



CNTA Annual Conference theme:

Protection and management of the Indigenous estate

CNTA's 2022 Annual Conference will be held from 9-11 February. Because of COVID-19 uncertainties such as border closures, it will break with tradition by being held simultaneously in venues in Cairns, Darwin, Perth and potentially Canberra, while being available at all sites and beyond them through Zoom.

Sessions on each day will vary in timing but be between:
NSW/ACT/VIC 12.00-17.00 **QLD** 11:00-16:00 **SA** 11.30-16.30
NT 10.30-15.30 **WA** 9.00am-14.00pm

Day 1 - Wednesday 9 February 2022

Session 1

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
12:00-12:40	11:00-11:40	11:30-12:10	10:30-11:10	09:00-9:40

David Trigger: Director's Keynote **30 min + 10 minutes for questions**

Protection and management of the Indigenous estate: the role of professional independence in anthropological studies of native title and cultural heritage

- What are the expectations of professional anthropological work across the range of tasks being undertaken in the sector?
- Does cultural heritage work require less analysis than longer term native title studies?
- If a simple yes or no is to be recorded from native title rights holders regarding proposed development projects, why is an anthropologist needed? Or is it not feasible to resolve such an answer without some understanding of the cultural connection issues?
- Can an anthropologist rely on a list of those to be consulted prepared by their organisation or a party engaging their services?
- Is examination of the basis of participation of individuals as traditional owners needed? If not is there a risk of inadequate consultation occurring in terms of the range of family members, men and women, and regionally significant elders with customary responsibilities for the locations proposed to be developed?



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- How adequate is the understanding of these issues for anthropologists among lawyers and other professionals working in NTRBs, NTSPs and other organisations seeking anthropological expertise?

10 minute break

Session 2

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
12:50-13:35	11:50-12:35	12:20-13:05	11:20-12:05	9:50-10:35

Tegen Scott: *The 'I' in Free Prior and Informed Consent (FPIC): Using technology to inform consultations* 45 minutes

25 minute break

Session 3

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
14:00-14:35	13:00-13:45	13:30-14:15	12:30-13:15	11:00-11:35

Gareth Lewis (consultant): *Measuring Damage and Loss in Aboriginal Australia: a comparative approach to sacred site damage issues as indicators of loss in Native Title compensation matters* 35 minutes

Drawing upon my experiences of dealing with the processes of loss involved in cases of site damage to come to some understandings of loss arguably at the highest scale (ie equating sacred bodies to personal and intergenerational embodiment). There is a need to bring in and recognise Aboriginal laws of compensation rather than imparting western concepts of value, loss, and change. To take the discourse of loss – the words, the tears, the howls, the tangible pain, and grief – and to get behind the often difficult and sometimes clumsy translations, which too easily can become tropes, to access what really happens at the individual and societal level: What are the processes of shame and reputational damage? What are the physical and psychological risks? What are the temporary and enduring transformations to social behaviour? What happens to the reproduction of culture and society? How do younger generations relate to the values of their elders?

10 minute break



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Session 4

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
14:45-15:15	13:45-14:15	14:15-14:45	13:15-13:45	11:45-12:15

Panel session: Role of anthropologists engaged by resource companies in WA 10 minutes x 3 panelists, 50 for discussion

Chair: TBC

Daniel Bruckner: Integrity: *Anthropology and the resources sector in the post Juukan aera and proposed legislative changes.*

The new Western Australian Heritage Legislation is about to be introduced into Parliament but has already been heavily criticized by Aboriginal Groups, Heritage Professionals and Developers. This is happening at a time when the expectations around Heritage protection have seen a significant change and other Regulatory Bodies, on state and federal level, are getting involved. Anthropologists, in my view, play a key role in informing and navigating this complex and dynamic environment.

Dirima Cuthbert: *Social Surroundings Assessments in Western Australia's Pilbara Region*

Social Surroundings Assessments are a requirement for 'significant' proposals, e.g. new mines, under Western Australia's Environmental Protection Act. While the legislation is not new, it has only recently involved Aboriginal Traditional Owners. With its broad objective to 'protect Social Surroundings from significant harm', Social Surroundings Assessments present an opportunity to re-cast how anthropologists work with Traditional Owners and industry beyond, but complementary to, cultural heritage and native title.

