Expected Challenges: Towns and Disrupted Connections

Presentation to: Centre for Native Title Anthropology

Annual Conference February 7-9 2024, Adelaide

DRAFT: Not for further circulation

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Introduction

My talk is not about `unexpected' challenges, but more about expected ones.

I assert that towns are places of especial challenge for claims of connection unless circumstances have mitigated the challenge; diminished connection is to be expected rather than unexpected. Where connection has been disrupted, it is more difficult for native title processes to unfold consensually. Disrupted connection is a driver of contention.

I have done most of my longest-term research around a town in the northern Territory, Katherine. This has informed my opening question: where are native title (and generally matters of connection) more consensual; and where are they more conflicted. I will compare and contrast several examples of town situations and somewhat different outcomes.

I emphasize that my examples come from the far north, and from colonial intrusion that first occurred in a particular time period. It remains to consider the situation of towns more broadly.

Finally, for our discussion – and I need your help! -- what are the practical implications of disrupted connection? What kinds of socio-historical processes drive disrupted connection; and can the differences be managed, mediated? I make a few suggestions, some cautionary.

Areas Without Towns: Connection and Consensus

I will illustrate areas where consent was relatively achievable with several large-scale examples; in one of these (Nyungar, Perth) an alternate route to native title was taken when native title outcomes were reversed.

In the earlier days of native title, and of land claims too, contention tended to be greatest between Indigenous people and governments. The Wanjina-

Wunggurr-Wilinggin claim was originally v. the Western Australian government and of course pastoralist interests, sometimes fishing interests, etc. were important.

The Cape York consent determinations of 2000, 2004, 2009 and 2012 all eventuated in the context of the larger Wik controversy between Indigenous interests and governments, and of course ultimately pastoralists, over whether native title rights could survive on pastoral leases, titles that cover vast areas of Australia.

In Cape York the relevant expert anthropological reports were submitted on the basis of which the Federal Court accepted the Wik people's native title claims. Those processes were large-scale and though the expert research was painstaking and detailed (Sutton and Hale 2021), it was not the case that local claims had to be exhaustively aired and defended in that context. In Wik a handful of representative sub-areas as exemplars were carved out, and clan maps and genealogies were produced just for those subareas, as evidence. Sutton's 'Overview Report' tied it all together.

It is not that local conflicts and contests do not exist. They do, but so generally solid was a large, demonstrably regional system that they did not have to come into consideration.

Kimberleys: Wanjina-Wunggurr-Wilinggin

This large claim took place in one of the remotest parts of the continent, in which there have been pastoral stations, but there are no towns of any size (Slide 1, showing the entire area that was eventually claimed by three language groups, Worrorra, Wunambal and Ngarinyin).

The closest town is/was Wyndham, which served as something of a service and institutional centre for parts of Western Australia, including areas discussed in this paper (e.g. Hall's Creek, below; see the photo of prisoners taken to Wyndham, Slide 2).

Practice directions required demonstration that:

An Indigenous community had held title at the formation of Western Australia

The applicants are a group of people with ancestral connections to the community above.

Facts showing that the applicants observe laws and customs based on the traditional laws and customs of the community referred to

A determination of 2004 finalised the Wanjina-Wunggurr Wilinggin and Ngarinyin native title claims brought by members of the Wanambal, Worrorra and Ngarinyin language groups.

Slide 4 shows clan areas as mapped for the Ngarinyin portion of the area, showing that clan territories were numerous and reasonably defined. The set of three groups was said to have their own distinctive, shared body of beliefs, social and cultural traits and language affinities which bind them together and differentiate them from neighbouring regions. Those include:

Shared belief in named ancestral Wanjina creators (visible as cave paintings)

Shared belief in a primordial serpent, wunggurr, intimately associated with the wanjina beings, rainfall and fecundity

Events of child conception by which persons are linked to places

A division of the entire region into named countries, each associated with one or more wanjina

Clan groups associated with the named countries

A moiety division of the human and non-human world

A system of kin classification through which clan estates are linked tougher is specific quasi-genealogical or affinal relationships

A system of exchange, wurnan, by which objects and valuables are circulated through the clan estates

The trial process itself continued over a period of three years, including 59 days of hearings. The Ngarinyin evidence was heard first, after which the other claims were determined without contest.

