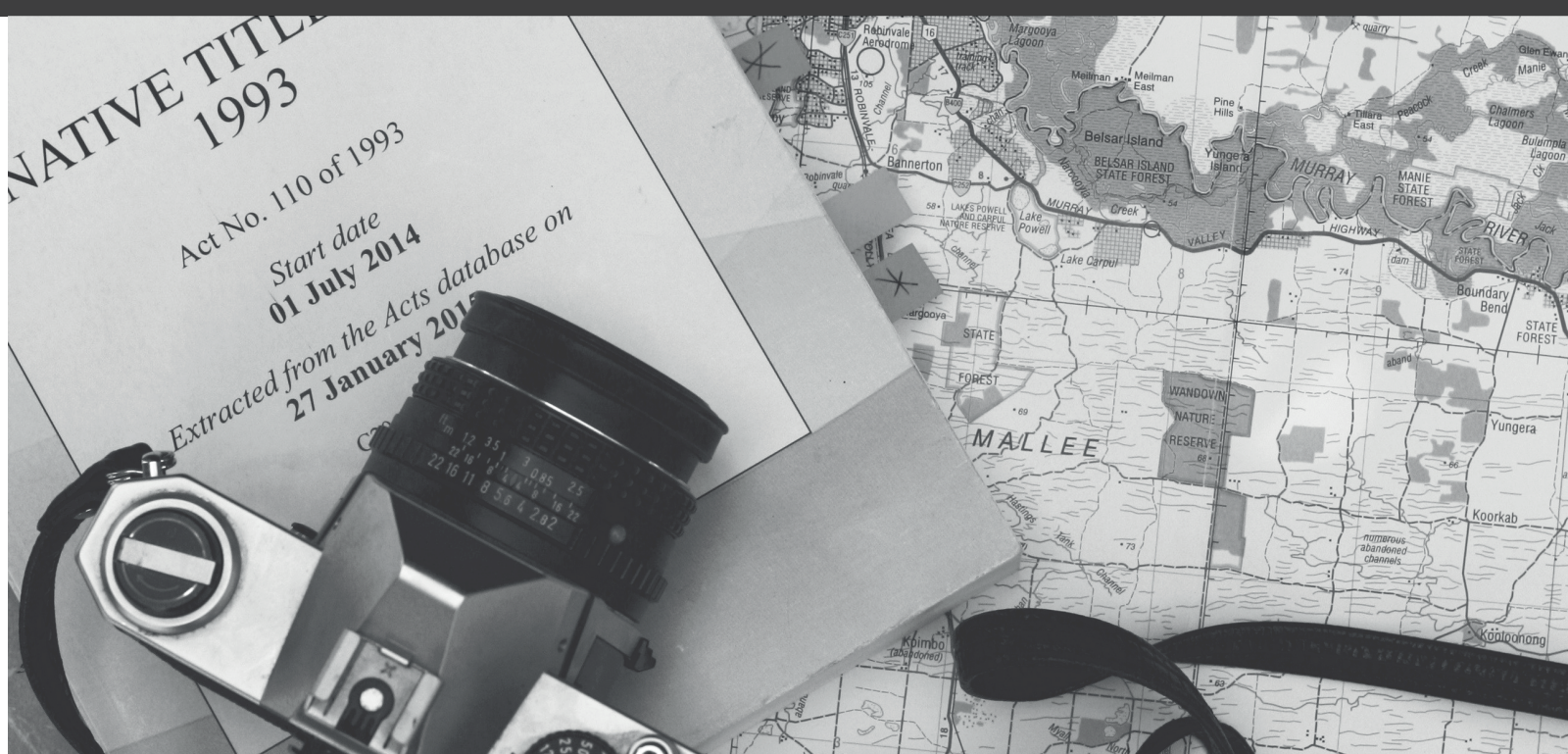




*The Federal Court of Australia, the National Native Title Tribunal and  
the Centre for Native Title Anthropology, Australian National University welcome you to*