I look forward to sharing our team's approach, what has worked, what needs improving and what Social Surroundings Assessments could mean for the practice of anthropology in Western Australia.

Corey Herrmann and Amy Usher (YMAC). *A Critical reflection on the role (or not!) of an anthropologist in Social Surroundings – traps for new players*

Speakers address the emerging space of social surroundings projects as part of social impact assessment under the EPA, but specifically the role the anthropologist can play in these projects.

The panel presentation is a reflection on YMAC's experience of:

- The concept of a *social surroundings project*
- What role anthropologists can play
- Who else is involved (hint, there are a lot of other people!)
- How do these experts work together (or not)
- Challenges and opportunities

End of Day 1



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Day 2 - Thursday 10 February

Session 1

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
12:00-13:00	11:00-12:00	11:30-12:30	10:30-11:30	09:00-10:00

Joe Firinu (Northern Land Council) David Trigger (CNTA Director) and Susan Donaldson (consultant) in conversation 60 minutes

Chair: Dayne O'Meara

Sands of time: (David and Joe)

Abstract

The tension between claim research and contemporary claimants, particularly in relation to conceptualizations of Land Tenure and decision making based on Waanyi Garawa ALT as a case study.

Sue Donaldson (consultant): *Interpretative Reports: what did the old people say, what we say.*

Preparing Interpretive Reports for PBC's in the CLC region are designed to present the findings of a Native Title Report in a way that is meaningful and useful for Contemporary Native Title Holders. Sue will show how these reports feed into a broader process of engagement around decision making for a PBC as a good solution for dealing with the problems Joe and David set out.

Abstract: Susan Donaldson

Patta people in Tennant Creek have been involved in claiming back their traditional lands since the late 1970s when research began for the Warumungu land claim under the ALRA. Following the Warumungu Claim [Commissioner Maurice 1988] the Patta group was involved in three native title applications [Tennant Creek Township determined by Justice Mansfield in 2007; Phillip Creek Station determined by Justice Mortimer in 2017 and Tennant Creek Station determined by Justice Charlesworth 2019].

Anthropological research for these four claims spanned four decades and involved four generations of Aboriginal informants. A few of the Aboriginal people involved in the 1970s research were still alive and able to contribute to the native title research. Although they were not key informants of past research, they had been listening to what their parents and grandparents had to say to the anthropologists, lawyers and Judges during the claim research and court hearings.

As the anthropological researcher in the three native title applications, I was often asked by the current generation of informants 'what did the old people say'? Whilst I was trying to understand people's connections and how these connections related to the past, or not, contemporary informants were adamant in their desire to follow the same laws, customs and in particular the same land tenure system as their ancestors, both out of respect of those that had passed and in accordance with the Wirnkarra [Dreaming].

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More recently I was asked to support the Patta PBC in understanding their own decision-making processes, again I was asked 'what did the old people say'. The contemporary native title holders wanted to adhere to the rules that had been set by their ancestors to navigate through hard decisions and avoid conflict.

This paper reflects on my work with the Patta PBC.

10 Minute break

Session 2:

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
13:10-13:40	12:10-12:40	12:40-13:10	11:40-12:10	10:10-10:40

Chair TBC

Sam Williams (Northern Land Council) *Issues around succession and decision-making for applied anthropologists*. A pre-recorded video introduction by Sam.

Succession to a deceased estate is a common feature of traditional ownership of land in the Top End of the Northern Territory. Where once succession might take several generations to be fully resolved among the Aboriginal jural public, the pressure for decisions in relation to succession areas is rapidly accelerated in the contemporary sphere. Succession in the context of future acts, land use agreements and royalty disbursements raise a set of complex questions for applied anthropologists. This session will examine some of the challenges associated with succession and consider the role of Land Councils and NTRBs in the succession process.

Panel Discussion: Gareth Lewis (consultant), Emma King (Northern Land Council) **35 minutes**

20 minute break

Session 3

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
14:05-14:35	13:05-13:35	13:35-14:05	12:35-13:05	11:05-11:35

Chair:TBC

John Morton (consultant): *What is 'The Indigenous Estate'?* **30 minutes**



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Despite its recent popularity, the idea of an 'Indigenous estate' might be said to have a lengthy history – at least for anthropologists, since the 'estate jargon' goes back at least as far as Radcliffe-Brown.

