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About the author

Dr Jessica Weir is a Research Fellow in the Native Title Research Unit (NTRU) at the Australian Institute of Aboriginal and Torres Strait Islander Studies. Jessica's research focus is on the governance of native title lands and waters in south east Australia and the Kimberley, as well as the cultural dimensions of environmental issues. Jessica has worked in native title research for over ten years, and is a lead researcher in the NTRU project on Prescribed Bodies Corporate (PBC). Jessica has published her research in journal articles and book chapters, and is the author of *Murray River Country: An Ecological Dialogue with Traditional Owners* (2009).

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Introduction

In 2002 and 2004 Karajarri had their native title rights and interests recognised to over 31,000 square kilometres of land in the West Kimberley, south of Broome. This is an area about half the size of Tasmania. Here there are pastoral stations, mining interests, coastal and desert lands, and the large Aboriginal community of Bidyadanga.¹ Bidyadanga has a young and growing population of around 800 people, with pressing infrastructural needs, including housing. Karajarri live as a minority within the diverse Bidyadanga population.

Karajarri had one of the first native title determinations to be recognised in the Kimberley and had the first native title application in which applicants were represented exclusively by the Kimberley Land Council (KLC).² Karajarri were thereby forging new ground in the Kimberley, as Chair of the Karajarri RNTBC Mervyn Mulardy Jnr has said:

No one in their wildest dreams could imagine getting beyond winning native title. Even KLC wasn't prepared. All was focused on winning native title and getting the land, there was never a plan for after native title...So there was no structure for us. No way for us to go to the next level.³

This paper considers this 'next level'. What happens after the native title rights are recognised? I begin with a brief description of the corporations native title holders are required to establish, before moving into an overview of Karajarri country and Karajarri native title rights and interests. This provides the background for describing the Karajarri experience of holding and managing native title. This experience includes the key issues Karajarri face at their native title meetings, the challenges of running a native title corporation, and the effect of native title on social relations in Bidyadanga. I conclude by identifying some challenging issues faced by both Karajarri and governments which affect the role of these RNTBCs.

In this paper, I use the term 'Karajarri' to describe the Karajarri native title holders, a group of 700 people or more. However, the work of the RNTBC comes down to a few individuals who are motivated, skilled, and committed to find the time to do this work.

I would like to thank the Karajarri men and women who shared their experiences of native title with me, some of whom I have quoted in this document: Sylvia Shoveller, her daughters Shirley Spratt, Miranda Shoveller and Devina Shoveller, her nieces Jaqueline Shoveller and Pamela Shoveller, as well as Fay Dean, Joe Edgar, John Hopiga, Thomas King Jnr, Elaine McMahon, Mervyn Mulardy Jnr, Andrew Bin Rashid and Frank Shoveller. I would

¹ An 'Aboriginal community' is a community or association wholly or principally composed of persons who are of Aboriginal descent, as defined by the *Aboriginal Communities Act 1979* (WA) s. 3.

² The applicants in the Tjurabalan native title application (*Ngalpil v State of Western Australia* [2001] FCA 1140) were represented by the KLC but this matter was settled by consent prior to the Karajarri application. The KLC also represented individual applicants in the Miriuwung Gajerrong application (*Western Australia v Ward* (2002) 213 CLR 1), but the majority were represented by the Aboriginal Legal Service (Western Australia) and the Northern Land Council; Krysti Guest, personal communication, 12 May 2009.

³ Interview with Mervyn Mulardy Jnr (Jarlmadangah, 14 October 2008). See also M Mulardy, 'Traditional Owner comment', *Native Title Newsletter*, no. 5, 2008.

particularly like to thank Karajarri Elder Wittidong Mulardy and acknowledge the leadership of Karajarri Elders Donald Grey, Nita Marshall, and Steven Possum. I also thank John Hopiga's wife Jessica Bangu.

Native title's new corporate sector

With native title recognition, native title holders are formally included in a range of land and water decision making processes, including community development issues. To manage these relationships as well as to hold their native title, the *Native Title Act 1993* (Cth) prescribes that native title holders establish a registered native title body corporate (RNTBC).⁴

In 2006, the Federal Government summarised the roles and responsibilities of RNTBCs, and list their core native title functions as:

- to protect and manage determined native title in accordance with the wishes of the broader native title holding group; and,
- to ensure certainty for governments and other parties with an interest in accessing or regulating native title lands and waters by providing a legal entity through which to conduct business with the native title holders.⁵

Some of these roles are legislated for under the *Native Title Act*, including:

- receiving future act notices and possibly advising native title holders of such notices; exercising procedural rights of native title holders including objecting to or negotiating future acts; preparing submissions about the right to negotiate matters; negotiating, implementing and monitoring native title agreements; addressing compensation matters; and, bringing any further native title applications to court.⁶

Other roles are set out in the PBC Regulations, including:

- managing native title holders' rights and interests; holding and investing money; consulting native title holders on decisions that would affect native title and maintaining documentation as evidence of consultation and consent; consulting with NTRBs about proposed native title decisions; and any other function relating to native title rights and interests as directed by native title holders.⁷

Every RNTBC will face unique governance issues. Each native title holding group has their own unique traditional laws and customs upon which their native title is recognised. There are also contextual factors. Land tenure history will influence whether native title is recognised as exclusive or non-exclusive rights, or not at all. Other factors include the types of settlements, industries and environments within the native title recognition area. Often the

⁴ *Native Title Act 1993* (Cth) Division 6.

⁵ Attorney-General's Department Steering Committee (AGDSC), *Structures and Processes of Prescribed Bodies Corporate*, Canberra, 2006, p. 6. See also J Weir, 'Native title and governance: The emerging corporate sector prescribed for native title holders', *Land, Rights, Laws: Issues of Native Title*, vol. 3, no. 9, 2007. The term 'PBC' is in such familiar usage that even the Federal government refers to RNTBCs as 'PBCs'. This difference between these two terms is discussed on p. 16 of this discussion paper.

⁶ AGDSC, above n 5, pp. 8-9. Future acts are developments that could affect native title rights and interests.

⁷ AGDSC, above n 5, p. 9.

work of RNTBCs takes place within the context of addressing the socio-economic disadvantage experienced by many Indigenous people.

With a key administrative role in the native title system, this new corporate sector necessarily has new roles and relationships with the three levels of Australian government: local, state and territory, and federal. Three aspects of these relationships are highlighted in this paper: the relationship between the RNTBC and local Aboriginal Community Councils; the influence of the *Native Title Act*; and, the failure of state, territory and federal governments to invest in RNTBCs.

Where native title is recognised over the land tenures of Aboriginal communities, there is clearly a need to ensure that the new RNTBCs can work effectively with the community councils.⁸ Such councils were established to govern diverse Aboriginal communities in the 1970s under self-determination legislation.⁹ Subsequently, community councils in ‘remote Australia’ have effectively become the local government where there is no local government.¹⁰ These arrangements are undergoing modification since the recognition of native title rights. The specific legal rights of traditional owners are now identified within communities which were formerly treated, in policy and program terms, as a single homogenous Indigenous identity. This change obliges community councils and RNTBCs to identify and, preferably, agree upon their governance roles in relation to each other, and then articulate such distinctions to other relevant parties.

This articulation of roles is influenced by the intensely legalistic system established by the *Native Title Act*. Native title has introduced many formal rules and processes for native title holders and other native title parties, including governments, native title representative bodies, pastoralists, mining companies, and other third parties. Much of this system is still being worked out. For example, whether the building of public housing in Aboriginal communities requires the consent of native title holders has been subject to different legal interpretation. Until recent times, the Western Australian Government interpreted the *Native Title Act* to construct houses and other public works on Aboriginal reserves without seeking consent from native title holders or applicants.¹¹ In 2003 this approach was challenged by Federal Court judgement,¹² resulting in a change to state government practice. In Bidyadanga, this meant a land use agreement was initiated between the State government, the native title holders and the community council in order to build public housing and other public works.¹³ In 2010, the *Native Title Act* was amended to remove this requirement for consent.¹⁴

⁸ See J Edgar, ‘Indigenous Land Use Agreement – A road map to building relationships between Karajarri traditional owners, Bidyadanga Aboriginal Community La Grange Inc and the Government of Western Australia’ *Australian Aboriginal Studies*, (forthcoming).

⁹ For example, *Aboriginal Councils and Associations Act 1976* (Cth), *Aboriginal Communities Act 1979* (WA).

¹⁰ T Rowse, *Indigenous Futures: Choice and Development for Aboriginal and Islander Australia*, University of New South Wales Press, Sydney, 2002, p. 226.

¹¹ Personal communication with Bruce Gorring, 31 July 2009.

¹² *Erubam Le (Darnley Islanders) #1 v State of Queensland* (2003) 134 FCR 155.

¹³ As at October 2010, this agreement is delayed awaiting sign off by the Western Australian Government.

¹⁴ Native Title Amendment Bill 2009 (No.2). See also C Stacey and J Fardin, ‘Housing on native title lands: responses to the housing amendments of the Native Title Act’, *Land, Rights, Laws: Issues of Native Title*, vol. 4, no. 6, 2011.

The capacity of RNTBC members to operate and engage their new roles and relationships is profoundly tested by the failure of state, territory and federal governments to invest in RNTBCs. Almost twenty years after they were created, there is still no explicit state or federal policy on RNTBCs.¹⁵ Accompanying this policy issue is the absence of funding for native title corporations. Despite recent initiatives,¹⁶ the prescribed management of native title is without a parallel prescribed funding mechanism.