The Wanjina-Wunggurr group now has the native title right of exclusive possession in some areas where native title has not previously been extinguished by government activities. The group also has some rights on areas covered by current or historic pastoral leases, mining leases and some public reserves. These rights include the right to hunt, fish and gather on those pastoral leases which have not been enclosed or improved.

Perth: An Alternate Route

In the case of Perth and environs, an original Nyungarr a native title claim, first won, was overturned by the full Federal Court in 2008. Instead of continuing litigation, in December 2009, the Southwest Aboriginal Land and Sea Council and the State Government agreed to pursue a negotiated outcome outside of the NTA, resulting in the Noongar Settlement. This saw the amalgamation of six native title claims into a single claim encompassing the entirety of Noongar country. This claim area was divided by the Federal Court of Australia into two parts: Part A encompassing Perth and the surrounding non-urban areas; and Part B covering the rest of the claim. There was some contention among claimants concerning acceptance of these arrangements, some of which had to do with objections to giving up native title; but aside from that ideological issue, generally the settlement was made at large scale and prior to any local issues.

Town Cases

Let us compare those briefly-sketched situations with several town cases.

A main general point – contrasting with the opposition between native title claimants and government/institutions in above cases -- is the extent to which cases in the town context have often come to be a matter of argument among Indigenous groups, more centrally than with other, outside parties. That is not to say that arguments among Indigenous groups do not arise elsewhere, nor that there is no contention with other parties. But arguments among Indigenous groups are likely in town contexts.

Why do I say that towns are potentially conflictual, and often so in fact? The reasons are both historical – sometimes traceable to earlier conditions, including ones of early colonization -- and ongoing consequences.

Take Katherine, where a native title case has been in preparation and ongoing since 1998. I cannot talk about it in detail below, nor particularize the conflicts, because it remains unresolved. But I think I can use it to illustrate the more general points I want to make here.

Towns grew as points of settler concentration. In Katherine the concentration was driven by regional pastoral settlement on the one hand; and mining on the

other. Cattle were brought into the area of roughly present Katherine town in the 1880s; the first cattle station began in 1878. As a direct result of pastoralism in the immediate Katherine area, and mining to the north of it, there was great decimation of regional populations. Thus those with any demonstrable ancestral connections back to time of putative sovereignty are few (but there are some who can claim connection since effective sovereignty. Since World War II some have intermarried with others more recently in the area but still recognize themselves as having ancestral connection to the area, and different in that way from later-comers).

Let us consider the historical picture a little further. In Katherine, the first and principal pastoralist in the immediate area of what is now the town, Alfred Giles, was also made Justice of the Peace (Slide 5). He was the early trialler of sheep pasturage, and also had cattle. In the attempt to introduce these herds, he was involved in subduing the most immediate Aboriginal populations and also those further to the south and west. There was an immediate conflict of interest inherent in the roles that he took on as pastoralist and as justice. His introduction of livestock and many other relevant events are set out in a diary he kept, although (as is usual) a telling silence follows comments concerning cattle killing by Aborigines, and other encounters.

There was gold mining on a creek north and east of the town, which was also a `boom', and unregulated. (Note that these gold finds were about 5 decades before the so-called `last' gold rush at Tennant Creek circa 1930).

My point is: there was population destruction in the developing town area. There remain a few people who can demonstrate long-term connection to it. But others came in from further afield. Under these conditions some more recently arrived began to assert a relationship to the town area. But that came over time, and for them (and for others in the town maelstrom, as well) tended to be less detailed than is often the case where people have a long history and sense of themselves as in place. And the move came with a cost: loss of connection to homelands from which the new arrivals had come.

This contrasts with Alice Springs – a brief footnote on that somewhat different town context.