# 25 Years of Native Title Anthropology

A tribute to the contribution of anthropologists to  
the development of Australian native title law



Friday 10 February 2017

## *Seminar*

1:00—5:30 pm

The Duxton Hotel

No. 1 St George's Terrace Perth

## *Reception*

5:30—7:00 pm

The Duxton Hotel

No. 1 St George's Terrace Perth







# Order of events

Chaired by Raelene Webb QC and Dr Pamela McGrath

1:00pm	Welcome to Country, Mr Barry McGuire
1:10pm	Introduction: anthropology meets the Native Title Act <ul style="list-style-type: none"><li>The Hon. Justice Michael Barker</li></ul>
1:30pm	A short history of the role of anthropology in evidencing Indigenous rights in land <ul style="list-style-type: none"><li>Professor Nicolas Peterson</li></ul>
1:45pm	Friend or foe? Lawyers reflect on the anthropologist as expert witness <p>Leading lawyers discuss the contributions of anthropologists to key native title cases, examining their value as researchers and interpreters of Indigenous society and connection to country. They explore how the law has responded to the conceptual complexity—and at times uncertainty—that anthropological evidence invariably brings to the task of pursuing the legal recognition of traditional rights and interests in land, and share some of the joys and challenges of wrangling with this particular kind of expert.</p> <ul style="list-style-type: none"><li>Mr Robert Blowes SC: <i>In the Dry of 1982, I met an anthropologist</i></li><li>Mr Vance Hughston SC: <i>Anthropological evidence: addressing the issues in dispute</i></li><li>President Raelene Webb QC: <i>Learning from the experts</i></li><li>Mr Peter Quinlan SG SC</li><li>Mr Joshua Creamer: <i>Walking the tightrope: balancing the demands of law and anthropology.</i></li></ul>
3:00pm	Afternoon Tea
3:30pm	Participant witnesses, expert observers: anthropologists reflect on the laws of the land, and the culture of the law <p>Senior anthropologists from around the country discuss key concepts, relationships and practices that have been crucial to helping articulate Indigenous rights in land in ways that make them sensible to Australian law. Some speakers will explore elements of the personal, professional and ethical tensions that result from the often irreconcilable roles anthropologists are expected to play as both cultural brokers and expert witnesses. Others will turn the ethnographic gaze back on the court to consider the limits of the law’s ability to recognise and accommodate the complex intercultural character of native title business.</p> <ul style="list-style-type: none"><li>Prof David Trigger: <i>What I’ve learned from the law and what lawyers have learned from me.</i></li><li>Prof Francesca Merlan: <i>Continuity: proofs and problems</i></li><li>Dr Lee Sackett: <i>Anthropology, the Court, and questions of changes or adaptations in traditional laws and customs</i></li><li>Ms Petronella Vaarzon-Morel: <i>Reflections on gendered relations to the land and native title business</i></li><li>Dr Kingsley Palmer: <i>Disciplining anthropology: Indigenous disputes in native title trials</i></li><li>Prof Peter Sutton: <i>From handmaiden to midwife: rebirthing native tradition as settler legality</i></li></ul>
5:00pm	Absent friends; forebears and colleagues in native title anthropology <ul style="list-style-type: none"><li>Dr Julie Finlayson</li></ul>
5:10pm	Closing remarks: The future role of anthropology in native title law <ul style="list-style-type: none"><li>The Hon John Mansfield AM QC</li></ul>
5:30pm	Reception

# Speaker Biographies

## The Hon Justice Michael Barker

Justice Michael Barker was appointed to the Federal Court in February 2009. He was previously a judge of the Supreme Court of Western Australia (WA) from August 2002, and President of the WA State Administrative Tribunal from 2005. Justice Barker enjoyed a substantial native title practice at the Bar before his appointment as a judge, including as counsel for the successful claimants in the Miriuwung Gajerrong (Ward) and Ngarluma Yindjibarndi (Daniel) claims. On the Federal Court, Justice Barker has decided a range of native title claims, including *Banjima People v Western Australia (No 2)* [2013] FCA 868; 305 ALR 1, and CG (Deceased) on behalf of the *Badimia People v State of Western Australia* [2015] FCA 204; and has sat on a number of appeals. Justice Barker is one of the National Coordinating Judges in the Court's Native Title National Practice Area, and the judge principally responsible for Native Title case management in Western Australia.



