

ABORIGINAL LAND CLAIMS IN THE NORTHERN TERRITORY:

Documenting and preserving
the records and memories

Canberra, June 2020

Aboriginal readers please be advised that this document contains images of deceased persons. All efforts have been made to use public photographs of claim hearings which do not feature individuals.



AIATSIS

AUSTRALIAN INSTITUTE OF ABORIGINAL
AND TORRES STRAIT ISLANDER STUDIES



Timber Creek land claim hearing, women's evidence from the late Dinah Maylinti, Violet Paliti and Nina Kalijal, c 1984. Anthropologist Dr Myrna Tonkinson assisting the Aboriginal Land Commissioner, Mr Justice Maurice, and to the right, Ross Howie Northern Land Council barrister representing claimants. Photo: Evelyn Shaber tbc.

DOCUMENTING AND PRESERVING THE RECORDS

Since the late 1970s, a significant amount of research and other materials have been generated in preparing claims under the *Aboriginal Land Rights Act (Northern Territory) 1976* (Cth) (ALRA).

These materials include anthropological, linguistic, historical, archaeological and legal research documents, field notes, photographs, audio-visual recordings, drafts of genealogies and maps, cassette tapes and a range of other media.

These records are important not only for Aboriginal cultural heritage but for the heritage of all Australians. They are of significant public interest.

They are essential to the truth-telling of our shared histories.

Access to these materials is also a highly emotional issue for individual Aboriginal people and families who continue to search for records.



Retired lawyer's archive spanning 46 years of land and native title claim work located in his garage. Photo: David Parsons.



Mr Justice Olney holding an on-site hearing during the Tanami Downs land claim, 1990. From left to right sitting near the car: Vance Hughston and James Renwick representing the Northern Territory government, Mr Justice Olney, Jonathon Rodd sitting and Tom Keeley standing as legal representative of the claimants. Senior claimants presenting evidence with back to camera. Photo: Nicolas Peterson.

TIME IS OF THE ESSENCE

A great deal of work takes place in preparing materials before they are formally submitted to the Aboriginal Land Commissioner (ALC) in claim hearings. Many of these exhibits are eventually archived in the National Archives of Australia (NAA) as Commonwealth Records and are generally publicly available.

However, much of the personal and research materials, or 'backstory' records that inform these exhibits are dispersed across the private collections of the people involved in the original research, including anthropologists, historians, linguists and lawyers.

Where are these records? Who has them? What important memories do they hold?

Because of age, in some cases over 40 years, and the outdated technical formats of materials, these research collections are vulnerable and at high risk of being damaged and becoming indecipherable.

The memories of now aged claimants and practitioners have often diminished with the passing of time. Some memories may already be lost.

The opportunity to establish the provenance, to contextualise and to eventually return these important materials requires considered and urgent action now.



Anthropologist's archive in storeroom spanning over 40 years. Photo: Daniel Vachon.



Private archive in home office prior to sorting and describing content. Photo: Toni Bauman.

THE AIATSIS PROJECT

AIATSIS and La Trobe University entered into a research partnership in 2019 for Stage One of a project titled 'Aboriginal Land Rights in the Northern Territory: Documenting the Records and Memories' (the Project).

The Project is governed by an advisory committee chaired by Australian National University (ANU) Emeritus Professor and Northern Territory Treaty Commissioner, Michael Dodson AM along with representatives from the Northern and Central Lands Councils (NLC and CLC), the Office of the ALC, the Northern Territory Aboriginal Areas Protection Authority (AAPA), the NAA, AIATSIS and La Trobe University.

AIMS OF THE PROJECT

The Project aims to:

- secure support to ensure the safety, preservation and documentation of land claim 'back story' materials
- encourage practitioners to begin preparing a record of their own materials
- work towards new approaches to cataloguing, digitising and managing returns to enable appropriate access
- record and publish practitioner and claimant memories.

The ultimate aim is to recognise the rights of Aboriginal communities to control their knowledge, culture and stories while also being mindful of the concerns of the practitioners who hold relevant archives.