In the contemporary context, the phrase is mostly used generally, to describe a global or pan-Australian entity created through land rights and native title claims; but in academic anthropology, the term 'estate' has mostly been used to identify a far, far smaller entity – the country of a 'local group'. What relationship might there be between these two notions?

Bill Gammage and, more particularly, Bruce Pascoe might be taken to say that the relationship is profound: traditional Aboriginal people created 'the biggest estate on earth'. Keryn Walshe and, more particularly, Peter Sutton might be taken to have replied, 'Well, not so much. That's playing hard and fast with the ethnography'.

Without going too much into the rights and wrongs of these positions, I put forward here an interpretive framework for reconciling them. In addition, I illustrate the framework with a brief discussion of the problem which Ian Keen has labelled 'The Western Desert vs the Rest'.

10 minute break

Session 4

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
14:45-15:25	13:45-14:25	14:15-14:55	13:15-13:55	11:45-12:25

Chair: TBC

Kevin Murphy (Cape York Land Council) *At the intersection of the legal definition of native title rights holder and the practice of authority to exercise rights* 40 minutes

Panel Discussants: Luis Lopez (North Queensland Land Council) and Tony Redmond (consultant)

Native title claim group descriptions, and the descriptions of native title holding groups in determinations of the Federal Court, are commonly defined by reference to a list of ancestor names.

There is some variation in form, with some groups defined merely as the descendants of the named ancestors, often - but not always - explicitly stated to include people adopted into the group.

Other group descriptions involve qualifications on inclusion, such as that the group members must self-identify as, and be accepted by, the group at large as members, often with reference to a language-named-tribe identity. This common practice has evidently

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developed with endorsement of State respondent parties, as most of the determinations have been made by in QLD by consent.

Group descriptions of this type outline cognatic stocks, so the number of groups that an individual is included within potentially doubles in each generation from the named apical ancestors. Further, these group descriptions say nothing about authority within the group.

In this panel we are interested in exploring the intersection of legally determined native title holding group descriptions with the social processes involved in exercising authority to make decisions about land. This includes consideration of mechanisms for exclusion, such as where it may be insisted that everyone should choose one country of primary affiliation.

Does such an insistence have normative force, and how does it interact with the administrative requirements on prescribed bodies corporate? It also includes consideration of the social dynamics involved in the inclusion or otherwise of people who are discovering their ancestral connections to country after several generations of removal.

Day 3 Friday 11 February 2022

Session 1

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
12:00-12:30	11:00-11:30	11:30-12:00	10:30-11:00	09:00-09:30

Chair:TBC

Richard Martin (University of Queensland): *Rights and their exercise: on the State's attempt to restrict the right to access and take resource for any purpose in the Kurtjar people's native title claim* 30 min

The Kurtjar people's native title claim over their traditional lands near Normanton in northwest Queensland was heard in 2019 and 2020. The hearing focused in part on whether expression of the right to take resources in determination of native title under s 225 of Act should include limitations on the exercise of that right provided for in traditional laws and customs, such as a requirement not to exploit resources for personal financial gain.

This presentation surveys the anthropological evidence presented in the case, including Dr Palmer's assertion that "according to anthropological understandings the right and its exercise are not differentiable", as well as the State's assertion that traditional laws and customs proscribe the exercise of the right to take resources for "the purposes of accumulating capital".

I discuss the evidence against the backdrop of Kurtjar people's history on the cattle station Delta Downs and their efforts to manage that property in accordance with their adapted system of traditional law and custom.

10 minute break



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ession 2

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
12:40-13:10	11:40-12:10	12:10-12:40	11:10-11:40	09:40-10:10

Chair: TBC

Callista Barritt and Damian Hastings-James (Kimberly Land Council) *How useful are native title materials in managing the Indigenous estate?* 30 min

A case study involving an evaluation of connection site data transfer to a ranger group in the Kimberley.