## Mr Robert Blowes SC

Robert Blowes is a barrister who for 35 years has represented Aboriginal people and Torres Strait Islanders in the preparation, litigation, negotiation and mediation of claims to have their traditional rights in land and waters recognised and protected in many parts of Australia. In the course of his career Robert has had the privilege of working with very many of Australia's leading expert anthropologists.



## Mr Joshua Creamer

Joshua is Waanyi and Kalkadoon, growing up in Mount Isa and Central Queensland. In 2009 he was an Associate to the late Justice Dutney in the Supreme Court of Queensland. In 2011 he commenced practice as a Barrister. Joshua specialises in matters that involve Indigenous Australians. In 2016, he was recognised by Chambers Asia-Pacific as one of Australia's Outstanding Young Lawyers. For the past three years, he has also been recognised by the Doyle's Guide list as one of the leading Native Title Barristers in Australia.



## Dr Julie Finlayson

Julie Finlayson is an anthropologist who has held teaching and research positions at La Trobe University and at the Australian National University, as well as an executive role in Indigenous program areas of the Australian Public Service. Her consultancy work has focused on a number of applied fields: cultural tourism, native title, organisational change management, reviews of successful Indigenous organisations, including legislative reviews – with, and for Australian Aboriginal people. She has worked for the National Native Title Tribunal, native title representative bodies and the Central Land Council, and has taught short professional development courses in native title. In recent years Julie has sought on-ground community-based work in north and western New South Wales (NSW). She is currently Research Fellow at the Centre for Native Title Anthropology and former president of the Australian Anthropological Society.



## Mr Vance Hughston SC

Vance Hughston came to the NSW Bar in 1982. He was appointed Senior Counsel in 2001. Mr Hughston has extensive experience in native title law at both trial and appellate level including arguing appeals in the High Court. He has appeared in native title matters in most Australian States and Territories for both native title claimants and for Government parties. In 2014–2015 Vance was a member of the Australian Law Reform Committee's Native Title Inquiry Advisory Committee. Other areas of practice include appellate, property, equity, commercial and public law.





# Speaker Biographies

## The Hon John Mansfield AM QC

John Ronald Mansfield was appointed to the Federal Court of Australia in September 1996. He was appointed Queen's Counsel for South Australia (SA) in 1985 and Queen's Counsel for the Northern Territory in 1988. He was President of the South Australian Law Society 1988-1989, President of the Law Council of Australia from 1993-1994, Chairman of the Legal Aid Committee for the Law Council of Australia from 1986-1994, Chairman of the SA Legal Services Commission 1995-1996 and Chairman of the Third Party Premiums Committee (South Australia) from 1986-1996. During 1991-1993 Justice Mansfield held the role as Counsel assisting the Commissioner, and later was Commissioner of the Royal Commission into the State Bank of South Australia. He was appointed a Member of the Order of Australia in the Queen's Birthday Honours in 2009. Justice Mansfield was appointed the Aboriginal Land Commissioner in 2011, and continues to serve in this role. His Honour's final decision prior to retiring from the Court on 24 August 2016 was in relation to the landmark native title compensation matter *Griffiths v Northern Territory (No.3)*.



## Dr Pamela McGrath

Pamela McGrath is Research Director at the National Native Title Tribunal and has previously been a Research Fellow with the Native Title Research Unit at the Australian Institute of Aboriginal Torres Strait Islander Studies (AIATSIS). Pamela has over 15 years experience in native title claim research and policy analysis, and helped establish the Centre for Native Title Anthropology in 2010. Pamela's recent publication, *The Right to Protect Sites: Indigenous Heritage Management in the Era of Native Title* (AIATSIS, 2016), is an edited anthology of interdisciplinary essays about the management of place-based Indigenous heritage in the era of native title. Pamela is an Adjunct Fellow with the National Centre for Indigenous Studies at the Australian National University and is currently the President of the Australian Anthropological Society.



