

THE WORK OF RIGHTS

PRELIMINARY FINDINGS FROM THE NYANGUMARTA NATIVE TITLE CORPORATE HISTORY PROJECT

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We all know that getting and managing native title rights involves a lot of hard work on the part of Aboriginal and Torres Strait Islander traditional owners. But there is very little comprehensive information available about how much time the governance of rights actually takes, how many different people are involved, and the kinds of activities they are required to do.

NTRU Research Fellow, Dr Pamela McGrath, has been working with the Nyangumarta Warrarn Aboriginal Corporation (NWAC) and their local representative body, Yamatji Marlpa Aboriginal Corporation (YMAC), to try and answer these questions through a longitudinal case study of Nyangumarta native title corporate activities.

The Nyangumarta people's country is located in the east Pilbara/west Kimberly between the town of Port Hedland and Broome, around 80 Mile Beach. Nyangumarta first started working on their native title claim in the mid-1990s, and in 2009 finally achieved recognition of their rights over 33,000km² of country. In 2012 they achieved a second determination of jointly-held rights with their Karajarri neighbours over a further 2000km².

This innovative case study involved Pam spending two weeks in the Perth office of YMAC reading files, reports and other documents from as far back as 1999 in order to capture information about the numbers of meetings, negotiations, mediations, surveys, workshops and fieldtrips that Nyangumarta people have been involved over the past 15 years. She also looked at the length of

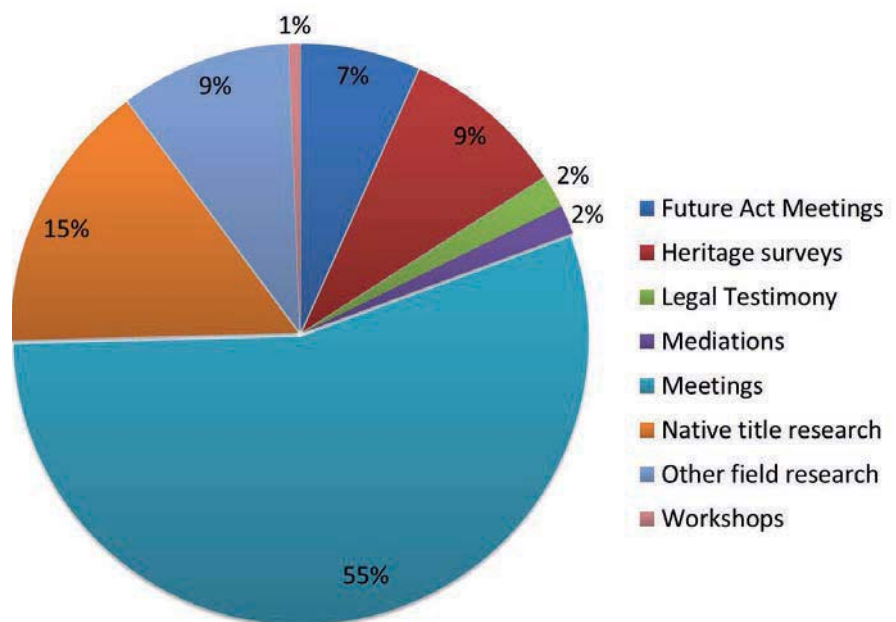


Figure 1: Percentage of Nyangumarta Time by Event

these events and who attended them, recording all the different organisations and individuals that the Nyangumarta people met and worked with during this period.

The results give a very good sense of the amount of time and volunteer labour that Aboriginal and Torres Strait Islander people invest in the native title system. They also demonstrate the extent to which other government agencies, companies and other interest groups are engaging with the Nyangumarta people over access to and use of Nyangumarta country. Some key preliminary findings of the case study show that over the past 15 years, over 130 different Nyangumarta people have been involved in at least 304 native title events, including:

- **155 meetings** held over a total of 180 days
- **23 heritage surveys** held over a total of 66 days
- **65 fieldtrips and interviews** held over 97 days
- **14 negotiation meetings**
- **22 mediations**

The majority of these events (56%, see Figure 1) were meetings, underscoring the fact that meetings are a key feature of native title work. (We suspect this will not be news to many of our readers!) Figure 1 also illustrates the effort that goes into dealing with future acts, especially those related to mining and exploration. Over the past 15 years, at least 15% of the Nyangumarta people's native title work has been related to future act business,

