6. The Enigma of Traditional Western Desert Land Tenure

Introduction

This case study examines the formulation and reception of anthropological expert testimony in the De Rose Hill native title claim that was heard in 2001–02. It was a claim to De Rose Hill Station, which abuts the eastern boundary of a large block of Aboriginal land in the north-western corner of South Australia, known as the Pitjantjatjara Lands (see Map 6.1).1 The controversial judgment of the High Court in the Wik case in 1996 allowed native title claims to residual native title rights on pastoral leases on the basis that those leases did not grant exclusive possession and, therefore, did not extinguish all native title rights. This decision made for a contentious and hard-fought legal battle between the pastoralists in occupation of the lease and native title claimants, who, if successful, would be granted some limited access rights. In South Australia these access rights would overlap with existing statutory access rights, but the Native Title Act would also give successful claimants a right to negotiate in the event of mineral exploration or mining.2

The claim—being the first native title claim to proceed to hearing in South Australia—had a strategic role to play in relation to the many other native title claims lodged in South Australia. In various ways, the possibilities of successfully negotiating agreed determinations in those other claims rested on the outcome of the De Rose Hill claim. On the other side, a finding that Wik did not apply to SA pastoral leases would relieve all pastoralists in the State. From the point of view of the State-wide native title representative body, the Aboriginal Legal Rights Movement (ALRM), which represented the claimants, the choice of De Rose Hill as the ‘test case’ was also strategic. The Aboriginal people from that part of the State probably had the strongest claim to traditional continuity.

1 The claim was over the three separate leases that are run as a single enterprise and commonly known as De Rose Hill Station. The three leases are Agnes Creek, Paxton Bluff North and Paxton Bluff South.
2 The Right to Negotiate in ss. 25–44 of the Native Title Act is a potentially valuable right in areas that are prospective for minerals. Under the Right to Negotiate, exploration and mining companies must negotiate with native title holders and, failing an agreement, be subject to arbitration by an independent body, which will set the conditions to apply to the exploration or mining. The Right to Negotiate is available before a hearing and successful determination of a claim, provided the claim passes the registration test (ss. 190B–190C). But, generally speaking, any compensation determined under the Right to Negotiate procedures would not flow to the native title holders until they are successful in obtaining a determination that native title exists (s. 52). A determination of native title would also ensure that the freedom from certain government regulation of traditional hunting rights guaranteed by s. 211 would apply, but, again, a determination is not strictly necessary to assert rights under that section.
Map 6.1 Location of De Rose Hill Station in relation to the Pitjantjatjara Lands
Map 6.2 Selected fieldwork sites of anthropological research on Western Desert peoples

For reasons that will become clearer in the course of this chapter, the claimants in the De Rose Hill native title claim should be considered as part of the larger Western Desert cultural bloc. This group of people, who share a language and their original habitation of the vast deserts of inland Australia, has intrigued anthropologists for generations, since they represent Aborigines in an extreme environment and with a comparatively shallow contact history. When, in 1930, Elkin made his extraordinary field trip to the vicinity of the claim area, he travelled beyond settled areas to work with Aboriginal people who were still
living an independent, nomadic, hunter-gatherer life, with quite limited contact with white people. In 1933, Tindale’s expedition could still film the unclothed natives as they went about their daily routine, travelling from waterhole to waterhole in the Musgrave Ranges. According to Fred Myers (1986:11), the last family moved in from the remote stretches of the Gibson Desert only in 1984. For many anthropologists, the Aborigines living in, or only recently migrated from, the desert provided a privileged window into the pre-contact Aboriginal world. The Western Desert cultural bloc, then, became synonymous with traditionalism. It was also associated, however, with an unusual flexibility of group identification and fluidity of relations to land. As well as openness to new ritual and myth, there is conservatism about compliance with the ‘Law’. This juxtaposition suggests a sort of avant-garde traditionalism. Stabilising a group of traditional owners for De Rose Hill Station within this cultural bloc represents an extreme test for forensic anthropology and, thus, a fitting finale to the case studies of this book.

Elkin

The risk of commencing this review with Elkin is the unintended confirmation it gives to professionalised anthropology’s myth making about itself as a dramatic break with previous ethnographic investigation. All anthropologists drew on the work of earlier researchers. It is, however, beyond the scope of this chapter to include an account of the encounters of Carl Strehlow, Herbert Basedow, Daisy Bates and Géza Róheim with Western Desert Aborigines.

3 A detailed account of the various sightings of Western Desert Aborigines continuing their nomadic life is contained in Peterson and Long’s Aboriginal Territorial Organisation (1986:100–41).
4 Pastor Carl Strehlow was a Lutheran Missionary at Hermannsburg between 1894 and 1920, during which time he made extensive ethnographic investigations of Aboriginal people on the mission, mainly the Western Arerrnte, but also some of their southern neighbours, to whom he referred as the Western and Southern Loritja (see Hill 2002:31–86; Veit 1991). One of the key organising principles of his encyclopedic work ‘Die Aranda- und Luritja-Stämme’ (Strehlow 1907–20) is the separation of the two culturally distinct groups, Arrerrnte and Loritja, although the Arrerrnte tend to take a central place in the comparison. His deep interest in recording myths, but without much reference to the location of places referred to in the myths, makes his work of limited value to this review. Similarly, Géza Róheim’s nine months in Central Australia in 1929 enabled his creation of a psychoanalytical anthropology, but little linking of people to land (see Morton 1988). A prospector and science student at Adelaide University, Herbert Basedow was one of the first Europeans to systematically record something of his encounters with Aboriginal people in the vicinity of the claim area as part of the SA Government prospecting expedition in 1903 (Basedow 1904, 1914). Of interest is his reporting of an initiation ceremony being held near the claim area (1914:67) and the unusual names he attributes to the tribes of the area—names that were never used by later researchers. Most of Daisy Bates’ ethnographic notes from her time spent tending to the natives at Ooldea between 1919 and 1935 remain on various scraps of paper in her manuscript collection at the National Library of Australia. Her account of her time at Ooldea in The Passing of the Aborigines (1938) is useful only in confirming the migration of Aboriginal people from the north to Ooldea. She did have the wit to notice that the kinship terms she obtained were almost identical to the list of kinship terms for the Loritja in Spencer and Gillen’s The Native Tribes of Central Australia (1899), so Bates could be seen as the first to identify the potential scale of what became known as the Western Desert cultural bloc (see Bates 1918:163).
Elkin’s 1930 fieldwork in South Australia continued the short-term survey method of his Kimberley expedition, outlined in Chapter 6. In his accounts of his remarkable journey beyond the newly established sheep stations northwest of Oodnadatta, there is a barely disguised excitement at leaving behind ‘settlement’, and encountering Aboriginal people ‘living in a totally uncivilised manner’ (Elkin 1931:45–6). He was accompanied by two (unnamed) local Aboriginal men, who spoke some English. They proceeded by ‘bush bashing’ along old camel tracks in a truck driven by a prospector (1931:44). His first encounter with the ‘wild natives’ was at Ernabella Soak in the Musgrave Ranges. The expedition then travelled east, roughly along the South Australia–Northern Territory border, interviewing three small groups of Aboriginal people at three unnamed homesteads on the way, visiting ceremonial grounds, and interviewing more people from the Musgrave Ranges, who were at Finke Siding. Thus he travelled around and probably through the claim area. The genealogical method again yielded detailed accounts of formal kinship, social organisation and totemism (Elkin 1931, 1937, 1939).

Groups

Elkin’s painstaking analysis enabled him to identify a large ‘Western Group’ incorporating a bewildering array of ‘tribal’ names, and ‘characterised by a remarkable unity of language, mythology and social organisation’ (1931:60). It included Aboriginal people who were the original inhabitants of vast areas of the interior of Western Australia, northern South Australia and the southern part of the Northern Territory. Although Elkin was clear on the nature of their commonality, he still tended to use the terminology of ‘tribe’ to identify a dialect group or a broad regional grouping within the ‘Western Group’. His own material suggested complex naming practices, which included temporary, contingent names and friendly or derogatory nicknames used by neighbouring groups. But Elkin did not pursue the implications of such naming practices for his own attribution of ‘tribe’. He simply suggested that some reported tribes were, in fact, single hordes or groups of hordes. He was more interested in identifying the commonalities of the ‘Western Group’, which he listed as follows

- an absence of dual organisation, and instead, generational lines that grouped alternative generations together\(^5\)
- a kinship system that was much simpler than that of the surrounding groups
- totemic association with the place of actual birth (rather than, for example, conception)
- belief in the ‘Djugur’ (Dreaming)

\(^5\) Note: his terminology is somewhat confusing here since alternate generation levels are a kind of dual organisation, just in a different form to what was then known (see White 1981).
• belief in a place where all spirit children live
• a pattern of cicatrisation (slightly curved parallel scars on the back of the shoulders) (Elkin 1931:69–71).

He later proposed the term ‘the Aluridja Group’ instead of ‘Western Group’, following the Arrernte identification of their southern neighbours.

As with his previous surveys, here, the ‘horde’ is assumed, without explanation, to be the indestructible atom of social organisation and traditional land tenure (1939:203).

**Traditional laws and customs**

Despite his own observations that reported tribal names as often being dialect or horde names, or convenient nicknames, Elkin persisted with the terminology of ‘tribe’ to map broad locations, as demonstrated on the following sketch map (Map 6.3).