Alice Springs

The 1870s and 1880s were brutal in the Centre, as in so many places. There was competition with pastoralists in the early period (e.g., the Barrow Creek

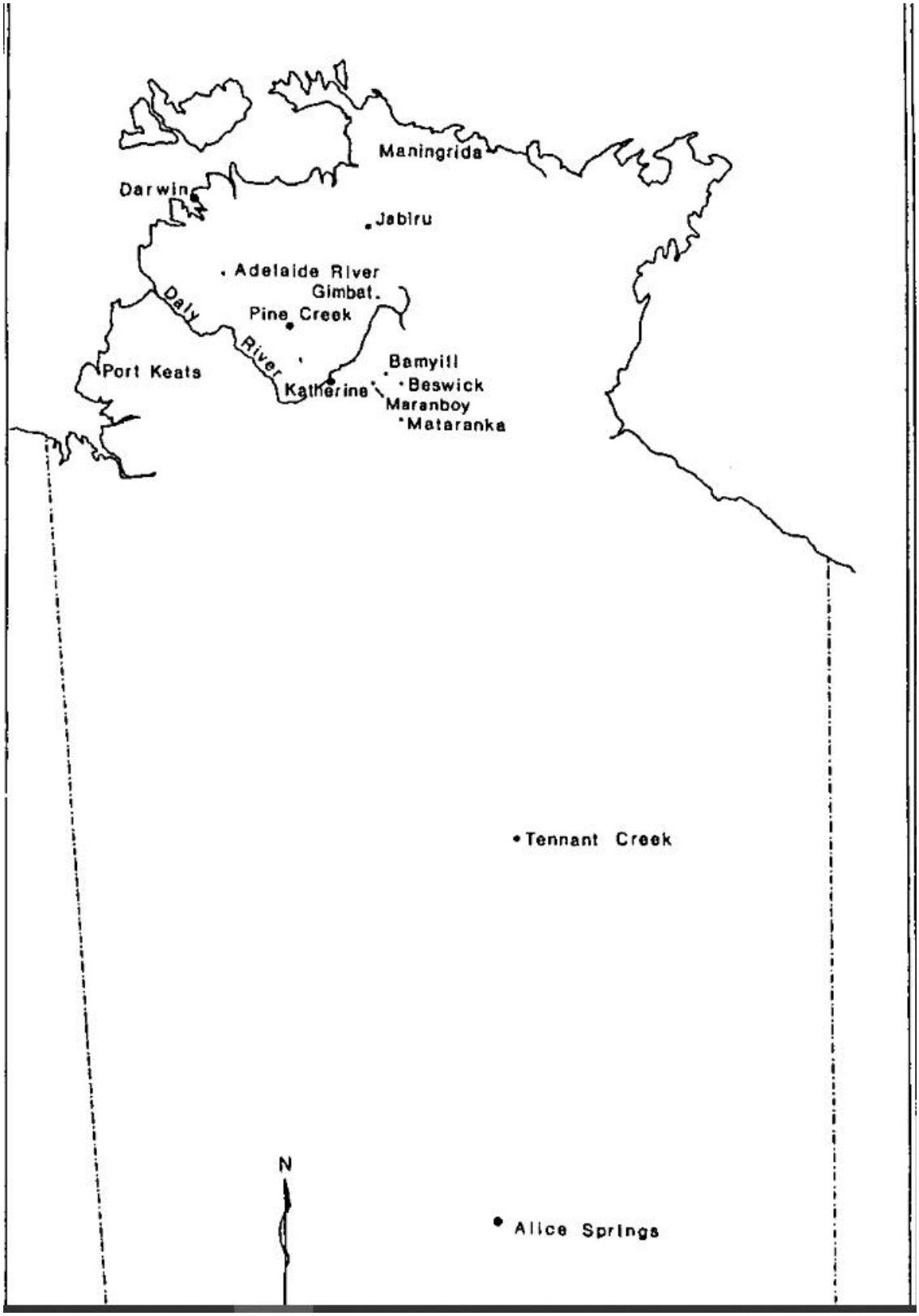
massacre 1874). There was contestation between Indigenous people and settlers in the 1880s for water, and a bad drought. Infamous police officer Willshire and his replacement Wurmbrand were renowned for their violent approaches (with their native police forces) in the 1880s.