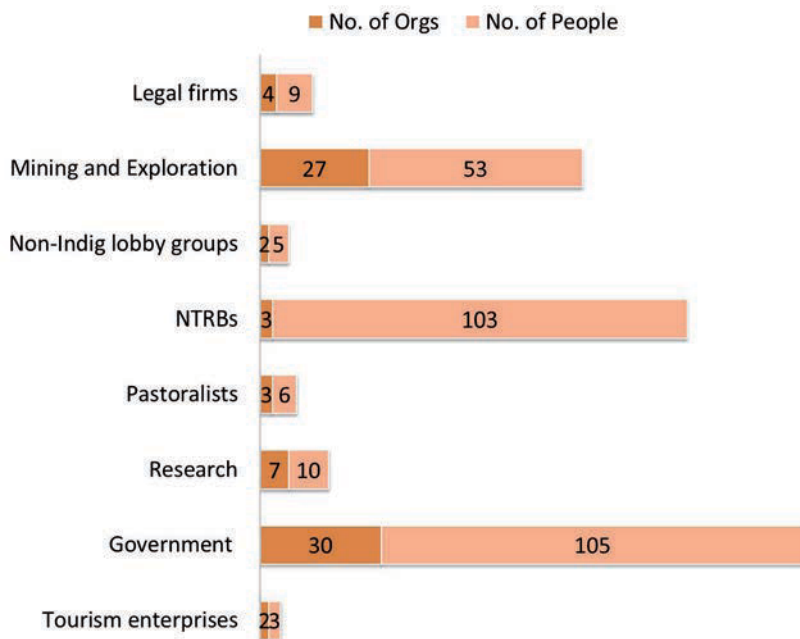


Figure 2: No. of outside organisations and people, by organisation type

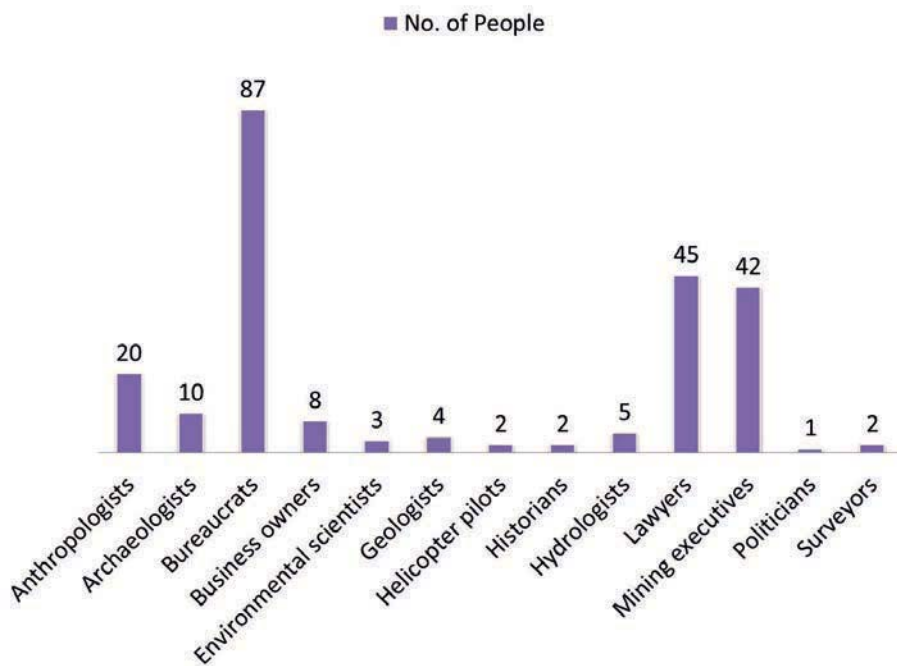


Figure 3: No. of outside people, by profession

specifically negotiation meetings and heritage surveys.

This may seem like a lot of work, but people who are familiar with native title business in the Pilbara tell us that compared with other groups the workload of the Nyangumarta is relatively light. In relation to the management of future acts, for example, during the 2012 year alone YMAC organised 247 heritage surveys comprising 1,428 days on behalf of the 25 or so native title groups they represent.² The busiest native title groups regularly have multiple teams

of people participating in simultaneous archaeological and ethnographic heritage surveys for weeks on end, with their breaks carefully scheduled to allow those involved to come back into town not for a rest, but to attend native title meetings.