In addition to these challenges, native title holders also carry the expectations that the arduous native title application process, and the achievement of native title recognition, will deliver real benefits for their people.

Native title is often described in reference to the *Native Title Act*, however, there will always be different interpretations of its legal and political meaning, whether as a narrow legal regime, as a contemporary expression of traditional authority, or as something else. In native title business there are always two distinct cultural traditions at work within a very contemporary intercultural context, with new practices being innovated that draw on and combine different sources of cultural and legal authority. Critically, native title is a common law and statutory legal reflection of the traditional laws and customs of Aboriginal and Torres Strait Islander peoples, which form the basis of their native title determination.

Karajarri

Native title is a good thing. But I could not understand what was the meaning of it? 'Win the country'? It's already Karajarri country. We've been here all the time.
Wittidong Mulardy¹⁷

Karajarri country includes the West Kimberley coast, south of Broome, and stretches almost 200 kilometres east into the Great Sandy Desert. Karajarri have close cultural and social connections to the Yawuru, traditional owners of the Broome region to the north, Nyikina and Mangala to the east and Nyungamarta to the south.

¹⁵ Christos Mantziaris and David Martin note that much of the RNTBC regime was a hasty legislative response to a Senate debate on group rights, C Mantziaris & D Martin, *Native Title Corporations: A Legal and Anthropological Analysis*, The Federation Press, Sydney, 2000, p. 94, see also p. 98.

¹⁶ In 2007, the funding situation began to be partly addressed, with nominal 'crisis' funds provided on application to a handful of native title corporations by the Commonwealth Government. It is not common for Indigenous Land Use Agreements to include long term funding and institutional support for RNTBCs although Victoria is a notable exception. The Commonwealth Government has also changed native title funding policies to provide native title holders with more support from their representative bodies. For a discussion of these funding changes see: AGDSC, above n 5, pp. 8-9; L Strelein & T Tran, 'Native Title Representative Bodies and Prescribed Bodies Corporate: Native title in a post determination environment', Workshop Report, Native Title Research Unit, AIATSIS, Canberra, 2007; T Bauman & T Tran, 'First National Prescribed Bodies Corporate Meeting' Workshop Report, Native Title Research Unit, AIATSIS, Canberra, 2007; J Weir, above n 5. Also, the *Native Title Amendment (Technical Amendments) Act 2007* (Cth) permits native title corporations to establish a 'fee for service' regime to meet and recover costs associated with various native title related activities. As at October 2010, the native title regulations to implement this amendment were still in draft form.

¹⁷ Interview with Wittidong Mulardy (Bidyadanga, 6 May 2008).

Karajarri speak about their country being passed down to them by their ancestral beings. Anthropologist Geoffrey Bagshaw has described how Karajarri language (*muwarr*), territory (*ngurrarra*), social institutions and customary law (*wampurrkujarra*) were created in the distant past by supernatural beings (*pukarrikarra*).¹⁸ Country provides them the resources for life by ‘lying belly-up’ with respect to the people. The desert country is sustained by a diversity of ground water springs. At the coast, old shell middens, fish traps and the continued popularity of going fishing all speak of the sea’s fertility. The importance of relationships held between the inland and the coast is embedded in the word ‘Karajarri’ which means west facing/being, that is, west oriented (Kara = west, jarri = moving).¹⁹

Karajarri people were some of the first traditional owners in the Kimberley to experience the extension of the British Empire. In the mid 1860s a violent confrontation led to the deaths of three European explorers who were mapping country for sheep grazing; the Western Australian colonial government response resulted in widespread Karajarri loss of life. In the 1860s and 1870s Chinese and Malay pearlers traded and lived with Karajarri, and exploited their labour whilst diving the coast for pearls. In 1899, the colonial authorities founded a telegraph station and more recently, in the 1930s, the La Grange ration depot was created and reserved lands were set aside for Aboriginal people.²⁰ The flat coastal land appealed to pastoralists, and the stations of Shamrock, Frazier Downs, Nita Downs and Anna Plains were established. Many Karajarri people lived and worked on these stations.

In the 1920s, desert tribes moved into Karajarri coastal country in response to a harsh drought, the destruction of their hunting grounds by stock and the murders and massacres of their people by pastoralists.²¹ In the 1950s, Catholic Pallottine missionaries established a mission at La Grange. With another drought in the 1960s, desert tribes were again persuaded to move west and take advantage of the amenities being developed; including a medical centre, a school, an airstrip and an improved road link with the main highway to Broome.

Karajarri law includes customary requirements for strangers (*walanyu*) to seek and obtain permission to enter and move about in Karajarri country.²² As the new tribes moved in — the Nyangumarta, Mangala, Juwaliny and Yulparija — they would camp nearby and wait to be welcomed to country. KLC native title officer Anna Mardling, who was a volunteer at the mission in the 1970s, remembers the incredible singing and dancing that accompanied such ceremonies.²³ As part of this welcome, Karajarri accorded *walanyu* permission to hunt and fish, as well as designated law grounds for their own ceremonial purposes.²⁴ Such practical gestures were critical for the political and social arrangements of living together. The new tribes have made their home on Karajarri land, bringing up their kids far from their traditional

¹⁸ G Bagshaw, ‘The Karajarri claim: A case-study in native title anthropology’, Oceania Monograph, no. 53, University of Sydney, 2003.

¹⁹ Bagshaw, above n 18, pp. 29, 53,

²⁰ F Skyring and S Yu, with the Karajarri native title holders, ‘“Out-of-country”: Too many cooks spoil the broth’, in P Veth, P Sutton & M Neale (eds), *Strangers on the Shore: Early Coastal Contacts in Australia*, National Museum of Australia Press, Canberra, 2008.

²¹ K McKelson & T Dodd, *Nganarna Nyangumarta Karajarrimili Ngurranga: We Nyangumarta in the country of the Karajarri*, Wangka Maya Pilbara Aboriginal Language Centre, South Hedland, 2007, p. 182.

²² Bagshaw, above n 18, pp. 86-87.

²³ Personal communication with Anna Mardling, 28 April 2008.

²⁴ Edgar, above n 8.

country, whilst their prolific dot paintings illustrate the importance of places left far inland.²⁵ They have also applied for or have had their native title recognised to their traditional country.

In 1979, the Catholic lease was transferred to the Bidyadanga Aboriginal Community La Grange Inc ('the Community Council') — the new representative body for the diverse community that had been created.²⁶ This was enabled by state legislation designed to support Aboriginal people to formally manage communities that are mostly comprised of Aboriginal people.²⁷ At this time, Karajarri renamed La Grange as Bidyadanga, a new word based on the Karajarri word for emu, to represent the new, inclusive community. As Shirley Spratt has said, 'the community was built by the five tribes. Everybody was family.'²⁸

Bidyadanga is currently the largest Aboriginal community in Western Australia, with approximately 800 residents. The Bidyadanga community is a young population, with 57% of the community under the age of 24 years, 34% of people between 24 and 54 years, and people 55 years and older making up 9% of the community.²⁹ This socio-demographic profile is typical of regional communities in north west Australia. In terms of employment, many people were employed in positions centred around the Community Development Employment Projects scheme, however in 2003 these positions were drastically cut from 260 to just 30 positions.³⁰

In addition to Bidyadanga, there are various outstations on Karajarri country where Karajarri people live, including *Wanamalnyanung* (also called *Mijimilmaya*), *Najanaja*, *Kuwiyimpirna*, (Frazier Downs), *Malupirti* (Munro Springs), *Purpurnganyjal* (Kitty Well) and *Karlatanyan*. Many Karajarri also live in Broome, Derby and other places.³¹ Karajarri activities extend over the breadth of their country, whereas the other tribes tend to hunt and fish close to Bidyadanga.³²

The authority and connection Karajarri hold with country stems from their beliefs about intimate relationships between creator beings, language, law and people. As one Elder described this intimate relationship:

'Pukarrikarra' put everything in the country, everything in totality that is alive; this is true. [...] In the hinterland, in the sea, the [game] food belonging to human beings was put in place by 'Pukarrikarra' — this is the truth, beyond which

²⁵ D Batty and J McMahon, *Desert Heart*, film, screened on ABC TV, 18 March 2008.

²⁶ The Community Council is a representative forum comprising and elected on behalf of community members.

²⁷ *Aboriginal Communities Act 1979* (WA).

²⁸ Interview with Shirley Spratt (Bidyadanga, 28 April 2008).

²⁹ Australian Bureau of Statistics, *2006 Census Community Profile Series, Bidyadanga*, Australian Bureau of Statistics, Australian Government, Canberra, 2007.

³⁰ See further Edgar, above n 8. See also J Taylor, 'Indigenous people in the West Kimberley Labour Market', Working Paper 35/2006, Centre for Aboriginal and Economic Policy Research, Australian National University, Canberra, 2006.

³¹ Bagshaw, above n 18, p. 35.

³² Bagshaw, above n 18, p. 87. See also Edgar, above n 8.

nothing more can be said – from long ago, these living things, to end the story, belong to us [so that] we may keep strong.³³

Karajarri sense of identity, purpose and place is passed on to each new generation. With the recent history of rapid social change, Karajarri ceremonies, laws, relationships and responsibilities with country have continued to be performed, respected, and adapted. The observance of cultural protocols in accordance with Karajarri skin section relationships has endured to ensure that cultural authority, access to country, decision making, social behaviour and familial links continue to be reflected in contemporary living arrangements at Bidyadanga.³⁴

The distinct authority held by Karajarri as traditional owners was apparent to anthropologist Geoffrey Bagshaw, who collected native title evidence in the mid to late 1990s. He noted the continued deference in Bidyadanga to the authority of Karajarri in matters that concerned Karajarri country.³⁵ The political importance of Karajarri authority was also part of the creation of the Bidyadanga Community Council. When the Community Council was established, governance was organised to include equal representation from all five tribes, with an informal understanding that the Karajarri held the position of Chair. The recognition of Karajarri native title rights and interests has introduced another set of framings for social relations within the Bidyadanga community (as discussed later in this paper).

