History and Native Title: The Making of a Community Asset

Since the *Native Title Act 1993 (Cth)* came into being, historical and anthropological research has been conducted in order to provide evidence of Indigenous land ownership. One of the most important aspects of the native title process involves tracing descent from the traditional owners of the land who could be identified at the time of sovereignty. This requirement plus others has resulted in the assemblage of vast and varied amounts of historical material. In this paper we will give a brief description of what type of documentation is needed for a native title claim, what happens to the materials both during and after the claim process and how the research creates a valuable community asset. Finally, there will be consideration of various options for the management of the historical material to give greater access and control to the indigenous communities in NSW.

The very nature of the process depends upon accurate historical documentation. The applicants must provide the following information when they submit an application for a native title claim (SLIDE 1):

➢ Identification of the group claiming the area

➢ Evidence of descent from the group holding native title in the area at the time of sovereignty

➢ Existence of a system of traditional laws and customs and how these connect the people with the lands and waters claimed

➢ Establishment of the nature of the rights and interests claimed and evidence that these rights derive from the traditional laws and customs shown earlier[1]

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[1] Finlayson, 2001

The first two requirements, identification of the group and evidence of descent, depend heavily upon historical documentation. In the past two years, researchers at NSW Native Title Services have collected 2680 death certificates and 1387 marriage certificates. Other documents include numerous records of the Aborigines Protection Board, pastoral station ledgers and diaries and hundreds of newspaper articles, etc. Some of the material contains specific information about individuals. Aside from its usefulness in producing genealogies and determining the nature of indigenous connection to land, the material is naturally of great interest to the descendents of the people mentioned.

Both the Federal Court and NSW NTS hold claimant genealogies, expert anthropology, history and/or linguistic reports, witness statements, photographs and other material. Not all evidence collected for a claim is filed with the court. The Court files on any one case hold documents filed both in support of and in opposition to a claim, and they do not distinguish between active files (while the case is proceeding) and archived files. All parties to a claim may inspect the files unless they are subject to confidentiality orders or other restricted access[2]. When the claim is concluded, the files are sent to the appropriate Court Registry for 5 years, then to Australian Archives or another organisation. Researchers can then apply to the Court for access to all records that have no restrictions. Unfortunately, the Court does not hold transcripts of native title claims, but is exploring options for making these available electronically. Another valuable set of documents are the digital diaries which are produced during hearings on traditional lands; these contain photographs of claimants and of places and are held at Court Registries. Again the Court is considering best how to store this material for archiving centrally[3]

The material held by NSW NTS and other rep bodies, even if it is not submitted to the court, is subject to legal privilege and cannot be used without the consent of the community. At NSW NTS we have established a process for the management and storage of material. When material is received, it is logged and scanned into a relational database using Filemaker Pro software. Hard copies are filed according to material type.

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[2] Irving 2006: 2

[3] Irving 2006:8

The storage area is not accessible to the public. Community members often make requests for material about their ancestors. Those requests are logged into the database and answered at the first opportunity. We provide copies of documents that relate to the direct ancestors of the person making the request.

The advantage of this system is that the material is centrally stored at no cost to the community. A disadvantage is that staffing restrictions mean that it can take several months for a request to be answered. There is also concern from communities that if funding for native title ceased the material would no longer be available. To overcome this difficulty, copies of the research material could eventually be placed, following community approval, at enduring institutions such as AIATSIS, State Library of NSW or the Koori Heritage Trust of Victoria. AIATSIS has several staff- the Native Title Research and Access Officer, the Family History Unit, and the Access Unit of the AIATSIS Audiovisual Archive- all of whom specialise in helping indigenous clients to locate and obtain copies of relevant material held in the AIATSIS Library and the Audiovisual Archives. The State Library of NSW employs two indigenous service librarians and part of their role is to assist indigenous clients with their research. Such officers and librarians assist clients to access native title research material placed in their institutions. But the obstacle remains that these institutions are remote from most communities in NSW and the material is still out of their control.

For the past two years, Grace Koch of the AIATSIS Native Title Unit has managed a project entitled the Future of Connection Materials which aims to establish protocols for the storage, management and accessibility of the historical material collected for native title claims.