NO. 8

ALLIGATOR RIVER STAGE 11 LAND CLAIM HEARING,
CANNON HILL - KAKADU NATIONAL PARK, N.T.
WEDNESDAY, 17TH DECEMBER, 1980.

PHOTOGRAPH: ARTHUR B. PALMER

Top right corner clockwise:

Aboriginal Land Commissioner Justice Toohy,
Counsel assisting Mr. Tom Pauling,
Anthropologist assisting Dr. Ken Maddock,
Mr. Peter Kuner, Terry Cole, Q.C., Mr. Jeff Clark,
Mr. I. Barker, Mr. M. Maurice, Mr. M. Robinson,
Mr. Vance Euston, Mr. Bill Nayidji, Ms. Daphne
Gaden, Ms. Dolly Yarnmalu, Mr. Nelson Muluriyn,
Mr. Robin Gaden, Mr. Robert Cunningham, Mr. Bob
Layton, Mr. David Parsons, Mr. Ian Keen,
Mr. Eric Pratt

Alligator River land claim photo showing uncommon example of documentation located in the archives of David Parsons. Photo: Arthur B Palmer.

WHAT HAS HAPPENED SO FAR?

Stage one: Focus group meeting and report

AIATSIS and La Trobe held a land mark focus group meeting of around 40 participants in Canberra in October 2019.

The meeting was a conversation between:

- researchers, including anthropologists, historians and linguists, and lawyers who worked on claims in the late 1970s through to the 1990s and beyond and who have relevant archives, and
- archivists and staff from the NAA, NLC and CLC, the Office of the ALC, the AAPA and AIATSIS.



Focus group: From back left: Participants at the focus group meeting: Dennis McDermott, David Trigger, Melissa Thomas, Robert Blowes, Averil Ginn, David Ross, David Avery, Ross Howie, Tamara Cole, David Nash, Sophie Creighton, Jeffrey Paul, David Parsons, Jasmine Tearle, Jenny Green, Ian Keen, Petronella Vaarzon-Morel, Timothy Rowse, Francesca Merlan, Matt Lyons, Stephen Johnson, Nic Peterson, Michael Walsh, Geoff Eames, Lisa Smith, Jane Simpson, Phyllis Williams, Yvonne Forrest, Michael Dodson, Helen Wright, Toni Bauman, Anna Gilfillan, Peter Sutton, Cindy Patterson. Absent: Leonard Hill, Charlotte Craw, and David Ritchie. Photo: Saskia Roberts.

What happened at the focus group meeting?

During the meeting participants:

- explored ways in which the knowledge contained in the land claim 'back story' material is of great value, in different ways, to various groups and how these groups might access it
- reviewed the existing practices of collecting and managing this knowledge, revealing an array of collecting authorities with overlapping but different procedures and policies
- elicited the perspectives of past and potential depositors of materials
- discussed the possibility of a Distributed Northern Territory Land Claims Archive as a resource for traditional owners, researchers and others, both generally and with regard to the ongoing work in preparing native title claims under the *Native Title Act 1993* (Cth) (NTA) and under the ALRA
- identified the urgent need to attract funding for next steps in Stage Two of this Project.



Participants posting 'Talking Paper' for discussion from breakout groups and reporting back to plenaries. Photos: Toni Bauman, Jeffrey Paul and Saskia Roberts.

Issues identified at the focus group meeting

The complexities of the issues discussed at the focus group meeting are captured in the meeting report published on the AIATSIS website:

Bauman, T & Parsons, D 2020, 'Aboriginal Land Claims in the Northern Territory: Documenting and preserving the records and memories.'