Change can be gauged by the period in which Frank Gillen took over as Telegraph Station manager in 1891, basically becoming the administrator of central Australia, including sub-protector of Aboriginal people. At the same time, police officer Bill South did not view local Aboriginal people as 'troublesome' but as an essential workforce. An Aboriginal reserve was created around the Telegraph Station where people were fed and got medical care (Slide 6). And then, of course, Gillen and Spencer worked with local Arrernte men periodically for decades. The Finke River Mission pastors at Hermannsburg were also a constraining and conserving institutional force (Slide 7). South, with others, managed to get rid of policeman Willshire and his native police force (Slide 8). Both such mission influence, and moderating reserve formation, were entirely lacking in Katherine.

Katherine, Pine Creek and Hall's Creek

The three towns I will describe and compare have some aspects of early settlement history in common, but there are some differences in subsequent events.

Katherine and Pine Creek are not far apart, 90 kms. on the Stuart Highway (Slide 9, Territory locations). The decimation of population affected both Pine Creek and Katherine from roughly the 1880s, but with some differences. I will look at each briefly in turn.



As I've already said, the area of Katherine was early characterized by decimation of populations by pastoralism on one side, mining on the other.

In the space opened up by colonial occupation in both Katherine and Pine Creek areas, there came in Indigenous people from futher afield (as well as

settlers and colonists). The process of Indigenous movement has occurred in stages, and continues, much affected by contemporary political economy, regulations and management by people and institutions of the dominant society.

In the growth of Katherine, besides the developments of communications, hotels and generally a town service centre on the pastoral fringe, and early mine development just north and east of the present town, a tin mine some 60 kms. to the east at Maranboy was an entrepôt for arrivals from southern Arnhem Land from around 1910. Hundreds of Aborigines occupied this area from the early twentieth century until the 1950s and post-War re-settlement (Slide 10 shows the larger area, including later-declared Arnhem Land reserve from which many came who ended up around Maranboy). A reserve was declared at Maranboy, largely with the administrative purposes of management and containment. Miners continued to employ some Aborigines into the 1940s post-War; settlements were then formed (e.g. at Beswick, Barunga, earlier known as Bamyili), also partly to keep Aborigines out of towns.

There has been continuing slow movement of those settlement populations into and around Katherine town over the succeeding decades, with families from further afield establishing beachheads in town for purposes of schooling, medical treatment, jobs and similar reasons. (See Lea 1987). Until post-World War II, the railway (which runs through the town parallel to the Stuart Highway, see Slide 11) was the notional marker for many Indigenous people of the line beyond which in-comers from the north were not to reside.

Thus, the situation: a small number of people at Katherine who can trace ancestry to approximately effective sovereignty in the area; a larger and more mixed number who came in largely post-WWII with some greater permissiveness on the part of administrators; enormous loss of connection to original areas over time on the part of those in-migrants, some re-connection as they migrated to the Maranboy and settlement areas and reconstituted social systems in those places.

There was also over time significant effect of the rise of a part-Aboriginal population from mixing with railroad workers, miners etc. around the town and works camps. Many such people tended to be moved to institutions, to Darwin for work, etc. Some people of Indigenous descent of this sort have subsequently sought to reconnect with others at Katherine, some however with only vague ideas of their provenience, groups and families of origin.

Language group names like `Jawoyn' etc. have become generic and floating, and come to be applied around Katherine much more widely and without specific implications for territorial connection, given the kinds of information inquirers seeking return have had access to in recent decades. Many of those who were taken away, in searching to re-connect, have difficulty finding people and family of origin.

There is some contrast with Pine Creek in some of the historical processes at work; but not the first decimation. Pine Creek (like Katherine) was the centre of some works on the Overland Telegraph from the 1870s, then a mining boom from the 1880s and a very large influx of especially Chinese miners. First coolies, who had come from Singapore and Malaysia, were followed by Chinese diggers from Hong Kong who poured onto the goldfields. By the mid-1880s there were over 2000 Chinese in Pine Creek. There was very largescale decimation of local Indigenous peoples, to the point that nobody remains who claims ancestral connection to the time-of-contact population groups of Pine Creek. Over time there came an influx of other, originally further outlying Indigenous groups into Pine Creek, including notably Wagiman from the Daly River system, and people from nearer and further Arnhem Land (Jawoyn, Mayali, as these groups tend to be designated, with a few others from further afield).

