian events of the community and come to an appreciation of specific aspects of the culture, depending on the subject of his or her study. Such extended periods of field work are unlikely to be practical in the context of a native title inquiry. Not only are applications increasingly subject to court orders seeking to expedite matters that, in some cases, have been a decade or more in the preparation, but funding constraints are unlikely to support such a relatively expensive process. That said, proper anthropological research cannot be done without at least some primary fieldwork allowing for targeted data to be collected and this cannot be done quickly. One anthropologist has recently suggested that a minimum of six months (120 working days) is an appropriate figure for field work in an area in which the anthropologist has not previously worked, but that in some cases twice that would be required (Trigger 2009, 2). My own view is that an experienced anthropologist may acquire the primary data required in a shorter time than this, but much depends upon the facility with which the researcher conducts his or her research as well as practical issues that can prove significant to the management of the research process.

The degree to which the researcher is already familiar with the community may be relevant as a researcher who is well-known to those with whom he or she works will already have a working relationship (presumably based on mutual trust) as well as an understanding of the culture. However, prior knowledge of the community which is the subject of the inquiry is not necessary, particularly when the practitioner is highly experienced. From a practical point of view finding a suitably qualified anthropologist who is already familiar with the study area is often impossible. In cases where there is internal dispute, overlapping claims and sectarian interests inform the ethnography, using a person who has not worked in the area before could provide substantial advantage. Such a person has no history of working with one group over another, and is thus seen to be independent of various competing groups. Moreover, those familiar with a community and having developed close personal relationships with those whom they may have known for years (sometimes decades) may have allowed these relationships to colour their views which might compromise their objectivity.

Some of these matters have been considered at various times by the court with no clear conclusions as cases are different. For example, Olney J stated of one anthropologist that the evidence suffered, from a combination of factors, notably that she has no prior anthropological experience in the area under consideration, she had not read the ethnographic literature of the region and has relied upon the written witness statements, not all of which were in evidence and some of which were shown to be inaccurate20.

In another case Olney J found that anthropologists involved in the matter had extensive qualifications and experience in anthropology and land tenure and had undertaken substantial field work which supported their evidence21. In contrast, Sackville J was critical of the anthropologist Peter Sutton who

20 Members of the Yorta Yorta Aboriginal Community v Victoria [1998] FCA 1606 at [55].
21 Yarmir v Northern Territory (1998) 82 FCR 533 at [562]-[563]. See also Ward v Western Australia (1998) 159 ALR 483 at [531].
had clocked up 400 research days\(^\text{22}\) which the Judge considered to be too long and unnecessarily duplicated other evidence. However, Professor Sutton expressed the view that a longer period would have been beneficial\(^\text{23}\).

The dangers of partiality developing as a result of a long-term association with a community were noted in \textit{Neowarra v State of Western Australia}\(^\text{24}\) where the anthropologist acknowledged his close association with the claimant group over a period of years. However, the Court accepted that the evidence and opinions were at all times professional, despite the inherent ‘closeness’ to the claimants\(^\text{25}\).

Not all expert anthropologists will undertake field work. Those called by respondent parties (usually the states or territories) are unlikely to undertake field work. Instead they need to rely on their anthropological training and experience and prior field work in similar areas – unless they had also worked in the application area in times past. One view is that those who have not undertaken field work would carry less weight than those who have\(^\text{26}\). Reliance upon an ethnography drawn from another area with which the expert is familiar must be shown to be pertinent. However, the courts have shown that respondent experts may be influential in the court, despite a lack of field work in the region\(^\text{27}\).

Anthropologists called by respondent parties to an application for the recognition of native title would generally be expected to provide opinion on the methods, propositions, procedures and views of the applicant’s expert. Such a process should be based upon accepted academic and scholarly practice. An expert who provides such evidence to the court is not then relying on field data but provides a scholarly critique of the work of another with a view to assisting the court in its consideration of that evidence.

The conclusion to be drawn from these examples is that no single arrangement suits all cases. Given that the expert meets the minimum qualifications that will yield requisite recognition by the court there would appear to be some variation in what is regarded as an acceptable standard of familiarity with the culture under study. In addition ‘more’ is not always understood by the court to be ‘better’ while there are dangers in a expert being seen to be too ‘close’ to those he or she studies for fear that it might colour their objectivity. Nor is it necessarily desirable to use the services of an anthropologist already familiar with the area of study – even if this were to be practical which in most cases it is not. These are matters that need to be carefully weighed when commissioning an expert to ensure the balance between expediency and familiarity, experience and application are finely tuned.

\textbf{Ethical issues}

The relationship that develops between an anthropologist and those studied, founded as it is upon trust, raises ethical issues which require consideration and accommodation. Australian anthropologists share a code of ethics\(^\text{28}\). Some of the matters likely to be of concern in this regard relate to conflicts within claimant groups\(^\text{29}\), communicating the anticipated consequences of research and confidentiality\(^\text{30}\).

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\(^\text{22}\) \textit{Jango v Northern Territory of Australia} (2006) 152 FCR 150 (Jango) at [313, 320].
\(^\text{23}\) \textit{Jango}, [316]. See Palmer 2007, 4-5 for further discussion.
\(^\text{24}\) [2003] FCA 1402 at [71; 112-119].
\(^\text{26}\) \textit{Neowarra v State of Western Australia} [2003] FCA 1402 at [120].
\(^\text{27}\) \textit{Rubiddi Community v State of Western Australia} (No 5) [2005] FCA 1025, [34], [45], [249] [252]. \textit{Bodney v Bennell} (2008) FCAFC 63 [86-95].
\(^\text{28}\) See \url{www.aas-asn.au/docs/AAS_Code_of_Ethics}
\(^\text{29}\) See \url{www.aiatsis.gov.au/ntru/overview.html}
\(^\text{30}\) ibid., 3.4.
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communicating the results of research\(^{31}\) and the purposes to which the research will be put\(^{32}\). There is an expectation that anthropologists should not knowingly or avoidably allow information gained on a basis of trust to be used against the legitimate interests of those studied by hostile third parties\(^{33}\). This provides for an indicative list of some of the relevant issues. There are many more and their full consideration would require separate treatment.

While it could be argued that these are matters for the anthropologist, those seeking to commission researchers to undertake inquiry for a native title claim must be aware of the potential difficulties that may arise if anthropologists are placed in situations that have the potential to create ethical difficulties. To this end, it is essential that all lawyers who seek the services of an expert anthropologist first read their Code of Ethics. The matter is touched on by Freckelton (2009, 1109) who is of the view that ‘many difficult ethical questions beset anthropologists’ methodologies and opinions within the context of land claim hearings\(^{34}\). He provides some additional references to ethical codes. Elsewhere I have discussed the matter briefly (Palmer 2007, 2) and provided some further references.

**Early ethnography and archival materials**

Following field work, the second task for the anthropologist in the preparation of expert views relates to a consideration of relevant early ethnography and archival materials. The continuity of laws and customs required by the *Native Title Act* suggests application of the ‘before and after’ test. Consequently, the expert must provide a view as to the nature of the relevant society at or about the time of sovereignty. The primary source for this is the ethnographic accounts of those who lived in times past, and who recorded laws and customs which might be considered to reflect the laws and customs of the pre-sovereignty society. This is a complex area and is by its very nature speculative.

Reconstructive anthropology must be treated with caution, depending as it does on interpretations of interpretations. The observations of many of the early writers present difficulties. Accounts were generally made by untrained observers, since they pre-dated the development of professional anthropology in Australia. Many brought with them preconceptions, value-laden prejudices and assumptions about the nature and structure of ‘primitive’ societies. Most were interested in the categorisation of certain social types of phenomena rather than providing a distinct ethnographic account of a single society. Most had little interest and consequently no understanding of how rights to the country of the people they identified were exercised or perpetuated. Much early data, either published or in manuscript form are scattered, incomplete and not easy of access.

The relationship between the oral accounts of the claimants and these oral sources has been the subject of a critical account by B. Sansom (2006). Sansom has been critical of any reliance on the oral account which he characterises as typically ‘shallow’. My own view in this regard is that the oral evidence of claimants should be considered in the context of the archival accounts and those contained in the earlier ethnography. I consider that practitioners of an oral tradition may utilize devices to limit arbitrary change to the form and content of customary lore (Palmer 20011). This does however raise some methodological issues which are relevant to the development of an expert view (Palmer 2011).

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\(^{31}\) Ibid., 3.5.

\(^{32}\) Ibid., 3.7.

\(^{33}\) Ibid., 3.10.

\(^{34}\) Anthropology is no more ‘beset’ by ethical issues than any other professional practice (including law) that is governed by ethical principles.
The reliability of early sources and the date beyond which they should be regarded as being ‘too modern’ to be of assistance is also matter for debate (Sansom 2007; Burke 2007; Glaskin 2007; Sackett 2007). Obviously one consideration must be the date of the frontier in the area where the ethnographic material was recorded, as this varied across the continent depending on the history of settlement. Thus while dates of sovereignty vary across Australia depending for the most part on the state or territory, the date of what I call ‘effective sovereignty’ moved with the frontier. On the assumption that prior to European settlement and alienation of a region laws and customs would have remained more or less unaltered, the date of effective sovereignty can provide a useful reference point for reconstruction that is not beyond the reach of the earlier ethnographies35.

The expert report

The results of the expert’s research should be set out in an expert report. Here adherence to the Practice Note of the Federal Court is essential36. This has caused some difficulties in the past. For example, Olney J wrote37 of the experts’ report in the Yarmirr case that it served ‘the very useful purpose of providing the contextual background’. However, he went on, ‘Whether or not a particular statement in the report is to be classified as mere pleading, as expert opinion or as hearsay is not always readily apparent’. He found the report to be both ‘reliable and informative’ and while it contained some speculation (‘but not much’) his Honour had ‘not found it necessary to refer to it’. Not all judges have been so forgiving. Gleeson CJ, Gaudron, Gummow and Hayne JJ stated38 that the report had been received in to evidence without objection, ‘despite it being a document which was in part intended as evidence of historical and other facts, in part intended as evidence of expert opinions the authors held on certain subjects, and in part a document advocating the claimants’ case’.

I have explored elsewhere some of the significant issues that develop from the presentation of the expert’s evidence, the requirements of the court and what might be understood to represent best practice in this regard (Palmer 2007, 7-11). Issues considered include the relationship between the expert’s evidence and that of the claimants (ibid., 8-9), the basis upon which the expert provides his or her view (ibid., 9-10), the Points of Claim (ibid., 10) and the brief provided to the expert (ibid., 11-12). Olney J (above) identified some parts of the expert report he considered as ‘mere pleading’39 which has been an issue for expert evidence brought to a head in the Jango case.

Mere pleading

The history of anthropologists’ involvement in land claims in Australia develops in large part from the Aboriginal Land Rights Act (NT). Under this legislation anthropologists were not subject to the operation of the Evidence Act as is now the case in hearings held in relation to the Native Title Act. Perhaps too as a consequence of the anthropologist’s frequent close connection with those studied (discussed above) there was a potential for anthropologists to assume advocacy roles. Sackville J reported in this regard in relation to the Jango case that counsel had,  

35 Such a proposition is accepted by the State of Queensland (State of Queensland 2003, 5). The States and Territories are joined as respondents to any application for recognition of native title by virtue of a provision of the Act.
37 Yarmirr v Northern Territory (1998) 82 FCR 533 at [563].
38 Commonwealth v Yarmirr (2001) 208 CLR 1 at [84].
Attributed this deficiency [to pay sufficient regard to the requirements of the Evidence Act] to practices that have grown up in claims made under the Aboriginal Land Rights Act 1976 (Cth) (‘Land Rights Act’) and have persisted in the preparation of expert evidence for claims made under the NTA. According to Mr Parsons, it has been common for parties to rely upon discursive expert reports that have been prepared without assistance from lawyers and therefore with little regard to the requirements of the Evidence Act.40

It was clearly an error to rely on past practice, as had already been flagged in the Yarmirr case noted above. Sackville J was particularly critical of the part played by the anthropologists in the formulation of the case. He expressed doubt as to their independence.

I formed the view that Professor Sutton played an active part in formulating and preparing the applicants’ case and that this participation influenced both the way in which their case was presented and Professor Sutton’s approach in giving evidence. I understand and accept that in the peculiar circumstances of a native title claim (including a compensation claim) it may be difficult for an anthropologist to remain as aloof from the parties as might be the case with, say, an expert economist or accountant in other kinds of litigation.41

His Honour continued that while he did not doubt that Professor Sutton was at pains to maintain his independence:

The fact remains that the applicants’ case, as Professor Sutton was aware, closely follows the framework he created. Of course, the circumstance that a pleaded case closely corresponds with the evidence of an expert witness may simply reflect the expert’s independent analysis of the objective facts. In this case, however, my strong impression was that the presentation of evidence by the applicants was heavily influenced by the approach taken by the two anthropologists.42

Of particular concern to the Judge was the anthropologists’ involvement in the preparation of the witness statements. He was of the view that, ‘It would have been very difficult for them to comment on witness statements without taking into account their understanding of the applicants’ case and the approach taken in their own reports’.43

These are practical and organisational matters that are the responsibility of those lawyers who prepare the case for trial. This is not to say that lawyers may not seek the help and advice of anthropologists in the work they undertake in preparing witnesses and taking statements for submission as evidence. Such assistance may be of substantial benefit since an anthropologist may have understandings and knowledge not available to others lacking his or her experience and expertise. However, the anthropologist so employed is best not then used as an expert in a native title claim because their independence may be open to question.

The bases of the expert view

Anthropologists generally base their interpretations of culture upon field data. However, the discipline does not generally require rigour in this regard since such interpretations may be asserted progressively from sometimes disparate ethnography so that final understandings are not interpreted with respect...
to a single ethnographic note. The presentation of an expert view to the court requires a rather different procedure and one not altogether familiar to anthropology. Opinion must be based ‘wholly or substantially’ on specialist knowledge. Consequently, the opinion must be presented in a manner that allows evaluation of this requirement. This means that an expert view must be shown to be based on data that are identifiable and can themselves be evaluated. The anthropologist must therefore provide a clear indication of the basis for his or her view. This may be by a direct reference to the field note or field notes that are relevant, or to some other scholarly work which is regarded as having some authority, or perhaps more generally to the expert’s professional training and experience. These bases are then able to be interrogated, should this be considered necessary and the bases of the reasoning made clear.

A related consideration is the need to differentiate between facts and opinions. Sackville J noted in this regard that this was not apparent in the Yulara anthropology report,

Like some of the reports discussed by Lindgren J in Harrington-Smith (No.7), the Yulara Anthropology Report often does not clearly expose the reasoning leading to the opinions arrived at by the authors. Nor does it distinguish between the facts upon which opinions are presumably based and the opinions themselves. Indeed, it is often difficult to discern whether the authors are advancing factual propositions, assuming the existence of particular facts, or expressing their own opinions. Certainly the basis on which the authors have reached particular conclusions is often either unstated or unclear.

The anthropology then needs to set down the ‘facts’ as field data, referenced to a relevant field note or other source. The inferences drawn from the facts can then be flagged by an introductory phrase such as, ‘in my view’ or ‘in my opinion’. Care needs to be taken that the citation provided truly supports the inferences drawn. Sackville J was critical of Professor Sutton’s footnoting commenting that,

[scrutiny of the notes cited in the relevant footnote provides scant support for the conclusions … many of the notes (as one might expect) are cryptic and therefore difficult to interpret. But on their face the words recorded do not appear to justify the proposition.]

Care needs to be exercised then that there is a direct correlation between the facts as referenced and the inferences drawn from them.