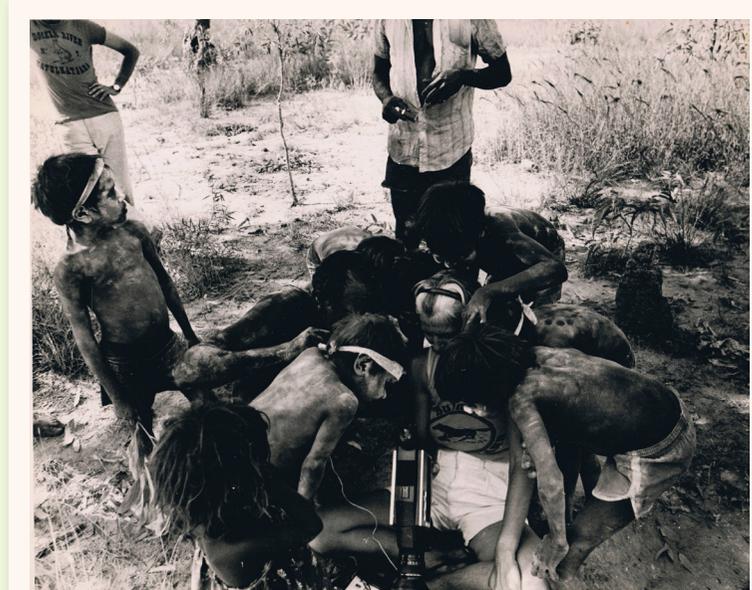
These issues included:

- ownership, copyright and intellectual property rights
- secrecy, confidentiality and changing sensitivities
- access for the public and Aboriginal communities
- duplicate and draft records
- whether to split up archives
- storage
- digitisation
- data sovereignty.

While much work is involved in sorting the archives, all agreed how important it is to do the work in order for Aboriginal communities to access the records for generations to come.



Kenbi (Larrakia) land claim hearing, Duwun Island, Darwin area, 1979. Photo: David Parsons.



Cox River (Alawa Ngandji) land claim, helicopter video site recording, 1982. Toni Bauman showing children the results of the day's filming in camera viewer. Photo: Arthur B Palmer.

What needs to be done?

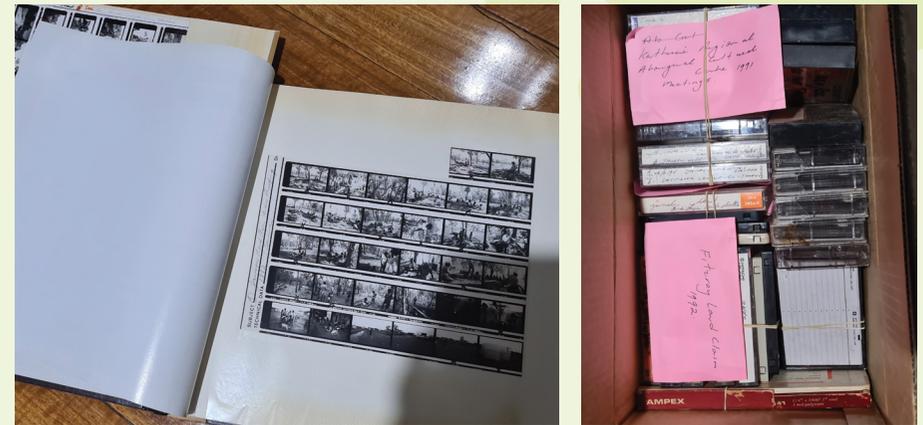
The enormous task of working through the archives held by land claim practitioners has many parts including:

- sorting, identifying and documenting records
- deciding what to deposit after taking advice from Aboriginal organisations and relevant land councils
- considering issues of ownership and intellectual property and where to deposit
- thinking through access protocols that respect Indigenous interests and those of the wider public
- providing provenance, history of ownership and source of the materials.

What are the priorities?

Priorities for dealing with the materials that were identified at the focus group meeting highlighted materials that are:

- of primary interest to Aboriginal people, such as photographs, films, videos, sound recordings, genealogies and maps
- in a fragile and deteriorated state, for example, photos on deteriorating stock or documents that are moth eaten
- recorded with superseded technology and at risk of becoming unreadable, for example, audio cassette tapes, old videos and floppy discs
- needed for the ongoing preparation of native title and other land claims.



Various materials at high risk of deterioration or unreadability including audio cassettes, albums with photographs and proof sheets covered by plastic sheets, VHS and beta videos and floppy discs. Photos: Toni Bauman.