Differences then with Katherine include the fact that there have long been no Indigenous people who claim ancestral connection to the Pine Creek area per se. Decimation of original populations was quite complete. However, social relations between Aboriginal groups coming into the town developed gradually with a number of intermarriages; and interactions of key Indigenous personalities with resident non-Indigenous people gradually tended to become more continuous and positive.

For Wagiman from the Daly River system, Pine Creek has long been an eastern but central focus providing access to their lands and a wet season retreat from the floodwaters of the Daly, Douglas etc.

For Jawoyn and Mayali from the Katherine River system and some of the regional cattle stations where many worked periodically (Goodparla, Gimbat etc.) PIne Creek was a highly strategic location. It was a railhead which enabled movement up and down the rail line; it was a settled point with some access to those cattle stations establish to the north-east; many older Aboriginal residents of Pine Creek worked at mines and market gardens in the region

around Pine Creek. it was an area which was of immense cultural concern during Jawoyn land claims (1980, and especially the 1992 claim to Gimbat cattle station, now part of Kakadu Stage III, from which some northern Jawoyn had come as young adults to Katherine) but which is not readily accessed or utilised.

In Pine Creek, a consent determination of 2019 (DCD2019/001 - **Pine Creek** Township) has seen a group originary from the Daly River system to the west, Wagiman, on the one hand, and Jawoyn originating from the Katherine River system to the east, on the other, deemed native title holders in Pine Creek.

What sort of post-frontier consensus developed in Pine Creek? Both in Katherine and in Pine Creek, as above, notional `dividing lines' were drawn between populations in contact, making use of the railway as an approximation; but they were less fully separating in Pine Creek than in Katherine.

From the time I first knew Pine Creek in the 1970s, there was an understood division of the town into, roughly, an area mostly associated with Wagiman people who originated from the Daly River system to the west; and Jawoyn and Mayali people who had originated from parts of Arnhem Land to the east and north.

In both towns, a railway line that runs through town was adapted as the notional marker between groups that came in from these different directions, e.g. in Pine Creek, the Wagiman from the west and Jawoyn/Mayali from the east and north (see Slide 12); in Katherine, as mentioned above with reference to Slide 11, between those of the Katherine area who had been mainly drawn into pastoral work south and west of the town, versus others who had come in from the north and east.

In Pine Creek, that division was somewhat notional and prescriptive; in fact the populations of all camps came to be somewhat more mixed than the Indigenous use of that dividing line suggests (Slide 13, with attention to Town Camp and Kybrook south of town) The following chart (from Wolfe 1987) serves to exemplify.

Wagiman were in fact and also notionally more closely associated with the Kybrook Farm camp location south of Pine Creek town, and Mayali/Jawoyn Arnhem Landers more closely with the town and camp. But residence in the

camps was, in fact mixed from fairly early on, partly due to marriages made between members of these groups. (Slide 14, also
below).

Table 6
Tribal affiliation

	Town and Town Camp	Kybrook Farm	Total
Wagiman	4	8	12
Mialli	11	2	13
Jawoyn	2	1	3
Mulkbon	-	1	1
Brinkin	1	1	2
Mutbara	1	3	4
Ngaliwuru Ngariman	-	2	2
Ramharmaga	1	-	1
No affiliation	2	3	5
Total	22	21	43