While anthropologists have been identified as providing a means whereby ‘evidentiary gaps’ can be filled in a native title case, the status of the expert’s evidence is particular. He or she is not able to provide the court with second-hand evidence of the sort, ‘Johnny told me that he had rights to this country’. Such evidence, to have any weight, must come from the claimant himself, in one admissible form or another. This much is evident. There is an important implication of this fact for the expert and his or her report: opinions that rely on field data require that the data upon which the expert relies be admitted in evidence so its veracity can be judged. At a practical level this might require the barrister making a list of those ‘facts’ derived from the field data upon which the expert relies and ensuring that these are explored in the presentation of evidence. Ensuring the congruence of the evidence and

44 For a relevant discussion of this see Jango v Northern Territory (No 2) [2004] FCA 1004 at [336].
45 Jango v Northern Territory (No 2) [2004] FCA 1004 at [11]. See also Harrington-Smith on behalf of the Wongatha People v Western Australia (No. 7) (2013) 130 FCR 424 at [31] per Lingren J.
46 Jango v Northern Territory (No 2) [2004] FCA 1004 at [336].
the field data is an intelligent way to manage the claim. From the anthropologist’s point of view this also ensures that there is some rigour in the nature of their data which should in any event always be replicable.

An anthropologist, like any other expert, cannot be expected to know the requirements of the law, although those with some experience in these matters should command some knowledge in this regard. Ultimately it is the responsibility of those who frame the case (for applicants or respondents) to ensure that the expert evidence, like any other form of evidence, is relevant, admissible and ultimately helpful to the court. In this regard Lingren J made comment on the the lawyer’s role in settling the final form of the expert’s report.

Lawyers should be involved in the writing of reports by experts: not, of course, in relation to the substance of the reports (in particular, in arriving at the opinions to be expressed), but in relation to their form, in order to ensure that the legal tests of admissibility are addressed. In the same vein, it is not that the legal test of admissibility is attracted by nothing more than the writing of a report in accordance with the conventions of an expert’s particular field of scholarship

Rather his Honour continued, the legislation required that relevant aspects of the Evidence Act apply. Consequently the question of admissibility was of fundamental importance.

Alternative settlements

The Native Title Act provides for settlements reached without the need to go to trial. The Act contemplates that the first port of call is mediation through the National Native Title Tribunal which could result in a ‘consent determination’, given final legal effect by order of the Federal Court (Ritter 2009, 6-7). However, there are numerous other ‘alternative settlements’ that have been reached (Strelein 2009, 149). According to one legal academic there is an ‘overwhelming view that native title issues are best resolved through reaching agreements’ (Ritter 2009, 174). While it seems unlikely that litigation will cease, particularly as the Federal Court increasingly is pressing for cases to be finalised or brought to trial, it is relevant to consider the role of the expert anthropologist in applications that are subject to alternative settlement procedures.

Claims for the recognition of native title must be made by application lodged with the Tribunal. Registration of the claim, to secure the right to negotiate over what are called ‘future acts’ on the application area (e.g. creation of exploration or mining rights), requires submission of materials relevant to the Tribunal’s ‘registration test’ (Ritter 2009, 7-8). Materials submitted are evaluated against this test and the claim either registered or not depending on the assessment. Once an application is lodged and perhaps registered the State as respondent may assess the claim usually upon the basis of an assessment made against its own assessment guidelines, being different for each state and territory. There are then, quite apart from the expert report produced for a trial, potentially three other circumstances that might require expert anthropological opinion: application, registration and assessment for a consent determination.

The nature of the materials required and relevant procedures in relation to these three processes are not my concern here beyond noting that anthropological materials may be of assistance. In particular the state or territory, in its assessment of the claim for a potential consent determination, requires

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47 Harrington-Smith v Western Australia (No.7) (2003) 130 FCR 424 at [19]. This passage was quoted with approval by Sackville J in Jango v Northern Territory (No.2) (2004) FCA 1004 at [9].
‘connection material’ which commonly includes a report written by an anthropologist. Preparation of such a report (a ‘connection report’) may raise issues relevant to the expert’s evidence in relation to the preparation of a expert report for a trial, should it eventuate, which, of course, can never be ruled out.

The first point to make in relation to these processes is that they need to be differentiated in terms of what is asked of the expert anthropologist. Consideration also needs to be given as to whether it is prudent to involve the expert in what might be understood as the preparation of the claim (application, registration) and so call into question the independence of the expert48. On the other hand, a claim prepared without proper anthropological advice might run the risk of being inadequately described or founded upon principles that would subsequently prove to be not supported by the evidence. Applications and subsequent registration almost certainly do need the involvement of an expert. However, consistent with their role as an expert, he or she should be relied upon to provide an independent expert view. The view is then extrapolated by those with carriage of the case for the preparation of application or registration materials, which are likely to include other evidentiary items as well. This properly ensures that the expert does what the expert does best: provides independent expert advice. He or she is not understood in any way to be involved in the strategic management of the claim.

So called ‘connection reports’ are written to address specific criteria set down by the states in documents setting out their own understanding of what is required for a consent determination49. Such reports are sometimes distinguished from expert reports (that is a report produced specifically for a trial). They may be considered to be less stringent or rigorous or perhaps provide a more superficial coverage of the relevant issues. However, in my experience there is a good deal of confusion in this regard and the terms ‘connection report’ and ‘expert report’ (sometimes ‘anthropologist’s report’) are often used interchangeably or without clear differentiation.

While the ‘connection report’ and the ‘expert report’ may be understood to serve different purposes they must both cover the same native title issues. Should mediation fail and the matter go to trial, the connection report may suffer deficiencies of admissibility, detail and stringency of process (of the sort discussed in this paper) and probably will have to be re-written to comply with the Practice Direction. This emphatically counsels against preparation of ‘connection reports’ per se and instructs that anthropologists should be asked to write a single expert report which is used first in mediation and then, should the negotiation process fail, may be used as the primary means of presenting his or her expert views. Not only is this a wise way to proceed in relation to limiting the opportunities for inconsistencies and divergence of views between one report and another, but it makes sound economic sense. Most Native Title Representative Bodies (those that manage the native title process on behalf of claimants) cannot afford to have two substantial reports written - given the extensive time and resource requirements for field work and other research. Dowsett J has been critical of the role of anthropologists, their lack of availability and the time taken to obtain their reports (Dowsett, 2009, 15-16). Limiting the number of reports that have to be written would go some way to addressing these problems. Clear direction and management as well as the wise selection of capable and well qualified experts are additional if unrelated factors.

48 Cf Jango v Northern Territory (No 2) [2004] FCA 1004 at [322].
49 Known as ‘Guidelines’ neither the Northern Territory nor the ACT have such a document.
The expert report may serve as a ‘connection report’ and yield benefit in terms of both resourcing and locating the expert as independent of the process of claim preparation and management. Consequently, it would be feasible and desirable to use the one single expert report in support of both initial application and registration. As with the connection assessment process, the use of the expert report (or such parts of it as were regarded as being relevant) would be supplemented by additional materials, prepared by those managing the claim, including affidavits and other evidentiary or supportive materials.

Conclusion

I have set out some of the issues that an anthropologist might be asked to consider in providing an expert view to the court regarding native title questions. In this I have provided an outline methodology as to how this might be best accomplished, having regard to the questions likely to be asked. I have noted some of the more obvious pitfalls for an anthropologist and the commissioning lawyer. These pitfalls have become apparent over the last ten years or so as native title litigation has become increasingly contested. The application of the Evidence Act in 1998 mandated vigour to evidence and process which had not been required before. These changes have challenged the approach of both anthropologists and lawyers who had been in the habit perhaps of adopting a much less structured and legally rigorous approach. Key issues like admissibility, demonstration of the bases of the expert’s views, differentiation between fact and opinion, the importance of an expert’s view being independent and non-partisan, the maintenance of distance between the expert and case formation and the relationship between the points of claim and the expert’s views are all critical issues which I have discussed here and elsewhere (Palmer 2007).

Fundamental to getting these matters right are relationships. In practical terms, for example, the involvement of the lawyer in the final form of the expert report will require considerable tact, interpersonal skills and flexibility on both sides. One of Sutton’s complaints regarding the final form of his expert report was that his original report had been emasculated by the application of what he called the ‘lawyer’s Occam’s Razor’. The report in question was not written consistent with anthropological orthodoxy and was of limited assistance to the court. It attracted critical comment from the judge who expressed disapproval of the expert. Yet the incident should rightly be seen as a failure of those who prepared the evidence rather than of the expert witness called (Palmer 2007, 13-15).

Unlike experts in other fields, anthropologists base their expertise upon a detailed knowledge of specific human relationships and cultural exchanges relevant to those they study – in native title inquiries those who comprise the applicant community. Anthropologists write of these relationships according to the principles of their discipline and by reference to an epistemology that may not readily separate ‘fact’ from ‘opinion’ or ‘interpretation’ from field data. Anthropologists understand that at least some facts are subjective and lack absolute value.

This is not inimical to native title process or the application of law. This particular aspect of the anthropological process has been recognised by Mansfield J who understood that so called ‘facts’, ‘have varying degrees of primacy or subjectiveness’. This accepted, the important thing from his Honour’s perspective was to ensure,

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50 As a consequence of amendments to the Native Title Act. Strelein 2009, 192.
51 Jango v Northern Territory (na 2) FCA 1004 at [314].
52 Jango v Northern Territory (na 2) FCA 1004 at [314].
54 Cf Palmer 1992, 36.310.
[T]hat the intellectual processes of the expert can be readily exposed. That involves identifying in a transparent way what are the primary facts assumed or understood. It also involves making the process of reasoning transparent, and where there are premises upon which the reasoning depends, identifying them.

This provides for a positive practical way forward. However, what is required is more than the application of a methodology that describes an intellectual process of the inter-relationship of cognitive sets. Anthropologists understand societies as sets of relationships and the meanings that hang off them. This is the basis of cultural interpretations and a key factor in the anthropology as explanatory text. Getting a fit between an approach that posits societies in terms of sets of relationships rather than as a thing characterised by the presence of nominated facts requires skill and tact. It also requires the initial development of common understandings along with an appreciation of what is required in the legal process and what the anthropologist as an expert may be able to provide which will be of assistance. This is a two way street. The effecting of successful outcomes requires far more than the application of stated principles and practice. It demands mutual appreciation, comprehension and recognition. It demands insightful planning particularly by those lawyers who seek to apply anthropological expert evidence to a native title matter.

55 Risk v Northern Territory [2006] FCA 404 at [470].
References


Sansom, B. 2006. ‘The brief reach of history and the limitation of recall in traditional Aboriginal societies and cultures’. Oceania 76 pp 150-172.


Although archaeology has, with mixed results, made occasional appearances in native title research (see Miriuwung-Gajerrong and Yorta Yorta), in Western Australia archaeological practice is ostensibly heavily focused on clearance under the state Aboriginal heritage framework. However, the practice under this regime is in fact the intersection of native title and archaeology in action, and therefore an interesting place to be for interns who are archaeologically trained.

Within an NTRB, finding involvement in native title research may prove quite difficult. Aside from a lack of means to attend research trips and the like, research plans for native title claims seem to rarely contain an archaeological component, despite its apparent relevance and potential contribution to a claim.

On the outside, that is, in the consulting sphere, many archaeologists remain unaware of how their work fits into the context of native title. The heritage consulting sphere of archaeology has (especially in WA) grown exponentially over the last couple of decades, particularly on the back of the mining industry. Although practically speaking it is a step in the granting of state-level mining or exploration tenure, the interaction between the mining industry and native title claimants occurs daily in the heritage survey environment.

Without going into too much detail on those processes (which you’ll no doubt be subjected), the right to negotiate compels industry and other entities seeking land access to formalise heritage protection agreements with native title groups.

These heritage agreements typically set out to:

• gain the developer clearance under WA Aboriginal heritage legislation to proceed with their works (either through the avoidance of Aboriginal sites, or Ministerial consent where this is not possible), and
• protect the native title rights and interests of a particular group, specifically, the right to protect and manage their own heritage and country.

Archaeologists working as consultants are generally well-versed in state heritage legislation as matter of course. But native title, despite being the trigger for their involvement in this case, remains an obtuse, abstract concept. As a result, archaeological practice in the field can become somewhat disjointed from native title, and sadly, forgetful of the rights and interests of native title groups by becoming too focused on addressing state legislation, which itself is ineffective at protecting neither those rights, nor even the heritage itself defines.

The state legislation in Western Australia, (the Aboriginal Heritage Act 1972, the AHA) suffers from a few problems which are present in other states' acts, but due to the volume of work, and the economic stakes at hand, has come under fairly intense scrutiny of late. To explain some of the shortcomings, firstly, like most Aboriginal legislation in the country contains some fairly antiquated definitions of heritage. The AHA doesn’t recognise cultural landscapes, and works largely on a site-based approach rather than addressing heritage values. This is problematic in that, at some point or another, an archaeologist or anthropologist will have to draw a line on a map which will be interpreted as the geographic extent of a heritage value. A contemporary understanding about the way heritage (particularly intangible values) are constructed, negotiated, and dynamic will explain how this can lead to problems.

In a similar vein, by virtue of being centred on a public register of sites, the codification of heritage information implies an aspect of immovability and a ‘site/not a site’ binary which does not provide adequate
measures for multiple voices or interpretation.

Aside from these technical issues, the WA legislation also contains some worrying procedural failings that, although perhaps reflective of the state of affairs at the time of drafting, remain an ongoing and increasingly marked problem, evidenced by media coverage of the Marapikurrinya Yinhia and Jame Price Point examples.

For instance, it contains clauses which nullify any protection registered sites did have by way of a Ministerial consent which has to date been denied on only a handful of occasions, and a ‘special defence of lack of knowledge’ providing an additional escape from prosecution which again, has occurred only a few times in the forty-odd years of the functioning of the Act, and which is quite certainly indicative of the number of actual site disturbances.

In addition, the department charged with administering the act - the WA Department of Aboriginal Affairs (DAA), are perpetually under resourced to deal with the backlog of work relating to expanding mining activity, and are typically tied up with processing applications to destroy sites, rather than registering and protecting them.

As has been well reported, the state government drafted amendments to the AHA in 2014. Unfortunately, the current draft (as of September 2015) does not address any of the mentioned technical or procedural issues, despite extensive submissions by Aboriginal people, NTRBs, and archaeological heritage practitioners.

Having not been updated in any substantive form since its original drafting, the AHA leaves open considerable room for interpretation in regard to its intersection with the Native Title Act. As a result of this, the terms for heritage protection negotiated in native title agreements are imperative, as are carrying out those provisions by archaeological consultants. I believe the native title/heritage sphere requires archaeologists to be at their best in terms of academic and professional practice. We are, by virtue of our professional codes of ethics, obliged to promote the voices of Traditional Owners and expand our inquiry beyond western scientific or legislative definitions of heritage, and this is ultimately more important in a native title context.

Working within the NTRB, I hope I have at least been able to influence some of what happens in the field. The NTRB stands as the conduit between the negotiated outcomes of agreements and the archaeological consultant engaged to carry out the fieldwork. As the commissioning entity, they therefore have some leeway in obligating consultants to ensure they employ principles of best practice.

The intersection then between native title and archaeology is still yet to be fully explored. As you might have noticed, there exist only a handful of claims where an archaeologist’s opinion factored into the decision. Even with the quite stringent definitions of connection, we have a lot to talk about in terms of describing patterns of continuity and change, length and characteristics of occupation, and so on. But we still have some way in proving the worth of our discipline in native title. I have had anthropologists say to me that the only thing an archaeologist could, with any surety, say to them was that ‘someone was here, and did something, at some time in the past’. The challenge then is to find ways in which we can assist in the process of native title determinations, and promote the relevance of our inquiry.

I would urge any aspiring and recent graduate archaeologists to engage with native title as much as possible. Community engagement and archaeological research driven by Indigenous people and communities are now becoming more of a standard practice in Australian archaeology, and native title is an important and sometimes central aspect of many Aboriginal people’s assertions and connections to country, and the material culture through which they articulate that connection.
Australian archaeology is always dealing with the processes of decolonisation and the promotion of Aboriginal participation. If you have an interest in these aspects of the evolution of the discipline, the native title setting is a great way to see these interactions played out first hand.

Archaeology as heritage consulting is sometimes criticised for its professional ‘distance’ from academic practice and theory. This may be the case, but from what I can tell, heritage management work has brought archaeology (and some archaeologists) out of the laboratory, and closer in touch with Aboriginal people, and the concerns and values people have for their cultural heritage.