![Map 6.3 The location of De Rose Hill Station on Elkin’s sketch map of Western Desert tribal areas](image)

Source: Elkin (1939:202).
This sketch map would locate De Rose Hill Station in the vicinity of Elkin’s Andekarinja (today’s Antakirinya) and Jangundjara (today’s Yankunytjatjara). But Elkin never explained exactly what he intended to convey by his map. Perhaps it was simply a pragmatic simplification for the purposes of introducing the region, using some existing terminology. His preoccupation with formal kinship, social organisation and totemism did eventually lead to a brief consideration of local organisation via marriage rules. According to Elkin, marriage rules included a rule of local exogamy based on local ‘country’, which he equated with ‘horde’ (1939:218–19). Throughout his discussion, Elkin assumed a definitive horde country, circumscribed by ecological imperatives: ‘one never asks the name of a person’s camp or ngura but of his water, kapi. Man is tied from his birth to his death to the rockholes and soaks, and to the tracks between them, and so too were the heroes of mythology’ (1931:49).

Here we see the tentative beginnings of economic-determinist and ecological-adaptation explanatory approaches that inevitably become part of anthropology’s attempt to theorise the cultural effects of the extreme physical conditions of the desert.

Change

The theme of historical transformation was also provoked by the long-distance migrations of Western Desert people out of their original homelands. Generally speaking, this migration was seen as a methodological problem in reconstructing the pre-contact past, but occasionally it led to attempts to imagine its cultural implications, as in:

[T]he Aborigines of western South Australia have been in a continuous state of migration southwards for some decades; a movement which I believe was in progress before the coming of the white man. This explains the similarities of dialects, kinship systems and mythology over such a vast area, and also the difficulty of fixing definite tribal boundaries and names. (Elkin 1939:203)

Closely related to the theme of historical transformation was the appearance of what we would now call rational choice explanations, within accounts dominated by structural functionalism. Thus we have Elkin also explaining the migrations in terms of Western Desert people taking over the more hospitable country of neighbouring tribes on the fringes of white settlement when those tribes die out (Elkin 1931:49).
Tindale

After Elkin, the next scientific recorder of Aboriginal people in the vicinity of De Rose Hill was Norman Tindale, who participated in the joint University of Adelaide–SA Museum Anthropological Expeditions to the Musgrave Ranges, Ooldea and the Warburton Range in 1933, 1934 and 1935. Placing Tindale within Australianist anthropology requires the characterisation of the field given in Chapter 1 to be modified somewhat. For Tindale held various positions at the SA Museum, commencing in 1919 as an entomologist, but he eventually assumed responsibility as an ‘ethnologist’ (Bicchieri 1972:217). What were his original academic qualifications in America remains unclear, although at some point he received a Bachelor of Science degree at the University of Adelaide. If he can be claimed for anthropology, it would be anthropology in the American sense of the four pillars of anthropology, encompassing physical anthropology, archaeology, cultural anthropology and linguistics.

His formal qualifications and his diverse publication record, which covers botany, geology and archaeology, indicate that his approach to social anthropology would be steeped in the methods and assumptions of the physical sciences. His institutional security at the SA Museum preceded the institutional security of social anthropology at Sydney University. That security could be seen as providing some competition with Radcliffe-Brown and Elkin at Sydney University in the search for American funding and conducting research in remote areas. Birdsell, Tindale’s friend and collaborator, added credence to this sense of competitiveness during the local organisation debate by labelling those who questioned Radcliffe-Brown’s model as ‘the Sydney school’ (Birdsell 1970). The perceptions of a polarisation between Adelaide and Sydney around personalities and disciplinary backgrounds seems to have become so pervasive in anthropology’s own folklore that Ronald Berndt felt he had to respond to it in his 1982 reflection on the first 50 years of anthropology in Australia (Berndt 1982:50). He identified the perception as competition between the professionals (fully qualified social anthropologists at Sydney University: Radcliffe-Brown, Elkin and his students) and the amateurs (the physical scientists and fieldworkers centred on the Adelaide Museum: Tindale, Mountford).

Despite this mild competition, Tindale was always respectful of Elkin’s work and seems to have had no problem in having his own work published in Oceania and obtaining some supplementary expedition funding from the Australian National Research Council—Elkin’s domain. Respect for Elkin’s protégés, Ronald and Catherine Berndt, was another matter, as we shall see below.

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7 He included Elkin, Hiatt, Meggitt and Berndt in ‘the Sydney School’.
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Groups

The enduring theme of Tindale’s published work on the Western Desert was his unshakable belief in the tribe, traditional tribal territory and the sociological reality of tribal boundaries. This belief distinguished him from Radcliffe-Brown’s dismissiveness of ‘tribe’ as a mere collection of hordes and of little significance to traditional local organisation. It also distinguished him from Elkin, who tended to use tribal names as convenient approximations. For Tindale, tribal boundaries were clear and would be defended by the members of the tribe.

Yet Tindale simultaneously adopted Radcliffe-Brown’s terminology of the ‘horde’, and usually in a way consistent with the minimal, landowning and land-exploiting group (see, for example, Tindale 1972:224). His apparent acceptance of horde theory might explain his lack of interest in testing it among the people still living a nomadic life in the Musgrave Ranges. For whatever reason, neither Tindale nor Elkin sought to ask where their informants had just been and who exactly constituted the group on those journeys and at the various camping places. Their interests lay elsewhere.

In his 1972 synthesis of his Pitjantjatjara material for the collection *Hunters and Gatherers Today*, Tindale revealed for the first time an intermediate grouping between the tribe and the horde: ‘named regional units’, which occupied certain areas within the tribal territory in non-drought times of the year. He named five such regional groupings (Kurujulta, Maiulatara, Wirtjapakandja, Pibiri and Mulatara), but he rather confusingly concluded that they were not true sub-tribal groupings, but generalised names associated with smaller regional groups within the whole tribal area (1972:227–8).

Tindale never explored the relationship between his hordes, his regional groups and his tribes. His presentation is suggestive of a nested hierarchy. The meaning of ‘tribe’ and its sociological implications are nowhere given a systematic treatment, save belatedly in his magnum opus at the end of his career in 1974. This is surprising given that one of his lifelong projects was a comprehensive tribal map of the whole of Australia and that he used the concept of ‘tribe’ for other analytical purposes, such as his analysis of intertribal marriage (Tindale 1953).

There are probably two reasons Tindale thought it plausible that tribes occupied discrete areas of the Western Desert: ecological and physical constraints, and Aboriginal self-identification at the level of dialect. With some justification, he imagined desert people as if they were in an ecological trap, which annually shrank to a few permanent waterholes in dry times, and expanded in times of

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8 Later researchers did embark on this fine-grained reconstruction through questioning older informants about the details of journeys in their previous nomadic life: see Myers (1986); and Yengoyan (1970).
higher rainfall to a larger circuit of relatively ephemeral water sources within the tribal territory, when ‘everywhere is camp’.\(^9\) Thus, apart from affective ties to one’s own totemic waterhole and the fear of the sorcery and savagery of distant strangers, it was physically difficult to walk out of a tribal territory because of the general scarcity of reliable water sources and the vast distances. Tindale never expressed the effects of the ecological constraints so bluntly. But expressing the effect of the ecological constraints in this way allows us to see more clearly how such approaches can de-emphasise the wider networks based on commonalities of language, kinship, shared Dreamings and ritual. Activating such networks could easily have opened up a much larger area of land for survival.

Tindale’s published work never explained exactly how his informants spoke about dialect identity and traditional territory. To be fair, Tindale was a meticulous recorder of certain kinds of details. But whether his informants ever said words to the effect of ‘I am Pitjantjatjara and the extent of Pitjantjatjara tribal territory is…’, we will never know. Tindale’s own material suggests that they said ‘I am Pitjantjatjara and my waterhole is…’. Perhaps, because of his strong assumptions about tribal territory, he never explored how dialect identity related to other possible ways of self-identification and the range of practices for naming groups. Tindale was certainly aware of a variety of group-naming practices throughout Australia. But these were elaborated only to demonstrate that Tindale believed, with proper scientific methodology and knowledge, it was possible to winnow past mistakes from true tribal names (see Tindale 1974). He apparently did not explore the relationship between language competence and personal identity, or whether there was any direct identification in myth and song between country and dialect.\(^{10}\)

On Tindale’s information, the area now covered by the De Rose Hill Station was in the pre-contact territory of the Antakirinja tribe (see Map 6.4).

**Change**

As could be expected from the terms of Tindale’s grand reconstruction project, his account of change tended to emphasise demographic movements resulting from basic environmental factors, expressed at the level of tribal identification. For example, in his catalogue of tribes, under Jangkundjara, he states:

In 1917 (dated by the annular eclipse of 30 July 1916) a portion of the tribe moved south to Ooldea in company with a few Antakirinja at the end of a major drought, under threat of the attacks of Pitjandjara; their western and northern areas are now usurped by Pitjandjara. (1974:212)

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\(^9\) Sutton described this seasonal expansion and contraction as a pulsating movement (see Sutton 1990).

\(^{10}\) See Merlan (1981); and Rumsey (1989).
The idea of Yankunytjatjara and Pitjantjatjara hostilities about this time was originally reported by Tindale in 1940, and was recycled by later anthropologists such as Berndt (1941:5). Other anthropologists reported confirmation of the story from their informants.¹¹ The idea of usurpation, based on Tindale’s theorising about tribal territories and oral histories taken during his fieldwork, was to become extremely significant to the lawyers opposing the De Rose Hill claim.