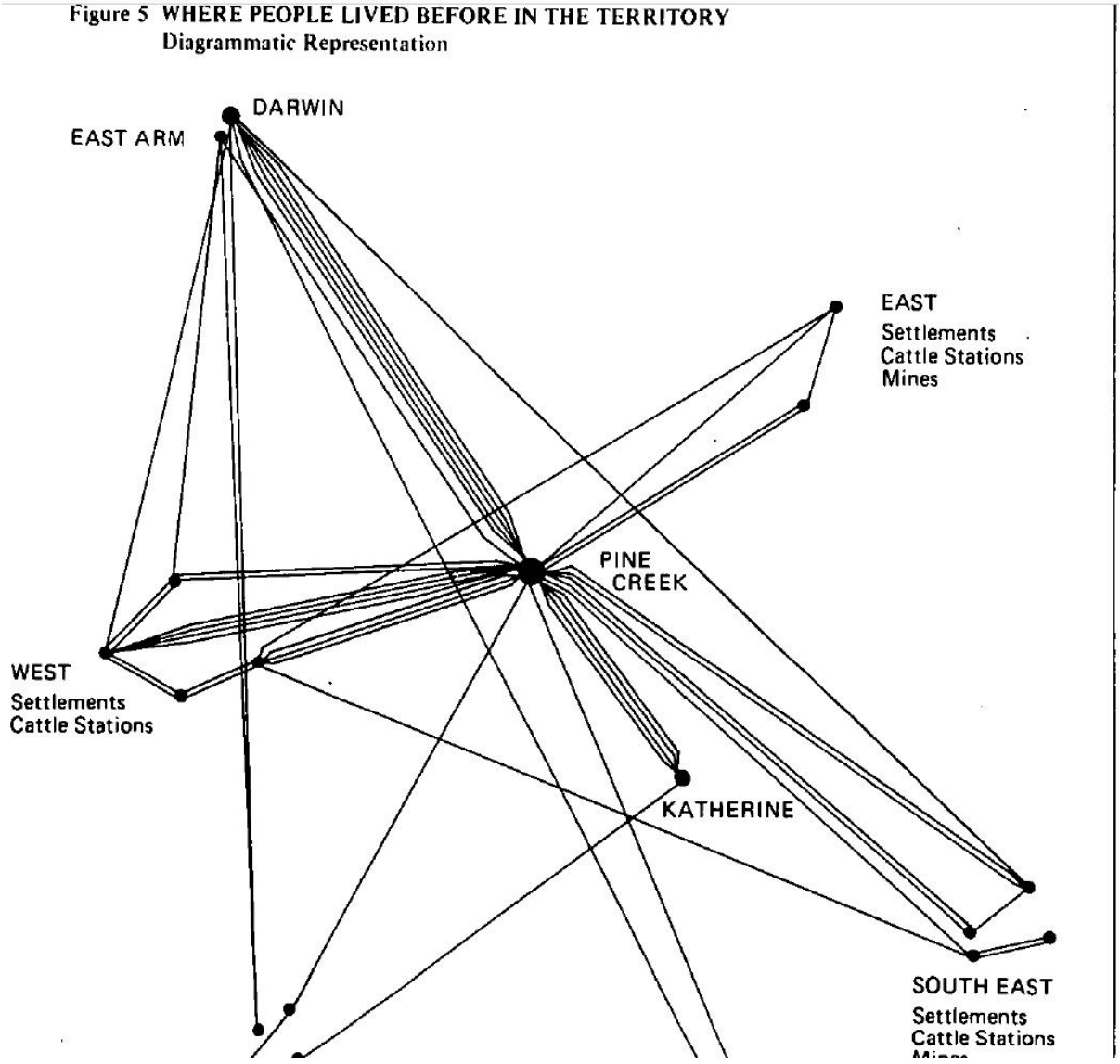
Mialli are half the adult respondents in the Town and Town Camp group. Wagiman are the next most numerous in Town Camp. Wagiman are just over a third at Kybrook. There is a mix of people in both camps, though, with Kybrook having a slightly larger number of tribes represented than Town Camp has.

Jackie Wolfe's 1987 study went into some detail about the origins of people living at Pine Creek. It was evident that: Pine Creek had been a wet season retreat for many, for some long time, with their working lives spent elsewhere, usually in country they identified with; that there were people from Arnhem Land and the Daly; that in 1987 about one-third of adults had grown up on cattle stations; that those in Pine Creek were not transients, but despite the fact that some said their father or mother had been born in Pine Creek, only three respondents gave Pine Creek as their country (and these were younger people). Pine Creek was the place most often mentioned by respondents as to where their parents had been born. This suggests, says Wolfe, that the people

interviewed had been making Pine Creek their place of residence for (at least) around 20 years (Wolfe 1987:41).

Wolfe observes that adults spoke and knew about their countries of origin, and maintained attachments there.