Karajarri native title rights and interests

In 2002 and 2004, Karajarri native title rights and interests were determined by consent, that is, by agreement.³⁶ Whilst Karajarri native title rights and interests as listed by the Federal Court may appear straightforward enough (see Text Box 1), these native title rights and interests are to be enjoyed and exercised in accordance with Karajarri law *and* the laws of the State and the Commonwealth, including the *Native Title Act*³⁷ and Federal and High Court legal judgments.

The 2002 Karajarri native title consent determination is largely over Crown radical title (or unallocated Crown land)³⁸ and recognises that Karajarri hold exclusive native title rights and interests to ‘possess, occupy, use and enjoy’ this land ‘to the exclusion of all others’.³⁹ Karajarri can therefore continue to live on the land, make decisions about the use and enjoyment of the land, hunt, fish and gather, conduct ceremonies, protect important places, control others’ access to the land and control activities conducted by others on the land.⁴⁰

³³ Translated quote in Bagshaw, above n 18, p. 52. The speaker is identified as DW.

³⁴ Personal communication with Bruce Goring, 2 June 2009. See also Edgar, above n 8.

³⁵ Bagshaw, above n 18, pp. 62, 86-87.

³⁶ *Nangkiriny v Western Australia* (2002) 117 FCR 6 and *Nangkiriny v Western Australia* [2004] FCA 1156.

³⁷ *Native Title Act 1993* (Cth).

³⁸ Prior to the *Mabo* decision (*Mabo v Queensland [No 2]* (1992) 175 CLR 1), Crown radical title was called unallocated Crown land within the Australian property law system, see *Mabo v Queensland [No 2]* (1992) 175 CLR 1 at [30]. Such lands continue to be commonly described as unallocated Crown land even though the High Court determined otherwise in *Mabo*.

³⁹ *Nangkiriny v Western Australia* (2002) 117 FCR 6.

⁴⁰ *Nangkiriny v Western Australia* (2002) 117 FCR 6.

Karajarri have exercised the right to live on their land through the allocation of outstations, also called 'blocks'. The allocation of blocks allows people to spend more time living on country, teaching their kids, and keeping their own knowledge alive: enjoying native title and passing it on.

Text Box 1: List of Karajarri native title rights and interests

In the **2002 consent determination**,⁴¹ the Karajarri were recognised as holding *exclusive* native title rights and interests to 'possess, occupy, use and enjoy' their country 'to the exclusion of all others'. The Federal Court described this as including:

- i. the right to live on the land;
- ii. the right to make decisions about the use and enjoyment of the land and waters;
- iii. the right to hunt, gather and fish on the land and waters in accordance with their traditional laws and customs for personal, domestic, social, cultural, religious, spiritual, ceremonial and communal needs;
- iv. the right to take and use the waters and other resources accessed in accordance with their traditional laws and customs for personal, domestic, social, cultural, religious, spiritual, ceremonial and communal needs;
- v. the right to maintain and protect important places and areas of significance to the Karajarri people under their traditional laws and customs on the land and waters; and
- vi. the right to control access to, and activities conducted by others on, the land and waters, including the right to give permission to others to enter and conduct activities on the land and waters on such conditions as the Karajarri people see fit.

Most of the **2004 consent determination** concerned the pastoral stations Nita Downs Station, Shamrock Station, and part of Anna Plains Station, as well as the De Grey Stock Route and a number of other small areas of land. Non-exclusive native title interests were recognised as existing in this area. These are:

- i. the right to enter and remain on the land and waters;
- ii. the right to camp and erect temporary shelters;
- iii. the right to take fauna and flora from the land and waters;
- iv. the right to take other natural resources of the land such as ochre, stones, soils, wood and resin;
- v. the right to take the waters including flowing and subterranean waters;
- vi. the right to engage in ritual and ceremony; and
- vii. the right to care for, maintain and protect from physical harm, particular sites and areas of significance to the Karajarri people.

Non-exclusive native title rights were also recognised between the mean high water mark and the lowest astronomical tide.⁴²

The right to control access and the activities of other people is important for Karajarri responsibilities to their country, including looking after law grounds, the graves of their

⁴¹ *Nangkiriny v Western Australia* (2002) 117 FCR 6.

⁴² *Nangkiriny v Western Australia* [2004] FCA 1156 at [5].

ancestors and other sites. Local people and people from Broome are used to accessing this land for fishing, hunting and camping and tourists who pass through have enjoyed what was previously largely unregulated Crown land. One tourist drove over and destroyed an important site, where human footsteps thousands of years old had been recorded in the hardened silt. Karajarri hold stories about these footsteps from their ancestors. Karajarri are also concerned about the impact of tourists on the coastal and marine creatures. Shirley Spratt thinks the tourists are ‘taking too many fish and crabs’.⁴³ Karajarri are particularly concerned about tourists coming onto their country from the popular caravan park at Port Smith, a beautiful place with mangroves, a lagoon and beaches. Surrounded by exclusive possession native title land, Port Smith Caravan Park is on a special lease that was determined to be an exclusive possession act that extinguishes Karajarri native title.⁴⁴

In contrast to the 2002 determination, the 2004 consent determination was largely over pastoral leases and nature reserves, as these land tenures were excluded from the 2002 determination to await the much anticipated outcome of the High Court decision in *Miriuwung Gajerrong*.⁴⁵ In line with the High Court judgment (in August 2002), the parties agreed that non-exclusive native title interests exist on the same land as pastoral leases, whilst nature reserves extinguish native title. With respect to Crown land leased for pastoral activities, Karajarri had their non-exclusive rights recognised to Shamrock, Nita Downs and Anna Plains station.⁴⁶ Under Western Australian legislation, Aboriginal people already have access to pastoral leases to seek ‘sustenance in their traditional manner’,⁴⁷ but this native title recognition explicitly identifies specific people and specific pastoral leases.

Karajarri hold many shared interests with pastoralists. Taking care of the country, the soils, trees, plants and water holes is important both for pastoralists and native title holders. Pastoralists have particular responsibilities for the grazing pastures and native vegetation.⁴⁸ With such shared interests, negotiations are now a necessary part of land management. An example is the role of fire in land management. In the *Miriuwung Gajerrong* decision, the majority found that the burning of land by traditional owners was probably inconsistent with the rights of pastoral leaseholders,⁴⁹ however this conclusion runs against evolving pastoral practice. Pastoralists burn land to improve pasture quality, suppress weeds and manage wildfires. Smaller, more regular fires also offset carbon emissions and this fire management could be part of the new carbon economy. There is therefore an opportunity here for pastoralists and traditional owners to work together. Karajarri speak about how burning the

⁴³ Interview with Shirley Spratt (Bidyadanga, 28 April 2008).

⁴⁴ Special lease 3116/9944 under section 116 of the now repealed *Land Act 1933* (WA), *Nangkiriny v Western Australia* (2002) 117 FCR 6, First Schedule. This lease is an exclusive possession act under s 23B of the *Native Title Act 1993* (Cth) which extinguishes native title under s 23G.

⁴⁵ *Western Australia v Ward* (2002) 213 CLR 1.

⁴⁶ *Nangkiriny v Western Australia* [2004] FCA 1156 at [2], [6].

⁴⁷ These reservations are provided for in the *Lands Administration Act 1994* (WA) s 104, and have existed in state pastoral lease statutes since the early years of colonisation in Western Australia; Western Australian Government, *Aboriginal Access and Living Areas Final Report*, Pastoral Industry Working Group, Western Australian Government, Perth, 2003, p. 11.

⁴⁸ Relevant Western Australian legislation includes: *Land Administration Act 1997* (WA) Part 7; *Dividing Fences Act 1961* (WA); *Agriculture and Related Resources Protection Act 1976* (WA); *Soil and Land Conservation Act 1945* (WA); *Environmental Protection Act 1986* (WA); *Rights in Water & Irrigation Act 1914* (WA); *Wildlife Conservation Act 1950* (WA); and, *Conservation and Land Management Act 1984* (WA).

⁴⁹ *Western Australia v Ward* (2002) 213 CLR 1 at [194].

land used to be done by the old people when they were walking through country, and are keen to see this practice continue.