If you are interested in the spheres of cultural heritage management and heritage theory, native title is a great way to explore topics such as; assertions of identity, connection to country and heritage, and historical and post-colonial responses to cultural assimilation. These are all subjects we as academics and professionals are wrestling with every day, and which have relevance to international discourses on human rights, and the rights of Indigenous peoples.

Finally, law-heavy as native title is, you will be presented with a valuable insight into the processes behind Indigenous cultural heritage policy in general, both on a state and national level. This is where the various state Aboriginal heritage legislatures are enacted, and you will with luck have the opportunity to be active in progressing change in those policy areas through submissions and providing advice.

In summary, there is definitely a place for archaeology in native title; to what extent that place and function exists is up to the archaeologists currently working in the field to decide.

Suggested readings:

Relating to the Aboriginal Heritage Act 1972

For best-practice archaeological heritage management.
ICOMOS Burra Charter 2013.
Section 3: Information for anthropology and other social science interns

Chapter 6: Anthropology background reading
Chapter 7:  
Work undertaken by past anthropology interns

Since diversifying the Program in 2006 to include anthropology interns, we have had an increasing interest from students and graduates in this stream and hope to continue to expand this section of the Handbook as the Program continues to grow.

It is important to note that as an anthropology intern, you may be placed with the research team at an NTRB or NTSP or you may also be placed at a policy organisation doing research and policy related tasks, where you are less likely to be working in native title at all. These organisations can include Indigenous corporations, government bodies, community groups, not-for-profit and policy organisations.

In this section we outline some of the types of work carried out by past anthropology interns. As you will see, the range and complexity of the tasks you may be asked to do varies considerably. It may include an in-depth research project, proof-reading documents, taking minutes at meetings, organising transport and accommodation, setting out genealogies and entering information into genealogical databases.

Anthropologists are vital to the successful operation of the native title system. Native title claimants rely on experienced anthropologists, usually engaged by their NTRB, to provide high quality expert connection evidence to support their application. Government parties also require 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.

Some of the more complex tasks you may be asked to do or assist with can be socially complicated and will require greater insight than some of the more routine administrative tasks. These sorts of tasks are often critical and may involve a significant contribution to the native title process.

Your duties as an anthropology intern will vary considerably between Host organisations. Factors such as the type of organisation (e.g. an NTRB or a policy organisation), where your Host organisation is located (e.g. urban, regional or remote), and whether or not your Host organisation has in-house or contracted anthropologist(s), will influence the nature of your placement, and the nature of the work you will do.

Chapter 14 contains some suggested reading material which may be helpful to you.

Anthropology interns working in native title may undertake a range of duties and tasks, including:

- organising transport and accommodation for meeting attendees
- taking minutes at meetings
- proof-reading and editing of anthropological reports for native title claims
- assisting in the creation of community newsletters and web site content
- indexing historical documents and working on cultural geography databases
- filing research documents in the library
- attending on-country and in-house meetings
- learning the basics of conducting interviews with claimants/informants to gather genealogical material
- organising and cataloguing anthropological evidence in relation to a connection report
- analysing land claim applications and further documentation in order to identify common practices between local Indigenous communities
- setting out and printing genealogies, including ancestor box charts, indented indexes and master indexes
Section 3: Information for anthropology and other social science interns
Chapter 7: Work undertaken by past anthropology interns

- completing research requests for members of the claimant communities
- analysing archival material
- interpreting field notes to enter into genealogy databases
- representing the organisation at community events, such as the National Aboriginal and Torres Strait Islander Day of Celebrations.
- meeting Native Title Claimants to advise of upcoming claim meetings
- transcriptions of anthropological journal and source materials for use in future Native Title Claims
- summarising anthropological reports in relation to Native Title Claims
- cataloguing and transcribing anthropological work
- data entry on genealogical databases
- cataloguing historical data for reference in future Native Title Claims
- scanning, binding and cataloguing reports in relation to Native Title Claims
- understanding the process of heritage site registration

Some of the duties listed above are complex tasks and can involve more than simple forensics for the compilation of a native title claim. In fact, these are the substance of a claim and are often complicated and difficult tasks to undertake.

Understanding and negotiating kinship networks and the construction of genealogies are by far the most challenging tasks for an anthropologist working in native title. These tasks involve access to private identity information and anthropologists must complete them with a developed understanding of group and individual politics – while also being sensitive to the politics and histories of the regions, communities or families in which they work.

Kinship and genealogies are the very crux of a native title claim. However, these are complex areas of anthropological work. Kinship systems are diverse and the manner in which kinship and gender informs group politics in urban and remote settings can be very different.

Due to the importance of kinship, gender and genealogy to native title work, it is important for interns to be familiar with these topics and some of the issues and politics involved in working in these areas.

Articles written by past interns are the best source of information about specific tasks likely to be undertaken at particular Hosts. Please refer to the Aurora website at www.auroraproject.com.au and click on ‘What interns say’ to read the various articles written by past anthropology interns.
Chapter 8: Social science background reading

The Aurora Internship Program presents students and graduates across the social sciences with a wonderful opportunity to develop practical insights and experience in an important field of practice, and to offer their diverse and critically important skills to the work of understanding, advocating, protecting and advancing the rights of Indigenous Australians to recognition of native title and respect for fundamental human rights.

When the Aurora Project was in its initial stages of development, I spoke passionately about the importance of not limiting the project’s support for capacity-building in Native Title Representative Bodies (NTRBs) to the legal domain. The extension of the Program to encompass more-than-legal questions of rights, responsibilities and opportunities for Indigenous Australians is a welcome acknowledgement that NTRBs and a range of other Indigenous rights and human rights organisations are engaged in multi-disciplinary and interdisciplinary work that is enriched by the contributions of many intellectual and practice traditions. My experience in working in a range of Indigenous settings, including working as a senior advisor to statewide native title negotiations in South Australia with the NTRB, was that many of the key challenges facing NTRBs and the claimants whose rights they were meant to secure were not going to be met in legal work.

For many native title claimant groups it is in the hard work of managing co-existence of native title and other claims, the overlaps between competing social, cultural, economic and environmental concerns and expectations that the value of hard-won legal rights will be realised. The transition from claiming rights to exercising the responsibilities that they involve, of negotiating the recognition space created by native title, and pursuing improved livelihood, well-being and environmental outcomes on the basis of recognition of Indigenous rights will be greatly strengthened by thoughtful contributions from many quarters. Developing the capacity of government agencies, advocacy groups and representative bodies to better understand the social and cultural domains that constitute the intellectual focus of the social sciences, then, has long seemed to me to be equally important (indeed, if I’m honest, perhaps even more important – but that is a matter for debate and discussion about how best to secure and advance social, political and civil rights in a mature but structurally racist democracy) to improving the legal service skills of those bodies.

The skills and insights of historians, geographers, philosophers, political scientists, sociologists and many others are urgently needed alongside lawyers and anthropologists in native title and human rights practice in Australia. The opportunity provided to young social scientists by the Aurora Project is exceptional and one that will nurture individuals, organisations and disciplines in positive and constructive ways. Whether alumni of the Aurora Program move into long term futures in Indigenous rights, or take that experience into other domains, the internship experience has the capacity to be a life-changing one. Deeper understanding of the challenges that Indigenous rights presents to the nation (and indeed to many nations) is fundamental to shifting Australia from its naïve, patronising and often reprehensible relationship with Indigenous rights towards more just, sustainable and equitable futures. The Aurora experience will build your understanding of these issues and strengthen your own capacity to contribute to change.

Richie Howitt
Professor, Human Geography
Macquarie University

Social science interns in native title and human rights bodies
The work of applied social sciences and humanities in the everyday circumstances of social research, organising social movements, delivering social services and defending and enhancing human rights in our contemporary democracy is important, compelling and often urgent. The everyday contexts in which the organisations working with the Aurora Program vary considerably in what they address. As an intern you may find that your research, analytical, organisational or communication skills are the most important asset you offer.

While the challenges of social theory and the big narratives of social change might have provided the foundations for your interest in joining the Aurora Program, the reality of the social science internships are likely to be more down-to-earth and humbling. You will be joining teams whose everyday efforts in areas of policy, research and service are often met by entrenched attitudes of complacency, indifference or annoyance. In a period where the political debates about Australian attitudes and commitment to justice, rights and responsibility are being played out in ways that make the work of the Aurora Program and its partners ever more important.

As an early-career social science intern, you bring energy and capacity to organisations that are often stretched for both these important resources. In developing a sense of just what applied social science involves, and its importance, we hope that you will develop and demonstrate the important team skills of collaboration, humility and generosity that underpin the application of social science to everyday practice.

Achieving excellence in university studies is no mean feat, but taking on the role of intern in various Indigenous and human rights groups to begin integrating book-learning into engaged, ethical and constructive practice brings new challenges, new insights, and new confidence into your understanding of the ways in which societies work. The Mabo judgement reminded Australians that we are all diminished while the historical falsehoods of legal principles and practices built on racist denial of the humanity of Indigenous Australians prevails and remains. Your Aurora internship experience will allow you to better understand just what that proposition means – how racism, restriction of human rights and denial of the rights that adhere to Indigenous peoples’ relationships to each other, their country and their cultures diminishes Australia – and how your skills as a social scientist can contribute to better futures.

I applaud you for your participation in a truly excellent Program of work-integrated learning; and congratulate you on making it through the demanding process of application and interview and being selected for a place. Whether you are working in a remote location or a major urban centre; whether you are drawn into routine filing or a major research activity; whether you realise a passion that will drive your career, or build an experience that leads to an unanticipated next step on your journey, this will be a remarkable and rewarding experience. Whatever opportunities, hardships and challenges you face, and whatever you might find out about yourself, you can rest assured that you will also find out much about the social, cultural, political, economic and environmental processes that you’ve learned about in your formal studies, and bring new light, new ideas to those studies.

Enjoy the experience and learn humbly the lessons of the value and responsibility of good social science in the real worlds of Indigenous and human rights practice. I also urge you to become an active and generous alumni of the Aurora Project and to encourage and support participation and contributions of a wide range of your peers and colleagues across the social sciences in the future.
History and native title: some comments on practice
Dr Fiona Skyring
Historian

Introduction

I worked as an employee of the Kimberley Land Council Aboriginal Corporation (KLC) from 1999 to 2005, as their ‘in-house’ historian. In this role I prepared history reports for a number of Kimberley native title determination applications on behalf of the native title applicants who were represented by the KLC. I appeared as an expert witness in 5 native title trials.

There is no state-based legislative regime in Western Australia under which Aboriginal people can claim their traditional rights to land, so the native title process is the only option in this state. My experience of researching and writing history for native title claims has been primarily within the context of litigation, and my job was to prepare expert evidence for trials in the Federal Court. In addition, I prepared reports for native title negotiations. In these instances I was instructed to produce reports of the standard that could be filed as expert reports in the Federal Court, and that therefore complied with the rules of expert evidence. My comments in this chapter reflect that experience. It is not a comprehensive guide to historical evidence in the native title process, but introduces some themes in the area with which new researchers may not be familiar.

Governments around Australia now express their commitment to mediating native title outcomes rather than battling it out in the Court, so hopefully the protracted and resource-intensive process of native title litigation will become increasingly a thing of the past. Nevertheless, it is good policy to apply rigorous standards in the preparation of the historical, linguistic, ethnographic and archaeological information required for native title negotiations. The following comments are suggestions for lawyers and researchers engaged in that task.

Continuity - the history of connection

Applicants for determinations of native title need to demonstrate their group’s continuity of connection to the native title claim area since the declaration of British sovereignty. The arbitrary nature of the geographical boundaries of sovereignty illustrates the deep colonial undertones of the native title process. Over a vast continent, the British claimed sovereignty over land they had never seen. Today’s traditional owners who seek to have their native title recognised are required to refer to an array of ‘start dates’ for sovereignty in different parts of Australia. The original colony of New South Wales proclaimed in 1788 included the entire eastern seaboard and ‘all the islands adjacent in the Pacific Ocean’, and extended west to the 135th meridian. This is the longitude about half way across the continent, and cuts through what is now Northern Territory a few longitudinal degrees west of the border with Queensland. It continues through roughly the middle of what is now South Australia. In 1829 the British claimed sovereignty over the western part of the continent, all the land west of the 129th meridian, so native title claimants in Western Australia are required to prove continuity of connection from 1829, not 1788 like claimants in states on the eastern seaboard. For traditional owners whose native title claim areas are in between the 135th and 129th meridians, a range of dates apply based on the re-drawing of colonial boundaries through the nineteenth century.

There is a different sovereignty date again for native title claims in the Torres Strait Islands, when the Queensland Coast Islands Act granted the Governor of Queensland authority over these islands in 1879.

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1 See John Bradley and Kathryn Seton (Chapter 10).
2 See the historical summary of boundaries on the website titled ‘Documenting a Democracy’ at www.foundingdocs.gov.au/places.asp
Whether the date of the declaration of British sovereignty is 1788 or 1829, or 1879, or in some cases in the Northern Territory 1910, continuity of connection by the native title claimant community since that time is a historical question. Living memory usually does not extend back that far, and even when the Court accepts the oral history accounts passed down from the grandparents and great grandparents of today’s traditional owners, there often remains a significant period of time not covered by generational memory.

For many areas along the Australian coast, documentary records can provide accounts about Indigenous presence in, and occupation of, the native title claim area prior to and at the various times of the declaration of British sovereignty.

For inland areas, and particularly those geographically furthest or least accessible from the first places to be colonised, there can be a substantial gap in time between the date of the proclamation of British sovereignty and the time of first contact between Indigenous people in the area and the colonial invaders. For instance, land hungry colonists did not venture into some parts of the Kimberley region in the far north-west until the early decades of the twentieth century, nearly 100 years after the Swan River colony was established in the south west. This gap is not necessarily an impediment to addressing the question of continuous connection. Rather, it is an indication of the limitations of the historical record and what it can and cannot tell us. The non-Indigenous intruders were usually men who created documentary accounts of those first encounters, if any were created at all. These historical records are determined by the presence of intruders and not by the presence or otherwise of the original inhabitants, and this is an important distinction to make in the assessment of documentary evidence of occupation.

If there is a substantial gap in time between the date of British sovereignty and the documentary accounts of first contact, the Courts and others involved in determining native title have usually inferred that in the absence of evidence for a major break in continuity of connection, the conditions at first contact were the same as conditions at sovereignty. Where there are archival records describing violent conflict, appropriation of land and resources by the invaders, and forcible removal of Indigenous people to missions and government settlements away from the claim area, the issue of continuity comes under challenge.

Researchers need to interrogate the documentary record thoroughly so that in the evidence prepared for negotiation or litigation of a native title claim, archival accounts that describe dispossession do not appear as a nasty shock in contrast to traditional owners' assertions of continuity. It is important to recognise that the State or Territory government agencies involved in the native title process will have access to all of this information, since much of it is either on the public record in libraries and special collections, or in the government’s own archival files. Documentary evidence of major dislocation within the claim area and all of the references to ‘the last of his tribe …’ will be there in the State’s argument if they are opposing the native title claim. But the documentary record of colonisation does not inevitably damage native title claims, as shown in the Federal Court’s recognition of the Yawuru peoples’ native title over Broome and surrounding areas (the Rubibi determination). In this example, the Federal Court decided that native title had survived more than a century of active and at times brutal colonisation.

The documentary record in context

Strict demarcations between academic disciplines are a feature of the native title process, particularly in litigated claims in relation to the admissibility of expert evidence, but these divisions are not reflected in the modern academic world. Most researchers trained in universities in the past few decades are more accustomed to working in an inter-disciplinary environment where the old disciplinary boundaries no longer determine the focus of research. The idea that only anthropologists can write about culture and only historians can interpret documentary records is anachronistic. What is important is that the researcher has the analytical skills essential for preparation of evidence in the native title process.

Because so much of the documentary archive is exclusively the creation of the colonisers, the native title researcher who addresses the documentary record must examine the context in which the record was created

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and illustrate its relevance. If there is no analysis of the context of the document, the de-humanizing language and prejudices of much of the written record in relation to Indigenous peoples are re-produced uncritically. Similarly, the power relations in which the records were created are left unacknowledged.  