## Prof Francesca Merlan

Professor of Anthropology at Australian National University since July 1995, Francesca Merlan has worked with indigenous communities in the Katherine region of the Northern Territory since 1976, in Papua New Guinea since 1980, and in Germany and other parts of Europe since. She has been involved with a number of matters under the *Aboriginal Land Rights (Northern Territory) Act* (1976) as well as native title matters in Victoria and the Northern Territory. Francesca has long been interested in social change in Indigenous Australia and the legal requirements concerning continuity. Her published and in-progress books include *Caging the Rainbow: Places, Politics and Aborigines in a North Australian Town* (University of Hawaii 1998); *People and Change in Indigenous Australia* (co-edited with Diane Austin-Broos, forthcoming, University of Hawaii); and *Dynamics of Difference: Indigenous Past and Present in a Settler Country* (under review, University of Pennsylvania).



## Dr Kingsley Palmer

Kingsley Palmer has worked in many areas of Aboriginal Australia including the Northern Territory, Queensland, Western and South Australia. Formerly Senior Anthropologist with the Northern Land Council, he was appointed Director of Research at the Australian Institute of Aboriginal Studies in Canberra in 1985, and held the post of AIATSIS Deputy Principal until 2001. He is now a private anthropological consultant. Kingsley has been involved in numerous native title claims over the last twenty years and has authored expert anthropological reports and given evidence in the Federal Court. Kingsley has also undertaken anthropological research and provided expert evidence for a number of other matters including cases brought in relation to the *Aboriginal Land Rights (Northern Territory) Act* (1976), criminal trials as well as undertaking research in relation to social impacts, community planning and management. He recently published a revised version of his expert report prepared for the combined Noongar native title application, *Noongar People, Noongar Land* (AIATSIS 2016).





# Speaker Biographies

## Prof Nicolas Peterson

Nicolas Peterson is professor of anthropology in the School of Archaeology and Anthropology at the Australian National University. His main areas of fieldwork have been in northeast Arnhem Land and in the Tanami desert. In 1973 he was appointed as research officer to the Royal Commission into Aboriginal Land Rights, known as the Woodward commission. Subsequently he has been involved in the preparation of twelve land and native title claims including the anthropological research, with Dr J. Devitt, for the case to test for the existence of native title in the sea (the Yarmirr case, also known as the Croker Island case). Nicolas has published extensively on land rights and native title, and since 2010 has been Director of the Centre for Native Title Anthropology, funded by the Commonwealth Attorney General's Department, which he currently runs with Dr Julie Finlayson.



## Mr Peter Quinlan SC SG

Peter Quinlan is currently the Solicitor General for Western Australia. Prior to his appointment in June 2016, Peter was a barrister in private practice practising from Francis Burt Chambers. He joined the Bar in 2001, was appointed Senior Counsel in 2010 and served as President of the WA Bar Association from 2012 to 2015. While at the Bar, Peter practised in constitutional and administrative law, planning, environment and heritage, native title, medical and other professional negligence and general commercial law. Peter has appeared as Counsel in numerous native title claims at trial and on appeal, including: *Yanner v Eaton*, *Sampi v Western Australia* (Bardi), *Sebastian v Western Australia* (Rubibi), *Bandjima People v Western Australia*, *Pilki People v Western Australia*, *Birrilliburu v Western Australia*, *Brown v Western Australia*, *Manado v Western Australia* (Bindunbur; Jabbir Jabbir).