Conflicts may arise where priorities differ. Indeed, different priorities led to the first Karajarri native title application. Karajarri became mobilised around native title when Elder Wittidong Mulardy became concerned about a fence built on Shamrock station that threatened access to the culturally significant Parturr hills.⁵⁰ Where there is a conflict, the rights under the pastoral lease prevail over the native title interests, to the extent of any inconsistency and without extinguishing native title.⁵¹

Mervyn Mulardy Jnr talked to me about the importance of building good relationships with pastoralists, to work out their own arrangements about how to manage country, rather than relying on what is prescribed by the law. Karajarri hold the lease to Frazier Downs (as discussed in the next section) and have a very good relationship with the manager they employ. This relationship includes the pastoralist's support for the Karajarri dancers and basketball team. Relationships based on shared interests, and shared lives form a good basis for working through different land management activities, as Mervyn said:

If we can do that kind of relationship building with station owners, we can build co-existence with them. We want to go hunting, and sometimes they ask us not to go hunting when they are on muster. It is a safety thing. They don't want bullets flying around.⁵²

Another complex part of living with native title is interpreting how the Federal Court recognition relates to Karajarri activities, as some of their traditional activities are recognised as native title rights and interests and other activities are excluded. Karajarri native title recognises their rights to continue to go fishing and crabbing at their favourite places and take advantage of the seasonal schools of salmon that migrate up the coast. However, they cannot sell the fish because trade and commercial activities are not recognised as native title rights or interests.⁵³ Fish and other natural resources within the native title determination area, such as timber, pearls and water can be licensed by the State to commercial operators, in line with the entitlements existing under freehold title.⁵⁴ The ownership of minerals is also excluded from native title rights, with the exception of ochre.⁵⁵ However, Karajarri can charge companies for access to land where the minerals are located.⁵⁶

Whilst similar to freehold title, exclusive possession native title land is different in many ways. Native title is inalienable, it cannot be sold, and to many people this is recognition of

⁵⁰ S Yu, *Land Interests of Karajarri in the area around Port Smith Caravan Park*, Report to support application to the Indigenous Land Corporation to purchase special lease 3116/9994: Port Smith Caravan Park, 1998, p. 1.

⁵¹ *Native Title Act 1993* (Cth) s 44H(c).

⁵² Interview with Mervyn Mulardy Jnr (Jarlmadangah, 14 October 2008).

⁵³ For a general discussion about the 'un-economic' casting of native title, see LM Strelein and JK Weir, 'Conservation and Human Rights in the Context of Native Title in Australia', in J Campese, T Sunderland, T Greiber and G Oviedo (eds) *Exploring Issues and Opportunities in Rights Based Approaches to Conservation*, CIFOR, IUCN and CEESP, Bogor, Indonesia, 2009.

⁵⁴ *Native Title Act 1993* (Cth) s 47A(4) and s 212.

⁵⁵ To the extent that ochre is not a mineral pursuant to the *Mining Act 1904* (WA).

⁵⁶ See also D Ritter, *The Native Title Market*, University of Western Australia Press, Crawley, 2009, p. 7.

sovereign title. However, native title has also been construed by the authors of common and statutory law as a vulnerable title.⁵⁷ Native title can be impaired or extinguished by the rights of others and it can be lost if traditional laws and customs are not practised. Whilst such extinguishment is not possible under their law, Karajarri have to consider this in the decisions they make.⁵⁸

Native title rights are also different from freehold property rights because they include procedural rights about certain activities on native title land, both exclusive and non-exclusive, designed to protect native title into the future. In native title terminology, these activities are called ‘future acts’; they are developments that could affect native title rights and interests.⁵⁹ With some future acts, Karajarri have the right to be consulted or notified about the activities, including water allocations and/or water infrastructure and the renewal of pastoral leases.⁶⁰ With respect to larger developments, Karajarri have the ‘right to negotiate’. The right to negotiate is a procedural right to be involved in the development process, not to veto the development.⁶¹ For Karajarri, many of their future acts concern mining and petroleum exploration licenses, with companies interested in exploring for lead, zinc, silver and kaolin.

There is a specific process for advising native title holders and applicants about future acts. Karajarri (or the relevant native title holder) are notified about future acts by mail, and where relevant, they have three months to respond if they wish to exercise the right to negotiate. If the relevant state government (here, Western Australia) considers that the future act will not have a significant effect on native title, then the expedited procedure applies. Where there are disagreements about future acts, the National Native Title Tribunal arbitrates and makes a ‘future act determination’. Every year Karajarri, supported by the KLC, will lodge at least one future act objection application. Several times Karajarri have successfully contested the application of the expedited procedure to the granting of mining tenements and exploration licences.

The Karajarri Traditional Lands Association

‘Native’? Is it Aboriginal people? It could be trees? Our God what we believed in the Dreamtime? Our land? The sea? Everything our old people walked on?
Devina Shoveller⁶²

For Karajarri, realising the potential of their native title rights has a lot to do with how they meet and make decisions as a native title corporation. In 1998, Karajarri established the Karajarri Traditional Lands Association (KTLA) as the legal entity for their prescribed body corporate (PBC). Once their native title was determined to exist, and registered on the National Native Title Register, the KTLA became an RNTBC, although Karajarri and others

⁵⁷ See Kirby J’s judgment in *Fejo v Northern Territory* (1998) 195 CLR 96.

⁵⁸ See also the discussion on de-facto extinguishment in K Magarey, ‘Native Title Amendment Bill (No 2) 2009’, Bills Digest, Parliamentary Library, Canberra, 2010, pp. 12-13.

⁵⁹ *Native Title Act 1993* (Cth) s 233.

⁶⁰ See, for example, *Native Title Act 1993* (Cth) s 24HA(7).

⁶¹ See *Native Title Act 1993* (Cth) Division 3, Subdivision P.

⁶² Interview with Devina Shoveller (Bidyadanga, 8 May 2008).

continue to refer to the KTLA as their ‘PBC’. As is common to many other RNTBCs, the KTLA was established without funding and committee members volunteer their time.

As described earlier, the Federal government has identified two key roles for RNTBCs: to protect and hold native title, and to provide a legal entity for other parties with business on native title lands. In their 2006 review of the structures and processes of PBCs, the Federal government noted the different expectations surrounding the roles of PBCs.⁶³ The report identified that community expectations may be placed on PBCs to engage in issues that reflect their status as traditional owners, such as town planning, social harmony projects, cultural protocols, welcomes to country, and interpretative and cultural signage.⁶⁴ The report comments that these expectations place additional responsibilities and pressures on PBCs, however, such work is secondary to the native title responsibilities of PBCs.⁶⁵ This position reflects the split around different understandings of native title, and, as policy analysts Michael Dillon and Neil Westbury argue, the tendency of governments to restrict their understandings of native title to a narrow legal regime.⁶⁶

From their perspective, Karajarri have expressed a broad understanding of the work of the KTLA, as being responsible for five key activities:

- the PBC
- the Rangers Program
- Yiriman [Youth] Projects
- Outstations, and
- the Karajarri Cattle Company.⁶⁷

This reflects the integrated business of the five Karajarri activities, with the PBC being viewed by KTLA members as just one of their KTLA responsibilities. For example, the Rangers and Yiriman work to support Karajarri country and Karajarri youth, both essential to the intergenerational sustainability of native title. The Rangers, led by John Hopiga, undertake land and water project work for government and business, including a contract with the Australian Customs and Border Protection Service to check driftwood for insects and weeds.⁶⁸ The Yiriman Project is a grassroots community initiative to look after young people and pass on traditional laws and customs. Yiriman was conceived by Niyikina, Mangala, Walmajarri and Karajarri Elders who ‘saw the need for a place where youth could separate themselves from negative influences, and reconnect with their culture in a remote and culturally significant place’.⁶⁹ Karajarri are working with the KLC Land and Sea Unit to build a Yiriman land management project around the beautiful Gourdon Bay and Port Smith areas. Such activities extend across the work of Yiriman, the Rangers and the PBC, with some individuals involved in all three groups.

⁶³ AGDSC, above n 5.

⁶⁴ AGDSC, above n 5, p. 10.

⁶⁵ AGDSC, above n 5, p. 10.

⁶⁶ M C Dillon and N D Westbury, *Beyond Humbug: Transforming Government Engagement with Indigenous Australia*, Seaview Press, West Lakes, South Australia, 2007, pp. 111-2.

⁶⁷ This was identified in a KTLA Office Workshop, 11 November 2008, facilitated by Sarah Yu and Edgar Price, funded by AIATSIS.

⁶⁸ J Blackwood and J Hopiga, ‘The Survival of Land and Sea Units’, *Native Title Newsletter*, no. 6/2008, 2008, pp. 2-5.

⁶⁹ Yiriman Project, *Yiriman Project building histories in our young people: history*, Yiriman Project, Derby, viewed 22 December 2008 <<http://www.yiriman.org.au/history.htm>>.

The relationship between the Karajarri pastoral enterprise and the KTLA is an example of community expectations of the KTLA combined with the operation of a commercial enterprise. Frazier Downs station is exclusive possession native title land. The pastoral lease had been run by the Catholic mission on Aboriginal Land Trust lands, over which — as it is a form of land tenure with a dedicated purpose for the use and benefit of Aboriginal people — the historical extinguishment of native title is disregarded.⁷⁰ In 1976, the Frazier Downs pastoral lease was purchased by the Aboriginal Land Fund Commission under the direction of the former Commonwealth Department of Aboriginal Affairs. The Land Fund Commission vested ownership of the pastoral lease in the Bidyadanga Community Council and a pastoral company known as ‘Quimbeena Pastoral Company’ (Quimbeena) was established by the Community Council.⁷¹ In 1998, the Bidyadanga Community Council agreed to transfer ownership of the Frazier Downs pastoral lease to a Karajarri legal entity, prompting the formation of the KTLA to hold this title.⁷² In December 2006, Quimbeena was amicably dissolved, with the sale proceeds (after costs) split between the Bidyadanga Community Council and the KTLA.