This has practical implications for the kind of information that the documentary record can provide. So often the Indigenous subjects of the early documentary accounts were described as nameless ‘natives’ whose presence was recorded by the colonists who were appropriating the land or surveying it for appropriation. Native title researchers and lawyers cannot expect details of traditional owners’ language and custom in such records, and analysis of the power relations in which the records were produced can explain why those details are not there.

Documentary records written from the perspective of those doing the dispossessing tend to reinforce a historical narrative that downplays Indigenous people’s agency and cultural survival. For instance, the men who were government appointed ‘protectors’ of Aboriginal people in Western Australia asserted in their reports of patrols in the Kimberley region in the early twentieth century that the Aboriginal population in particular areas had died out. But these ‘protectors’ rarely acknowledged the alternative interpretation which was that Aboriginal people were evading the patrols. Small groups of white men travelling through the Kimberley took Aboriginal children away. They arrested Aboriginal men for alleged cattle killing and made them travel through the bush with chains around their necks. Subsequent accounts showed that Aboriginal populations in the Kimberley did not die out at all, and that traditional owners comprised the substantial pastoral workforce in the region. Without critical analysis of the documentary record, what was the official and in some cases incorrect version of events dominates the story.

During the late nineteenth century and through to the later part of the twentieth century, information was amassed by State and Territory governments about their Indigenous populations. This archive is vast and much of it relevant to research for native title claims. Again, contextualising this archive is crucial. These documents were the products of surveillance and government regulation of Indigenous peoples’ labour, finances, residence and family life. The documents contain information recorded often without the knowledge and certainly without the consent of Indigenous individuals concerned, and with no accountability for the accuracy of the information. Government agencies recorded information about Indigenous people on both personal dossier files and administrative records. Under legislative and administrative regimes in which Indigenous peoples’ civil and political rights were explicitly denied, the records themselves were part of the apparatus of government control. The files became part of an information resource for the Department in their decisions about forced removal, authoritarian control over Indigenous workers and their families, and increased surveillance over individuals and entire communities. Marsh and Kinnane have argued, in their study of the Department of Indigenous Affairs (DIA) archive of Western Australia, that these archival files should not be read as a neutral by-product of bureaucratic operation. They suggest that viewing the Departmental archives as ‘archives of a repressive regime’ is a better way to understand the nature and function of the records.

Government agencies now control and manage these archives, and the extensive records of often very personal information collected about Indigenous people have strict access conditions. Researchers working with these documents in the contemporary context of native title must be cognisant of original function of the records, and ensure that the de-humanizing nature of this archive of surveillance is not simply repeated in evidence presented for native title claims.

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5 Marsh, Lauren and Kinnane, Steve, ‘GHOST Files: The missing files of the Department of Indigenous Affairs Archive’, Studies in Western Australian History, Volume 23, 2003, pp 111-127. The term ‘archives of repressive regimes’ is from a United Nations Educational, Scientific and Cultural Organisation (UNESCO)-sponsored project to address the problems of archives such as those from former repressive regimes in countries like South Africa, Spain, Germany, Chile and Poland, and to make recommendations on how such collections should be handled in the political transition to democratisation. These repressive regimes accumulated information on their civilian populations through surveillance and authoritarian control, in much the same way as did Australian State and Territory governments in relation to Indigenous populations.
Researchers need to be aware of all of these limitations inherent in the documentary sources, and to apply that knowledge in their evaluation of the records. Working with traditional owners is the basis of preparing evidence for a native title claim, and assessment of the documentary archive in relation to their claim is also essential.

By demonstrating the context of the records clearly, researchers can avoid vague references to notions of ‘silences’ and potentially damaging suggestions to ‘read between the lines’ of the documentary record. Researchers must identify the gaps, limitations and possible inaccuracies of the records with reference to information that is accessible, and that should include contemporary scholarship as well as archival documents. The Federal Court guidelines for expert evidence are a useful benchmark here, in that any conclusions drawn by the researcher have to be substantiated by the evidence presented.

This is standard practice for good scholarship anyway. University studies will not have prepared interns for working for an NTRB, and interns need to be aware of that and be ready to adapt to unfamiliar situations. What you bring to the NTRB is your academic training, and with it the research and analytical skills that are essential in the preparation of evidence for native title claims. The challenge is to apply those skills as effectively as possible in the relatively new environment of native title research. Your contribution as interns is an important one, and I hope your experience is both enjoyable and rewarding.
Reflections on interdisciplinary research in a native title environment
Mike Harding
Former Senior Professional Officer, South Australian Native Title Services (SANTS)

Introduction
I have been employed at the South Australian Native Title Services (SANTS) since 2008, and prior to that the former Aboriginal Legal Rights Movement (ALRM) Native Title Unit from late 1999. I first worked here as an anthropologist, and was primarily involved in Work Area Clearances and heritage surveys in northern South Australia for the first few years.

ALRM had previously employed an in-house historian but the position was not filled when the incumbent left in 2001. In 2007 I suggested that I be allowed to undertake archival and historical research rather than engaging external consultants when native title reports were being prepared, for reasons of personal development. Having worked as an anthropologist in a number of native title claims throughout the state, as well as having a good knowledge of names, locations and issues, were significant advantages that I possessed for doing historical research, in addition to having a good history major in my first degree. My suggestion was also in line with our practice wherever possible of having an in-house anthropologist working with an external anthropologist contracted to prepare a Native Title Connection Report, but now being applied to history for the first time.

My initial stint in the archives was in the company of our former historian employed on a consultancy basis to research specific native title claims. As a prominent researcher with three decades of historical research, and an enviable publication record in South Australian Aboriginal history, he was an excellent mentor. From there I was able to gain the experience and the confidence to “go solo”. Finding the experience personally stimulating, I subsequently returned to University to study Honours History in 2010, and am now looking to undertake a PhD in Aboriginal History in the near future. SANTS were extremely supportive of my studies, and while undertaking thesis research on Aboriginal affairs policy (or lack of) in late nineteenth century South Australia, I was able to locate, record and collect resource material of use for future claim research.

Issues and Comments
Historian Fiona Skyring (see previous article) has written an excellent overview of history and native title practice, emphasising the need to abandon the artificial boundary between anthropology and history, and the importance of the context in which historical documents were written, and I would like to very briefly focus on these issues from a South Australian perspective.

Skyring has observed how traditional disciplinary boundaries are now redundant and that native title research requires an inter-disciplinary approach. To illustrate this point, I vividly recall reading the journals of a remote South Australian pastoralist in the mid 1800s bemoaning the fact that his Aboriginal employees seemed to regularly disappear for extended periods over the summer months, despite being provided with regular employment, food and clothing. From an anthropological perspective, however, it was clear that these Aboriginal people were regularly participating in major ritual activities with other Aboriginal groups in the area, rather than living an aimless and wandering life, as had been suggested. This is but one of many examples I have personally come across in analysing historical material, where an ethnocentric written account of Aboriginal life fails to acknowledge the importance of continuing cultural practices, and is a reminder not to accept the written word at face value or as mere facts, but to assess it critically.
I have analysed a significant amount of historical documentation ranging from the 1840s to the 1960s. Official record keeping in the southern part of South Australia began in the 1830s, but for much of the northern region did not commence until the 1880s and later. Much of the historical record in South Australia - and throughout Australia - was written in an era of extreme Social Darwinism, when it was expected that Aboriginal people would eventually become extinct. While the rationale behind these perceptions was flawed, it had serious implications for policy and official record keeping. Aboriginal ‘voices’ were generally missing and little mention was made of those who were able to maintain their independence: Aboriginal people were generally referred to as homogenised categories such as ‘natives; or blacks’. The historical record was often composed in negative, offensive and ethnocentric wording. It is therefore important to be critical, and mindful of this context and the shortcomings, when analysing much of the primary source material.

Much of the content of the historical text I have scrutinised is not only offensive and ethnocentric, but often grammatically poor, unpunctuated and incoherent. It may also be visually challenging: poor and sometimes unreadable handwriting makes the task slow, while microfilmed copies of very early records are often of a poor quality. The advent of typewritten documents from the early twentieth century, however, makes much of that written record relatively easier to read.

Access issues are also often a problem. State Records of South Australia is the major source of official records relating to Aboriginal people. However, access to its most important file series Correspondence Files of the Aborigines Office and Successor Agencies (GRG 52/1) ranging from 1866-1968 is restricted by the South Australian Aboriginal Affairs and Reconciliation Division (AARD) of the Department of Premier and Cabinet. Before files from this series are made available for viewing, they must first be vetted by an AARD access officer to ensure that there are no legal opinions by the Crown Solicitor relating to Aboriginal affairs matters contained in the files, based on an Attorney General’s Department directive that such opinions are privileged and not to be made public. From a researcher’s perspective, this process adds several weeks to the time before files are made available, and it is therefore crucial to maintain a good working relationship with the AARD access staff.

Sources of material
Since 2008 I have worked with a number Aurora research interns who have been anthropology or archaeology graduates, or in the latter stages of their degree. Those assigned to assist me with historical research have been able to review a broad range of primary source material at two of South Australia’s major institutions:

State Records of South Australia – various official files, including reports of the Protector/Sub-Protector of Aborigines, Police reports and journals, photographic collections, and personal letters and papers.

State Library of South Australia – various collections of literary material including official records such as Parliamentary papers and gazettes, pastoral records, personal papers, letters, journals, diaries, local histories, newspapers, as well as oral histories and photographic material.

The above sources are not an exhaustive range. Other research repositories where future interns could be required to visit include the South Australian Museum, the South Australian Police Historical Society, South Australian tertiary institution with special collections, local history centres (metropolitan and regional), and church and mission archives, to name a few. There are also a number of interstate repositories containing research resources relevant to Aboriginal people in South Australia that may need to be visited in the future.

As well as primary source material and unpublished theses on South Australian Aboriginal affairs history, there are a considerable number of secondary sources as well. The following publications provide an interesting overview of, and starting point for anyone interested in South Australian Aboriginal history:
Section 3: Information for anthropology and other social science interns

Chapter 8: Social science background reading


Conclusion

The primary source material available to native title researchers is varied and interesting. A SANTS placement will provide a unique opportunity for an intern to personally scrutinise research material that is interesting, and important, and to experience the pleasure and exhilaration when a significant find is located. The material can at times also be confronting and challenging. Whatever the disciplinary background of the intern, the opportunity to undertake historical research will complement their research skills and provide a crucial understanding of contemporary issues in Aboriginal affairs and native title. Personally, the most pleasing aspect of the Aurora internship Program has been the progression to full time employment in native title or Aboriginal affairs, or to post-graduate study, that most of the interns placed at SANTS have achieved.
Section 3: Information for anthropology and other social science interns
Chapter 8: Social science background reading
Chapter 9:
Work undertaken by past social science interns

In this section we have outlined some of the types of work carried out by past social science interns.

Since diversifying the Program in 2007 to include some social sciences (namely archaeology, cultural heritage, environmental management, history, human geography and sociology), we have had an increasing interest from students and graduates in this stream and hope to continue to expand this section of the Handbook as the Program grows.

It is important to note that as a social science intern, you are more than likely to be placed at a policy organisation doing research and policy related tasks, and less likely to be working in native title at all. These organisations can include Indigenous corporations, government bodies, community groups, not-for-profit and policy organisations.

The range and complexity of the tasks that you may be asked to do varies considerably, and may include organising transport and accommodation, proof-reading documents, taking minutes at meetings, setting out genealogies and entering data into genealogies.

Some of the more complex tasks that you may be asked to do or assist with might involve in depth research and will require greater insight than some of the more routine administrative tasks. Chapter 14 contains some suggested reading material which may be helpful to you during your internship.

Your duties as a social science intern are likely to vary considerably between Host organisations. Factors such as the nature of your Host organisation (e.g. an NTRB or a policy organisation), where your Host organisation is located (e.g. urban, regional or remote), and whether or not your Host organisation has in-house or contracted specialists such as an anthropologist(s), historian(s) and/or anthropologist(s) will influence the nature of your placement, and the nature of the work you’re required to do.

Research staff specialising in archaeology, cultural heritage, environmental management, history, human geography and sociology working in native title and/or policy may undertake a range of duties and tasks, including administrative and support tasks as well as discipline-specific work.

Interns with a social science background focussing on environmental management may find themselves working on land and sea ranger Programs that many NTRBs are developing, as they are a growing part of native title and Indigenous land rights.

Social science interns working in native title and/or other organisations may undertake a range of duties and tasks, including:

- organising transport and accommodation for meeting attendees
- attending meetings on-country and in-house meetings
- taking minutes at meetings
- proof-reading documents; review and analysis of reports; article, speech and newsletter writing
- assisting with research in relation to policy development and procedures
- organising and cataloguing anthropological evidence
- analysing land claim applications and further documentation in order to identify common practices between local Indigenous communities
- assisting in the creation of community newsletters and web site content
- data entry into genealogy databases; setting out and printing genealogies
- data entry into sites database
- filing research documents
- assisting in the preparation of, and attending a heritage survey
Section 3: Information for anthropology and other social science interns
Chapter 9: Work undertaken by past social science interns

- background reading, including legislation, history of the area and connection reports
- researching stone tool manufacturing practices
- recording of rock art site(s)
- contributing to native title/cultural heritage filing systems
- representing the organisation at community events, such as the National Aboriginal and Torres Strait Islander Day of Celebrations.
- develop milestones for contract schedules
- developing co-authored publications
- organise conference calls between stakeholders
- plan workshops for annual reporting of Ranger groups.

Articles written by past interns are the best source of information about specific tasks likely to be undertaken at particular Hosts. Please refer to the Aurora website at www.auroraproject.com.au and click on ‘What interns say’ to read the various articles written by past social science interns.
Chapter 10: General anthropology and social science resources

Initially compiled by Dr. Amanda Kearney
Lecturer, Anthropology
School of Social Sciences and International Studies,
University of New South Wales

Research

It is important for you as an anthropology intern to be aware of some of the more critical assessments of the role of native title in resolving land disputes which recognise the deep colonial undertones of this legal process, and the demands on traditional owners to conform to artificial structures that determine Aboriginality, and the potential for traditional attachments to land.

It is also essential that you recognise the double bind often generated by native title and other land rights legislation (refer to Chapters 3, 4 and 6 for more information about these different schemes). These processes are viewed by some as flawed and for this very reason they do not always appeal to traditional owners.

Maps of Aboriginal Australia

You may find it helpful to refer to an Aboriginal Australia language area map such as that produced by AIATSIS. This map can be helpful in carrying out native title work and many Indigenous people have used it to support their own evidence regarding their affiliations. It has been included at the end of this Handbook for your easy reference, but can also be purchased from AIATSIS. www.aiatsis.gov.au

However, in referring to this and other maps, use caution and be aware of the inherent limitations as some maps can be cultural artefacts in themselves.

General anthropological web resources

• AusAnthrop site is dedicated to research and resources in anthropology, for academics as well as for laypeople. Special accent is on Aboriginal Australia, and more specifically on the Aborigines of the Western Desert cultural bloc. However, other resources are, and future resources will be, of interest to a wider public, whether anthropologists or not. www.ausanthrop.net

• Agreements, Treaties and Negotiated Settlements (ATNS) project is an Australian Research Council (ARC) Linkage project examining treaty and agreement-making with Indigenous Australians and the nature of the cultural, social and legal rights encompassed by past, present and potential agreements and treaties. www.atns.net.au

• Australian Anthropological Society (AAS) represents the anthropologists of Australia. The goals of the Society are to promote the advancement of anthropology as a professional discipline grounded in the systematic pursuit of knowledge, to promote its responsible use in the service of humankind, and to promote professional training and practice in anthropology. www.aas.asn.au

The Native Title Representative Bodies (NTRBs) website

This website is a useful resource directory with links to many other sites as well as positions vacant at NTRBs and NTSPs. It also has NTRB/NSTP contact details and a map of NTRB areas. www.ntrb.net

Suggested Reading

Critical issues in native title anthropology

• Bauman, T (ed) ‘Dilemmas in Applied Native Title Anthropology in Australia’, Canberra: AIATSIS, University House, ANU, Canberra.

1 Further resources have been added to this list upon the suggestion of legal and research professionals working in the field of native title, along with past interns.
Section 3: Information for anthropology and other social science interns

Chapter 10: General anthropology and social science resources


Anthropology, connection reports and customary rights

• Australian Anthropological Society Newsletter, (September 2003), Number 91.