Formal workshops and discussions have been held at three of the annual Native Title conferences and have dealt with classification of materials held by NTRBs, historical documents and their use in Native Title claims, legal aspects of ownership of material and how the courts deal with the Native Title documents that they hold, and copyright and access issues to Native Title material held in NTRBs.

Two case studies, one at the Kimberley Land Council in Broome and Derby, WA and another at NSW NTS, were conducted in order to view storage of materials and to discuss databases and access issues.

In 2006, a two-day workshop was held with representatives of 13 of the 17 NTRBs to formulate an ideal set of fields for databases used by NTRBs and to look at the handling of intellectual property. Also, a toolkit on conservation/preservation of collections was sent to each NTRB. Most reports and some of the papers given at the Native Title conference on the project can be accessed on-line at: (SLIDE 2)

The project funding model, where money is given for a specific time, does not ensure that material generated by Native Title will be available for future generations. These precious collections need, at best, backup copies to be stored in environments with ongoing and secure funding, such as libraries and archives, whose job is to maintain collections in perpetuity. With this in mind, the final report for the Future of Connection Materials project, which will be completed late this year, will produce a set of recommendations based upon the differing situations for NTRBs in each state about how the collections can be best described, preserved, and made available to both indigenous users and others.

There are, however, clear indications from communities that they wish to control and manage the material themselves. There are various options for communities wishing to do just this.

A possible model for community control and ownership is suggested by the Dhiiyaan Indigenous Centre at the Northern Regional Library in Moree. Established in 1995 by Noeline Briggs-Smith, a Gamilaroi woman, the unit holds numerous genealogies, photographs and historical records about Gamilaroi people. All material is professionally and securely stored and there are plans to digitise the collection in the near future. The unit fields enquiries from Aboriginal people wishing to research their family history. The aim of the unit is to "document, preserve and protect Aboriginal information and objects

of significant importance to Aboriginal people for our people of today, and for future generations"[4]. To this end, the unit has published three books about Moree Aboriginal History using material held in the library.

A community-driven model is suggested by the efforts of Joey Flick, Roy Barker and June Barker to see the return of copies of photographs and genealogies from the Tindale collection at the South Australian Museum to community control. They organised a "Back to Brewarrina" weekend in 1994 which featured a display of photographs from the Tindale collection of Aboriginal people along the Darling River and its tributaries from Boggabilla to Menindee. The South Australia Museum usually only provides copies to the direct descendents of the people pictured. Joey Flick, Roy Barker and June Barker, with assistance from Jumbunna (the indigenous unit of the University of Technology, Sydney) negotiated with the Museum to have copies of the photographs returned en-masse to the Brewarrina Cultural Centre with provision made "to protect the privacy of individuals who may be affected by the unreliable genealogies". Displayed on boards in family groups (most of the originals were of individuals), the photographs stimulated much discussion and reminiscing about family and community connections. The photographs were published in a book titled "Karroo: Mates." As Heather Goodall has recently written, "Karroo", a term derived from a kin relationship, is now used as a synonym for "mates" and reflects the peoples "sense of bond across and beyond families". The Barkers continue to display some of the photographs and other family information at community events, allowing people to find out more about their ancestors. They also operate a small cultural museum at Lightning Ridge. The Brewarrina Cultural Centre has since closed but is due to reopen soon.

An alternative, electronic model is suggested by the Bundjalung Mapping Project, a joint venture between the Bundjalung Aboriginal community, Southern Cross University, Northern Rivers Catchment Management Authority and NSW National Parks and Wildlife Service. The aim of the project, which is in the early stages of development, is to create a "highly secured, user-friendly computer-based record keeping system through

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[4] www.indigenousunit.com.au/index.php?option=com_content&task=blogcategory&id=0&Itemid=46

which Aboriginal communities can record and own their cultural knowledge". Sensitive information will only be able to be accessed by those persons delegated by the local community. Individuals will be able to add photographs, film, oral stories and written histories, etc, to the database, which will be web-based[5]. Preservation of existing knowledge is an important function of the database. At the project's launch in December 2006, Bill Walker, a Bundjalung man, commented that "It's very important to the Aboriginal community because over time, we've lost a lot"[6].