## Dr Lee Sackett

Lee Sackett lectured in Anthropology of Aboriginal Australia at Adelaide University for 20 years. Following this for three years was Manager of Land Tenure at the Central Land Council. There he researched and reported on three Aboriginal land claims. For the past 18 years he has worked as a consultant anthropologist, specialising in native title claim research. He first became involved in the native title arena in 1995. Over the years, he has worked on claims in the Pilbara, the Western Desert, Central Australia, Northwest Victoria, the Gulf Country, the Mount Isa Region and Far North, Central and South East Queensland. Lee has reviewed claim materials for a number of Native Title Representative Bodies and for the states of Western Australia, South Australia, Queensland and New South Wales.



## Prof Peter Sutton

Peter Sutton is an author, anthropologist and linguist who has lived and worked with Aboriginal people since 1969, and is a specialist in the Cape York Peninsula region. He is also a specialist in Aboriginal land tenure and has acted as an expert in some 70 land claim legal cases in three Australian jurisdictions over the years 1979-2016 (*Aboriginal Land Rights (Northern Territory) Act* (1976), *Queensland Aboriginal Land Act*, *Native Title Act (Cth)* (1993). He has written or edited sixteen books in the fields of languages, visual arts, land tenure, history and policy. Peter's two latest books are *The Politics of Suffering: Indigenous Australia and the end of the Liberal Consensus* (2009), and *Iridescence: the Play of Colours* (2015; co-author Michael Snow). His current project is a biography of the pioneer Queensland anthropologist Ursula McConnel.





# Speaker Biographies

## Prof David Trigger

David Trigger is Professor of Anthropology at The University of Queensland. His research interests encompass the different meanings attributed to land and nature across diverse sectors of society. His research on Australian society includes projects focused on a comparison of pro-development, environmentalist and Aboriginal perspectives on land and nature. In Australian Aboriginal Studies, David has carried out more than 35 years of anthropological study on Indigenous systems of land tenure, including applied research on resource development negotiations and native title. He is the author of more than 60 major applied research reports and has acted as an expert witness in multiple native title claims and associated criminal matters involving Aboriginal customary law. David is the author of *Whitefella comin': Aboriginal responses to colonialism in northern Australia* (Cambridge University Press) and a wide range of scholarly articles.



## Ms Petronella Vaarzon-Morel

Petronella Vaarzon-Morel is Research Associate at the Conservatorium of Music, the University of Sydney, and lectures in Anthropology of Indigenous Australia at New York University Sydney (Adjunct Faculty). She has worked with Aboriginal people in Central Australia since 1976, and has been involved in the preparation of Aboriginal land claims and native title matters in the Northern Territory, Western Australia and Queensland. She has authored many consultant anthropological reports and provided evidence in the Royal Commission into Aboriginal Deaths in Custody; *Aboriginal Land Rights (Northern Territory) Act* (1976) hearings; the Family Court of Australia; the Supreme Court Northern Territory; and the Federal Court of Australia. Petronella's latest publication is *'Continuity and Change in Warlpiri Practices of Marking the Landscape'*, in William Lovis and Robert Whallon (eds.), *Marking the Land: Hunter-Gatherer Creation of Meaning in their Environment* (Routledge Studies in Archaeology, New York, 2016), pp. 201–230.



## Ms Raelene Webb QC

Raelene Webb was appointed President of the National Native Title Tribunal in 2013 after a distinguished career as a barrister. Over the course of her career at the Bar Raelene appeared as lead counsel in many native title and Aboriginal land matters, and advised upon and appeared in the High Court in most land-mark cases on the judicial interpretation and development of native title law since the decision of *Mabo v Queensland (No 2)*. She is a fellow of the Australian Academy of Law and was awarded the Law Council of Australia President's Medal in 2014 in recognition of her outstanding contribution to the legal profession in Australia. Raelene is in great demand as a public speaker and has presented or chaired sessions at various conferences throughout Australia and internationally, including at the 2015 and 2016 Annual World Bank Conference on Land and Poverty. In April 2015 she delivered the annual Sir Frank Kitto Lecture at the University of New England.







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services of the Tribunal please contact:**

National Native Title Tribunal  
GPO Box 9973 (in your capital city)  
Freecall 1800 640 501  
[www.nntt.gov.au](http://www.nntt.gov.au)