Map 6.4 The location of De Rose Hill Station on Tindale’s tribal map


The Berndts

Ronald and Catherine Berndt were academic protégés of Elkin. They did their first fieldwork together at Ooldea Soak in 1941 (for six months), after Ronald’s preliminary work there in 1939.¹² Most of the Aboriginal residents at the time originally came from the vicinity of the claim area and identified themselves as ‘Antakirinja’. The published reports of this fieldwork deferred to Elkin’s

¹¹ See Hamilton (1979:5); and Vachon (1982:487, endnote 9). In Aboriginal Tribes of Australia, Tindale also made a cryptic reference, under the heading ‘Antakirinja’, to even earlier Antakirinya movements associated with violence: ‘Earlier movement was from west after massacre by them of some previous inhabitants of Mount Chandler district; they are closely related to the Jangkundjara’ (1974:210).

¹² For an outline of their careers, see Sutton (2001).
Law’s Anthropology: From ethnography to expert testimony in native title
description of kinship and social organisation, and tried to cover what was left:
history, myth, ritual and their current circumstances (Berndt 1941; Berndt and
Berndt 1945).

Like Elkin, the Berndts refer to ‘tribal’ units, notwithstanding their own
evidence of historically contextualised, disposable group names such as
‘railway mob’ to refer to those who had moved out of the desert when the
transcontinental railway was being constructed, and crosscutting broad
topographical identifications such as ‘spinifex people’ for those who had come
from the desert sand dunes to the west and south of the Petermann Range. 13 It
was perhaps assumed that there was a rigid distinction between these kinds of
naming practices and traditional-sounding names. Like Elkin, they defined as a
cultural bloc a population sharing a common language, kinship system, myths
and rituals, including, it was revealed, a travelling collection of sacred objects
and relics that moved through the whole Western Desert region (1945:134–40). 14
Yet, it was not until 1959 that Berndt seriously questioned the use of ‘tribe’
in the Western Desert (Berndt 1959). In their earlier reports on fieldwork, he
had generally equated the level of the ‘tribe’ with a dialect group. Uncertainty
about just what degree of cohesion and territoriality was intended by their use
of the term ‘tribe’ makes it difficult, however, to assess some of their interim
assertions. Land tenure is touched on with a specific denial of the relevance of
the tribe, confirming Elkin’s assertion of a strong link to place of birth:

A tribal area is ever varying, although a group of people do, through
the passing of many years, become associated with a particular stretch
of country…mentioning the water-hole at which he was born a native
will say, “That’s my “gabi” there, my country”—and he is not very
interested in the tribal names. It is these people within a certain stretch
of country, associated intimately with one totemic gabi who constitute
the group. Nearby are other people just as intimately associated with
their own water-holes, they also are groups. Each group is the guardian
of a particular section of a great religious myth associated with the
physiographic sites. (Berndt and Berndt 1945:23) 15

Berndt’s 1959 challenge to the applicability of the concept of tribe in the
Western Desert represents one of the first examples of the way in which Western
Desert ethnography has provoked Australianist anthropology to a heightened
reflexivity about theoretical constructs. These constructs, which were originally
developed in other regions, proved to be inadequate to explain Western Desert
peoples and recall Barnes’ earlier objections to African models in the New

13 As to the longevity of the name ‘spinifex people’, see Scott Cane’s book of the same name (Cane 2002).
14 Originally published in Oceania (vol. 14:32–8).
15 Originally published in Oceania (vol. 12, no. 4:327).
Berndt’s sustained analysis in his paper was a marked departure from his usual reporting of data. It was a direct challenge to Tindale in arguing that there was no sociological reality corresponding with a dialect-identified tribe, that there were no strict boundaries within the Western Desert cultural bloc, and that movements of so-called ‘tribes’ were relatively frequent.

These assertions were based on

- a review of the wide variation in the naming and locating of ‘tribes’ by successive researchers (Elkin, Tindale and the Berndts themselves)
- the Berndts’ experience of the widespread practice among Western Desert Aborigines of identifying with more than one dialect name
- a review of the evidence and conceptualisation of observed social groups that revealed that membership of the clan, the horde and the totemic lodge were in no way dependent on prior membership of a dialect group (Berndt 1959:83–93).

He concluded by suggesting that the maximal, face-to-face, functional grouping in the Western Desert could be called a ‘society’. It would be defined as a group with sustained interaction between its members, possessing broadly common aims and with effective and consistent communication between them (1959:105). This group would include a variety of clans, hordes and dialect units.

Berndt’s article was seminal in some respects, but it was limited in others. Notwithstanding his willingness to countenance the likelihood that the observed movements of dialect-identified groups also occurred in the pre-contact past (1959:89), he shared Tindale’s belief in a relatively stable association between people and country. It was only that, for Berndt, the pre-contact stability occurred at the level of the local patrilineal descent group, tied by birth to a particular waterhole, not at the level of Tindale’s ‘tribe’ (also see Berndt 1972).

At the end of the article, Berndt suggested that his critique of the supposed territorial stability of dialect groups could be used in other regions of Australia to re-examine groups identified as tribes. But reanalysis in the other direction—of the assumed stability of local groups—was not considered. It was as if there was a need for a stable building block—an atomic social unit. The splitting of this atom did not occur systematically in Western Desert studies until Yengoyan’s 1970 reconstruction of constantly recombining local groups and Myers’ pioneering work on the individual land affiliation among the Pintupi (see below).

Following Berndt’s 1959 challenge to the notion of the tribe in the Western Desert, Tindale made a belated response, in 1974, in *Aboriginal Tribes of*
Australia, in which he finally adopted Elkin’s fivefold definition of tribe (1974:115).\footnote{Elkin’s definition as summarised by Tindale is that they a) inhabit and claim a definite area of country b) use a dialect or language peculiar to themselves c) possess a distinctive name d) have customs and laws differing in some measure from those practised by their neighbours e) possess beliefs and ceremonies differing from those held or performed by others (see Elkin 1943:57).} Despite having had so long to formulate it, Tindale’s response does not engage with Berndt’s arguments in any detailed way and, infuriatingly, seems to miss the point altogether by questioning the accuracy of Berndt’s tribal names. Overall, Tindale dismissed Berndt’s argument as a reading back into pre-contact history the complexities and confusions that, in his view, resulted from culture contact. It can be noted that this is the same rhetorical strategy that Elkin used against Piddington’s challenge to horde orthodoxy: the deflecting of conceptual challenges into assumed historical transformation from ancient stability and simplicity into contemporary, degenerate complexity and fluidity.

Strehlow

Barry Hill’s comprehensive biography of Strehlow, Broken Song (Hill 2002), suggests that his life’s work was to demonstrate the profound ‘literary’ qualities of Arrernte songs through translation. This theme was always in tension with Arrernte ethnography, which had its home in anthropology, where Strehlow was an academic outsider. Nevertheless, anthropology held great potential for Strehlow to acquire ‘scientific capital’ given his fluency in Arrernte and his long-term contact with Arrernte people. He was born at Hermannsburg and spent his childhood there (1908–22). He had also conducted field research for his doctorate on the Arrernte language (1932–33), as well as during his work as the first patrol officer in Central Australia working for the Department of Native Affairs (1936–41), and in various research capacities after that.

His awareness of his outsider status is revealed in his considerations of Western Desert culture (Strehlow 1965, 1970). There, he deferred completely to Berndt and Meggitt on ‘the relationship between local groups, the dialectical units, the hordes, and so on’ (1965:127). One also senses that he might not have completely mastered the anthropological literature, since he alone included the Warlpiri as part of the Western Desert cultural bloc and seemed to have misunderstood anthropological theorising about moieties, sections and subsections; he seemed to think that it implied moieties, sections and subsections were separate kin groups or residential groups (1965:125, 134).
The aim of the 1965 article was to make a broad ecological and cultural comparison of the Western Arrernte and their southern Western Desert neighbours, the Loritja, as the basis for a consideration of the ecological determinants of cultural forms. In this comparison, we find some familiar themes: the extreme environment, hunting skill, the ‘weakness’ of the section system, and the importance of the traditions relating to the wanderings of totemic ancestors. But there are also some new themes. Strehlow was keen to emphasise the strong emotional attachment of the Loritja to their own local group area and a norm of hospitality, which was more than delayed self-interest, rather ‘an inescapable obligation laid on the hosts by immemorial “tribal” tradition’ (1965:128). More significant, though, is the thematising, for the first time, of the relative openness of the Western Desert peoples to new cultural forms despite a strong ideology of cultural conservatism:

Unhindered by the rigidity of outlook that results from centuries of residence within safe hunting grounds, the Western Desert people borrowed religious concepts, social norms, and artistic practices freely, even if the extent of their borrowings was often limited, and adversely affected by their material poverty. They also diffused these borrowings to tribes living on the coastal periphery of the Western Desert area, as the writings of Elkin, the Berndts, Worms, and others have shown. (1965:31)

Perhaps the most innovative aspect of Strehlow’s article, for present purposes, was the use of his linguistic prowess to interpret the cultural and ecological differences embedded in the geographically anchored songs of long-distance Dreaming tracks—in this case, the *tjilpa* (native cat) track from Port Augusta, north through Central Australia and beyond. At a precise geographical point referred to in the song cycle, as recounted by Strehlow’s Yankunytjatjara informant, the *tjilpa* ancestral heroes begin to address each other in Arrernte skin names, and looking back to the south they say, ‘Stay on, covered by night,—you who do not have any form of address’; then they create a barrier of sandhills:

In other words, the Central Australian subsection and class systems were *based on the land itself*: for it was the same wandering horde of ancestral beings which had validated the ‘classless’ kin-grouping system of the Western Desert groups south of the sandhills barrier that marked the Aranda–Matuntara border. (1965:134)

This passage is suggestive of further research that could have been undertaken on the sociological reality of Tindale’s proposed tribal boundaries within the Western Desert bloc (cf. Merlan 1981; Rumsey 1989).
Hill demonstrates that Strehlow was writing a grand epitaph for the Arrernte, and there is something of this theme of terminal degeneration in the few passages to address historical transformation of the Western Desert people:

I am, of course, writing in the past tense. Within the past twenty-five years most of the tough but lovable inhabitants of the Western Desert regions have gone to stations and government settlements on the fringes of their former homelands. Droughts no longer have the same menace for their descendants. But far too many of the young folk have lost the pride, the purposeful energy, and the independence of spirit of their elders; and with them has departed the ready capacity for laughter. (1965:132)

**Tonkinson**

Robert Tonkinson, a student of the Berndts, was the first anthropologist to do sustained, long-term fieldwork, approaching the Malinowskian ideal, among Aborigines in the Western Desert bloc. Between 1963 and 1970, he spent a total of 16 months at Jigalong and made five brief field trips deep into the Western Desert for the Department of Native Affairs, contacting some of the remaining nomads (Tonkinson 1974:9–10). His most intensive work at Jigalong was in 1963–66 for his MA thesis (Tonkinson 1966). At that time, Jigalong, which had been established as a small depot station for the Canning Stock Route and later for the rabbit-proof fence, was a mission station run by a small Christian fundamentalist sect. They had been spectacularly unsuccessful at converting the 200 or so Mandjildjara and Gadujara people, who had been coming in from their nomadic life in the desert to the east.

Tonkinson pursued two broad directions in his research and writing: reconstruction of the pre-contact situation and culture contact. Later, he introduced a comparative perspective from his fieldwork in Vanuatu. *The Jigalong Mob* (Tonkinson 1974), his first published culture contact study, could also be considered one of the first ‘community studies’ exploring the formation of a new Aboriginal social unit and the interaction of the Aboriginal people and the resident whites. Tonkinson was caught in the middle, passing messages between the mission and the Aboriginal camp. In his reconstruction study, *The Mardudjara Aborigines* (Tonkinson 1978, revised 1990), he aimed for comprehensiveness in the range of topics covered, like Meggitt’s *Desert People*. He has maintained intermittent contact with the community throughout his career, reporting and analysing changes up to the present.

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Tonkinson had great success in converting his ‘scientific capital’ into academic capital through the arc of his career, which eventually saw him replacing Ronald Berndt as the Chair of Anthropology at the University of Western Australia in 1985. There was no symbolic patricide here, but tutelage, patronage and the bonds of mutual respect and affection. Tonkinson also played a continuing leadership role in the Australian Institute of Aboriginal and Torres Strait Islander Studies.

Groups

Tonkinson made repeated modifications to his presentation of ‘local organisation’ from his MA thesis in 1966 to the revised version of *The Mardudjara Aborigines* in 1990. These modifications were made in dialogue with the intensification of the local organisation debate within Australianist anthropology. In his earliest work (Tonkinson 1966, 1974), he was content to identify himself with Berndt’s 1959 critique of the ‘tribe’ and with Stanner’s 1965 distinction between estate (area of main religious connection) and range (larger area of economic exploitation). In his later work, however, he abandoned the terminology of ‘horde’, ‘local descent group’ and ‘clan’ in favour of the more precisely defined ‘family’ (nuclear family plus additional wives), ‘band’ (actual land-exploiting group, avoiding the ambiguities of ‘horde’), and the Stanner-inspired ‘estate-group’ (Tonkinson 1978, 1990). The ‘estate-group’ replaced the previous ‘clan’ and Berndt’s ‘local descent group’ and Radcliffe-Brown’s ‘horde’ with the concept of an overlapping, loosely defined group that consists of a core of patrilineally related men and women, with the primary, but non-exclusive, religious rights to the sacra of a particular area, based on one or several sacred sites (1990:67).

Tonkinson also modified Berndt’s ‘language unit’ to a ‘dialect-named unit’ (1990:66), and reference is made to Rumsey’s assertion of a direct link between language and country (Rumsey 1989). Tonkinson’s discussion of this possibility is a little unclear. For on the one hand, his general reconstruction of ‘Mardu’ territory (for example, in Tonkinson 1990:12–13) associates dialect groups and tracts of land, even for dialects that no longer have speakers. On the other hand, he tends to deny a direct link with country, at the level of dialect, because people usually identify themselves at the more specific level of major waterhole–totemic site and describe regions in terms of clusters of sites, not tracts of land. This lack of clarity—perhaps a by-product of the reworking of an already condensed account—might also be an attempt to avoid resurrecting and dealing with Tindale’s defined tribal territories at the level of dialect group.

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Despite the refinements of terminology, there is also a sense of unease in the presentation, as if it is going against the grain of the Mardu perspective: ‘Not surprisingly, considering the great uncertainty of rainfall in their homelands, Mardu local organisation is notable for its flexibility and fluidity and the lack of stress on boundaries and exclusiveness of group membership’ (1990:65).\(^{19}\)

Tonkinson illustrates the relative fluidity of his ‘estate-group’ by describing one such group: the estate-group whose ‘main place’ is Giinyu. There is an elaborate dingo myth associated with Giinyu, which is also linked to the comprehensive, long-distance Dingari Dreamings. The several families making up the bands associated with this focal place were referred to by others as the ‘dingo mob’ and were all closely related in the male line, although apparently not all were born at Giinyu or had their conception site there. Individuals are not named, but Tonkinson suggests the nature of individual claims in terms of other ‘criteria for membership’ of the estate-group. These include: descent from mother or father who is acknowledged to be from that place; circumcision at Giinyu; or participation in the Midayindi revelatory ritual.\(^{20}\)

He explains: ‘Obviously, the more of these criteria that coincide, the stronger the primary attachment, but because the full congruence is rare, every individual is entitled to membership in more than one estate-group through bonds of shared spirit and substance’ (1978:52).\(^{21}\)

Tonkinson then goes on to explain that the main religious responsibilities of the estate-group are to ensure the safety and integrity of the sacred objects stored near the main site (in the pre-contact era), and to lead the ‘Yinirari’ (dingo Dreaming ritual) and increase rituals associated with the site. So it becomes apparent that the corporate-ness of the estate-group revolves around the acknowledgment by others of the group’s custodianship of sacra and the group’s actual performance of associated ritual. But the multiple pathways to such custodianship and performance, and multiple pathways to other estate-groups, would seem to make the corporate-ness of an estate inherently unstable, and perhaps fleeting. It would be unstable in the sense of having no simple formula as the criteria for membership, and fleeting, in the sense of acting jointly only in the actual performance of ritual, which in turn depends on the available performers and a host of other practical contingencies. Tonkinson suggests the possibility of group instability and fleeting corporate action when he switches to the perspective of anonymous individuals at the end of his explanatory

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\(^{19}\) And later, in relation to the estate-group, he states: ‘Like the larger dialect-named unit, the entity here referred to as “the estate-group” has no reality as an exclusive, on-the-ground collectivity, so it can be difficult to identify’ (1990:67).

\(^{20}\) Compare with the midedi feast of Chapter 4.

\(^{21}\) The idea of the sharing of ‘substance’ is never elaborated by Tonkinson. A similar idea of the sharing of the spirit essences of the Dreaming (kuranitja), including through eating food imbued with such essences, was to play a part in the De Rose Hill claim through the evidence of Jon Willis (see next chapter).
example: ‘Because of the existence of multiple criteria of attachment to estate, no two Giinyu people name exactly the same set of sites when asked for their manda (‘country’). Every individual imbues some places with special meanings and significances that are not shared by many others’ (1978:53).

That pregnant sentence, which seems to largely undermine the notion of a stable estate-group, is left hanging with a footnote reference to Myers’ more individualist approach to the same question (see below).

Laws

The bulk of Tonkinson’s research and writing was conducted well before the native title era, and thus there is little explicit theorising about traditional laws and customs relating to land, although his criteria for membership of an estate-group would have been a starting point. Like many Western Desert researchers, he did occasionally comment on the Aboriginal adoption of the word ‘law’ to describe aspects of their traditional culture. Tonkinson thought that they saw it as an appropriate way to describe their Dreaming because of similar notions of ‘obedience to a set of powerful dictates, and of punishment for non-conformity’ (Tonkinson 1988:409, endnote 2).

Change

Tonkinson’s writing about change is very reminiscent of Beckett’s. There is the intimately observed period of fieldwork in the early to mid 1960s, then accounts of observable changes gained from shorter periods of later, intermittent fieldwork. Typically, this enables him to construct broad comparisons between: 1) the pre-contact era based on his own reconstructions; 2) the mission era; and 3) the period of his later visits. His sustained period of involvement also meant that, towards the end of his career, he could provide a condensed narrative of the broad sweep of history of the Jigalong mob over a 50-year period. There is, however, little explicit theorising about change of traditional land tenure.