Further afield, the Ara Irititja electronic archive, established in 1994 for the Anangu people of South Australia by the Pitjantjatjara Council, is at the forefront of the development of computer technology for the benefit of Aboriginal people in remote locations. The archive contains over 35,000 records including digitised copies of manuscripts, photographs, film footage and oral recordings. The Pitjantjatjara language is used in the database where possible. The software "protects and/or restricts access to private, sensitive and offensive materials". The Anangu can also add material or correct mistakes. One of the most innovative aspects of the archive is the "Niri Niri[7]" or the mobile workstations made up of a computer, data projector, printer and self-contained power supply. The workstations, of which there are ten, are housed in a sturdy, dust-proof casing that is hardy enough to be taken into the harsh environmental conditions of many remote communities[8]. The Anangu don't have to travel to access their archive – it comes to them.

The Koori Heritage Trust of Victoria is building a collection of genealogies, photographs, oral recordings and written material as a resource for the indigenous community[9]. The material is gradually being transferred to a modified form of the Ara Irititja database. Established in 1985, the Trust moved to its own cultural centre in Melbourne in 2003. It assists members of the Victorian community to create genealogies and obtain copies of personal records held by government institutions. The main objective of the Trust is to

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[5] http://www.wetlandlink.com.au/content/the-bundjalung-mapping-project
[6] *Northern Star* 16 December 2006: 9
[7] Niri niri is the Pitjantjatjara word for 'scarab beetle.'
[8] http://www.irititja.com
[9] http://www.koorieheritagetrust.com

help rebuild community knowledge about families and ancestors to foster a greater sense of wellbeing among the Aboriginal people of Victoria.

An obvious problem for community owned and controlled collections is funding. At the beginning of the Ara Irititja project, the Pitjantjatjara Council solved the money problem by seeking funding from a variety of government and commercial sources including (SLIDE 3)[10]:

- South Australian Museum
- Telstra Foundation
- Visions of Australia
- Anangu Education Services
- Dept of Further Education, Employment, Science & Training
- ATSIC
- Dept of Communications, Information Technology & The Arts
- Networking the Nation
- Museum Victoria
- AIATSIS
- State Library of South Australia
- National Library of Australia – Community Heritage Grants
- Australia Foundation for Culture and the Humanities
- Yaitya Warra Wodli Language Centre
- Green Hills Foundation
- Australian Indigenous Cultural Network

The Koori Heritage Trust of Victoria is funded by a similar range of private and government sources. The Bill and Melinda Gates Foundation recently donated $1.46 million to the Northern Territory Library "to extend a program that provides computers for (indigenous) communities and helps them to build skills and preserve their culture"[11].

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[10] http://www.irititja.com
[11] *Sydney Morning Herald* 19 September 2007

Some of the money will be used to continue the development of the "Our Story" database, using the Ara Irititja software, which is currently accessible by 10 communities across the NT[12]. The success of both Ara Irititja and the Koori Heritage Trust demonstrate that funding for community control can be raised through initiative, persistence and extensive knowledge of financial sources. The donation by the Gates Foundation demonstrates that private and philanthropic funding is also available. The situation, however, as the managers of Ara Irititja acknowledge, is precarious.

The funding situation is particularly stark in the realm of native title. When the Federal Court makes a determination that native title exists, the holders are required by the *Native Title Act 1993* to establish a Prescribed Body Corporate (PBC) to manage their rights and interest in land[13]. Theoretically, a PBC could also manage the storage and access of the collection of research material used in the claim. But PBCs receive minimal funding from the Federal government and outside sources would have to be sought.

The Future Acts regime of the *Native Title Act 1993* offers an alternative means to source funding for the management of research material. Future Acts refer to proposed developments such as coal mining that may affect native title rights and interests. A registered claim over the area of a proposed development triggers the "right to negotiate" which means that the claimants have the opportunity to sit down with the developer to have a say. An outcome of the negotiations might be employment for claimants or the payment of compensation. Notionally, the claimants could also negotiate to establish a community centre that holds research material and is funded for the life of the development. Training could be provided in database and archival management for some members of the community

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[12] http://www.ntl.nt.gov.au/about_us/knowledgecentres
[13] http://www.nntt.gov.au/publications/1021859460_4854.html