Currently, Karajarri do not run their own cattle on Frazier Downs but receive income from agisting cattle from neighbouring pastoral stations. Thomas King Jnr is the key driving force behind getting a Karajarri pastoral business going on Frazier Downs and in 2008, the corporation ‘Karajarri Cattle’ was registered. Karajarri is good country for cattle and is close to the major highway in Western Australia and the port at Broome, but pastoral businesses need a lot of investment in infrastructure. The capital from the sale of the cattle and the income from the agistment are used to fund the maintenance of fences and bores, and for paying bills such as land taxes. However, some of this money is also used for KTLA costs, including the cost of holding meetings. The income stream from the cattle is not seen as separate to the native title work of the KTLA. Instead, many people make a strong connection between that income and the recognition of their native title rights. This is complicated by confusion that occurs when some people equate the cattle money with the type of ‘royalty’ money that is received under the Northern Territory land rights system. In the Territory, the administration of land rights is funded via a royalty equivalent scheme, which provides for monies from consolidated revenue to be paid into a trust account – the Aboriginal Benefits Accounts. This in turn provides for the operation of Northern Territory land councils, for regular royalty payments to traditional owners and payments for the benefit of Aboriginal people living in the Northern Territory. As stated earlier, no prescribed funding scheme for native title holders has accompanied native title. Conflict results because some

⁷⁰ *Native Title Act 1993* (Cth) s 47A.

⁷¹ Quimbeena had two shareholders; the Community Council and Nigel Gill (former community administrator) who held a share on behalf of Karajarri traditional owners because they had no legal entity to hold and preserve their interests at the time. Quimbeena operated well before the native title determination on this shareholder basis. However, due to responsibilities arising out of the Community Development Employment Project scheme and other subsidised activities being managed through the Bidyadanga Community Council office, Quimbeena management decisions and funding administration became subsumed into the community council administration. This led to poor record keeping, difficulties in tracking expenditure, potential redirection of funds prescribed for Quimbeena activities being used for other purposes, limited transparency in decision making and hence a deteriorating pastoral station. Personal communication with Bruce Gorrington, 2 June 2009. See also T King & K Carter, ‘Moving Forwards’, Quimbeena Pastoral Company Development Plan (Second Draft) for Frazier Downs, May 2002.

⁷² Personal communication with Bruce Gorrington, 2 June 2009.

Karajarri expect that native title results in a royalty stream to fund Karajarri individual and collective priorities, and they look to the cattle money for those priorities. Organising how the relationship between Karajarri Cattle and the KTLA will work into the future is key native title business for Karajarri. More than just a business model, there are complex issues of communal lands and group and individual rights that require innovation beyond the categories of public and private.⁷³

Also listed as key KTLA business is the allocation of outstations or 'blocks'. This is a long term land use challenge, as well as a political negotiation within the Karajarri community. If KTLA committee members respond positively every time there is a request for an outstation, the incremental effect of this settlement has implications for access to hunting and fishing grounds, the maintenance of roads, pastoral operations and more. Developing an outstation policy has been under discussion at Karajarri meetings. A policy would relieve the political and personal pressure of the allocation of blocks between families and individuals. An easier route is perhaps to continue on an ad hoc basis, but, within a long-term planning perspective, this approach will narrow future options. Because of their popularity, an outstation policy and planning framework will have to be addressed one day. As Andrew Bin Rashid said, 'otherwise in the future everyone will want a block. ... It's a real problem and it is not going to go away. It is going to happen, somewhere down the track.'⁷⁴

In addition to the Rangers, the outstations, Yiriman and the cattle, the KTLA members have to undertake native title related work, to ensure certainty for governments and other parties with an interest in accessing or regulating their native title lands and waters. This certainty is provided by having a functioning legal entity (the RNTBC) through which these parties can conduct business with native title holders. This work with governments and third parties can be an opportunity for the KTLA to negotiate benefits. Such benefits could include forming partnerships to reach shared goals, negotiating an income stream to support KTLA business, or gaining individual employment in work such as heritage clearances.

By far the largest industrial project that has had interest in Karajarri land is known locally as 'the gas.' Karajarri are one of many traditional owner groups across the Kimberley who were consulted on the location of an enormous liquefied natural gas plant to process gas from the Browse gas reserve 200 kilometres off the Kimberley coast. Many KTLA meetings and Karajarri activities were scuttled by the frenetic activity around the gas project timetable, as Gourdan Bay, next to Port Smith, was on the shortlist of locations.⁷⁵ For Karajarri, the gas would have meant dramatic change, but it might also have brought economic opportunities. In a governance context, where native title funding is virtually absent, and socio-economic disadvantage is common, the opportunities provided by a large development were taken very seriously. After much consideration, in December 2008, Karajarri decided to withdraw their support for a gas processing plant on their country.⁷⁶

⁷³ See Rowse's discussion of this, above n 10, p. 231-3.

⁷⁴ Interview with Andrew Bin Rashid (Bidyadanga, 30 April 2008).

⁷⁵ Department of Industry and Resources, *Northern Development Taskforce Interim Report June 2008*, Western Australian Government, Perth, 2008, p. 4.

⁷⁶ A site in the country of the Goolarabooloo and Jabirr Jabirr people, north of Broome, has been negotiated between the gas proponents, the KLC and some of the traditional owners.

A key local external source of requests for KTLA meeting time is the Bidyadanga Community Council (the Bidyadanga Aboriginal Community La Grange Inc) (discussed further later in this paper). Bidyadanga was established on Aboriginal Land Trust (ALT) land, which has been recognised as exclusive possession native title land. The ALT has leased this land to the Community Council for a period of 99 years, commencing from 22 October 1998.⁷⁷ This situation is complicated by parts of the community not being physically located within the community lease area.⁷⁸ Karajarri will be negotiating these inconsistencies in tenure and development and other related matters as part of a planned future ‘global’ Indigenous Land Use Agreement (ILUA) (discussed later in this paper).⁷⁹ The Community Council also request Karajarri to undertake heritage clearances for community development purposes.

Karajarri native title business does not fit neatly within the legally prescribed native title system. The KTLA committee must manage several expectations: their integrated land and governance activities, and their functions as an RNTBC. Of great frustration, KTLA committee members find that KTLA business ends up in competition with the business of resourced parties with interests in Karajarri land. Indeed, the trigger for holding a KTLA meeting is often responding to the priorities and timetables of persistent others.

Corporate governance

It's about time that the government trust us. They gave us the land back, now they need to trust us to manage it.

Thomas King Jnr⁸⁰

Corporate forms have been central to the exercising of Indigenous peoples’ land rights and native title because of the communal profile of these rights and interests, and the practical necessity of forming a legal entity to participate in legal transactions with governments and others.⁸¹ As an incorporated body, the KTLA is required to conduct business in a particular way, to ensure compliance with corporations’ legislation.⁸² This includes formal rules about who can be members of the KTLA, how and when meetings are held, quorum numbers, holding an annual general meeting, taking minutes and being formally organised through an executive committee who meet and hold roles, such as Chair, Deputy Chair, Treasurer and Public Officer.

However, there have been problems with the governance requirements and other rules for Aboriginal and Torres Strait Islander corporations since these corporations proliferated when

⁷⁷ The Bidyadanga community is built on Reserve 38399 for which the Management Order is vested in the Aboriginal Lands Trust (ALT) (with the power to lease) in accordance with the *Land Administration Act 1997* (WA) for the dedicated purpose of ‘use and benefit of Aboriginal inhabitants’. Personal communication with Bruce Gorrington, 2 June 2009.

⁷⁸ Department for Planning and Infrastructure (DPI), *Bidyadanga Community layout plan no.2, draft for comment and review*, Western Australian Government, July 2007, p. 7. It is worth noting that the full extent of the community development currently exceeds the area of Reserve 38399. The community bylaws area is not proclaimed and therefore, currently irrelevant.

⁷⁹ Personal communication with Bruce Gorrington, 2 June 2009.

⁸⁰ Interview with Thomas King Jnr (Port Smith, 7 May 2008).

⁸¹ Rowse, above n 10, p. 179; C Mantziaris & D Martin, above n 15, pp. 100-1.

⁸² *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth).

self-determination policy was introduced in the 1970s. Aboriginal corporations negotiate two quite different cultural traditions. Research into Indigenous governance has found an interplay of the influences of Western corporate notions, which place a priority on accountability, representation, compliance, equity and capacity, and Indigenous people's understandings of culture as fundamental in organisational processes.⁸³ RNTBC members have significant work to adapt mainstream governance structures to facilitate their own laws and customs. This is part of the challenge of legitimacy or 'cultural match' — in which corporate institutions must meet local expectations if they are to be considered legitimate by their membership.⁸⁴

The new *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) (CATSI Act) provides more flexibility for Aboriginal corporations to negotiate issues of legitimacy and cultural match.⁸⁵ It is now possible to include traditional laws and customs in corporation constitutions or 'rule books'. For example, Karajarri can include in their rules that decisions are to be made by consensus or that such decisions can be referred to the authority of the Elders. The CATSI Act also has special provisions making it clear that a person acting in good faith with the belief that they are complying with native title legislation obligations cannot breach their obligations under the CATSI Act.⁸⁶ Further, the CATSI Act reduces the reporting requirements for 'small' corporations (defined according to income and staff numbers), which benefits the vast majority of RNTBCs that are in this small category — including the KTLA. Previously, all Aboriginal corporations (approximately 2,600 corporations) had the same reporting requirements.