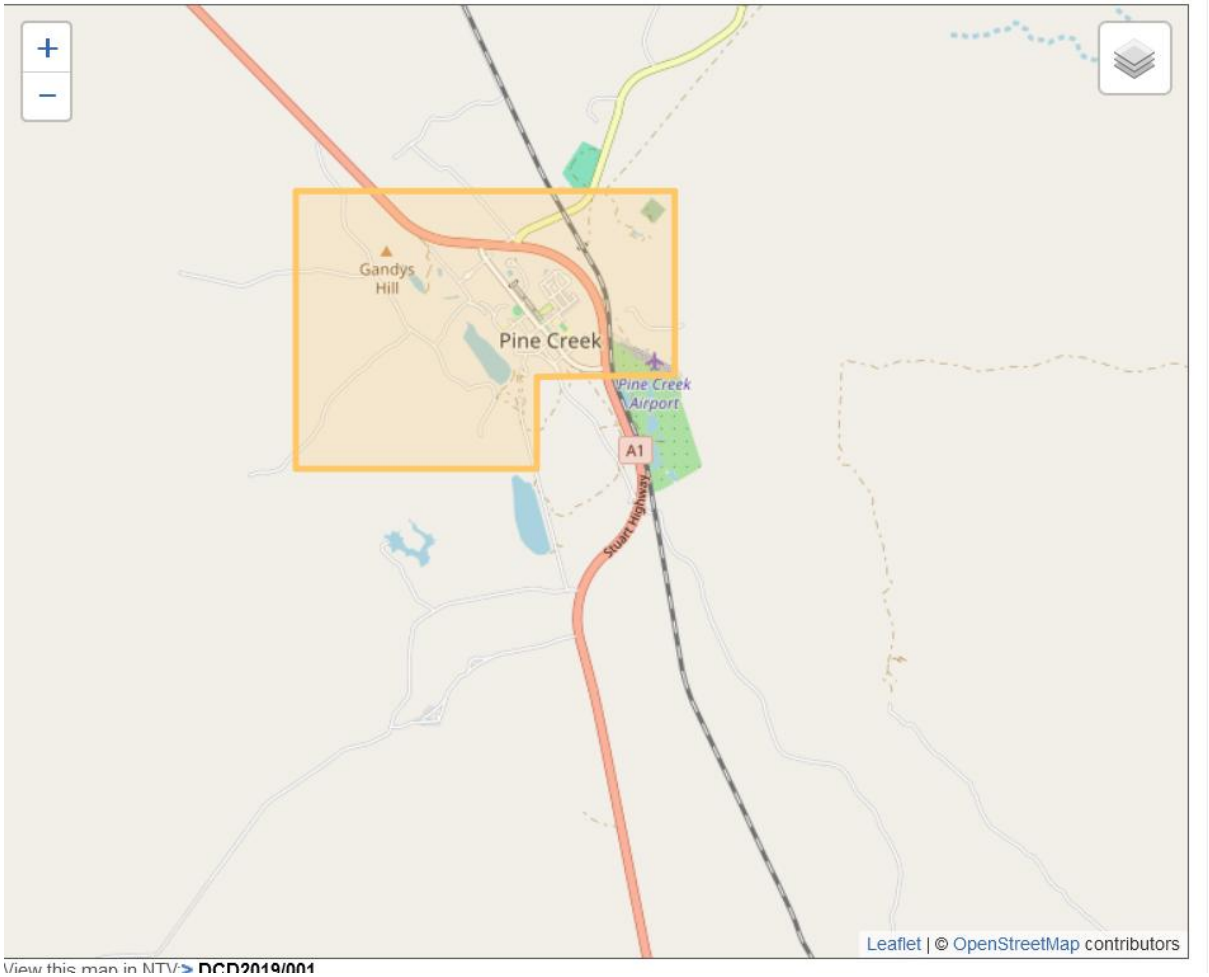
Wolfe's diagrammatic representation (Slide 15 and reproduced below) tells a story of process – where people then resident had lived, their associations with cattle stations, towns and institutions elsewhere; and the pivotal role of Pine Creek in their movements, related to work, family and weather conditions.



Also significant is that there was recognized Aboriginal leadership on both notional sides; and there was some intermarriage between them as well which resulted in more `mixed' residence already mentioned. In my research, I was able to see that there was an iconic and especially respected Wagiman couple who were regarded as Pine Creek `founders' in establishing their seasonal, and eventually permanent, residence in Pine Creek with their family; and that there was an influential Arnhem Lander on the Mayali/Jawoyn side.