22 Briefly, it covered the emergence of the ‘Jigalong Mob’ and Jigalong as a law centre and focus for regional ceremonies (the annual ‘big meetings’); the end of the mission and, with the imposition of community self-management regimes, the breaking down of a clear distinction between a Blackfella and a Whitefella domain that had previously assured their independence; competition with the so-called Pindan (socialist–traditionalist) movement; the fragmentation of the Jigalong Mob along the dialect lines to Strelley and outstations; concerns about the threat of mining to sacred sites; the rise of a regional land council and the surprising re-emergence of Warnman identity based on the outstation in country previously associated with Warnman; and increased funding and competition for resources (see, for example, Tonkinson 1996). Tonkinson also undertook a major retrospective in 2007, of course, well after the De Rose Hill hearing (Tonkinson 2007).
Annette Hamilton undertook long-term fieldwork at Everard Park Station (Mimili) in 1970–71 (see Hamilton 1979). The main focus of her research was the implication of sex segregation in economic and ritual activities, especially from an Aboriginal woman’s perspective. In 1982, however, she published a surprisingly inconclusive contribution to the local organisation debate (Hamilton 1982b). Referring to Tindale and Berndt, she states:

Both writers have been in the field intermittently but frequently since the thirties (Tindale) and early forties (Berndt). There is no reason to assume bad faith on either of their parts; they are both careful and meticulous scholars, they are both familiar with Western Desert languages, they are both interested in ‘the truth’ about Aboriginal local organisation. Why then should there be this disparity?

In my own fieldwork I fluctuated between their two views. Berndt’s reconstructions made intuitive sense, in the social context of the area where I was working. Nonetheless people repeatedly referred to the Everards [Ranges] as ‘Janggundjara’ [Yankunytjatjara] in everyday contexts, contrasting the area with Amata and Ernabella, which they said were ‘Bidjandjarra’. In addition they referred to people as having one or other language, and they did indeed seem to refer to an idea of ‘ngura’. (1982b:96–7)

Hamilton attempted to make some headway towards a resolution of the two positions by inquiring into the social use of dialect names. I would summarise her account as saying that her informants used dialect names in different contexts to expand or contract inclusiveness—that is, to emphasise commonality of identity or alternatively to emphasise difference. From this observation, she derives the notion of there being only a de facto relationship between a tract of land and resident people who grew up learning and identifying with one dialect. Unfortunately, she does not explore whether the dialect–land identifications are reflected in song cycles that traverse large areas.

Her interpretation of the social meaning of dialect identity would seem to align her with Berndt’s formulation, but she is sceptical about his stretching of the concept of ownership. She asks ‘in what sense is it “land-owning” if others have free access to the land and there are no boundaries’ (1982b:99). She also noted in Berndt’s account an unresolved ambiguity about how one becomes a member of a local group—by birth at a particular place or by being fathered by a person who already has totemic association with a particular place. She wondered about the inherent improbability, even in a pre-contact situation, of fathers’ and sons’ birthplaces overlapping. For Hamilton, this and other evidence of men seeking
spouses on the same Dreaming track indicate the primacy of place of birth and question the validity of Berndt’s identification of the local group as a ‘patrilineal descent group’. More important, in her view, is the symbolic descent from the totemic ancestors that depends on place of birth.

In conclusion, Hamilton suggested that it might be heuristic to conceptualise the system of land affiliation as having been in a state of transformation in pre-contact times and to imagine ‘the system as it was straining to become’. The internal contradictions to be resolved are between a place-based and a father-based system of defining rights to ritual property.

Hamilton suggests that the impetus for her imagined pressure for transformation is the attempt by Aboriginal men to find more secure ways of ensuring the transmission of rights to ritual property from father to son (1982b:106). Why mothers would not also equally support this attempt is not explored. What is hinted at, but still quite problematic, is a contradiction between the economic base and superstructure: the power of men to exploit the labour of women. Thus a move to patrifiliation is a pre-emptive attempt by men to block the potentially disruptive economic power of women: ‘There is the possibility that the shift to an ideology of patrifiliation is a de facto, although covert, method of removing any ambiguities regarding the father–son transmission of identity which might be introduced by the mother’s choice of birth-site for her child’ (1982b:102).

Again, there are problems of how this ‘objective’ exploitation would ever become part of an explicit ideology or motivating force, if men and women shared strongly held views about the reproduction of the religious sphere—for example, that men’s religious activity was sustaining them and their whole world, not exploiting them.

One of the interesting features of Hamilton’s contribution to the local organisation debate was her challenge to the utility of Stanner’s distinction between religious and economic groups, in his attempted resolution of the debate in terms of estate (religious) and range (economic). She suggested that, in tribal societies, it is better to consider the religious sphere to be all encompassing and determining of other spheres of activity, and, thus, it is more profitable to consider differentiations within the religious sphere rather than make global, categorical distinctions between religious and economic spheres.

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23 Unfortunately, she does not refer to the seminal article by Bern (1979) and the ensuing debate.
24 It is interesting to note that Elkin covered similar ground by simply asserting the historical explanation that the process of sedentarisation away from home country would lead to re-emphasising patrilineal descent as opposed to local descent.
Myers

During 1973–75, and intermittently since then, Fred Myers has conducted fieldwork among Western Desert people who referred to themselves as Pintupi. They had migrated or had been moved east to Haasts Bluff, then Papunya, then smaller settlements near Papunya (Yayayi and New Bore) and finally, in the 1980s, they returned to the west at Kintore and Kiwirrkurra, closer to their home country. His thesis (1976) and numerous articles (Myers 1980a, 1980b, 1982) culminated in the book *Pintupi Country, Pintupi Self: Sentiment, Place and Politics Among Western Desert Aborigines* (1986). The articles and the book were, with one notable exception, very well received within Australianist anthropology as original and penetrating. Peterson described the book as an instant classic. Its articulation of a central tension between individual autonomy and relatedness in Aboriginal societies was adopted by numerous others as an overarching framework. There were also rumours that some researchers, who had been labouring for a long time on similar Western Desert material, gave up because Myers had finally ‘cracked it’. Even the dissenting voices were admiring of some of his insights (Michaels 1987; Rose 1987).

The main dissident, Eric Michaels, appeared to be questioning the ethics and intellectual integrity of holistic ethnography in the light of recent anti-colonial and postmodern critiques (Michaels 1987). Any contemporary ethnography could have been subjected to much the same critique, but the stakes in ‘scientific’ and academic capital for both parties were higher because of the prestige of the book within the specialisation. Myers’ furious response was understandable (Myers 1987). The Michaels critique seems to have had little effect on the process of Myers converting his ‘scientific capital’ to academic capital. Myers was eventually appointed to the Chair of Anthropology at New York University and, having been present at the very beginnings of the Western Desert art movement, he was ideally placed to take advantage of the enlarged international profile of Western Desert art and renewed interest in the anthropology of art and material culture generally (Myers 2002).

Groups, laws relating to land

Unlike Tonkinson, Myers explicitly thematised ownership of land and movable property. Part of his defence of the ethics of his work was that a holistic account would be of greater benefit to the Pintupi in land claims. It is, however, easy to see from Myers’ exploration of the Pintupi view and his constant use of ‘ownership’ in quotation marks that Pintupi concepts of ownership are far removed from, and even antithetical to, European notions of stability, exclusivity and precision.

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25 See, for example, Morton (1987); Munn (1987); and Sutton (1987).
26 Personal communication, 1996.
There is a seductive power in Myers’ writing that flows from his unique synthesis of what I would call a phenomenological sensibility, and the more typical analytical tools and categories of anthropological theory: local organisation, kinship, life cycle, economy and religion. Additional communicative force is added by his writing strategy of encapsulating his syntheses in pithy phrases or key Aboriginal concepts such as ‘always ask’, ‘ngura’ (country), ‘one countrymen’, ‘relatedness and differentiation’ and ‘kanyininpa’ (looking after, holding). This power continues up to the present day and is exemplified by Ralph Folds’ critique of Aboriginal welfare policy towards the Pintupi in Crossed Purposes (Folds 2001) and Brian McCoy’s examination of the health of Aboriginal men at Balgo (McCoy 2008). Folds in particular falls on Pintupi Country, Pintupi Self like a hungry man falling upon a feast. It seems to block out any original insight into the Pintupi that he might have gained in the 15 years since the publication of Myers’ book. Folds’ story of Pintupi material failure—cultural success is essentially identical to Myers’ account.

What I have labelled Myers’ phenomenological sensibility consists of his insistence on the relevance of individuals’ perspectives, and attention to the process and idiom of everyday interaction—mostly glossed as emotion (happiness, grief, homesickness, pity) and also as norms (generosity, compassion). Of course, much of this description of process and idiom is consistent with the central concern of most ethnography: to recover the emic perspective of others. For Myers, it is, however, the need to adequately explain this particular ethnographic context that requires the individual perspective. In the desert homelands of the Pintupi, ecological factors make any sociality problematic. Thus the process by which Pintupi social networks are maintained is particularly relevant and can be adequately explored only from the individual perspective.

Before proceeding to an account of the results of his methodology, it is worth noting that Myers’ grounding of his approach in regional cultural and ecological specificities is strictly unnecessary. He seemed to be surprised that researchers in other regions had used his approach to similar effect (1986:128, footnote 1). He should not have been. The idea of the individual perspective is context independent. It reminds us again of Bohman’s insistence that interpretative indeterminacy can be resolved only by reference to the purpose of an explanation, and Myers’ purpose—principally to uncover the cultural logic of the Pintupi way—is a fairly common aim of most ethnography. Why Myers would want to conflate a theoretical approach with a regional cultural specificity would appear to be a product of the way in which the ideas occurred to him—through the long grind of trying to make sense of his complex data that did not fit existing socio-centric categories and theorising. But it also must relate to the dynamics of the Aboriginal specialisation in anthropology. As with all regional specialisations, new work must position itself in relation to the
existing archive—for example, as bluntly corrective of previous work or, more
deferentially, as an incremental refinement or, diplomatically, as simply adding
an account of a new subregion for comparative purposes.