The capacity of the KTLA to manage their native title rights and interests was an issue for the Federal Court when making the 2004 consent determination. As Justice North wrote at the time:

It would be an absurd outcome if, after the expenditure of such large sums to reach a determination of native title, the proper utilisation of the land was hampered because of lack of a relatively small expenditure for the administration of a PBC.⁸⁷

The establishment and operation of the KTLA was not funded after the native title determination. Members of the Karajarri RNTBC have contributed their work voluntarily,

⁸³ J Hunt, DE Smith, S Garling & W Sanders (eds), *Contested governance: Culture, power and institutions in Indigenous Australia*, CAEPR Monograph No.29, Centre for Aboriginal Economic Policy Research, 2008; and, P Sullivan, *A Sacred Land, A Sovereign People, an Aboriginal Corporation – Prescribed Bodies and the Native Title Act*, North Australia Research Unit, ANU, Darwin, 1997.

⁸⁴ For a discussion on cultural match see S Cornell & J P Kalt, 'Reloading the dice: Improving the chances for economic development on American Indian reservations', in *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development*, S Cornell & J P Kalt (eds), American Indian Manual and Handbook Series No. 4, University of California, Los Angeles, 1993; D Martin, 'Governance, cultural appropriateness and accountability', in *Culture, Economy and Governance in Aboriginal Australia*, workshop proceedings, D Austin-Broos & G Macdonald (eds), Sydney University Press, Sydney, 2005.

⁸⁵ The CATSI Act repealed and replaced the *Aboriginal Councils and Associations Act 1976* (Cth).

⁸⁶ *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) s. 265. 20.

⁸⁷ *Nangkiriny v Western Australia* [2004] FCA 1156 at [11]. As KTLA Chair Mervyn Mulardy said at the time, 'I may be the Chairman, but we can't afford a chair.' Quoted in D Ritter, 'Casenote: *Nangkiriny v State of Western Australia* [2004] FCA 1156', *Indigenous Law Bulletin*, v. 65, 2004.

without an office, and the committee meet without administrative support. As part of managing this circumstance, KTLA have had a temporary arrangement with the KLC in Broome, including a desk, computer and filing cabinet. Very rarely, grant monies, or a volunteer have enabled this desk to be staffed. Without staff, there is no one to be a point of contact, to answer the phone, the email, or other correspondence.

Without an office in Bidyadanga, pressure has been placed on the personal homes and work offices of local KTLA committee members. Fay Dean works at the Kimberley Regional Community Development Employment Program office, which is in a central location across the road from the Bidyadanga Telecentre, where KTLA meetings are usually held. With a telephone and internet connection, it often falls to Fay to be a point of contact for the KTLA. Fay also held the position of KTLA Secretary in 2008. She speaks about how unsatisfactory the KTLA administration situation is:

We need decent pay to get somebody in there. It needs to be done. It's all a jumble, with paperwork everywhere. I can't do up any minutes [at my work] because it isn't private. We need our own office. I get abused if I don't put out flyers, but I'm not paid to do it. It is frustrating.⁸⁸

Looking after the paper stream associated with being a native title corporation requires office management skills to ensure valuable information is not mislaid, disregarded or forgotten. For example, where matters have been formally worked out between Karajarri and the Bidyadanga Community Council, there can still be confusion about the particularities of agreements in meetings. This situation is not easily resolved at Bidyadanga meetings when the majority of KTLA paperwork is held in a filing cabinet in Broome. The uncertainty can either stall or railroad the meeting's agenda.

At one KTLA meeting,⁸⁹ the committee were considering the specifics of a particular outstation request. John Hopiga wondered about what the size of the block looked like on site, and whether it conflicted with a stock route, whilst Joe Edgar expressed his frustration about meeting to discuss such matters without the necessary maps and computers. Without administrative support, KTLA committee members are regularly placed in the uncomfortable position of making decisions without all the relevant information. Without support staff, the board is responsible for both making decisions and implementing them. Joe described how relying on this arrangement is problematic:

When it comes to making decisions the whole process falls away. The follow-up is all over the place. We need to bring it all together to get direction. Otherwise things don't happen.⁹⁰

The capacity to organise and respond to a variety of paper work, or '*mili mili*' as Karajarri call it, is central to Karajarri engagement with the mainstream community. Without the paperwork in order, it can be very difficult to access government grants, services, and other opportunities, including employment. Compliance with the rules of being an incorporated body, including having the financial books in order, is important when applying for grant

⁸⁸ Interview with Fay Dean (Bidyadanga, 7 May 2008).

⁸⁹ April 2008.

⁹⁰ Interview with Joe Edgar (Broome, 9 May 2008).

monies from potential funding bodies. If the committee members do not do the paperwork, the KTLA is listed as ‘non-compliant’ by the Officer of the Registrar of Indigenous Corporations.

Joe Edgar worries about how their current governance context affects the ongoing commitment of the KTLA committee. Karajarri committee members regularly speak about their frustration. They absent themselves from their other responsibilities to fulfil committee roles on a volunteer basis, yet they find they also have to bridge the gap created by the lack of basic administrative support. A lot of energy is expended just in organising the meetings and ensuring there is a quorum, before getting to the meeting’s agenda.

For Karajarri, the paperwork and their compliance status is just a small part of whether the KTLA is being properly governed or not. Karajarri are working through how to manage their recognised native title rights and interests with respect to Karajarri laws and customs. Early on, the KTLA committee ruled that anything to do with land has to go through the Elders. Deputy Chair of the KTLA, Joe Edgar, sees a need for KTLA policies about ‘how we spend our money — personal loans, looking after our Elders, cultural business and the land.’⁹¹ Without resources, a coordinated, planned approach to land does not take place, and things get done wherever and however they can. Reliance on ad hoc income from small projects has become a management issue in itself.⁹²

Making decisions without a broad framework to guide those decisions is a complex and uncomfortable task. There is some discussion at KTLA meetings about developing a comprehensive land management policy and plan so that decision making can occur within a framework developed around long term considerations. Such planning would also reduce the current burden of responding to discrete issues one by one.

Business mentor Edgar Price, sees the role of the KTLA as fundamental to allowing a range of other activities to progress.⁹³ The cattle station, business ideas and land and sea management all share the same problem of under-resourced decision making around native title. The under-resourcing of the KTLA has an impact beyond frustrating the responsibilities of the RNTBC; Karajarri capacity to address a host of other Karajarri business is frustrated by the lack of support for KTLA governance and administration. Whilst income does not lead to good governance, a lack of income certainly undermines it.⁹⁴

In Bidyadanga, uncertainty and inefficiencies around native title have aggravated local politics and social relations, and this tension is now generating additional obstacles to good governance. This became acute in 2007, when Karajarri became deeply dissatisfied with their relations with the Bidyadanga Community Council.⁹⁵

⁹¹ Interview with Joe Edgar (Broome, 9 May 2008).

⁹² Blackwood and Hopiga, above n 68.

⁹³ Edgar Price was funded to begin a KTLA Business Plan by AIATSIS as part of the PBC project.

⁹⁴ For a discussion on the optimal factors for good governance, see Cornell & Kalt, above n 84, pp. 187-214; Hunt et al., above n 83; and J Weir, above n 5.

⁹⁵ See also Edgar, above n 8.

Bidyadanga: The new social relations of native title

In Bidyadanga, prior to the recognition of Karajarri native title, there were established political and cultural processes that respected Karajarri as the law people of country, which facilitated their relationship with the broader community. With the recognition of their native title, Karajarri have found that their relationship with the Bidyadanga Community Council has become laboured by the formal distinction of Karajarri rights and community disquiet about what these rights may be.

Karajarri have exclusive possession of Aboriginal Lands Trust land where Bidyadanga is sited and many community people are worried that the Karajarri will move them out of the town or not let them go hunting and gathering on the other native title land tenures, despite a 99 year lease existing between the ALT and the Bidyadanga Community Council, and Karajarri assurances to the contrary.

To add to this tension, the Community Council governance arrangements changed around the same time as the native title determinations; the outcome being that the Chair was no longer held by a Karajarri representative.

The position of Karajarri in relation to the rest of the Community Council became further muddled when the Council voted for a change in membership rules whereby outstation residents became ineligible for voting on the Council, partly because they do not reside in Bidyadanga or pay rates. The effect was to remove the voting rights of Karajarri who live on outstations. Around the same time, the Aboriginal and Torres Strait Islander Commission was abolished and the resources to maintain outstation infrastructure became scarce.

Fay Dean speaks about how their native title recognition relates to their relationship with the broader Bidyadanga community:

It didn't seem like a win for anything, because we lost all our rights in the community. ... It wasn't a win-win situation, it was a win-lose. We lost entitlements here: memberships, voting rights. ... It was all in together before, with the Elders holding everything in place. The chairman was always a Karajarri person. As soon as we won native title we lost that.⁹⁶

A report about the future of Bidyadanga (Text Box 2) is revealing in showing how the different aspirations for Bidyadanga between Karajarri and the rest of the Bidyadanga community are expressed in town planning priorities.⁹⁷ The list of community aspirations identified by Karajarri centres on being consulted on the future development of Bidyadanga, and ensuring specific outcomes for Karajarri. The Karajarri list reflects their concerns about being marginalised in Bidyadanga, and that their native title rights and interests be accorded due process.

⁹⁶ Interview with Fay Dean (Bidyadanga, 7 May 2008).

⁹⁷ Department of Planning and Infrastructure, above n 78, p. 17.