When we look at the number of outside organisations and people who have been involved in Nyangumarta native title activities (Figure 2), the demands of facilitating future acts are again emphasised. During the period of the case study, Nyangumarta dealt with more than 305 non-Nyangumarta

individuals from over 85 different organisations, including more than:

- 53 representatives from 27 different mining companies
- 100 different government employees from over 30 state and Commonwealth departments
- 103 different people from 3 different land councils (Pilbara Aboriginal Land Council, YMAC and Kimberley Land Council)

The reasons behind the high turn-over of professional staff within NTRBs that these figures suggest are complex, and the constant educating of new employees is at times a burden for traditional owners. But the contributions and commitment of so many individuals over the years are greatly appreciated by the Nyangumarta and their departures are never easy. As Nyangumarta woman Margaret Rose, YMAC Senior Community Liaison Officer, explained:

You've worked with a group of people for some time, for even a year. People get to know each other. The Aboriginal people get to know you, and the anthropologists get to know the individual people, how they are. And the lawyers are the same. And you build that kind of relationship, some form of bonding with each other. You become close. And you just become a part of a family to that people in that group.

So when it comes down to that, it is a very difficult situation when people part with [NTRB staff]. You know, when the lawyers and anthros the Nyangumarta have a connection with leave, they are not easily forgotten. They always stay in the back of our minds.

The total numbers of lawyers and anthropologists the Nyangumarta have 'grown up' over the years are illustrated in Figure 3: 20 anthropologists and 45 lawyers. Most of these professionals worked for NTRBs, but some were engaged by respondent parties, government or mining companies and did not have long-term relationships with the group.

The numbers of professional bureaucrats who have been involved in Nyangumarta native title business is also remarkable: at least 87 different individuals from more than 30 agencies.

The encounters that Nyangumarta have with the employees of government and mining companies are not always easy. They are usually brief and, despite the goodwill of all involved, they are burdened by a heavy history of past injustices. Again, Margaret Rose explains:

That becomes like a different scenario, a different story to all of it. Because government people, or companies, come to you because they have to come to you. They got something planned that they want to do there...They come for the meeting, and then they hang around a bit and then they are gone.

When [government and miners] talk to the group, [Nyangumarta] people already know that they will have to give up their rights to certain areas where they are wanting to do work. And sometimes that country means a lot to us and we know that they are going to go there and wreck the place, destroy the place.

Well, we fought hard to get this country back. We had to prove to the government on paper...that the country is ours, when it is already ours.

So it's a long, long journey, you know. And that's why the people have that anger still in them when mining companies and governments come, because its 'do this and do that', and it's another struggle again; we're going to lose another bit of our land that we fought hard to get back.

But despite the hard work and the heart ache, these encounters with outsiders are also something to be celebrated, for they speak to the fact that the traditional owners of Nyangumarta country can no longer be ignored. Through their native title work, the Nyangumarta people are becoming more visible to the broader Australian public and are increasingly better placed to insist that their rights and interests are respected. The fight is not over, but if recent successes such as their collaboration with Department of Environment and Conservation to establish the 80 Mile Beach Marine Park¹ are any indication, a new way is being found that ensures the aspirations of both Nyangumarta and government are achieved.



Above: Rosie Munro, Wally Inbali and Winnie Coppin. Credit: Dr Pamela Faye McGrath.



Above: NWAC Meeting Bidyadanga. Credit: Dr Pamela Faye McGrath.

The Nyangumarta people's decade long journey to gain recognition of their native title rights has been, in their own words, *kaja karti marnti* (a long walk). They are not alone; since 1994, many hundreds of other Aboriginal and Torres Strait peoples around the country have been on similar journeys. These journeys do not end when a group's rights are recognised by the Federal Court.

As the experiences of the Nyangumarta demonstrate, recognition of native title is only the beginning. Governing a PBC and managing country for the benefit of existing and future generations of native title holders is no small thing and requires considerable investments of time, money and effort. But until we undertake more case studies of this kind, our understanding of the challenges and benefits of native title work and its impact on people's lives will remain anecdotal at best.

The NTRU extends our many thanks to the Nyangumarta people and YMAC for the trust they have shown in allowing us into their archives for this project. AIATSIS welcomes expressions of interest from other PBCs interested in partnering with AIATSIS to undertake similar case studies of their native title corporate histories. For more information, email Pam at pamela.mcgrath@aiatsis.gov.au or call her on (02) 6261 4215.

- 1 See <http://ymac.org.au/protection-of-aboriginal-culture-through-eighty-mile-beach-marine-park/> for more information
- 2 Yamatji Marlpa Aboriginal Corporation, *Annual Report 2013*, YMAC, Perth, 2013, pp.42, accessed 20 February 2014, <http://ymac.org.au/wp-content/uploads/2013/10/YMAC-Annual-Report-2013-lr.pdf>