All these possibilities reveal how deftly Myers handled the potential sensitivities
to criticism of other specialists. He had a definite contribution to make to the
long-running local organisation debate and a trump card to play: the detailed
recounting of the journeys of his informants when they were leading a
completely nomadic life.

He has often presented his contribution to the local organisation debate as
a middle course between the extremes of the abstract structuralism of the
Radcliffe-Brownian horde theory and the ecological determinism of Lee (1976)
and Lee and De Vore (1968), which he saw as making cultural constructs
eiphenomenal (Myers 1982:174–5). What individual life stories demonstrated
was a highly mobile band, of changing composition, that regularly encountered
new persons and places. Yengoyan’s analysis of his Pitjantjatjara life histories
had already suggested this flexibility in the composition of the band, especially
the recomposition of bands after large gatherings (1968, 1970). What Myers
now integrated into his own account were the basic cultural imperatives and
the specific mechanisms through which they worked. Thus, he asserted that
there was an overriding imperative to extend one’s acquaintanceship and
affiliation to far-flung places. The diversity of individual networks of people
and places tended to be subsumed under concertina concepts such as ngura
and ‘one countrymen’, which could have a wide or narrow reference depending on
the context: ‘It seems most reasonable, following the Pintupi concept of “one
countrymen” as people who share a “camp”, to argue that bands are largely the
outcome of individual decisions, and the actual composition can be explained
only through understanding the processes of individual affiliation’ (1982:183).

Multiple individual networks mean that so-called estate-groups, based on
Stanner’s distinction between estate and range, are in fact overlapping. What is
rhetorically powerful in this individualist perspective is its demonstration that
previous attempts to stabilise local organisation were oversimplifying a more
complex underlying reality. Thus Myers could be interpreted as synthesising
previous approaches and surpassing them. By taking an individual perspective,
he was able to demonstrate the likely basis for the socio-centric models and also
why they were so unstable.

One of Myers’ approaches to ‘ownership’ is via resource use, and here he takes as
his encapsulation of the Pintupi view a remark of a Western Desert man, quoted
by Tindale: ‘My country is the place where I do not have to ask anyone to cut
wood for a spear thrower.’ Myers then goes through the subtleties of ‘asking’
such as lighting fires to announce one’s presence and the idea of a standing
permission for close kin and co-residents.
How one becomes a person who must be asked is bound up with the economy of religious knowledge about places. This status is not simply a matter of father–son inheritance. It has much to do with actual cooperation of co-residents, enabling people to become ‘one countrymen’, through shared experience, helping each other and enabling the teaching of the esoteric aspects of the local manifestations of Dreaming stories. In keeping with the multiple individual networks of affiliation and the lack of any arbitral body to legitimate particular claims, ‘ownership’ is the product of negotiation through assertion and acceptance or rejection of individual claims to affiliation made on various inter-subjectively shared principles that Myers has helpfully codified:

There are numerous reasons for referring to a place as one’s ‘own country’. If the place is called A, the following possibilities may constitute bases for such a claim:

1. conception at the place A;
2. conception at a place B made by and/or identified with the same Dreaming as A;
3. conception at a place B whose Dreaming is associated mythologically with the Dreaming at A (the story lines cross);
4. initiation at A (for a male);
5. birth at A;
6. father conceived at A or conditions 2–5 true for father;
7. mother conceived at A or conditions 2, 3, or 5 true for mother;
8. ‘grandparents’ (tjamu, kaparli, including all kin types so classified) conceived at A or conditions 2–5 true;
9. residence around A;
10. death of close relative at or near A. (1986:129–30)

This is why ‘ownership’ is invariably in quotation marks in Myers’ account: any list of owners is merely a snapshot of an ongoing process that is dated as soon as it is taken. It also tends to be expansive, including those co-residents who have proved through their generosity that they are close kin and ‘one countrymen’ (1989:30).

**Myers and change**

To raise the question of the historical transformation of traditional laws and customs relating to land is to pinpoint one of the central contradictions of Myers’ oeuvre. For although context, process and the achievement of sociality through
action are at the heart of his approach, his explanatory aims are invariably conceptualised as context-independent, synchronic generalisations such as ‘the Pintupi way’, ‘Pintupi cultural logic’, Pintupi ontology and the shared meaning of key terms. This approach means that his account of the various claims to the country of their exile at Haasts Bluff and Papunya, and the Pintupi approach to cars, health services, the community council and meetings generally, are all examples of an underlying logic that is continuous with the pre-contact past. In this respect, he takes an opposite approach to Tonkinson, who tended to describe such things as new, transforming developments.

It would be possible to develop a narrative of historical transformation from his generalisations; however, because land ownership depends so much on actual residence, which continually changes, the subtle to and fro of claim and acceptance or rejection, and on who is present at any one point in time when the question is being asked, it would require an impossibly intimate and panoptic view to construct a socio-centric account of ownership transformations. That realisation is itself instructive and salutary. It grounds an expectation of change within ancient tradition. It also anticipates that the outstation movement would not be simply a return to a previous consensus about the ownership of their homeland, but a critical step in the reproduction of claim, counterclaim and acceptance or rejection. Although not explicitly thematised by Myers, there are indications that he anticipated the dramatic expansion of ‘one countrymen’, with improved transport and communications, to the extent of the whole of the Western Desert cultural bloc becoming a social reality, particularly in matters of ceremony. Again, these developments mean that the process of claim and acceptance or rejection would spread to a highly dispersed bloc and the continual transformation of affiliation to country would be extremely difficult to monitor.

There is material in Myers’ work that is suggestive of more fundamental cultural transformation, but exploring this seems to have been antithetical to his main purpose. I am thinking of the change from the constant fear of revenge attacks (‘It was like the army all the time’) to the imposition of Pax Australiana; from the relentless discipline of the daily search for food to the rations of Haasts Bluff and the relative abundance of the mess hall of Papunya; from being masters of their own world to being derided as myalls by other Aborigines in the same mess hall (see Folds 2001:30–9); and, more subtly, from a world where many aspects of their everyday practices and beliefs could remain implicit, to a world that, for example, required lists of traditional owners. Of course, these changes were not quite as simple as this. I have sharpened the contrast to make the point that some transformation should be expected to result from these dramatic historical changes and that an approach of uncovering a cultural logic tends to obscure these cultural transformations.
Myers does hint at a new level of objectification of the Pintupi, by the Pintupi, in relation to the colonisers, in such quotations as ‘You white people are always worrying for money. You don’t think about who will cry for you when you die’ (1989:24). Typically, for Myers, the historicity of this kind of discourse—that is, the historical appearance of defining one’s essential self in opposition to an essentialised alien other, a kind of folk orientalism and occidentalism—is ignored in favour of it confirming the correctness of his account of the social imperative in underlying Pintupi logic. He discusses changes in the processes of custodianship in a similar way:

It seems clear that the introduction of new elements into the procedure of custodianship of sacred sites—inaccessibility of sites, the separation of persons who had previously lived together into various settlements, the need to formally list ‘owners’ for white records, concern over payment and filming, and so on—have added dissonance to the traditional context in which ownership was defined. These elements do not, however, necessarily represent an alteration in the substance of ownership. (1986:143)

**Conclusion on the anthropological archive prior to the claim**

What I have been suggesting throughout this selective review is that Fardon’s idea of a dialectic between the development of regional specialisations and metropolitan theorising has taken on a particular nuance in Western Desert

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27 Once again, to keep this review within reasonable bounds, I have had to make invidious choices. The most worrying was to omit any separate treatment of Gould’s work. He presented the most detailed and cogent account of the ecological imperatives of local organisation in the Western Desert based on fieldwork around Warburton and beyond in 1966–67 (see Gould 1969a, 1969b). His work could be seen as foundational for later anthropologists such as Tonkinson and Myers, who extended it to include cultural imperatives. There has also been significant ethnomusicological research among the Pintupi (Moyle 1979) and Pitjantjatjara the ‘Andagarinja’ women (Buckley et al. 1967, 1968; Ellis and Barwick 1989). In matters of traditional land tenure, these works tend to rely on the authors I have dealt with in detail. The same is largely true of the historian—anthropologist team of Bruce Shaw and Jen Gibson, who did work around Oodnadatta in the mid 1980s (Gibson 1989; Shaw 1995). Mountford (1937, 1976) did early innovative fieldwork among Western Desert people, obtaining crayon drawings of Dreaming stories that could rightly be seen as a precursor to the Western Desert art movement. His monumental collection of the details of Pitjantjatjara myths and ritual, Nomads of the Australian Desert, angered some Aboriginal people with its disclosure of some secret rituals, and they successfully applied for an injunction through the Pitjantjatjara Council to limit the circulation of the book. I have not attempted to cover it in my review as it does not make any particularly original contribution to the question of traditional land tenure. Kolig’s The Silent Revolution (1981) is a major ethnography of Western Desert people who identified themselves as Wolmadjeri. Its focus, however, is on ritual and change in religious consciousness. Ideas about traditional land tenure are present to the extent that he discusses the way in which Wolmadjeri people settled in the Fitzroy River Valley, in effect achieving a traditional succession of ownership. Woenne (1977) and Palmer (1984) have made contributions to the ethnography of Western Desert traditional land tenure at Docker River and Yalata respectively, but lack of space prohibited any detailed account of their contribution. Following the claim, several significant works relevant to Western Desert ethnography appeared. These include Cane (2002); Holcombe (2004); Peterson (2000); Poirier (2005); and Vachon (2006).
anthropological studies. The relative accessibility of the pre-contact era, and the fluidity of Western Desert local organisation, as reconstructed, allowed for a powerful contradiction of Radcliffe-Brown’s horde theorising about the whole of Australia, and strained Stanner’s reformulation. The polarisation of those who would defend Australia-wide generalisations about local organisation and those seeking to undermine them has been so persistent that it has become an enduring feature of the Australianist specialisation within anthropology. What is surprising is that Western Desert ethnography has not led to a heightened reflexivity about explanatory purposes and analytical tools. Tonkinson tended to update his terminology to keep pace with the debate as it unfolded. Hamilton’s interesting suggestion for collapsing Stanner’s distinction between economy and religion, in favour of examining an economy of an all-encompassing religious sphere, was never taken up seriously. The potential radicalising effect of Western Desert ethnography was also blunted by Myers, who tended to ground different analytical tools in the requirements of adequate ethnographic description, and ultimately in the people themselves, as in his light-hearted suggestion that the Pintupi, with their pervasive concern with immediacy, were natural phenomenologists rather than structuralists (1986:294). This kind of comment tends to mystify the process of fitting analytical tools to explanatory purposes, especially when those purposes are not fully articulated. For it seems that one of his explanatory purposes was to disturb the emerging consensus in the local organisation debate, which, for all its antagonism, was still being waged in conceptualisations based firmly in structural functionalism.