Section 3: Information for anthropology and other social science interns

Chapter 10: General anthropology and social science resources

• Peterson N, (1998) ‘Organising the anthropological research for a native title claim’ in The Skills of Native Title Practice (Proceedings of a workshop conducted by NTRU), AIATSIS, University House, ANU, Canberra.


Native title cases with relevance to anthropological work

• The following case is a good one to read on the role of the applicant in Native Title given that this is a key aspect of running a native title claim particularly as the role of the applicant has changed following recent decisions: FEDERAL COURT OF AUSTRALIA Roe v Kimberley Land Council Aboriginal Corporation [2010] FCA 809 http://www.austlii.edu.au/au/cases/cth/FCA/2010/809.html

• National Native Title Tribunal, Media Centre, Background report (2006) ‘De Rose Hill case, South Australia’.


Gender, kinship and genealogies


Section 3: Information for anthropology and other social science interns
Chapter 10: General anthropology and social science resources


Age and Gender

Suggested readings on age and gender issues


Suggested readings from past interns

- Read anything you can that addresses the place of anthropology and archaeology in native title. Some background knowledge of the interface between anthropology and law (and anthropologists and lawyers) is extremely useful.
- Wikipedia is a good starting point for general kinship classificatory signs, terms and symbols. [www.wikipedia.org](http://www.wikipedia.org)
- Useful website for Pitjantjatjara language learning [www.ngapartji.org](http://www.ngapartji.org)
- Re-evaluating Mabo, the case for Native Title Reform to remove Discrimination and promote Economic Opportunity, Shireen Morris. This paper is available on the AIATSIS website at [http://www.aiatsis.gov.au/ntru/issuesspapers.html](http://www.aiatsis.gov.au/ntru/issuesspapers.html).

News publications

Various news publications such as:
- Alice Springs News.
- *The Australian* and *The Australian Financial Review*
- IndigOz
- Koori Mail
- *National Indigenous Times*
- *National Native Title News*
- *The Sydney Morning Herald* *The Age*
- *The West Australian*

Other resources

You may also want to read the following literary works:
Section 3: Information for anthropology and other social science interns
Chapter 10: General anthropology and social science resources

- Lowe P, (1997), Jimmy and Pat Meet the Queen, Blackroom Press (a quick read that uses plain language to explain complex ideas)
- Rowse T, (2012), Rethinking Social Justice: From ‘peoples’ to ‘populations’
- Presentations given at the Information Technologies and Indigenous Communities Conference, administered by AIATSIS, may be of interest.
- The Centre for Native Title Anthropology (CNTA) aims to enhance the practice of native title anthropology in Australia through a series of innovative Programs and workshops. A unique collaboration between the ANU and the Australian Government, CNTA’s activities target a number of areas relevant to the progression of native title claims. http://archanth.anu.edu.au/cnta
Chapter 11:  
General Hints and Tips

In this chapter you will find general information to assist you whilst on placement, along with a directory, by location, of Aurora Host organisations.

A valuable supplement to this chapter is available for download on the Aurora website and has also been emailed to you separately. The electronic Hints and Tips for Aurora Interns by Location includes detailed information from past interns about their experiences not just working within their specific Host organisation but also about the cities they have been placed in.

To access Hints and Tips for Aurora Interns by Location:
Go to www.auroraproject.com.au, select heading ‘Internship Program’, then select ‘For students and graduates’, then ‘What is an Aurora Internship’, at bottom of page is ‘related links’.

If you are travelling away from home to undertake your internship, we strongly encourage you to read the pages within the supplement document directly relating to your placement city. If you are not travelling away from home, please have a look at the pages relevant to your home city.

We rely on feedback from interns to keep our Hints and Tips up to date and appreciate your suggestions at the completion of your placement.
Section 4 Hints and tips
Chapter 11: General hints and tips

Before you go

• Be sure to read the Internship Induction and Obligations Kit (page xv-xxiii) carefully before and during your placement.

• Be in contact with the current round of interns where possible, especially in the city in which you are placed.

• Research your placement organisation. Read their website if they have one. Find out as much about the organisation you are going to before you arrive so from the very beginning you can engage with your supervisor/s and co-workers about the work they are doing.

• Try and learn about Indigenous culture and the importance of country before commencing your internship.

• Create a budget for your time on placement. Be aware of what finances you have available to you before you commence, as 5 - 6 weeks is a long time to sustain yourself whilst working full-time in an unpaid capacity. Sometimes you just don’t realise quite how much money you spend and incidentals often arise (i.e. doctors appointments, the odd lunch out with staff etc.). If you plan this well before you start, you will inevitably be more comfortable throughout your placement.

• If you are placed at an NTRB, make every effort to have a manual drivers licence before you go.

Working environment

• Try to help out with whatever is going on – not just within your team or unit. Be proactive by introducing yourself to people in the organisation and putting yourself out there to help. This way you will make a greater contribution and be exposed to a wider range of work.

• Assistance of any kind is very much appreciated in light of the lack of funding and resources.

• When assigned a task by your supervisor, ask when do they need it completed by.

• Make it clear to your supervisor if you have other tasks to complete that might impact on the time frame.

• If you are writing a letter, or another type of standard document, ask to be shown an example of how to set the information out and/or how much information to include.

• Ask what the document is for (if appropriate), so you have an idea how to frame your work so it can be used in the best way.

• If you are unsure about the task you are given, ask your supervisor where is a good place to start and where you can find more background information.

• Be flexible and keep an open mind regarding both people and assignments.

• Listen carefully and show an interest (such as by asking questions – but not too many!).

• Seek clarification if you are unsure but try to maintain a degree of self-sufficiency.

• Take up any opportunities to tag along ‘on country’ – it’s a great opportunity to meet some of the individuals involved in some of the topical issues, as well as a fantastic way to see more of Australia! Be understanding if the opportunity does not arise.

• Don’t be afraid to discuss any particular areas of interest you have with your supervisors – they are generally keen to make this a really positive experience for you, and it can assist them when considering the kind of work to give you.

• Establish good relationships with staff members – they will be your most valuable source of information.
• Show initiative by undertaking self-directed research on local issues relating to your Host organisation.
  – Be positive
  – Try to fit in seamlessly
  – Don’t put too much pressure on yourself to get your head around the native title process straight away - it’s complex and takes time.
• In the words of a past intern, “expect to be at the bottom of the hierarchy, to not take anything personally and to use the experience to practice participant observation skills, and much will be revealed!”

Your safety
Be wary of travelling alone, particularly to the more regional areas, and particularly at night. In a cross-cultural setting and a foreign physical environment, men and women can both be faced with difficult circumstances and possible threats to their physical and emotional well-being. You should therefore be wise and cautious and have company wherever possible.

In some rural and remote placements, be warned that the wider community can sometimes be quite Hostile to native title, land rights and the work of the land council or organisation.

so in an Indigenous community. Not all knowledge can be accessed by outsiders and you are also not neutral. You have a subject position and will be understood by the traditional owners and claimant groups in terms that relate specifically to your gender and your age.

Some things you might like to bring
• In the event that you go ‘on country’ for any length of time consider taking appropriate clothing (long sleeved shirt, trousers, boots) as well as things that could be expensive in regional areas, e.g. fly net, insect repellent, bottled water etc
• small first aid kit
• hat, camera, personal medication and needs (contact lens fluid etc.)
• backpack that can fit 3 days worth of clothing, work documents, toiletries and food for day trips
• a journal – this is likely to be one of the most unique experiences of your life so record your experiences and observations
• shopping bags (those durable green/blue bags that you get from Coles or Woolworths)
• take a radio: great company when spending time at night in your room. A laptop with a DVD player would also provide easy access to entertainment (but make sure you have somewhere secure to store it)

Some computer and desk stretches
Please be aware that placements will often require that interns sit at a desk for 4 to 6 weeks, 7 hours/day. This can be challenging, especially where interns are encountering a full-time work scenario for the first time. Please be sure to take breaks every hour, move away from the computer screen and walk around. It is also preferable to take a lunch break and get some fresh air.

Sitting at a computer for long periods often causes neck and shoulder stiffness and occasionally lower back pain. Do these stretches (on the following page) every hour or so through the day, or whenever you feel stiff, experience headaches and generally need a healthy brea
Computer & Desk Stretches
Approximately 4 Minutes

Sitting at a computer for long periods often causes neck and shoulder stiffness and occasionally lower back pain. Do these stretches every hour or so throughout the day, or whenever you feel stiff. Photocopy this and keep it in a drawer. Also, be sure to get up and walk around the office whenever you think of it. You'll feel better!

1. 10–20 seconds
   2 times

2. 10–15 seconds

3. 6–10 seconds
   each side

4. 15–20 seconds

5. 5–6 seconds
   3 times

6. 10–12 seconds
   each arm

7. 10 seconds

8. 10 seconds

9. 8–10 seconds
   each side

10. 8–10 seconds
    each side

11. 10–15 seconds
    2 times

12. Shake out hands
    5–10 seconds

Chapter 12:
Directory of Host organisations by location

Western Australia
South-west organisations

Perth

Aboriginal Health Council of Western Australia (AHCWA)
Street address: 450 Beaufort Street, Highgate, WA 6003
Phone: 08 9227 1631
Phone: 08 9228 1099
Website: www.ahcwa.org.au

Aboriginal Legal Service WA Limited (ALS) [Head Office]
Street Address: 7 Aberdeen Street, Perth WA 6004
Phone: (08) 9265 6666
Fax: (08) 9221 1767
Website: www.als.org.au

Cross Country Native Title Services Pty Ltd (Cross Country)
Street address: Office 4, Level 3, London Court, 54 St Georges Terrace, Perth WA
Phone: 0412 411 023
Email: sophie.kilpatrick@crosscountrynts.com.au

Central Desert Native Title Services (Central Desert)
Native Title Service Provider
Street address: 76 Wittenoom Street, East Perth WA 6004
Phone: 08 9425 2000
Website: www.centraldesert.org.au

Department of Local Government, Sport & Cultural Industries - Aboriginal Culture & History WA (DLGSCI-ACHWA)
Street address: State Library of WA, Level 2, 25 Francis Street, Perth Cultural Centre, Perth WA 6000
Phone: 08 9235 8000
Fax: 08 9235 8088
Website: www.dlgsc.wa.gov.au/Pages/default.aspx
Section 5: Directory of Host organisations
Chapter 12: Directory of Host organisations by location

**GenerationOne - Minderoo**
Street address: Sunset, 80 Birdwood Parade, Dalkeith, Perth, WA 6009
Phone: 0439 163 384
Website: www.minderoo.com.au

**Goldfields Land and Sea Council (GLSC)**
Native Title Representative Body
Street address: Level 4, 251 St George Terrace, Perth WA 6000
Postal address: PO Box 3058, Adelaide Terrace, Perth WA 6832
Phone: 08 9263 8700
Website: www.glsc.com.au

**Indigenous Management Group (IMG)**
Street address: Level 2, 16 Irwin Street, Perth WA 6000
Phone: 08 444 9114
Website: www.imgwa.com.au

**Lions Eye Institute**
Street address: 2 Verdun Street, Nedlands WA 6009
Phone: 08 9381 0802
Website: www.lei.org.au or www.lionsoutbackvision.com.au

**National Native Title Tribunal (NNTT)**
Street address: Level 5, Commonwealth Law Courts Building, 1 Victoria Avenue, Perth
Postal address: GPO Box 9973, Perth WA 6000
Phone: 08 9425 1000
Website: www.nntt.gov.au

**Nous Group**
Street address: Level 2, 5 Mill Street, Perth, WA, 6000
Phone: 08 9222 5200
Website: www.nousgroup.com

**Key Assets**
Street address: 1 Puccini Court, Stirling, 6021, WA
Phone: 08 9207 5900
Website: www.keyassets.com.au

**South West Aboriginal Land and Sea Council (SWALSC)**
Native Title Representative Body
Street address: 1490 Albany Highway, Cannington WA 6107
Phone: 08 9358 7400
Website: www.noongar.org.au
Section 5: Directory of Host organisations
Chapter 12: Directory of Host organisations by location

Supply Nation
Street address: Level 14, 197 St George Terrace, Perth WA 6000
Phone: 08 6188 7535
Email: info@supplynation.org.au
Website: www.supplynation.org.au

The Aspiration Initiative (TAI) & Academic Enrichment Program (AEP)
Street Address: Curtin University, Centre for Aboriginal Studies, Building 211, Kent Street, Bentley WA 6102
Mobile: 0417 586 797 (Estelle Walker, Program Coordinator)
Website: www.theaspriationinitiative.com.au

Telethon Kids Institute
Street address: Northern Entrance, Perth Children’s Hospital
15 Hospital Avenue, Nedlands, WA 6009
Phone: 08 6319 1736
Website: www.telethonkids.org.au

Western Desert Lands Aboriginal Corporation (WDLAC)
Prescribed Body Corporate
Street address: Level 8, 12-14 The Esplanade, Perth WA 6000
Postal address: PO Box 3072, 249 Hay St, East Perth WA 6892
Phone: 08 9486 9797
Website: www.wdlac.com.au

Yindjibarndi Aboriginal Corporation (YAC)
Street address: Suite 4/19 Bishop Street, Jollimont, WA 6014
Postal address: PO Box 196, Wembley WA 6913
Phone: 08 9284 0799
Website: www.yindjibarndi.org.au

Yamatji Marlpa Aboriginal Corporation (YMAC)
Native Title Representative Body
Street address: Level 8, 12-14 The Esplanade, Perth WA 6000
Postal address: PO Box 3072, 249 Hay St, East Perth WA 6892
Phone: 08 9268 7000
Website: www.ymac.org.au
Section 5: Directory of Host organisations
Chapter 12: Directory of Host organisations by location

Yirra Yaakin Theatre Company (YYTC)
Street address: Subiaco Arts Centre, 180 Hamersley Road
              Subiaco WA 6008
Phone: 08 9380 3040
Website: www.yirrayaakin.com.au

Albany

Aboriginal Legal Service WA Limited (ALS)
Street Address: 51 Albany Highway, Albany, WA 6330
Phone: (08) 9841 7833
Website: www.als.org.au

Southern Aboriginal Corporation (SAC)
Street address: 45/47 Serpentine Road, Albany WA 6330
Phone: 08 9842 7777
Fax: 08 9842 7780
Website: www.sacorp.com.au

West Australian Country Health, Great Southern Aboriginal Health (WACHS GS)
Street address: 61 Serpentine Road, Albany WA 6330
Phone: 08 9892 7216
Website: www.wacountry.health.wa.gov.au/index.php?id=446

Mid-west organisations

Geraldton

Aboriginal Legal Service WA Limited (ALS)
Street Address: 73 Forrest Street, Geraldton WA 6530
Phone: (08) 9921 4938
Website: www.als.org.au

Yamatji Marlpa Aboriginal Corporation (YMAC)
Native Title Representative Body
Street address: 171 Marine Terrace, Geraldton, WA
Postal address: PO Box 2119, Geraldton, WA 6531
Phone: 08 9965 6222
Website: www.ymac.org.au
Denham

Wula Gura Nyinda Eco Cultural Adventures (WGN)
Street Address: 38 Hartog Crescent, Denham WA 6537
Phone: 0432 029 436
Website: www.wulagura.com.au

Goldfields organisations

Kalgoorlie-Boulder

Aboriginal Legal Service WA Limited (ALS)
Street Address: 59 Egan Street, Kalgoorlie WA 6430
Phone: (08) 9021 3666
Fax: (08) 9021 677
Website: www.als.org.au

North Eastern Independent Body Aboriginal Corporation (NEIB)
Street address: 208-210 Hay Street, Kalgoorlie WA
Postal address: PO Box 10770, Kalgoorlie WA 6430
Phone: 08 9091 9124

Laverton

One Tree Community Services (OTCS) - formerly CSSU
Laverton Crisis Intervention Service:
Street address: Lot 499 Harding Street, Roebourne, WA 6718
Postal address: PO Box 229, Roebourne, WA 6718
Phone: 08 9182 1476/0488 644 414
Website: www.onetree.org.au