25 minute break

Session 3

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
13:35-14:20	12:35-13:20	13:05-13:50	12:05-12:50	10:35-11:20

Chair: TBC

Courtney Boag (First Nations Legal & Research Services) *The language of compensation research in south-eastern Australia* 50 minutes

Panel Discussion: Wendy Asche (consultant) and Mick O 'Kane (First Nations Legal & Research Services) Sturt Glacken (QC)

Since the High Court's Timber Creek decision, compensation has become an increasingly important focus area within the native title sector in Australia. However, to date, attention has largely focused on how research for compensation claims is being produced in the more remote and northern parts of the country. Given the small window of time that an act can be considered 'compensable' (between 1975-1993), there is evidently several limitations in this emergent jurisprudence for its applicability in the southeastern states of Australia where the effects of settlement occurred much earlier than 1975.

Notwithstanding, there is growing momentum in these regions, particularly within Victoria, towards reconciliation and truth telling initiatives which surround a broader political agenda to establish the first Aboriginal Treaty in Australia and, subsequently, there is a clear appetite for attention on what opportunities may exist for compensation and, indeed, what methodologies for research may be developed in these more settled regions of the country.

In this panel session, we will hear from one of Australia's leading compensation barristers, Sturt Glacken and anthropological perspectives from Wendy Asche who was involved in

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research for the Timber Creek claim and Dr. Michael O’Kane who is the research manager at First Nations Legal and Research Services in Victoria.

The podcast entitled: *Compensation and redress in south-east Australia*, which can be accessed via the CNTA website www.cnta.org.au was recorded as a prelude to this panel session and should be viewed in preparation for this extended discussion.

10 minute break

Session 4

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
14:30-15:15	13:30-14:15	14:00-14:45	13:00-13:45	11:30-12:15

Chair: TBC

Queensland South and CLC Community development: *Fit for Purpose: Community Development models*

People, Place and Partnership (PPP): A model for leveraging and governing native title.
Felicity Thiessen, Carmen Cooms-Delaney and Joyce Gehir (QSNTS) **45 min**

Traditional Owner groups within Queensland South Native Title Services’ (QSNTS) expansive service region have fought, and continue to fight, an excruciating battle to have their native title rights and interests recognized by the Federal Court. Where successful, these rights and interests are recognized *in rem*, forever, and Prescribed Bodies Corporate (PBCs) are the bodies incorporated to hold these rights and interests, also effectively forever.

But what comes next?

Beyond recognition, how do native title rights and interests manifest as opportunities and lasting benefits to Traditional Owners to match their *in rem* status, and particularly when, as in the case of many of the determinations within QSNTS’s region (and beyond), the rights and interests recognized are non-exclusive? These are the questions being put to QSNTS by our client base.

QSNTS’s response has been the development of our *People Place & Partnership* framework, a rights-based, strengths-focused approach towards nation building. *Sans* substantial income streams to Traditional Owner groups; insufficient Commonwealth funding to PBCs, and through an internal refocusing of skillsets, and by partnering with key institutions, QSNTS has a vision and developing practice for Walking with Traditional Owners to implement native title rights and interests towards the realization of beneficial, sustainable outcomes.



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The presentation concludes with some reflections on policy and practice implications.

The Central Land Council's community development program has been driving positive change in remote Aboriginal communities since 2005.

We work with our constituents who choose to invest their collective royalty, rent, compensation and leasing income in projects that strengthen their communities, identities, languages, cultures and connections to country, as well as their capacity to participate in mainstream Australia.

Our evidence-based approach works because local participation and control sits at its heart, while welcoming the support of outside expertise.

Our processes build self-reliance, bolster communities, and promote good governance as people use their own income and resources to design and implement development projects they prioritize. Our mandate is to deliver projects in partnerships with local Aboriginal-controlled organisations and companies.

25 minute break

Session 5

AEDT (VIC, NSW, ACT)	AEST (QLD)	ACDT (SA)	ACST (NT)	AWST (WA)
15:40-16:10	14:40-15:10	15:10-15:40	14:10-14:40	12:40-13:10

Chair: TBC

Mentorship in representative bodies - New opportunities for Professional Development?

Panel Session: Louise Allwood and Pascale Taplin (North Queensland Land Council) and David Martin (consultant) 30 min

NQLC has developed a program to enable mid- career anthropologists' opportunity to work as independent experts on connection material with mentorship from their more practiced senior colleagues.

Pascale and Louise will put the 'pedal to the metal' in describing the challenge of working with mentors through connection research – from the practical side of the representative body's perspective to the experience of the researchers.

End of day 3