

## Legal Internship Article (Natascha Sommer)

Spending six weeks working in a Native Title Representative Body (NTRB) is enough time to realise just how much work there is to be done and how few hours there are in one day to get through it. The job of a lawyer at the NTRB is very diverse and rewarding. On one day the job may involve preparing Native Title claim documents for the court. The next day you may be in the middle of the bush gaining instructions from Traditional Owners. One sleep later you may spend the morning back in the office scrambling frantically through the *Native Title Act 1993*, while mid afternoon you may receive a phone call asking you to organise red fabric and didgeridoos for a group of indigenous ladies wishing to perform a dance for a land claim success.

My introduction to working at the NTRB was a 6 day trip to various Indigenous communities in remote parts of the Northern Territory. It was only my third day at work when I jumped on a small aeroplane with an NLC lawyer and set off to learn as much as I could about the practicalities of Native Title work, and to give a helping hand wherever I could. These six days were spent mostly by meeting with Indigenous people to obtain information about traditional land boundaries, getting witness statements for native title claims, and meeting with Traditional Owners to gain instructions on the actions they would like the NTRB to take in representing them.

It was on this trip that I first came to realise just how much work is involved with putting together a native title claim. The seemingly simple task of working out what part of land belongs to which clan, and who in that clan can speak for that country is a task that can take many weeks or even months. Asserting traditional land boundaries is a process which requires multiple consultations with many different Indigenous elders. Problems cannot be resolved simply by directing questions at Traditional Owners and expecting instant answers. Land boundaries are often depicted by the dreamings running over land. Sometimes it is not appropriate for elders to speak of particular dreamings in the presence of other genders, and this can also complicate the process. Excellent communication and cooperation skills are vital for completing this task. It was really great to see how the NLC lawyer and the anthropologist worked with Traditional Owners to extract information which was crucial to the claim. The meetings we had with Traditional Owners were a unique experience for me. Having the opportunity to hear Traditional Owners speak about the dreamings that run through their country is really something special. It is a memory that I know will always remain with me.

On the last few days of the trip I took the minutes for meetings between an NLC lawyer and a local community who had been through a lengthy ordeal in court to prevent a development from damaging their country. The community had previously won their court case and the task of the NLC lawyer was to inform the community that yes, they had won a court case, but in reality the victory did not change the fact that the development could still be approved by the relevant Minister with the click of a finger. The challenges involved with being a lawyer at a NTRB were really evident during this meeting. Not only was it extremely difficult to explain a genuinely complicated and convoluted legal and political process to the community members, but it was also challenging on a personal level to be the bearer of such bad news. Attending these meetings left me feeling frustrated and confused about how such

injustice can slip through our legal and political systems virtually unnoticed by the wider society.

Back in the office I spent much time working on matters relating to Indigenous Land Use Agreements (ILUAs). I spent a great deal of time on a particular file concerning a private conservation organisation wanting to set up a project on land over which there was a native title claim. There were many tasks involved with dealing with this file. I spent some time rummaging through the *Native Title Act 1993* and getting my head around the concept of Future Acts as well as preparing a proposal for the conservation organisation about the ILUA which is to be executed after a consultation process. I also completed some research about the work that the indigenous rangers engage in on the area of land concerned.

Working on this particular file made it very clear that a change in the Australian education system is necessary in order to make society aware of the importance of including Indigenous communities in any kind of development happening on traditional lands, regardless of the tenure under 'whitefella' law. The process of establishing this agreement was of particular interest to me since I am studying environmental management at university, as well as law. In the early stages of dealing with this issue and meeting with the conservationists, I could not understand how these people thought that they could run a conservation project on what is traditionally 'black land', without making indigenous participation central to the conservation project. However, as I thought more about their backgrounds and who they were, I thought more about what I have been taught at university as an environmental management student. It made me rethink the way that natural sciences and resource management are taught at my university. In the three years that I have spent studying environmental management, perhaps only one or two lectures dealt with indigenous issues. In the course of my dealings with this conservation organisation I came to realise that if we want to see a positive change in the future, we need a fundamental change in our education system. To a traditional owner or a member of staff working at the NTRB, it is completely obvious that no developments or activities can take place on traditional 'black land' without indigenous involvement. However to a 'whitefella' who knows he has title to a portion of land under white man's law, this is not so clear. The views of society will not change from one day to the next, rather it is something that needs to be dealt with in the primary, secondary and tertiary education of all Australians.

There is an endless amount of tasks to be completed in a NTRB. One of the joys of working at the NLC was the diversity of work that I was given. A task that I particularly enjoyed was preparing a draft Native Title claim group description based on genealogies for a Native Title claim. This involved looking at family trees and editing the claimants of a Native Title claim to include the descendants of the apical persons of 15 different clans. I also engaged in some larger research projects. I spent a week or so researching public participation provisions in Northern Territory legislation and the end product of this research was a fact sheet for Indigenous people informing them of their right to be involved with Territory decision making processes.

On a personal level, I gained so much from my experience with working at the NLC. First of all it was a reminder to me of why I am studying law. I saw that while our

legal system has great potential to empower Indigenous people, there is a lot of work that needs to be done in the years to come. This is work that I would definitely like to be involved with in the future. I am really grateful for the experience I have had as an Aurora Native Title Intern and am looking forwards to completing my degree and delving into the legalities of Indigenous land rights on a daily basis.

The trip also gave me an insight into the processes involved with “black fella” decision making.

-gaining instructions re submissions

-government decisions have a real impact on people. Native title is not the only work that a NTRB does. Representing aboriginal people. Heartbreaking to see how government decisions can affect real people living in remote communities. Mc Arthur River Mine Saga. How do you tell someone you have lost, after winning a court case. How do you tell a community people to whom their land represents their livelihoods, that when they won their court case, they actually lost.

Being able to hear the passion and fire with which these people speak makes me sad that their voices are for the most part silenced in the outer world.

I also gained some insight into some of the injustices experienced by Aboriginal people in relation to rights to their traditional lands.

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