Pilbara organisations

Karratha

Kuruma Marthudunera Aboriginal Corporation (KMAC)
Street address: 1 Welcome Road, Karratha WA 6714
Postal address: PO Box 1944, Karratha WA 6714
Phone: 08 9185 5005
Roebourne

Yindjibarndi Aboriginal Corporation (YAC)
Prescribed Body Corporate
Street address: 21 Hampton St, Roebourne WA 6718
Postal address: PO Box 111, Roebourne WA 6718
Phone: 08 9182 1700
Website: www.yindjibarndi.org.au

One Tree Community Services (OTCS) - formerly CSSU
Roebourne Children & Family Centre:
Street address: Lot 499 Harding Street, Roebourne, WA 6718
Postal address: PO Box 229, Roebourne, WA 6718
Phone: 08 9182 1476/ 0488 644 414
Website: www.onetree.org.au

Port Hedland and South Hedland

Aboriginal Legal Service WA Limited (ALS)
Street Address: 6/2 Byass Street, South Hedland WA 6722
Phone: (08) 9172 1455
Website: www.als.org.au

Yamatji Marlpa Aboriginal Corporation (YMAC)
Native Title Representative Body
Street address: 3 Brand Street, South Hedland, WA
Postal address: PO Box 2252, South Hedland, WA 6722
Phone: 08 9172 5433
Website: www.yamatji.org.au

Tom Price

Yamatji Marlpa Aboriginal Corporation (YMAC)
Native Title Representative Body
Street address: Shop 2, 973 Central Road, Tom Price WA
Postal address: PO Box 27, Tom Price WA 6751
Phone: 08 9188 1722
Website: www.yamatji.org.au
Kimberley organisations

Broome

Aboriginal Legal Service WA Limited (ALSWA)
Street Address: Unit 2, 41 Carnarvon Street, Broome, WA 6725
Phone: (08) 9192 1189
Website: www.als.org.au

Kimberley Land Council Aboriginal Corporation (KLC)
Native Title Representative Body
Street address: 11 Gregory St, Broome WA 6725
Postal address: PO Box 2145, Broome WA 6725
Phone: 08 9194 0100
Website: www.klc.org.au

Kimberley Institute Ltd
Prescribed Body Corporate
Street address: Lot 640 Dora St, Broome WA 6725
Postal address: PO Box 3485, Broome WA 6725
Phone: 08 9193 6800
Fax: 08 9193 7352
Website: www.kimberleyinstitute.org.au

Kimberley Community Legal Service (KCLS)
Street address: 3/41 Carnarvon Street, Broome, WA 6745
Postal address: PO Box 622, Kununurra, WA 6743
Phone: 08 9169 3100
Fax: 08 9169 3200
Email: kcls@wn.com.au

KRED Enterprises (KRED)
Street address: Unit 9, Woody’s Arcade, 15 Dampier Terrace, Broome, WA 6725
Phone: 08 9192 8782
Website: http://www.kred.org.au/
Nulungu Research Institute
Street address: 88 Guy St, Broome WA 6725
Postal address: PO Box 2287, Broome WA 6725
Phone: 08 9192 0670
Website: www.nd.edu.au/research/nulung

Nyamba Buru Yawuru Pty. Ltd
Prescribed Body Corporate
Street address: 55 Reid Road, Cable Beach, WA 6726
Postal address: PO Box 425, Broome, WA 6725
Phone: 08 9192 9600
Fax: 08 9192 9610
Website: www.yawuru.com

Office of Senator Patrick Dodson
Street address: 1/23 Coghlan Street Broome WA 6726
Postal address: PO Box 3490, Broome, WA 6725
Phone: 08 9193 5955
Website: www.alp.org.au/patrick_dodson

Derby
Kimberley Land Council Aboriginal Corporation (KLC) - Library/Resource Centre
Native Title Representative Body
Street: Lot 285, Loch Street, Derby, WA 6728
Postal address: PO Box 377, Derby, WA 6728
Phone: 08 9194 0175
Fax: 08 9193 1163
Website: www.klc.org.au

One Tree Community Services (OTCS) - formerly CSSU
Derby Parenting Advice and Support Service (PASS)
Street address: 145 Loch Street (In th Winun Ngari Corp Office) Office 3, Derby WA 6728
Postal address: PO Box 1246, Derby, WA 6728
Mobile: 0477 300 301
Web: www.onetree.org.au
Section 5: Directory of Host organisations
Chapter 12: Directory of Host organisations by location

Fitzroy Crossing

**Bunuba Dawangarri Aboriginal Corporation (BDAC)**
Street address: 4-6 Forrest Road, Fitzroy Crossing, WA
Phone: 0437 721 298

**Kimberley Aboriginal Law and Culture Centre (KALACC)**
Street Address: Great Northern Highway, Fitzroy Crossing WA
Postal address: PO Box 110, Fitzroy Crossing WA 6725
Phone: 08 9191 5317
Website: www.kalacc.org.au

**Marninwarntikura Fitzroy Women’s Resource Centre (MFWRC)**
Street address: 284 Balanijangarri Road, Fitzroy Crossing, WA 6765
Postal address: PO Box 43, Fitzroy Crossing, WA 6765
Phone: 08 9191 5284
Fax: 08 9191 5611
Website: http://www.connectingup.org/organisation/

Kununurra

**Aboriginal Legal Services WA**
Street address: 81 Konkerberry Drive, Kununurra, WA 6743
Phone: 08 9168 1635
Website: www.als.org.ay

**Yawoorroong Miriuwung Gajerrong Yirrgeb Noong Dawang Aboriginal Corporation (MG Corporation)**
Prescribed Body Corporate
Street address: 19 Chestnut Avenue, Kununurra WA 6743
Phone: 08 9166 4800
Website: www.mgcorp.com.au

**MG Services Office:** 24 Konkerberry Drive, Kununurra, WA

**Kimberley Community Legal Service (KCLS)**
Street address: 4 Papuana Street, Kununurra, WA 6743
Postal address: PO Box 622, Kununurra, WA 6743
Phone: 08 9169 3100
Northern Territory organisations

Darwin

Aboriginal Areas Protection Authority (AAPA)
Street address: R.C.G Centre, 4th Floor
47 Mitchell Street, Darwin NT
Phone: 08 8999 5511
Website: www.nt.gov.au/aapa

Alice Springs Office: C/-AMSANT, PO Box 1464, Alice Springs, NT 0871

Aboriginal Medical Services Alliance of the Northern Territory (AMSANT)
Street address: Moonta House, 43 Mitchell Street, Darwin NT 0800
Postal address: GPO Box 1624, Darwin NT 0801
Phone: 08 8944 6666
Fax: 08 8981 4825
Website: www.amsant.org.au

Aboriginal Justice Unit, Attorney-General and Justice
Street address: Moonta House, 43 Mitchell Street, Darwin NT
Phone: 08 8935 7655
Website: www.justice.nt.gov.au

Aboriginal Peak Organisation Northern Territory (APO NT)
Street address: Moonta House, 43 Mitchell Street, Darwin NT 0800
Phone: 08 8944 6666
Fax: 08 8981 4825
Website: http://apont.org.au/

Artback NT (Artback NT)
Street address: Level 2, Harbour View Plaza, 8 McMinn Street,
Darwin NT 0801
Phone: 08 8941 1444
Website: www.artbacknt.com.au

Danila Dilba Health Service Organisation (DDHS)
Street address: 26 Knuckey Street Darwin NT 0801
Postal address: PO Box 3497, Manuka ACT 2603
Phone: 08 8942 500 or Fax: 08 8942 5490
Website: www.daniladilba.org.au

Darwin Aboriginal Art Fair Foundation (DAAFF)
Street address: 56 McMinn Street, Darwin, NT, 0801
Phone: 08 8981 0576
Website: www.daaf.com.au

Environment Centre NT (ECNT)
Street address: Unit 3, 98 Woods St, Darwin NT 0800
Postal address: GPO Box 2120, Darwin, NT, 0801
Phone: 08 8981 1984
Website: http://ecnt.org.au/

Environmental Defenders Office (NT) Inc. (EDONT)
Street address: 5/84 Smith Street, Darwin NT 0800
Postal address: PO Box 8981, Darwin, NT, 0801
Phone: 08 8981 5883
Website: http://edont.org.au/

HK Training & Consultancy (HK)
Money Management Service
Street address: 3/17 Scaturchio St, Casuarina NT 0811
Postal address: PO Box 4229, Casuarina NT 0811
Phone: 08 8927 2499
Fax: 08 8945 7975
Registered Training Organisation
Street address: 13 Copeland Crescent, Nakara NT 0810
Postal address: PO Box 4229, Casuarina NT 0811
Phone: 08 8945 7865
Section 5: Directory of Host organisations
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Local Court of the Northern Territory (formerly Northern Territory Magistrates Court)
Street address: Nichols Place, Cnr Cavenagh & Bennett Streets, Darwin NT 0800
Postal address: GPO Box 1281, Darwin, NT, 0801
Phone: 08 8999 7560
Fax: 08 8999 6997
Website: www.nt.gov.au/justice.ntmc.index.shtml

North Australian Indigenous Land and Sea Management Alliance (NAILSMA)
Street address: Building H, 23 Ellengowan Drive, Brinkin NT 0909
Postal address: PO Box 486, Charles Darwin University, NT, 0801
Phone: 08 8946 7697
Website: www.nailsma.org.au

North Australian Aboriginal Justice Agency (NAAJA)
Street address: 61 Smith Street, Darwin, NT
Postal address: GPO Box 1064, Darwin, NT, 0801
Phone: 08 8946 7697
Email: mail@naaja.org.au
Website: www.naaja.org.au

Northern Land Council (NLC)
Native Title Representative Body
Street address: 45 Mitchell Street, Darwin, NT
Postal address: GPO Box 1222, Darwin NT 0801
Phone: 08 8920 5100
Website: www.nlc.org.au

Top End Women's Legal Service Inc. (TEWLS)
Street address: Ground Floor, 2/5 Edmunds St, Darwin, NT 0801
Postal address: GPO Box 1901, Darwin NT 0801
Phone: 08 8941 9935
Website: www.tewls.org.au
Katherine

**Enterprise Learning Project (ELP)**
Street address: 12/15 Katherine Terrace, Katherine, NT 0850
Phone: 08 8972 5000
Web: www.elp.org.au

**North Australian Aboriginal Justice Agency (NAAJA)**
Street address: 32 Katherine Terrace, Katherine, NT 0851
Postal address: GPO Box 1254, Katherine, NT 0851
Phone: 08 8972 5000
Web: www.naaja.org.au

Wadeye

**One Tree Community Services (OTCS) - formerly CSSU**
Wadeye Safe House:
Street address: Lot 646 Perdjert Street, Wadeye NT 0822
Postal address: PO Box 8, Wadeye NT 0822
Phone: 08 8978 1020
Website: www.cssu.org.au

Nhulunbuy

**Northern Land Council (NLC)**
Native Title Representative Body
Street address: Endeavour Square Nhulunbuy, NT 0880
Phone: 08 8986 8500
Fax: 08 8987 1334
Website: www.nlc.org.au
Central Australia organisations

Alice Springs

**Aboriginal Areas Protection Authority (AAPA)**
Street address: Ground Floor, Belvedere House  
Cnr Bath and Parsons Streets  
Alice Springs NT
Postal address: GPO Box 1890, Darwin. NT 0871
Phone: 08 8999 5511
Website: [www.nt.gov.au/aapa](http://www.nt.gov.au/aapa)

**Anangu Pitjantjatjara Yankunyijatjara (APY)**
Postal address: PMB Umuwa via South Alice Springs NT 0872
Phone: 08 8954 0195
Fax: 08 8954 8110

**Artback NT**
Street address: 7 Bath Street, Alice Springs, NT 0871
Phone: 08 8953 5941

**Central Land Council (CLC)**
Native Title Representative Body
Street address: 27 Stuart Highway, Ciccone, NT 0870
Postal address: PO Box 3321, Alice Springs, NT 0871
Phone: 08 8951 6211
Website: [www.clc.org.au](http://www.clc.org.au)

**Institute for Aboriginal Development (IAD)**
Street address: 3 South Terrace, Alice Springs NT 0870
Postal address: PO Box 2531, Alice Springs NT 0870
Phone: 08 8951 1311
Fax: 08 8953 1884
Website: [http://iad.edu.au/](http://iad.edu.au/)
North Australian Aboriginal Justice Agency
Street address: 5 Bath Street, Alice Springs, NT 0870
Phone: 08 8950 9300
Website: www.naaja.org.au

Ngaanyatjarra Council
Street address: 6/58 Head St, Alice Springs
Postal address: PO BOX 644, Alice Springs NT 0871
Phone: 08 8950 1711
Website: www.ngaanyatjarra.org.au

Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women’s Council (NPYWC)
Street address: 3 Wilkinson Street, Alice Springs NT 0870
Postal address: PO Box 8921, Alice Springs NT 0871
Phone: 08 8958 2345
Website: www.npywc.org.au

Ninti One
Street address: 29 Wilkinson Street, Alice Springs, NT 0870
Postal address: PO BOX 3971, Alice Springs NT 0871
Phone: 08 7905 5510
Website: www.ninitione.com.au

Olive Pink Botanic Garden (OPBG)
Street address: Tuncks Rd, Alice Springs NT 0871
Postal address: PO Box 8644, Alice Springs NT 0871
Phone: 08 8952 2154
Website: www.opbg.com.au

Regional Anangu Services Aboriginal Corporation (RASAC)
Street address: Suite 4, 19 Hartley St, Alice Springs, NT 0870
Postal address: PO Box 2584, Alice Springs, NT 0871
Phone: 08 8950 5400
Website: www.rasac.com.au
St John Ambulance Northern Territory
Street address:  45 Telegraph Terrace,
Alice Springs NT 0870
Phone:  08 8959 6633
Website:  www.stjohnnt.org.au

Haasts Bluff

Ikuntji Artists Aboriginal Organisation
Street address:  CMB 211 Haasts Bluff, NT, 0872 via Alice Springs, NT, 0872
Phone:  08 8956 8783
Website:  www.ikuntji.com.au

Torres Strait organisations
Thursday Island

Torres Strait Regional Authority (TSRA)
Native Title Representative Body
Government regional authority with native title functions and responsibilities
Head Office address:  Level 1, Torres Strait Haus, 46 Victoria Parade,
Thursday Island, QLD
Postal address:  PO Box 261, Thursday Island, QLD 4875
Phone:  07 4069 0700
Website:  www.tsra.gov.au

Far-north Queensland organisations
Cooktown

Yuku Baja Muliku (YBM)
Street address:  142 Charlotte Street, Cooktown, QLD 4895
Postal address:  PO BOX 1011, Cooktown, QLD 4895
Phone:  07 4069 6957
Website:  www.archerpoint.com.au
## Cairns

**Cape York Balkanu Development Corporation (CYBD)**

- **Street address:** 242 Sheridan Street, Cairns QLD
- **Postal address:** PO BOX 7573, Cairns, QLD 4870
- **Phone:** 07 4019 6200
- **Website:** [www.balkanu.com.au](http://www.balkanu.com.au)

**Cape York Partnership (CYP)**

- **Street address:** Level 3, 139 Grafton Street, Cairns QLD 4870
- **Postal address:** PO Box 3099, Cairns QLD 4870
- **Phone:** 07 4046 0600
- **Fax:** 07 4046 0601
- **Email:** info@cyp.org.au
- **Website:** [www.capeyorkpartnership.org.au](http://www.capeyorkpartnership.org.au)

**Cape York Land Council (CYLC)**

- **Native Title Representative Body**
- **Street address:** 32 Florence Street, Cairns QLD
- **Postal address:** PO Box 2496, Cairns QLD 4870
- **Phone:** 07 4053 9222
- **Website:** [www.cylc.org.au](http://www.cylc.org.au)

**Carpentaria Land Council Aboriginal Corporation (CLCAC)**

- **Native Title Representative Body**
- **Street address:** Level 1, 104 Mulgrave Road, Cairns QLD
- **Postal address:** PO Box 6662, Cairns QLD 4870
- **Phone:** 07 4041 3833
- **Website:** [www.clcac.com.au](http://www.clcac.com.au)