Text Box 2: Community Aspirations for the Bidyadanga Community Layout Plan⁹⁸

The Bidyadanga Aboriginal Community La Grange Inc identify as priorities:

- Maintain land for intensive orchard activities;
- Develop a cyclone shelter;
- Find a new tip site;
- Find land for sewage pond extensions;
- Develop a new arts and cultural centre;
- Finding land for new community housing;
- Resolve disputed no-go areas;
- Resolve community boundary;
- Include airport within community boundary;
- Allocate land for pool managers house; and,
- Correct and proper process for all future development and land use within Bidyadanga.

The Karajarri Traditional Lands Association identify as priorities:

- Resolve compensation for development at Bidyadanga;
- Be consulted in future development of Bidyadanga;
- Identify a Karajarri Office site;
- Make sure land is given back to the Karajarri Traditional Lands Association;
- Allocate land to Karajarri for future commercial development; and,
- More houses for Karajarri people.

At the heart of the native title tensions in Bidyadanga are issues of difference and equity within a heterogenous Aboriginal community.⁹⁹ Karajarri are part of the Bidyadanga community as one of the five tribes. However, as traditional owners, they have always had authority over matters to do with land.

These issues of difference and equity have been highlighted by native title. For example, Karajarri are now formally consulted about the gas and other mineral and petroleum exploration projects on their native title lands. Such future acts may also have consequences for the community of Bidyadanga, but the Community Council may find that they are not as involved in the consultations as they would expect. It is important that Karajarri manage relationships with the Community Council and other land-use interests sensitively. However, as I have pointed out above, the KTLA is not sufficiently well funded to undertake its many responsibilities, and this is likely to undermine its relationship to all the organisations with which it has dealings – including the Bidyadanga Community Council. The Community Council receives funding from the State government to maintain an office, employ staff and deliver services to the community, while the KTLA is starved of funds by federal and state governments.

⁹⁸ *Nangkiriny v Western Australia* [2004] FCA 1156.

⁹⁹ For a discussion on the residency vis-à-vis, traditional ownership rights of Indigenous peoples in remote Indigenous communities see Rowse, above n 10, pp. 111-23.

During the case study research period, the State government was required to take seriously the interests of the native title holders in the building of community infrastructure, no matter what administrative challenges faced the KTLA. The rights of native title holders vis-à-vis State and local governments had been confirmed in a 2003 case *Erubam Le (Darnley Islanders) #1 v Queensland* ('Darnley') (see further Text Box 3), which clarified the provisions of Subdivision J of the Native Title Act.¹⁰⁰ Until that judgment, the Western Australian Government had interpreted Subdivision J as permitting it to construct public works (mainly housing) on Aboriginal reserves, without seeking traditional owner consent and without agreeing that their actions did not extinguish native title. The *Darnley* case, by clarifying the obligations of governments to native title holders, caused changes in government practice, whereby the construction of such public works now involves an investment in land use negotiations with the native title holders.¹⁰¹

In 2007, when the State government wished to build several developments in Bidyadanga — sixteen houses, a basketball court, a cyclone shelter, a rubbish tip, an arts and culture centre and additional sewerage infrastructure — it initiated an agreement making process, whereby all parties could sit down and agree upon the community development priorities. Until this time, KTLA committee members had been expected to respond to future act requests from the Community Council on an ad hoc basis and without funding. The new process has resulted in the KTLA, the Bidyadanga Community Council and the State government agreeing to arrange the relevant matters into two sequential ILUAs. The housing, sewerage facilities, tip, cyclone shelter and other pressing infrastructure needs were allocated to an initial, smaller ILUA process. This ILUA process has now been substantively negotiated and is awaiting registration to become a legal agreement.¹⁰²

Significantly, the smaller ILUA provides for an office and administrative support for the KTLA by the State government. It is a one-off arrangement for the Karajarri RNTBC, specific to the ILUA negotiation.

A bigger, 'global' ILUA is scheduled to follow the smaller ILUA, to address issues more comprehensively, including inconsistencies in tenure and development, as the rubbish tip, nurses' houses and part of the oval are located on both Frazier Downs and the De Grey Stock route.¹⁰³ This global ILUA will include the resolution of current development beyond the extent of the leased land, the identification of the future land requirements of the Bidyadanga community, the transfer of the Management Order from the ALT in accordance with the findings of the Bonner Report in 1996 and current State government policy and the issuing of a new lease from the KTLA to the Community Council for the extent of the community area.¹⁰⁴ This global ILUA will require a much more substantive time and decision making investment by all parties.

¹⁰⁰ *Erubam Le (Darnley Islanders) #1 v State of Queensland* (2003) 134 FCR 155.

¹⁰¹ As ALT lands do not extinguish native title rights and interests, it is expected that compensation cases will be lodged by RNTBCs and native title representative bodies in response to *Darnley*. Personal communication with Bruce Goring, 31 July 2009.

¹⁰² See further Edgar, above n 8.

¹⁰³ DPI, above n 78, p.7.

¹⁰⁴ Personal communication with Bruce Goring, 2 June 2009. The Bonner Report recommended that all ALT land be transferred back to Aboriginal corporations to be held on trust for Aboriginal people (Aboriginal Lands Trust Review Team, *Report of the review of the Aboriginal Lands Trust*, Aboriginal Affairs Department, Perth, 1996).

The motivation for each party to enter into this agreement making process reflects how good governance processes and achieving outcomes are intertwined. The two ILUA processes in Bidyadanga are opportunities to clear the air, to improve local politics and to get moving on the development of key infrastructure for the community.

Joe Edgar has written about the importance of this agreement and agreement making process:

To be successful and to form a best practice precedent, the ILUA must be open, friendly and transparent to the ‘historical’ people of Bidyadanga and the Karajarri traditional owners, with all parties provided ample time for reflection and to seek independent advice. Adequate resources must also be provided to the KTLA for the conduct of negotiations over the ILUA and for future management of Karajarri traditional lands. Evidence of good faith is clear from the offer by Bidyadanga Council to the traditional owners of a meeting space at its tele-centre throughout 2009, and a building to establish an office, and the commitment by DIA WA [the Department of Indigenous Affairs Western Australia] to fund office refurbishment and possible administrative positions in light of the lack of national funding for Registered Native Title Bodies Corporate (such as the KTLA). These are steps in the right direction which, it is hoped, will build a better social, political and economic environment for all at Bidyadanga.¹⁰⁵

The recent willingness of parties to sit down together to agree on an ILUA in Bidyadanga reflects a pragmatic shift towards native title being accepted as part of land use planning in Australia.¹⁰⁶ ILUAs bring parties together to negotiate issues directly and find common ground, rather than relying on what is or is not possible under legislative regimes. In Bidyadanga, this process has brought the State government, the Bidyadanga Community Council, and Karajarri to the same meeting room to work through the disagreements between Karajarri and the broader Bidyadanga community, and the concerns the KTLA members have about governing and administering their RNTBC work.

Whilst agreement making has become a trend in doing native title business, recently, there has been a setback to the impetus for governments and others to enter into ILUAs with native title holders to build public housing and other community infrastructure. The *Native Title Act* has been amended to reduce the future act rights of native title holders (see last two paragraphs in Text Box 3).¹⁰⁷ These amendments again raise the parliamentary preference of addressing native title issues through technical legal frameworks, as argued by Dillon and Westbury, rather than addressing the bureaucratic and policy issues, and other blockages that persist around community development, such as the failure to include native title considerations from the outset of a project.¹⁰⁸

¹⁰⁵ Edgar, above n 8.

¹⁰⁶ See further, D Ritter, *Contesting Native Title*, Allen and Unwin, Sydney, 2009, pp. 174-5.

¹⁰⁷ Magarey above n 58. The amendments include the granting of a ‘right to comment’, which seems an unnecessary legislative provision in a democracy, Magarey above n 58, pp. 16-17.

¹⁰⁸ Dillon and Westbury above n 66; see also Magarey above n 58, pp. 19-20.

Text Box 3: Subdivision J, Native Title Act

During the preparation of this paper, amendments to Subdivision J of the *Native Title Act* reduced the future act rights of native title holders, including Karajarri.¹⁰⁹

There has been legal uncertainty regarding the ongoing application of Subdivision J of the *Native Title Act*, since the 2003 case of *Erubam Le (Darnley Islanders) #1 v State of Queensland*.¹¹⁰ Subdivision J applies to future acts (including the construction of public works) which are done in accordance with a reservation of land for a particular purpose when made before 23 December 1996. Subdivision J does not apply after this date.

The *Native Title Act* specifically refers to reservations or leases under which the whole or part of the land was to be used for a ‘particular purpose’. If a future act is done on this type of land, in accordance with the particular purpose, and it consists of the construction or establishment of a public work, that future act will validly extinguish any native title. More specifically, the doing of that future act, with or without the consent of the native title holders (or native title applicants), extinguishes native title and potentially creates a compensation liability for the State. This is regardless of whether the future act in question was done for the benefit of the community.

The issue in contest in *Erubam* was whether land reserved for the purpose of use and benefit of Torres Strait Islander people constituted a ‘particular purpose’ as required by Subdivision J. The Federal Court found that such a purpose was not a particular purpose. The Court referred to the examples given in the legislative notes to the *Native Title Act* that highlighted the intended distinction between ‘particular’ purposes and other broader or general purposes.¹¹¹

In Western Australia, most of the reserves and proclaimed reserves (under the *Land Administration Act 1997* (WA) and the *Aboriginal Affairs Planning Authority Act 1972* (WA)), which are mostly vested in the Aboriginal Lands Trust, have the clear, dedicated purpose of ‘use and benefit of Aboriginal inhabitants’. As this purpose is also a broad or general purpose, it is likely the precedent set in *Erubam* will apply. Consequently, native title representative bodies in Western Australia, including the KLC, have queried the validity and use of Subdivision J on ALT land. Indeed, the State of Western Australia has conceded that it would be difficult for it to mount a strong case for the continued use of Subdivision J if the matter came before the courts.¹¹²

Since research was conducted for this case study, amendments to the *Native Title Act* introduced ‘Subdivision JA – Public Housing etc’.¹¹³ The amendments are said to expedite the expenditure of funding provided by the National Partnership on Remote Indigenous

¹⁰⁹ See generally Magarey above n 58 and Stacey and Fardin above n 14.