Groups

When we ask the question ‘what groups could be considered as the title-holding groups in a Western Desert native title claim?’, explanatory purposes are immediately brought to the foreground and the superiority of Myers’ individualist–phenomenological account is relativised. For this task, the superseded socio-centric accounts of groups—the ones of Tonkinson, Tindale, Berndt and Elkin—come back into their own.

Myers is still highly relevant, but not as a direct response to the requirements of the legal doctrine of native title, which assumes a stable title-holding group. Myers is highly suggestive, however, of the need for widespread consultation, meetings and travelling around the claim area in large groups before the hearing, so that the process of individual claim, counterclaim, and acceptance or rejection can take place and so that a contemporary snapshot can be presented to the court—a snapshot that will align closely with what the claimants will say in the witness box.

Possible title-holding groups from different researchers are summarised in Table 6.1.
### Table 6.1 Potential title-holding groups in the anthropological literature on Western Desert peoples

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<td>‘Tribe’?</td>
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<td><strong>Berndt</strong></td>
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<td><strong>Tindale</strong></td>
<td>Western Desert Cultural Bloc</td>
<td>Tribe, based on dialect identity</td>
</tr>
<tr>
<td><strong>Strehlow</strong></td>
<td>Western Desert Cultural Bloc</td>
<td>Regional groups?</td>
</tr>
<tr>
<td><strong>Kolig</strong></td>
<td>Groups involved in exchange of rituals</td>
<td>‘Mob’ = loose landowning group based on residence</td>
</tr>
<tr>
<td><strong>Hamilton</strong></td>
<td>Western Desert Cultural Bloc</td>
<td>Dialect group’s de facto link to region</td>
</tr>
<tr>
<td><strong>Late Tonkinson</strong></td>
<td>Western Desert Cultural Bloc</td>
<td>‘Big meeting’</td>
</tr>
<tr>
<td><strong>Myers</strong></td>
<td>Western Desert Cultural Bloc</td>
<td>Context-dependent ‘one countrymen’ comprising a bilateral, descending kindred with a variety of claims to country</td>
</tr>
</tbody>
</table>

It is interesting to note from this table that the ‘Western Desert cultural bloc’ is the most stable identification between land and people. Although it has no Indigenous corporate name, the group does possess many commonalities typically associated with tribes, using Elkin’s definition, and there are some indications of it functioning as a ‘society’, in Berndt’s terms, of face-to-face interaction in certain shared rituals (see, for example, Peterson 2000). The demography of the Western Desert diaspora makes it totally impractical to be named as the claimant group or as a title-holding group in a determination. It would trespass on fundamental principles of not claiming traditional affiliations to country that one does not, in any sense, know. It would also obscure regional cultural differences within the Western Desert cultural bloc, such as the adoption of sections (western side), subsections (Pintupi in the north) and involvement in different trading networks for new rituals (for example, Wolmadjeri in Kolig 1981).

The dialect-named tribe as a possible title-holding group raises all the doubts, expressed throughout this review, about Tindale’s view of tribal names and
tribal territories in the Western Desert. Tindale’s faith that the existence of corporate names contributed to the proof of the existence of tribes has been continually undermined by later anthropological and linguistic research. Dialect identifications tend to be highly contextual and multiple.28 There are also examples in the archive of seemingly stable dialect identities changing with circumstances. Tonkinson reported the case of people whom he knew as Mandjljdjara and Gadudjara from Jigalong starting to refer to themselves as Wanman in the mid 1980s, when they set up an outstation near country that was traditionally associated with Wanman speakers, who had since died out (1989:111–13). Brady (1986:44) reported that the Western Desert people of Yalata, who had for decades identified themselves as Antikarinya (including to the Berndts) all referred to themselves as Pitjantjatjara in the 1980s. The most that can be said for the ‘tribe’ is that some researchers have noticed the persistence of the identification of tracts of land with particular dialects, but in the Western Desert this identification seems to be merely a de facto one arising out of actual occupation and use (Hamilton, Tonkinson) and subject to change. On the other hand, some dialect-named identities, such as Pitjantjatjara and Yankunytjatjara, seem to have been more robust over time than others. It seems likely that the persistence and popularity of these identifications owe something to the adoption of Pitjantjatjara as the language of instruction in Ernabella’s bilingual school and its use as the masthead in successful land rights struggles in the 1970s. Antikarinya seems to have declined as an identity at Yalata, although it seems to have persisted among Western Desert people at Oodnadatta, Coober Pedy and Port Augusta (see Ellis and Barwick 1989; Gibson 1989).

That brings us to the level of the horde–patrilineal local descent group–estate-group. The problem with this level, drawing on Myers and Hamilton, is that the implied stability and exclusiveness are illusory and critical religious knowledge about the area is likely to be part of a larger, regional religious sphere, subject to its own subtle politics and multifarious opportunities for acquiring knowledge. Some of the potential problems with pitching a title-holding group at this level can be extrapolated from the fate of Layton’s attempt to stabilise Western Desert traditional land tenure for the purposes of a claim under the Land Rights Act as an ambilineal descent group (see Layton 1983a, 1983b, 1986).

Layton had firmly in his mind the need to establish a ‘local descent group’ that had primary spiritual responsibility for sites and the land. Like many anthropologists facing this predicament, Stanner’s estate–range distinction proved to be irresistible, and there seemed to be an approximate overlap between Stanner’s idea of a cluster of main sites and focal waterholes in his Pitjantjatjara material that are more narrowly defined than the much larger foraging range. Thus the estate group is the local descent group. The simplicity and force of this

presentation soon broke down under the weight of necessary exceptions and qualifications: traditional rights to estate areas are not exclusive, or exclusively inherited in a patrilineal way. These rights depended on knowledge of Dreaming stories and rituals that are possessed by a wider group of senior men, who came to the knowledge via claims to various kin country, actual residence in a spouse’s country or long residence in country (Layton 1983a:23–30). Nevertheless, Layton pursued the estate model with the qualification that affiliation to the focal site could be through either of four lines of descent, hence the phraseology ‘ambilineal descent group’. 29

The anticipated unity of an estate area with its focal waterholes and peripheral water sources did not emerge from the evidence in the hearing of the Ayers Rock claim. Instead, different people had different ways of grouping various water sources together, including by their Dreaming affiliations. In later reflections, which would have made sense to Myers, Layton noted that the different groupings related to differing individual life experiences of the sites. Unfortunately for the claim, all the sites on the claim area were peripheral water sources and the apparent confusion of ownership claims was magnified (1983b:229–30). Similarly, the evidence did not reflect either a consistent distinction between the supposedly separate ‘estates’ or the relevance of a principle of ambilineal descent to estate group composition. The evidence instead showed a variety of ways of becoming part of the landowning group. In short, the conceptualisation of traditional land tenure in terms of estates—even a modified version of Stanner’s original simplicity—put at risk the outcome of the claim because it created difficulties in eliciting evidence and raised unrealistic expectations of coherence at the level of ownership claims and principles of descent. The claim was ultimately successful despite the inadequate anthropological conceptualisations, which were criticised in the Aboriginal Land Commissioner’s report (Toohey 1980).

The difficulties of Western Desert land tenure in Land Rights Act claims, especially to ‘peripheral’ areas, continued in the Lake Amadeus and Tempe Downs land claims (see Gray 1998; Maurice 1989).

Laws and customs

There is a superficial attraction in equating the Aboriginal use of the word ‘law’, as in Dreaming or ‘everlasting’, with the requirement in the legal doctrine of native title in order to identify ‘traditional laws and customs’. The attraction is that the normative aspect of law—as in correct kinship relations or correct performance of ritual for fear of harsh consequences—coincides with one of the

features of law in Western society. The problem, as outlined in the introductory chapter, is that the Aboriginal range of referents for the word ‘law’ is quite different from the range of referents for the European word. Expressed in an oversimplified way, Aboriginal ‘law’ can encompass an ontology, a cosmogony, religion, a social norm, a myth, a song, a ritual, a sacred object and a sacred site. European law implies a large-scale constitutional state with a separation of powers; the separation of religion and state; and the positivity of law—that is, the agreed, objectified and precisely defined conventions in statute law that are backed by state sanction (cf. Mantziaris and Martin 2000:35–7).