**Department of Aboriginal and Torres Strait Islander and Multicultural Affairs (DATSIMA)**

- **Street address:** Level 2, William McCormack Place, Building 1, 5B Sheridan Street, Cairns, QLD 4870
- **Postal address:** PO Box 5365, Cairns QLD 4870
- **Phone:** 07 4232 4216
- **Fax:** 07 4047 5782
- **Website:** [http://www.datsima.qld.gov.au](http://www.datsima.qld.gov.au)
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**Department of Environment and Heritage Protection (EHP)**
Street address: 5b Sheridan Street, QLD 4870
Postal address: PO Box 7230, Cairns, QLD 4870
Phone: 07 4222 5585
Fax: 07 4222 5070
Website: www.ehp.qld.gov.au

**Good to Great Schools Australia (GGSA)**
Street address: 302310 Sheridan Street, QLD 4870
Phone: 07 0402 7211
Website: www.goodtogreatschools.org.au

**Marrawah Law Pty Ltd**
Street address: Suite 12, 61 McLeod Street, QLD 4870
Postal address: PO Box 268 Manunda, QLD 4870
Mobile: 0438 539 139 (Leah Cameron)
Mobile: 0437 402 371 (Moana Biddle)
Website: www.marrawahlaw.com.au

**National Native Title Tribunal (NNTT)**
Street address: Level 14, Cairns Corporate Tower, 15 Lake Street, Cairns QLD
Postal address: PO Box 9973, Cairns QLD 4870
Phone: 07 4046 9000
Fax: 07 4046 9050
Website: www.nntt.gov.au

**North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC)**
Native Title Representative Body
Street address: 61 Anderson Street, Manunda QLD
Postal address: PO Box 679N, North Cairns QLD 4870
Phone: 07 4042 7000
Website: www.nqlc.com.au

**The Streets Movement (TSM)**
Street Address: The Cairns Institute, James Cook University 14-88 McGregor Rd, Smithfield. Cairns. QLD 4870
Phone: 07 4211 2847
Website: www.thestreetsmovement.org
Wet Tropics Management Authority (WTMA)
Street address: Ground Floor, Cairns Port Authority, Cnr Grafton and Hartley Street, Cairns, QLD 4870
Postal address: PO Box 2050, Cairns, QLD 4870
Phone: 07 4241 0523
Website: www.wettropics.gov.au

Coen
Kalan Enterprises Aboriginal Corporation (Kalan)
Prescribed Body Corporate
Street address: 13 Regent Street, Coen QLD 4892
Postal address: c/p - Post Office Coen QLD 4892
Phone: 0408 150 755

Townsville
North Queensland Land Council Native Title Representative Body Aboriginal Corporation (NQLC)
Native Title Representative Body
Street address: 10th Floor, 61-73 Sturt St, Townsville QLD 4810
Postal address: PO Box 5296, QLD 4810
Phone: 07 4421 5700
Website: www.nqlc.com.au

Far-west Queensland organisations
Mt Isa
Dugalunji Aboriginal Corporation/Indjalandji-Dhidhanu Aboriginal (DAC/IDAC)
Prescribed Body Corporate
Placement address: Dugalunji Camp, Barkly Highway, Camooweal, QLD
Postal address: PO Box 24, Camooweal QLD 4828
Phone: 07 4748 2060

Kalkadoon Community Pty Ltd (KCPL)
Street address: Marie Kruttschnett Building - 109 Barkly Highway
Postal address: PO Box 1727 Mount Isa Qld 4825
Phone: 07 4749 2766
Fax: 07 4747 2769
Website: www.kalkadooncommunity.com.au
South Queensland organisations

Brisbane

**Indigenous Business Australia (IBA)**
Street address: 300 Queen Street, Brisbane QLD 4000
Postal address: PO Box 10906 Adelaide Street, Brisbane QLD 4000
Phone: 1800 107 107

**Indigenous Schooling Support Unit, Qld Department of Education and Training (ISSU)**
Street/Postal address: World Knowledge Centre, USQ Campus
Sinnathamby Blvd, Springfield QLD 4300
Phone: 07 3381 6400

**National Native Title Tribunal (NNTT)**
Street address: Level 5, Harry Gibbs Commonwealth Law Courts Building, 119 North Quay Brisbane, QLD 4000
Postal address: GPO Box 9973, Brisbane, QLD 4001
Phone: 07 3307 5000
Fax: 07 3307 5050
Website: [www.nntt.gov.au](http://www.nntt.gov.au)

**Nous Group**
Street address: Level 12, 259 Queen Street, Brisbane
Phone: 07 3007 0800
Website: [www.nousgroup.com](http://www.nousgroup.com)

**PricewaterhouseCooper**
Street address: 480 Queen Street, Brisbane, QLD
Phone: 07 3257 5000
Website: [www.pwc.com.au](http://www.pwc.com.au)
Queensland South Native Title Services (QSNTS)
Native Title Service Provider
Street address: Level 10, 307 Queen Street, Brisbane, QLD 4000
Postal address: PO Box 10832, Adelaide Street, Brisbane, QLD 4000
Phone: 07 3224 1200 / 1800 663 693
Website: www.qsnts.com.au

Supply Nation
Street address: Office 23 Bldg. 1, Corporate House Gateway Office Park, 74 Lytton Road, Murarrie, QLD 4172
Phone: 07 3846 1195
Email: info@supplynation.org.au
Website: www.supplynation.org.au

Youth Justice, Department of Child Safety, Youth and Women
Street address: Level 25, 50 Ann Street, Brisbane, QLD 4000
Phone: 07 3235 9647
Website: www.qld.gov.au/youthjustice

Gold Coast
First Peoples Health Unit - Griffith University
Street address: G01, Room 3.16, Gold Coast Campus, Griffith University, Parklands Drive, Southport QLD, 4222
Phone: 07 5678 0342
Website: www.griffith.edu.au/health/first-peoples-health-unit
New South Wales organisations

Sydney

Aboriginal Legal Service NSW/ACT Limited (ALS)
Street address (head office): Suite 460, Level 5, 311-315 Castlereagh Street, Sydney NSW, 2000
Phone: 02 8303 6600
Fax: 02 8836 3499
Web: www.alsnswact.org.au

Aboriginal Legal Services - Care and Protection
Street/Postal address: Suite 2, Level 8, 33 Argyle Street, Parramatta
Phone: 02 8836 3400
Web: www.alsnswact.org.au

Aboriginal Employment Strategy Ltd. (AES)
Street address: Level 2, 1-9 Glebe Point Rd, Glebe NSW
Postal Address: PO BOX 184, Glebe NSW 2037
Phone: 02 8571 0999
Fax: 02 8571 0988
Web: www.aes.org.au

Aboriginal Child Family & Care State Secretariat (AbSec)
Street address: 21 Carrington Road, Marrickville, NSW 2027
Phone: 02 9559 5299
Fax: 02 9362 4822
Website: www.absec.org.au

Australian Literacy & Numeracy Foundation (ALNF)
Street address: 208 New South Head Rd, Edgecliff Sydney 2027
Email: foundation@alnf.org
Phone: 02 9362 3388
Fax: 02 9362 4822
Website: www.alnf.org
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Arts Law Centre Australia (ALCA)
Street address: The Gunnery, 43-51 Cowper Wharf Roadway,
Woolloomooloo, NSW, 2011
Phone: 02 9356 2566
Website: www.artslaw.com.au

Australian Law Reform Commission (ALRC)
Street address: Level 8, 33 Argyle Street, Parramatta, NSW 2150
Phone: 02 8836 3444
Fax: 02 8836 3449
Web: www.alrc.gov.au

Balarinji
Street address: Level 1, 61 Hume Street, Crows Nest, NSW, 2065
Phone: 02 9908 2416
Web: www.balarinji.com.au

Barrister - Susan Phillips at St James Hall Chambers
Street/Postal address: 13th Floor St James Hall Chambers, 169 Phillip Street, Sydney NSW 2000
Phone: 02 9335 3063
Web: www.13stjames.net.au

Barristers - Tina Jowett, Vance Hughston, John Waters and Craig Evans at Windeyer Chambers
Street/Postal address: 6th Floor Windeyer Chambers, 225 Macquarie Street, Sydney NSW 2000
Phone: 02 9235 3100
Web: www.6windeyer.com.au

Carriageworks
Street/Postal address: 245 Wilson Street, Eveleigh, NSW, 2015
Phone: 02 8571 9099
Web: http://carriageworks.com.au

Centre for Health Equity Training Research & Evaluation (CHETRE)
Street/Postal address: Ingham Institute, 1 Campbell St, Liverpool NSW
Phone: 02 8738 9310
Web: http://chetre.org
Chalk & Behrendt (C&B)
Street/Postal address: Level 9, Currency House, 23 Hunter Street, Sydney NSW 2000
Phone: 02 9231 4544

Community Legal Centres NSW (CLCNSW)
Street/Postal address: Level 8, 28 Foveaux Street, Surry Hills, NSW
Phone: 02 9212 7333
Website: www.clcnsw.org.au

Environmental Defenders Office NSW (EDO NSW)
Street address: Level 7, 263 Clarence Street, Sydney, NSW 2000
Phone: 02 9262 6989
Website: www.edonsw.org.au

Federal Court of Australia
Street/Postal address: Level 16, Law Courts Building, Queens Square, Sydney NSW 2000
Phone: 02 9230 8779
Website: www.fedcourt.gov.au

Food Ladder
Street/Postal address: Level 4, 333 George Street, Sydney, NSW, 2000
Phone: 0412 620 871
Website: www.foodladder.org

Gadigal Information Services
Street/Postal address: 3/27 Cope Street, Reffery, NSW 2016
Phone: 02 9384 4000
Website: www.kooriradio.com

Indigenous Law Centre, University of New South Wales (ILC, UNSW)
Policy Organisation
Street/Postal address: Faculty of Law, UNSW, Sydney 2052
Phone: 02 9385 2252
Website: www.ilc.unsw.edu.au
Indigenous Business Australia (IBA)
Street address: Level 9, 300 Elizabeth Street, Sydney NSW 2010
Postal address: PO Box K363 Haymarket NSW 1240
Phone: 1800 107 107
Website: http://www.iba.gov.au/

Indigenous Policy and Dialogue Research Unit, UNSW (IPDRU)
Street address: Goodsell Building, UNSW, Sydney
Postal address: C/- the Social Policy Research Centre, UNSW, Kensington 2052
Phone: 02 9385 2380
Website: www.ipdru.arts.unsw.edu.au

Jumbunna
Street address: Sydney Tower Building, Level 17, No. 15 Broadway
Postal address: PO Box 123, Ultimo NSW 2007
Phone: 02 9514 1902
Fax: 02 9514 1894
Website: www.jumbunna.uts.edu.au

Just Reinvest NSW
Street address: Suite 460, 311-315 Castlereagh Street, Sydney
Phone: 0412 483 170
Website: http://justreinvest.org.au

Lingo Pictures
Street address: Suite C, Building 16, Park Road North, Moore Park NSW 2021
Phone: 0414 858 299

Moriarty Foundation
Street address: Level 1, 61 Hume Street, Crows Nest NSW 2065
Phone: 0498 646 992
Website: www.moriartyfoundation.org.au
## National Aboriginal Sporting Chance Academy (NASCA)
Policy Organisation  
Street address: Gadigal House, 180 George Street, Redfern  
Phone: 02 8399 3071  

## National Association of Community Legal Centres (NACLC)
Street address: Level 10, 307 Pitt Street, Sydney, NSW  
Postal address: PO Box A2245, Sydney South NSW 1235  
Phone: 02 9264 9595  
Website: [www.naclc.org.au](http://www.naclc.org.au)

## National Centre of Indigenous Excellence (NCIE)
Street address: 180 George Street, Redfern NSW  
Postal address: PO Box 3093, Redfern NSW 2016  
Phone: 02 8094 2500  
Website: [www.ncie.org.au](http://www.ncie.org.au)

## National Justice Project
Street address: 5/22 Cooper Street, Surry Hills NSW 2010  
Phone: 02 9327 2289  
Website: [www.justice.org.au](http://www.justice.org.au)

## National Native Title Tribunal (NNTT)
Street address: Level 16, Law Courts Building, Queens Square NSW  
Postal address: GPO Box 9973, Sydney NSW 2001  
Phone: 02 9227 4000  
Fax: 02 9227 4030  
Website: [www.nntt.gov.au](http://www.nntt.gov.au)

## New South Wales Aboriginal Land Council (NSWALC)
Street address: 33 Argyle Street, Parramatta, NSW  
Postal address: PO Box 1125 Parramatta, NSW, 2124  
Phone: 02 9689 4444  
Website: [www.alc.org.au](http://www.alc.org.au)
NSW Reconciliation Council (NSWRC)
Street address: Suite 213, 3 Gladstone Street,
Newtown NSW 2037
Phone: 02 8095 9600
Website: www.nswreconciliation.org.au

Ngala Nanga Mai (We Dream) pARenT Group Program
Street/Postal address: Cnr Avoca and Barker Streets,
Randwick NSW 2034
Phone: 02 9382 8091

Nous Group
Street/Postal address: Level 34, 60 Margaret Street, Sydney, NSW
Phone: 02 8281 8000
Website: www.nousgroup.com

NTSCORP Ltd (NTSCORP)
Native Title Service Provider
Street address: Level 1, 44-70 Rosehill Street, Redfern 2016
Phone: 02 9310 3188
Website: www.ntscorp.com.au

PARADISEC, The University of Sydney
Street address: 3019, Sydney Conservatorium of Music, 1 Conservatorium Road, Sydney
Phone: 02 9351 1279
Website: www.sydney.edu.au/paradisec/

Public Interest Advocacy Centre (PIAC)
Street/Postal address: Level 5, 175 Liverpool St, Sydney NSW 2000
Phone: 02 8898 6500
Website: www.piac.asn.au

Save the Children (SA)
Street address: Suite 302, Level 3, 418a Elizabeth Street
Surry Hills NSW 2010
Phone: 02 8202 9100
Website: www.savethechildren.org.au
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Squillace Architects (SQA)
Street address: 1/80 Albion Street, Surry Hills, NSW, 2010
Phone: 02 354 1300
Website: www.squillace.com.au

Sydney Story Factory
Street address: 176 Redfern Street, Redfern, NSW 2016
Phone: 02 9699 6970
Website: www.sydneystoryfactory.org.au

Supply Nation
Street address: Level 4, 529 Elizabeth Street
Surry Hills, NSW 2010
Postal address: GPO Box 524, Strawberry Hills, NSW 2012
Phone: 1300 055 298
Website: www.supplynation.org.au

Terri Janke and Company Pty Ltd
Street: Suite 310/30-40 Harcourt Parade, Rosebery, NSW 2018
Postal address: PO Box 780, Rosebery, NSW 1445
Phone: 02 9693 2577
Website: www.terrijanke.com.au

The Aurora Education Foundation
The Aspiration Initiative (TAI),
Indigenous Scholarship Website
The Charlie Perkins Scholarship Trust (CPST)
The Roberta Sykes Indigenous Education Foundation (RSIEF)
Street Address: 100 Botany Road Alexandria NSW 2015
Phone: 02 9310 8400
Website: http://auroraeducationfoundation.org.au

Tranby National Indigenous Adult Education & Training
Street: 13 Mansfield Street, Glebe NSW 2037
Phone: 02 9660 3444
Website: www.tranby.edu.au
Section 5: Directory of Host organisations
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UNICEF Australia
Street: Level 19, 320 Pitt Street, Sydney NSW 2000
Phone: 02 8917 247
Website: www.unicef.org.au

Australian Legal Service (ALS) Regional Offices as follows:

Armidale
Street Address: 128A Dangar Street, Armidale, NSW 2350
Phone: (02) 6772 5770
Website: www.alsnswact.org.au

Dubbo
Street Address: 23-25 Carrington Avenue, Dubbo NSW 2830
Phone: (02) 6841 6966
Website: www.alsnswact.org.au

Lismore
Street Address: 3/15 Molesworth Street Lismore NSW 24800
Phone: (02) 6623 4400
Website: www.alsnswact.org.au