Discussion

The Bundjalung Mapping Project and the Ara Irititja Archive show that technology has an important role to play in preserving indigenous knowledge and historical sources, particularly if the creators collaborate with the community. Increasingly, libraries and archives are digitising material and placing it on the web (SLIDE 4). The AtMitchell website of the State Library of New South Wales contains several digitised manuscripts with indigenous content including the Bathurst blanket returns. Ron Briggs, SLNSW Indigenous Service Librarian, recently commented that his institution is increasingly relying on directions from the community to determine what they will digitise and place on AtMitchell. (Ron is a member of the Indigenous Library Services and Collections Group which recently published a policy to guide the management of indigenous material that emphasises collaboration with communities.) The AIATSIS website includes numerous digital exhibitions including the *Dawn* magazines and the annual reports of the NSW Aborigines Protection Board. *Dawn* is also available on CD-ROM and is proving popular with community organisations such as Local Aboriginal Land Councils. The website of NSW State Records, although not displaying digitised material, includes some indexes to collections such as the Register of Aboriginal Reserves.

Technological developments on the internet offer encouraging opportunities for community control of connection material. Most of the innovation is coming from business applications, but conceivably they can be adapted to the non-profit sphere. Developments in internet programming mean that it is possible for a business to manage accounts and keep track of inventory using tools on the web. All the business data is stored on the web rather than on their own computers, making traditional computer-based software unnecessary[14]. The Bundjalung Mapping Project is exploring some of these developments. Conceivably, the Ara Irititja Archive could be transferred to the web using similar technology, meaning that individuals could access historical information whenever they liked instead of waiting for the mobile computer to come to them.

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[14] Friedman 2006: 86-87

Further developments are suggested by websites such as Wikipedia where users are able to add and modify content. The internet is no longer a passive source of information but a system where individuals can collaborate and create remotely. For example, Patrick McConvell, Linguistic Research Officer at AIATSIS, has been funded by DCITA, in conjunction with the Max Planck Institute DOBES (documentation of endangered languages) program based in Nijmegen to conduct the On-Line Community Access Pilot project for language documentation (OLCAP), which will provide on-line access to tapes and videos to Indigenous regional language centres and community knowledge centres. When this pilot is completed (and contingent upon further funding), a second phase will examine interactive aspects of enhancement of documentation. Technology is developing at such a rapid rate that interactivity is becoming a key factor in knowledge exchange. With proper password controls and access protocols, it will soon be possible for members of a community to create a web genealogy that individuals can add to or change as more information from documentary and oral sources is discovered.

It is important that safeguards are built into any new web applications to protect sensitive information. Goodall has written recently about the community benefits that can be derived from sharing historical material. For example, wider kinship bonds can be shown to exist when families share genealogical information. But the process of community re-building can take time, particularly when long standing rifts endure. At least initially, protective measures may be required. Precise controls can be determined on a case-by-case system according to the wishes of each community.

Alternatives to technological solutions also need to be considered. Access to computers and the internet is not even across communities and many people find technology bewildering. Technology is not always culturally appropriate. The Anganu, for example, have major concerns about the security of information stored on the web[15]. Further, it is our experience that most people prefer "paper" copies of certificates and other historical material rather than digital files. This is especially the case for photographs. Any technological system that is installed must be easily able to print copies on demand.

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[15] Hughes and Dallwitz 2007: 155

Conclusion

The review of the various models presented here suggests that there is no single answer for the preservation of connection material and the process of making it accessible to members of the Aboriginal community. Organisations such as NSW NTS are funded to conduct NT research, store the material in a safe and secure manner and use it according to the directions of the claiming community. The clear disadvantage is that such organisations may only have a limited lifespan; an alternative are the enduring institutions such as AIATSIS, the State Library of NSW and the Koori Heritage Trust of Victoria. They are consistently funded and experienced in the management of archival materials. The three institutions mentioned here have clear protocols and systems for interacting with the indigenous community. The disadvantage is that the materials are stored remotely from most Aboriginal people.

The community models benefit from closer community control but funding can be difficult to find. Technology has an important role to play, but not all communities are equipped for the digital age and there is a strong preference among many Aboriginal people for "hard" copies of photographs and certificates. What is clear is that the solutions must come from close collaboration with the people themselves.

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