Stage Two: The next steps

The focus group meeting recommended a number of priorities for Stage Two of the project. While project planning and a preliminary pilot study continue, funding is required to progress Stage Two activities for:

- the salary and administration expenses for a co-ordinator
- pilot projects to identify issues and best practice in documenting and preserving individual archives and to compile a complete record of one or two specific land claims
- producing a range of publications that address the truth-telling of colonial histories and capture untold land claim memories and stories that document the struggle around the passing of the ALRA in the Northern Territory
- collating these scattered holdings and further considering the concept of a Distributed Northern Territory Land Claims Archive in consultation with the Land Councils, the NAA and the ALC
- obtaining specialist legal and ethical advice concerning issues involved in the return of materials
- further workshops and consultation with a wide range of land claim practitioners.



Mt Allan land claim, 1980. Proofing of women witnesses by CLC lawyers. Photo: Nicolas Peterson.

Preparing your archives: A first glance pilot study

To further Stage Two, AIATSIS commenced a preliminary pilot study in the first half of 2020.

Anthropologist Toni Bauman and retired judge David Parsons have delved into their personal archives to identify issues informing the development of a user-friendly 'first glance' guide and template.

Their work will:

- facilitate a broad assessment of an archive, particularly in the absence of the collection holder
- provide the basis for discussions about deposits, returns and the legal status of particular documents.

Examples of basic information recorded in the template include:

- the names of land and native title claims for which the researcher has records
- the types of materials held and potential vulnerabilities
- the level of urgency around specific materials including Aboriginal community priorities
- the sensitivities of specific materials
- the broad provenance, origins and contexts of the materials.

Collectors will be able to use the template to progressively describe, sort and catalogue materials.



Office archive in addition to garage storage.
Photo: David Parsons.



Garage stored archive.
Photo: Ophelia Rubinich.



Archive shelving and filing cabinet storage prior to sorting. Photo: Toni Bauman.



The 'First Glance' guide will be available on the AIATSIS website for practitioners and organisations to use and modify for their particular circumstances.

MEMORIES, PROVENANCE AND HONOURING TRADITIONAL OWNERS

The value and importance of the records under discussion cannot be underestimated.

The memories, stories and anecdotes that illuminate the unique land claims period are priceless.

The memories and documents are more valuable while we are alive than after we have gone, adding narrative makes it much more valuable than if someone looks at it afterwards without the narrative...We as a generation were privileged to hear stories from people who hadn't written stories down for 60,000 years...In 5-10 years it won't be available anymore, coz we [may not] won't be here.

Professor Michael Dodson AM, Chair, Project Advisory Committee

It is also critical to honour the struggle that Traditional Owners, many of whom are now deceased, have endured. David Ross, previously CLC Director over many years of land claims and a member of the Project's Advisory Committee notes that 'what stands out' about these people is:

...their unwavering commitment to land, language, and culture, in the face of generations of brutalising control over people's lives and the related domination of traditional lands.¹

¹ Ross, D 2019, 'Foreword', in L Barwick, J Green, & P Vaarzon-Morel (eds), *Archival Returns Central Australia and Beyond. Language Documentation and Conservation*, University of Hawai'i at Mānoa and Sydney University Press, Sydney.

REMEMBER: TIME IS OF THE ESSENCE!



Michael Dodson and David Parsons. Wulna land claim, 1987. Photo: Chips Mackinolly.



Mount Wedge land claim, title handover by Governor General, Sir William Deane, 1999. Photo: David H. Avery.

RESEARCH TEAM



Toni Bauman

Visiting Senior Research Fellow, AIATSIS
toni.bauman@aiatsis.gov.au



David Parsons SC

Adjunct Professor, Latrobe University
dp420107@bigpond.net.au



Ophelia Rubinich

Research Fellow, AIATSIS
ophelia.rubinich@aiatsis.gov.au



Dr Christiane Keller

Senior Research Officer, AIATSIS
christiane.keller@aiatsis.gov.au