Moree
Street Address: 47 Auburn Street, Moree NSW 2400
Phone: (02) 6752 5700
Fax: (02) 6752 5701
Website: www.alsnswact.org.au

Newcastle
Street Address: Civic Chambers, Level 4, 456-460 Hunter St, Newcastle NSW 2300
Phone: (02) 4926 1571
Fax: (02) 4926 1574
Website: www.alsnswact.org.au

Wollongong
Street Address: Ground Floor, 63A Market Street, Wollongong NSW 2500
Phone: (02) 4225 7977
Website: www.alsnswact.org.au
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Bourke

Just Reinvest/Maranguka Justice Reinvestment Project
Street Address: 41b Mitchell Street, Bourke NSW
Website: www.justreinvest.org.au/the-maranguka-way

Grafton

Gurehlgam Corporation Ltd
Street Address: 18-26 Victoria Street, Grafton, NSW, 2460
Phone: (02) 6642 8677
Email: manager@gurehlgam.com.au
Website: http://www.gurehlgam.com.au

Broken Hill

Warra Warra Legal Service (WWLS)
Street Address: 184 – 186 Argent Street, Broken Hill, NSW 2880
Phone: (02) 8087 6766
Email: reception@warrawarra.org.au
Website: www.warrawarra.org.au

Port Macquarie

Mid North Coast Community Legal Centre (MNCCCLC)
Street Address: 0 Murray Street, Port Macquarie NSW 2444
Phone: (02) 590 2111
Website: www.mncclc.org.au

Australian Capital Territory organisations

Canberra

Aboriginal Justice Centre (AJC)
Street address: Room 3.09, Level 3 Griffin Centre, Genge Street ACT
Phone: 02 6162 1000
Website: www.actajc.org.au

Australian Capital Territory Corrective Services (ACTCS)
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Australian Institute for Aboriginal and Torres Strait Islander Studies (AIATSIS)
Native Title Research Unit
Street address: Level 3, 14 Childers Street, Acton ACT
Head Office
Street address: 51 Lawson Crescent, Acton ACT
Postal address: GPO Box 553, Canberra, ACT 2601
Phone: 02 6246 1111
Website: www.aiatsis.gov.au

Australian Indigenous Governance Institute Ltd (AIGI)
Street address: Level 2, 27-31 Cope Street Redfern, Sydney NSW
Postal address: PO Box 42, Narrabeen, NSW 2101
Mobile: 0498 880 025
Website: www.aigi.com.au

Australian Indigenous Leadership Centre (AILC)
Street address: 245 Lady Denman Drive, Yarramundi Reach, (Moving to city TBC)
Postal address: PO Box 4110 Kingston ACT 2604
Phone: 02 6251 5770
Website: www.ailc.org.au

Australian Institute of Health and Welfare (AIHW)
Street address: 1 Thynne Street, Bruce ACT 2617
Phone: 02 6244 1000
Website: www.aihw.gov.au

Centre for Aboriginal Economic Policy Research (CAEPR)
Street address: Copland Building No. 24, ANU, Acton, ACT
Phone: 02 6125 0587
Website: http://caepr.anu.edu.au
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Indigenous Business Australia (IBA)
Head Office
Street address: Level 2, 15 Lancaster Place, Majura Park ACT 2609
Phone: 1800 107 107
Website: http://www.iba.gov.au/

National Centre for Indigenous Genomics (NCIG)
Street address: 131 Garran Road, ANU, Acton, ACT 2601
Phone: 02 6125 1580
Website: www.ncig.anu.edu.au

National Centre for Indigenous Studies (NCIS)
Street address: John Yencken Building, 45 Sullivan Road, ANU, Acton, ACT 0200
Phone: 02 6125 6708
Website: www.ncis.anu.edu.au

Nous Group
Street address: Level 9, 121 Marcus Clarke Street, Canberra 2601
Phone: 02 6201 9000
Website: www.nousgroup.com

Reconciliation Australia (RA)
Street address: Old Parliament House, King George Terrace, Parkes, ACT
Postal address: PO Box 4773, Kingston, ACT 2604
Phone: 02 6273 9200
Website: www.reconciliation.org.au

Questacon - The National Science and Technology Centre
Street address: 60 Denison Street, Deakin, ACT 2600
and
King Edward Terrace, ACT, 2600
Phone: 02 6222 2222
Website: www.questacon.edu.au
Victorian organisations

Melbourne

Aboriginal Victoria & Right People for Country Program (RPfC)
Street address: Level 9, 1 Spring Street, Melbourne VIC 3000
Postal address: GPO Box 2392, Melbourne VIC 3000
Phone: 03 9208 3580
Website:

ABSTARR Consulting
Street/Postal address: Suite 523, 1 Queens Road, Melbourne VIC 3004
Phone: 0407 190 692
Website: www.abstarr.com

Agreements, Treaties and Negotiated Settlements Project (ATNS)
Street/Postal address: Room 435, Level 4, 207 Bouverie Street - University of Melbourne School of Population Health.
Phone: 03 8344 9163
Website: www.atns.net.au

AMK Law
Street/Postal address: Level 1, 271 William Street, Melbourne
Phone: 03 8564 8474
Website: www.amklaw.com.au

Australian Centre for Moving Image (ACMI)
Street/Postal address: Level , 2 Kavanagh Street, Southbank VIC
Phone: 03 8663 2270
Website: www.acmi.net.au

First Nations Legal & Research Services (FNLRS)
Native Title Service Provider
Street address: 12-14 Leveson Street,
North Melbourne, VIC 3051
Phone: 03 9321 5300
Website: www.fnls1.com
Section 5: Directory of Host organisations
Chapter 12: Directory of Host organisations by location

Federation of Victorian Traditional Owner Corporations (FVTOC)
Street/Postal address: 12-14 Leveson St, North Melbourne, VIC 3000
Phone: 03 9321 5388
Website: www.fvtoc.com.au

Foundation of Young Australians (FYA)
Street/Postal address: 21-27 Somerset Place, Melbourne, VIC 3000
Phone: 03 9670 5436
Website: www.fya.org.au

National Aboriginal & Torres Strait Islander Health & Wellbeing Research Ltd (Lowitja)
Street address: Suite 1, Lvl 2, 100 Drummond St, Carlton, VIC 3053
Phone: 03 8341 5555
Website: www.lowitja.org.au

National Native Title Council (NNTC)
Street address: 12-14 Leveson Street,
North Melbourne, VIC 3051
Postal address: PO Box 431, North Melbourne VIC 3051
Phone: 03 9326 7822
Website: www.nntc.com.au

National Native Title Tribunal (NNTT)
Street address: Level 10, Commonwealth Law Courts Building,
305 William Street, Melbourne, VIC 3000
Phone: 02 9220 3000
Website: www.nntt.gov.au

Nous Group
Street/Postal address: Level 19, 567 Collins Street, Melbourne
Phone: 03 8602 6200
Website: www.nousgroup.com

Save the Children
Street/Postal address: 33 Lincoln Square, South Carlton VIC 3053
Phone: 03 002 1600
Website: www.savethechildren.org.au
Secretariat of National Aboriginal and Islander Child Care (SNAICC)
Street address: Suite 8, 1st Floor, 252-260 St Georges Road, North Fitzroy (entrance on Scotchmer Street)
Phone: 03 9489 8099
Website: www.snaicc.asn.au

Spark Health Australia
Street address: Level 1, 248 High Street, Preston VIC
Phone: 0437 584 123
Website: www.sparkhealth.com.au

Victorian Aboriginal Legal Service Co-Operative Ltd (VALS)
Street address: 6 Alexandra Parade, Fitzroy, VIC
Phone: 03 9419 6024
Website: www.vals.org.au

Victoria Aboriginal Community Controlled Health Organisation (VACCHO)
Street address: 17-23 Sackville Street, Collingwood VIC 3066
Phone: 03 9411 9411
Website: www.vaccho.org.au

Walter and Eliza Hall Institute of Medical Research (WEHI)
Street address: 1G Royal Parade, Parville, VIC 3052
Phone: 03 9345 2555
Website: www.wehi.edu.au

Weenthunga Health Network Organisation
Street address: 257 Collins St, Melbourne VIC 3000
Phone: 03 8662 6620
Website: http://www.weenthunga.com.au/
Bendigo

Dja Dja Wurrung Enterprises (Djandak)
Street address: 1/70 Powells Avenue, Bendigo, VIC 3552
Phone: 03 5444 2888
Website: www.djadjawurrung.com.au/enterprise

Broadford

Taungurung Clans Aboriginal Corporation (TCAC)
Prescribed Body Corporate
Street address: 7 High Street, Broadford VIC 3658
Phone: 03 5784 1433
Website: www.taungurung.com.au

Horsham

Barengi Gadjin Land Council Aboriginal Corporation (BGLC)
Prescribed Body Corporate
Street address: 127 Wail Nursery Road, Wail, VIC 3401
Phone: 03 5389 1921
Website: www.bglc.com.au

South Australia organisations

Adelaide

Aboriginal Legal Rights Movement (ALRM)
Street address: 321 - 325 King William Street, Adelaide, SA, 5000
Phone: 08 8113 3777
Website: www.alrm.org.au

Campbell Law
Street address: Suite 7, First Floor, 118 Halifax Street, Adelaide, SA
Phone: 08 8227 1223
Website: http://campbelllaw.com.au/
Section 5: Directory of Host organisations
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Indigenous Land Corporation (ILC)
Street address: Level 7, 121 King William Street, Adelaide SA
Phone: 08 8100 7100
Website: www.ilc.gov.au

Johnston Withers
Street address: 17 Sturt Street, Adelaide, SA 5000
Phone: 08 8231 1110
Website: www.johnstonwithers.com.au

Selby Street Chambers, Andrew Collett and Simon Blewett
Street address: 28 Selby Street, Adelaide, SA 5000
Phone: 08 8110 9100
Website: http://selbystreet.com.au/S

South Australia Native Title Services (SANTS)
Native Title Service Provider
Street address: Level 4, 345 King William Street, Adelaide, SA
Phone: 08 8110 2800
Website: www.nativetitlesa.org

Tasmania organisations

Claire Tubman
Street address: 74a Roslyn Avenue, Hobart TAS
Phone: 0448 003 448

Riawunna Centre for Aboriginal Education
Street address: University of Tasmania, Level 3, Social Science Building, Sandy Bay Campus Churchill Avenue
Phone: 08 226 8542
Website: www.utas.edu.au/riawunna
Chapter 13: Insurance and emergencies

What to do if things go wrong

Insurance

Aurora has arranged travel and voluntary insurance cover for interns undertaking an internship, for anywhere between four and six weeks (or longer if part-time). However, please be aware that this insurance only provides partial cover. Your Host is also responsible for providing professional indemnity cover for their interns.

Cover is extended to university students or graduates on work experience placements (internships) on behalf of the Policyholder (Aurora) and includes all voluntary workers working in a voluntary capacity on behalf of the Policyholder. The coverage afforded by this policy shall apply whilst a Covered Person is engaged in work experience authorised by and/or under the control of the Policyholder or the Host organisation, including direct uninterrupted travel to and from such work experience. Cover under the Policy applies whilst a Covered Person is engaged in voluntary work on behalf of the Policyholder including necessary direct travel to and from such voluntary work, provided always that any voluntary work is officially organised by and under the control of the Policyholder.

In the unlikely event that an accident or incident occurs during your internship, it is important that you notify your emergency contacts as well as the Aurora Internships team as soon as possible. Aurora emergency contact staff can advise you about what to do if an incident occurs. It is important to keep any documentation (such as receipts for medical treatment) which are likely to be required if a claim is made.

Please be aware of the following in particular:

- **Requiring medical treatment** – interns are expected to use their Medicare card if they require a doctor/medical treatment. If you are an overseas candidate placed as an intern in Australia, you will be required to have your own medical insurance, since Medicare is not available to non-residents or non-Australian citizens.

- **Driving to and from your placement** – if interns choose to drive to and from their placement, they are responsible for their own vehicle and roadside assistance and any vehicle expenses which might be incurred including vehicle loss or damage. Interns will be responsible for mechanical repairs (including towing). Note that each state has compulsory third party insurance for road injuries.

- **Driving on placement** – Aurora does not have a motor vehicle policy via our existing policy for interns. The Host will need to cover the intern under their Motor Fleet Policy for both on-road and off-road activity, when required. Please check that this is the case if you are required to drive on placement. Interns may not drive 4WD and/or manual vehicles unless they have completed previous 4WD training and have a manual driver’s licence.

- **Air travel on placement** – interns are only covered by our policy when they fly on scheduled commercial flights. Private chartered flights or helicopters are not covered. Please check that your Host has the necessary cover if you are required to travel by air on a private chartered flight or helicopter, when going out bush, into community or on country.
How to make a claim

Contact the Aurora Internships team by phone on 02 9310 8413 or by email at placements@auroraproject.com.au to obtain a claim form or email the insurer directly. You must make a claim within 30 days of the incident or as soon as reasonably possible. In an emergency please contact the team on the numbers listed below.

Chubb Australia Head Office
Grosvenor Place
Level 38, 225 George Street
Sydney NSW 2000
Free Phone: 1800 815 675
Website: www.chubb.com/au

PLEASE NOTE: these claim forms/portals are for the INSURED to fill out (i.e. Aurora)

EMERGENCY CONTACT INFORMATION

Kim and Kirsten (in Kim’s absence) are available after hours (where possible) to address emergency situations whilst on placement.

Kim Barlin (Internships Manager)
Phone: 02 9310 8413 or 0439 770 020
Email: kim.barlin@auroraproject.com.au

Kirsten Campbell (Operations and Finance Manager)
Phone: 02 9310 8401 or 0421 055 967
Email: kirsten.campbell@auroraproject.com.au
Chapter 14: Feedback and complaints resolution

We always welcome feedback (good and bad) about your internship experience and the Internship Program. Please let us know about anything that you particularly liked, any suggestions you have for improving the Program or any complaints you have about the Program or the Aurora Project in general.

We have provided contact details and a process for providing feedback and making complaints.

Advice

If at any time you are having a problem, need some advice or just want to talk to someone about your internship, please contact:

- Kim Barlin: Interships Manager on 02 9310 8413 or email placements@auroraproject.com.au
- Melanie Wright: Internships Program Officer on 02 9310 8412 or email placements@auroraproject.com.au

Feedback and complaints

The Aurora Project and Programs Pty Ltd seeks to respond to complaints and feedback in a prompt manner and with a view to improve the quality of our services. Complaints provide valuable feedback to Aurora, they can help identify issues and problems and will be used to ensure enhancement in Aurora’s service delivery and systems.

A complaint made to Aurora could be in relation to a wide range of matters including the quality of service, the failure to provide a service, the conduct of Aurora staff, or the administration of a service.

Complaints can be made on behalf of someone else including a family member or friend. If assistance is needed to make the complaint, Aurora will do its best to fulfil any requests.

This complaint handling policy is designed to ensure that any concerns are treated seriously and addressed promptly, fairly and equitably.

For more information regarding complaint resolution please visit www.auroraproject.com.au/feedback.
Section 6: Other important information
Chapter 14: Feedback and complaints resolution
Chapter 15: The Aurora Project contact details

General correspondence and weekly reports

Email:
placements@auroraproject.com.au

Website:
www.auroraproject.com.au

Street Address:
The Aurora Project
100 Botany Road
Alexandria NSW 2015

Staff contact details

Kim Barlin (Internships Manager)
Phone: (02) 9310 8413
Email: kim.barlin@auroraproject.com.au

Melanie Wright (Internships Program Officer)
Phone: (02) 9310 8412
Email: melanie.wright@auroraproject.com.au

Shayma Taweel (Internships Support Officer)
Phone: (02) 9310 8418
Email: shayma.taweel@auroraproject.com.au

Kirsten Campbell (Operations and Innovation Manager)
Phone: (02) 9310 8401
Email: kirsten.campbell@auroraproject.com.au

After hours/weekend/public holiday contact details

In an emergency after office hours, on a weekend, or on a public holiday please contact:
Kim Barlin on 0439 770 020.
Aboriginal Australia MAP - AIATSIS