¹¹⁰ *Erubam Le (Darnley Islanders) #1 v State of Queensland* (2003) 134 FCR 155.

¹¹¹ The Court found that although the deed in the case contained a condition for the use of the land for a purpose that was for the benefit of Islander inhabitants, this was not a particular purpose. *Erubam Le (Darnley Islanders) #1 v State of Queensland* 134 FCR 155 [77], [55]-[59] (Black CJ, French and Cooper JJ).

¹¹² Personal communication with Bruce Goring, 31 July 2009. I am grateful to Bruce Goring, Cynthia Ganesharajah and Joe Fardin for their advice about this legal point.

¹¹³ *Native Title Amendment Act (No.1)* 2010. It was originally called the Native Title Amendment Bill (No.2) 2009.

Housing, a ten year partnership which was agreed to in 2008 by the Council of Australian Governments. The amendments relate to housing, public education and health facilities, police and emergency facilities and a wide range of utilities such as roads, jetties, lighting, communication facilities and sewerage treatment facilities, as well as anything else that is prescribed in the regulations to accompany the amendment.¹¹⁴

The amendments introduce novel and specific provisions regarding notice, consultation and comment which differ from the procedural rights usually provided for in the *Native Title Act*.¹¹⁵ In doing so, the delivery of housing and other community development infrastructure is said to be expedited by reducing the future act rights of native title holders.

Entitled futures

It's been a mixture of feelings and emotions getting native title. You are happy in one sense that you have achieved this milestone and recognition, basically from the white law; a battle since colonisation. But to the other extreme it's been a bit sad, frustrating and disappointing because of a lack of support from the government for PBCs. At the same time, I want to remain optimistic so that we can move forward and not let obstacles stop us or be a cause and/or an excuse for our failure.

Thomas King Jnr¹¹⁶

The 2002 Karajarri native title consent determination marked the beginning of a complex and formalised relationship between Karajarri and all the other people who live or hold interests in Karajarri country. Despite all the problems that have come with native title, Devina Shoveller talked to me about how much she enjoys working with the KTLA. For her it has been a joyful experience, where she has learnt a lot and been inspired:

First of all I didn't understand what they were arguing for, about the land. But now I've been going to the meetings, learning everything and getting brave. Then I started talking up, and now I can't stop. ... It's been really good having KTLA. There's a lot of respect in the family group. The things they come up with are inspiring. When they come up with an idea I think, 'I can do that' but then I think I can't have everything. My family inspires me.¹¹⁷

It is the enthusiasm and commitment of such Karajarri people for the KTLA as a vehicle for doing Karajarri business, their way, that is also an opportunity for governments who make the connection between recognising native title, supporting Indigenous leadership, and building a more equitable society.

¹¹⁴ Magarey, above n 58, p. 16.

¹¹⁵ Magarey, above n 58, pp. 16-17.

¹¹⁶ Interview with Thomas King (Port Smith, 7 May 2008).

¹¹⁷ Interview with Devina Shoveller (Bidyadanga, 8 May 2008).

Native title holders have worked hard to achieve native title, with the anticipation that their position in Australian society will be transformed through this recognition.¹¹⁸ For this to occur, the attention of the major native title institutions needs to expand out from the focus on achieving native title determinations in court. Native title is also a governance responsibility. The expectations of native title holders, governments and others for outcomes on native title land are reliant on the workings of these native title corporations and the key individuals that manage them.

Out of the multiple impacts of the Karajarri experience of living with native title, there are three key concerns that require immediate attention from governments. They relate to policy, understandings of native title, and resourcing.

First, because native title is a ‘notoriously complex’ legal system,¹¹⁹ it is critical that state, territory and federal governments develop policy responses that support all native title parties to manage their interests in native title lands. Native title issues are open to interpretation, and can be settled through policy and agreement making, not just through amending the *Native Title Act*. A suite of useful policy responses is needed, that address governance, agreement making, and decision making over land, water and town planning.¹²⁰ The complexity of communal and individual interests held in perpetuity necessitates such policy innovation.

Second, the notion that the work of the KTLA is limited to a narrow legal interpretation of native title belies the lived experience of Karajarri who identify and articulate logical, meaningful and practical connections between country, their Elders, and their future generations. This approach to work includes referencing their own laws, customs and cosmologies of being. Indeed, Karajarri laws and customs were presented and recognised as evidence of their native title, and thus it is the work of native title holders to respect and maintain them.

The work of governments with Indigenous people needs to extend to understanding the importance of Indigenous peoples’ laws, customs and cosmologies and the implications of doing business with RNTBCs. Ignoring this governance context results in governments and the members of RNTBCs being placed at crossed purposes, wasting valuable meeting time and providing additional challenges to the negotiation and implementation of land use agreements. There are clear synergies between the work of the KTLA and programs such as Yiriman, which could be productively developed rather than disregarded.

Third, federal, state and territory governments’ have failed to provide policy and funding support for these corporations who are legally obliged to undertake numerous native title responsibilities, including responding to the agendas of other parties who are generally better funded. This absence of support from government destabilises the governance of RNTBCs

¹¹⁸ See, for example, K Guest, ‘The Promise of Comprehensive Native Title Settlements: the Burrup, MG-Ord and Wimmera agreements’, Research Discussion Paper No. 27, Native Title Research Unit, AIATSIS, Canberra, 2009.

¹¹⁹ Magarey, above n 58.

¹²⁰ As also argued by Dillon and Westbury in their discussion of the agreement making which lead to joint-management arrangements for the majority of national parks in the Northern Territory, above n 66, p. 113.

from the very start.¹²¹ For Karajarri, the flow on effects of an inadequately administered RNTBC have included: placing undue pressure upon the personal capacity and commitment of KTLA members; draining resources and energy from other projects and activities which have governance capacity within the native title group; and causing tension in the local community. The same individuals who are under pressure to meet the legal obligations and community expectations of the KTLA are also active in co-ordinating Karajarri activities such as Yiriman, the Rangers, and the pastoral enterprise. The failure of governments to invest in the KTLA frustrates the leadership capacity of these key people.

Further, the KTLA experience shows that there is clearly a case for funds to be allocated upon establishment of an RNTBC, rather than dependent on an ILUA process that needs to address many issues and may be a lengthy process. Indeed, in terms of supporting good governance, an operational RNTBC is an investment for the ILUA process not an outcome of one.

As Karajarri start to leverage some outcomes from the ILUA process,¹²² they still face the many other problems besetting the KTLA. They have a pressing need to undertake a lengthy planning exercise to establish processes and policies to hold and manage their native title, including the complex issues surrounding individual and group interests in communal land. Such a planning exercise requires negotiating the Indigenous and non-Indigenous laws, customs, and cultures which coalesce around native title business. This work must maintain legitimacy and engagement with the broader Karajarri community, or cultural match, to ensure that any agreements and decisions made are sustainable.

There is also much for Karajarri to undertake together with the Bidyadanga Community Council on the many issues where their interests cross over. As the Bidyadanga desert tribes go through their own process of gaining native title recognition for their traditional country, there is an opportunity for improved dialogue between RNTBCs about the role of native title holders within diverse Aboriginal communities. Significantly, what happens in Bidyadanga will establish a critical point of reference, as there are many more Aboriginal communities in Western Australia which are on ALT lands subject to native title applications.

RNTBCs are at the forefront of the legal changes since *Mabo*.¹²³ Native title is changing both how Indigenous peoples' interests are represented and how business is done on native title land. This paper demonstrates how these changes extend beyond RNTBCS to include a myriad of interactions with local, state and territory, and federal governments. Significantly, the people innovating and interpreting around native title today in places such as Bidyadanga, are creating models for what will be considered normal into the future when native title is known and accepted as a familiar part of our governance landscape.

Innovations in governance are occurring as Karajarri and governments find ways to work together. Late in 2008, the Karajarri Rangers received a boost in government support, with their successful application for five years of grant funding from the Commonwealth Federal Environment Department's 'Working on Country' program. Prior to this, the Rangers

¹²¹ See Rowse, above n 10, p. 222 for a discussion on state/territory relations with the commonwealth on Indigenous issues.

¹²² The first ILUA was signed in late 2010, the global ILUA is now being negotiated.

¹²³ *Mabo v Queensland [No 2]* (1992) 175 CLR 1.

operated from the back of John Hopiga's veranda, with 'top-up' wages from the Commonwealth's Community Development Employment Program. Karajarri are also in the consultation phase of establishing an Indigenous Protected Area under a Federal government program which provides funding for conservation work on Indigenous and public lands. Logistically, this environmental money is an investment in Karajarri staff, office facilities, transport, and more.

John Hopiga and other Karajarri are enthusiastic about how the Karajarri Rangers could work on many native title matters, such as regulating tourists, taking care of important sites, monitoring changes to water management, and undertaking conservation work on the pastoral leases. It is an integrated perspective which understands and seeks to consolidate the links between native title, country, land and water management, local employment and Karajarri futures.