Like ‘Malo’s Law’ in the first case study, shared beliefs about Aboriginal ‘Law’ are at a fairly general level that does not itself specify particular owners, even though it is the idiom in which ownership is asserted. Myers codified the more particular shared beliefs about legitimate claims of affiliation to country. His 10-point codification is suggestive of the possibility of identifying ‘traditional laws and customs’ in the Western Desert cultural bloc at this more specific level of legitimate claims.\(^{30}\)

Maddock had thought about some of the problems of Western Desert land tenure and the migration of Western Desert people out of their original country in evaluating possible definitions of traditional owner at the time of the Seaman Inquiry into land rights in Western Australia (Maddock 1984b). He suggested that the Western Desert migrants should perhaps be forced to confine their claims to their former homelands in the desert, so that statutory land rights did not precipitate conflict on the fringes of the desert between the migrants and the original owners of those fringe areas. This limitation would be achieved by having a requirement that only those Aboriginal people who were the original traditional owners of the fringe areas at the time of colonisation, and their descendants, would be able to claim primary rights to those fringe areas.\(^{31}\)

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30 There is even an analogue in European bureaucratic processes: the 100-point identification test for opening a bank account. Applying this to Myers’ list, one could allocate the full 100 points to conception at place A, say 50 points to conception on the same Dreaming track, 30 points to place of initiation and so on. Thus, if a claimant did not have A as a place of conception, proof of being a native title-holder for that area would involve the need for numerous other links that together would add up to 100 points. As fanciful as it sounds, exasperated land councils have in the past resorted to a similar checklist approach in order to resolve entitlements to disputed royalty payments to traditional owners. Also see the list of 18 bases for affiliation to land compiled by Niblett and Strong and referred to in Justice Michael Maurice’s report on the Lake Amadeus land claim (Maurice 1989:28–9).

31 Maddock favoured a two-tier system similar to the Land Rights Act, which distinguished between traditional owners who had the primary spiritual responsibilities for the land and a wider group who had more circumscribed traditional rights. The potential dual focus of migrants from the Western Desert (their original homelands as opposed to the country on the fringe of the desert where they settled) worried Maddock. He thought that his proposal would prevent some Western Desert peoples, such as Tonkinson’s Madudjara and Kolig’s Wolmadjeri, from claiming primary traditional ownership rights to two lots of traditional territory. In his view, this constraint would help ensure continuing popular support for land rights in the broader community.
In suggesting this unscrambling of contemporary claims by reference to the pre-contact past, Maddock anticipated the legal doctrine of native title and the potential problems of its application to the Western Desert diaspora.

**Change**

As we have seen, different conceptualisations of local organisation led directly to opposite interpretations of the implications of big demographic movements for traditional land tenure. Because of his view of tribal territories, Tindale was able to speak of ‘usurpation’ within the Western Desert cultural bloc, whereas Berndt saw major movements of dialect-identified groups as continuous with past traditions because, in his view, relative stability existed only in the identification between *kapi* and local descent group. A traditional process of succession within the Western Desert cultural bloc, including at the level of a particular *kapi*, could be anticipated from Myers’ approach since the relative merits of individual claims to particular places would vary along with births, deaths, absences, breakdown of relationships and the transmission or withholding of sacred knowledge. The lack of such theorising under the explicit heading of ‘succession’ was to cause problems in the claim.

The interpretation of generational differences in birthplace affiliation also differs according to the range of circumstances in which the Western Desert diaspora found itself and the interests of the various anthropologists. Commonly, the older generation’s *kapi* would be hundreds of kilometres away in the desert, while their children were being born on, and gaining traditional affiliations to, its fringes. Tonkinson’s ‘Mardu’ at Jigalong in the mid 1960s were still largely orientated towards their traditional country in the desert. On the other hand, Kolig thought that the Wolmadjeri at Fitzroy Crossing in the early 1970s had no desire to return to their former desert homelands far to the south. Through intermarriage, the birth of children locally, the acquisition of sacred knowledge of the local totemic landscape, and the fact of their numerical superiority over the former locals, the Wolmadjeri had become reorientated to the country of the Fitzroy River Valley (Kolig 1981:10–50, 1987:87). Although she does not refer to Kolig, Doohan (1992) found surprisingly similar processes at work at Finke, an Aboriginal settlement north-east of the claim area.

The story of the initial exodus from the eastern Western Desert had its own peculiarities. The earliest involvement with the European economy was through doggers, who generally travelled to the remote places, where the Aboriginal people lived nomadically, in order to trade rations for dingo scalps. Although there were the early long-distance movements to Oodnadatta, Coober Pedy, Ooldea and Port Augusta, the establishment of a liberal mission at Ernabella in 1937 and the occupation of the eastern extremity of Western Desert country
by pastoralists meant that some Western Desert people were able to remain on
traditional Western Desert country, even though their kapi might have been
much further to the west. The mission was liberal in its policy of non-interference
in traditional ritual and, as far as possible, in traditional modes of living. The
yearly calendar included a long Christmas ‘holiday’ when the Aboriginal people
left the mission to live in the bush (with some supplied rations) and conduct
their ceremonies (see Berndt and Berndt 1951:186–90; Hilliard 1968).

The Western Desert people of Ernabella and the eastern pastoral lands suffered
the fatal epidemics that killed so many of the Lower Southern Arrernte,
Arabana and Wangkonguru to the east, although many would have arrived
from the west after the devastating influenza epidemic of 1919–20. Small groups
of Aboriginal people clustered around the various sheep and cattle stations,
supplying seasonal labour and receiving some rations. They continued some
hunting and gathering to make up the shortfall in rations and so maintained
their autonomy. This enabled them to continue the performance of ceremony.
The life of these small groups and the networks of kin characterised a period of
relative predictability that could be called the pastoral era from, say, the 1930s

The particular features of the colonial experience of the eastern Western Desert
people have been the basis of various arguments about cultural continuity.
From a materialist perspective, Frederick Rose (1965) expressed surprise at the
persistence of Western Desert tradition despite the destruction of their traditional
economy. Vachon (1982) emphasised the relative unobtrusiveness of pastoralism
the intermittent nature of work and rations in the pastoral era as necessitating
the development of patterns of mobility among a regional network of mutually
supportive kin. She reinterpreted the era as an attempt by Aboriginal people to
fit white settlers into their system of kinship and reciprocity, particularly the
idea of a boss being the one who looks after subordinates (see Hamilton 1972,
anticipating Myers 1986). The nature of the pastoral era meant that Western
Desert Aboriginal people were able to hold onto aspects of their traditional
culture until the time was ripe for the legal recognition of their traditional
land rights in the mid to late 1970s (Toyne and Vachon 1984). Those lands had
begun to be resettled through the encouragement of a homeland movement
from Ernabella (Wallace 1977b) and the government-sponsored settlements in
the 1960s (Woenne 1977).

The late 1960s–1970s was a momentous period in other respects. Within the
space of a decade, large-scale Aboriginal involvement in the pastoral industry
ceased; there was an expansion of entitlements to social security payments and
the granting of drinking–citizenship rights (see Hope 1983). The threat to the
continuation of traditional ritual from Aboriginal drunkenness was witnessed
firsthand by Sackett in Willuna (Sackett 1977) and Kolig in Fitzroy Crossing (Kolig 1981:122–3), but is less prominent in accounts of the eastern Western Desert in the same period (but see Brady and Palmer 1984).

Map 6.5 Historical map of pastoral lands east of De Rose Hill Station

A critical incident in the life of the main claimant in the De Rose Hill claim, Peter De Rose, is reflective of this momentous and disruptive period. After an argument with his employer, the owner of De Rose Hill Station, Peter De Rose left the place of his birth, and, in 1978, with all the other Aboriginal people resident at De Rose Hill, went to live at Indulkana, a government settlement on the Anangu-Pitjantjatjara lands. Twenty-three years later, during the hearing of the claim, the question would be asked: did this amount to an abandonment of his traditional country?
The period of the 1980s and 1990s is not well represented in the published anthropological literature on the Western Desert bloc (but see Myers 2002; Poirier 1996, 2005; Willis 1997). It was the era of the homelands movement, the expansion of Aboriginal-controlled service organisations, the Western Desert art movement and the seemingly intractable problems of settlement life: boredom, unemployment, drunkenness, petrol sniffing, domestic violence, poor health and short life expectancy.

One trend that has been documented, though, has been the increasing concentration of attention on initiation ceremonies, and the songs and sites associated with those ceremonies. According to Vachon (1982:484), this focus resulted in a falling away of interest in other sites that were not so linked. Improved communication and availability of transport greatly expanded the ‘catchment’ area for initiation ceremonies and the area covered by the journeys of the initiates, making circumcision ritual the major cultural event of the Western Desert cultural bloc (Peterson 2000; Wallace 1977a). Thus when the lawyers went to Indulkana in 1994 to obtain instructions to use De Rose Hill as the test case for claiming residual native title rights on pastoral leases, interest was sustained largely because one of the Dreaming tracks that went through De Rose Hill—malu (kangaroo), kanyala (euro) and tjurki (fairy owl)—was one of the Dreamings performed at initiation ceremonies.12

12 Personal communication from Tim Wooley, 2004. Tim Wooley was the ALRM solicitor working on the De Rose Hill claim.