
INTERNSHIPS IN NATIVE TITLE LAW: A STUDENT'S EXPERIENCE AS AN AURORA INTERN

by Pearce McManus

Law students are often under the impression that the best pathway, perhaps the only pathway towards a legal career, is a clerkship within a corporate law firm which will hopefully lead to a graduate position at the end of law school. Of course this is just one of a plethora of pathways a law graduate can take. The issue, however is that outside the well-trodden corporate path, the steps towards other careers are not always as formalised whilst information on what options exist is often scarce, and the resulting uncertainty can be daunting.

Native title is one area that students and graduates may be particularly interested in but are unsure of where to start. There are currently 15 Native Title Representative Bodies ('NTRBs') across Australia that manages native title claims on behalf of traditional owners. In addition, there are a number of Prescribed Body Corporates ('PBCs') that have been established following successful native title claims to hold and manage on trust native title and interests of native title groups.¹ Finally, many other native title organisations operate where no determination has been made but native title rights have been recognised such as through an *Indigenous Land Use Agreement* ('ILUA'), settlements or alternative legislative regimes. Consequently, the corporate landscape through which much of native title is managed today can be complex and difficult to understand for those new to this area of law.

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THE AURORA PROJECT

The Aurora Native Title Internship Program ('Aurora') is one way in which students and graduates can be exposed to working within native title law and other Indigenous organisations. Aurora places interns in unpaid full-time internships with NTRBs and PBCs across

Australia, as well as other Indigenous organisations working in policy development and social justice, all with an Indigenous focus. The internships are usually six weeks in length, and as such provide an excellent opportunity to not only provide fantastic experience for those wanting to work in these areas, but also to allow students and recent graduates—who may be unsure of what career options interest them—to experience what working in these areas is actually like, and the diverse array of work they involve. Many but not all of these placements are in regional or remote areas and thus by facilitating the internship, Aurora provides an opportunity for interns to have a professional experience that might otherwise seem inaccessible if an intern had to organise it of their own accord.

MY PERSONAL EXPERIENCE

This summer, I completed a six week internship through Aurora at Nyamba Buru Yawuru ('NBY'), the PBC that works on behalf of the Yawuru native titleholders of Broome. A key aspect of this experience was being able to live and work on Country in a regional and relatively remote area of Australia. This incredible juxtaposition to my home in inner city Sydney was compounded by the astonishing weather of soaring temperatures and cyclonic storms that are brought with the wet season in the Kimberley.

Of course, the second crucial experience is the actual work involved. The type of legal work these organisations have to handle is incredibly varied—successful determination or recognition of a native title claim is only the beginning. A number of unique challenges face traditional owners whose native title has been recognised. A key part of this workload is the negotiation of future acts, which are any acts that are to affect native title over land and waters.² For the most part the future acts process is provided for in native title legislation,³ and whilst it applies to a myriad of different potential acts over native areas, it is particularly pertinent to primary industry. This is the case as many claim areas exist over mineral rich undisturbed lands, which creates a challenging tension between potential economic wealth and the preservation of Indigenous country and environment. For PBCs like NBY that exist to manage how the land and sea within the native title claim is to be used,

much of the day-to-day work is guided by the ILUA. ILUAs are registered with the National Native Title Tribunal and are in essence a contract that sets out how key parties are to co-manage land, in the case of Broome this included the Western Australian ('WA') State Government and the Local Shire Government.

However, working as a lawyer in-house with a native title organisation, generally requires a skill set much broader than law alone, as the work will rarely be purely legal, and often involves significant social aspects and excellent engagement with the community. During my internship with NBY I was tasked with drafting the initial stages of a 'cultural framework' to be implemented throughout NBY's corporate structure to ensure its activities are consistent with Yawuru values and with the ultimate goal of planning for the built environment in and around Broome. After five years of law school, this project drew upon and developed skills I had rarely used or did not know I had, but demonstrated how crucial culture and community are to these organisations and the efficacy of native title.

CHALLENGES

My time during the six week Aurora internship was incredibly insightful. I felt that just by witnessing and living in this space, I gained an incredible depth of knowledge of some of the issues facing Aboriginal groups in Australia, yet recognise I only had scratched the surface. The experience was humbling. The greatest insight was learning more about the Yawuru concept of *liyan* and the sense of self, country and community that it involves. It is truly compelling and I may be romantically optimistic, but I feel that if its underlying philosophical message was understood more broadly throughout Australia then many of the complex issues our country faces in its relationship with its Indigenous people could be resolved. This optimism has however been tempered with many unfortunate experiences that to me suggest we have an incredibly long way to go. NBY is seemingly one of the best examples of a well-managed PBC that continues to deliver for the community it represents. However, attempting to redress a history of colonisation and dispossession via the limited tools of native title is no small task, and every day I saw new challenges emerge. The elephant in the room is racism and it constantly manifests itself everywhere in countless shapes and forms. Meanwhile, heritage and environmental protection is unconstructively placed on a false binary with economic development, two ends of a spectrum that are understood as polarised and incompatible. The lack of imagination and foresight on the part of government and industry is frustrating, but I think it would be ironic to characterise these sectors as the incapable antagonist, only because that is the characterisation that Aboriginal Australia continues to receive. Moreover, I am confident that there are individuals working

throughout these sectors who indeed want to make a difference, the problem however, is that from within these structures, making such a difference is incredibly difficult, and when negotiation and cooperation fail, it seems to be that traditional owners are the ones who lose out.

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CONCLUSION

Consequently, native title and working as a lawyer in fields of social justice for Aboriginal and Torres Strait Islanders requires graduates of a high calibre, not merely academically, but socially and emotionally attuned. Unfortunately, it is difficult not to be drawn to the many negative issues and forget the many positive developments that continue every day. However, I think it is better to recognise these significant challenges and reflect on how they are best overcome, rather than accept the status quo or be in any way deluded as to the complexities that Australia's colonial history has created. Through this I think we can each be truly optimistic about where we can go rather than where we are.

Information about Aurora internships and the work of the Aurora Project can be found at: www.auroraproject.com.au

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- 1 Native Title Representative Bodies and Service Providers, *NTRB Map and Contact Details*, <<https://www.ntrb.net/PublicPages/NTRBmap.aspx>>.
- 2 *Native Title Act 1993* (Cth) s 233(1).
- 3 See generally *Native Title Act 1993* (Cth) Pt 2, Div 3.