The consent determination reached in 2019 with basically Jawoyn/Mayali on one side of the railway line and Wagiman on the other, that long agreed boundary through town, the old railway line, becoming a kind of guiding principle, keeping decision making and benefit sharing seem as simple as possible for determination and agreements.

One strongly stabilizing factor has been, in my opinion, that most of the Pine Creek residents are and have remained camp residents, with a similar outlook, levels of education etc., roughly on the same level. There have been a couple of notable exceptions and, in my opinion, those people have been drivers of contention concerning royalty and additional native title claims over other near-by areas (not Pine Creek itself).



View this map in NTV: **DCD2019/001**

Another stabilizing factor has arguably been the recently fairly small scale and mostly mining occupation of the white population. The early mining boom, contact violence and depredation gave way to greater interaction and mutual knowledge in and around town, of Indigenous people with workers and other local residents. Certain Aboriginal families worked for the local butcher; some of these and others maintained relations with bosses at outlying stations. Some key especially prominent men of both groups were liked and respected in Pine Creek by non-Indigenous locals; to the point that two of them as adults were tutored in literacy for some time by a local woman prominent in the non-Indigenous community. A local general store run by a Chinese family dealt on terms of mutual recognition with Aboriginal customers and hired workers at the store and on neighbouring properties over a longer term.

Hall's Creek

The township of Hall's Creek has the element of colonial depopulation of the (original) town area and resulting lesser clarity about connection to the town

area. But there are other complicating factors: the town was moved to new Hall's Creek (Slide 16 for the locations); and quite early the station of Moola Bulla was established, close to the new township, and became the largest Indigenous population in Western Australia.

The Hall's Creek township was established in about 1880, and the nearby goldfields in the mid-1880s, the Moola Bulla mission in 1910. Linguistic anthropologist Patrick McConvell analysed the ethno-linguistic data pertaining to traditional language identities in this area. McConvell, making use of Phyllis Kaberry's (1939) foundational ethnographic work, sees the original Halls Creek area as having been associated with Gidja language; but this as complicated and blurred by the movement of Jaru people into the area following the demographic loss of speakers of the Walgi Kija dialect (pers. comm. of some years ago). McConvell has observed that the earliest ethnography (Ray 1897 and subsequently McGregor 2002) identified a Kija dialect, Walgi, as having been spoken around the Old Halls Creek area (and Flora Valley according to Kaberry) which McConvell suggests was the indigenous language of Halls Creek. (See Slide 17 for large-scale locations of groups by Tsunoda, following Kaberry).

McConvell suggests that the early contact period (c. 1885) population displacements wrought by the very sudden and violent influx of settlers and gold prospectors, may have led to the displacement of Walgi speakers and to mainly Jaru-speaking people filling that territorial space.

Without going into all the details that Kaberry's material enables – and without access to native title reports which no doubt contain more recent research results – I simply point to Hall's Creek as an example of the main historical phenomenon I have been talking about: town areas as ones around which groups may have tended to gather to the extent possible, but where they relatively early also experienced connection disruption, displacement and population loss resulting from the establishment of a town. Whatever else is the case, there is evidence of the dispersal and/or decimation of an original population, and some resulting complexity in territorial identities and connections.

Reflections on Outcomes, Disruption, Mediation

This material points to the value of understanding which comes from deepening an historical dimension to native title (Slide 18). We all deal with the consequences and complexities of the long term regularly, but it is not

strongly reflected in methodological writing about native title. Some of the key works, useful as they are, mostly assume a `classical' model of indigenous land tenure. In many of these situations described above, we find the results of disrupted connection and contention. I have already pointed to some of the effects:

- Weakened connection and its becoming more generic (e.g. the practice of head-watering, the concept of spirits of old people being in the country, etc. These, while evidence of connection, are generally much less specific and detailed than are fuller accounts of places, dreaming travels and encounters, and connections among places, and of people with specific places in differentiated manner, that tend to characterize areas of lesser disruption)
- There is sometimes an element of people who went away from the territory in question – and here being *taken* away is a big factor – and who then later seek reintegration, which can be difficult. In such removal, `race' was of course a major factor, as determined by earlier administrative decisions. And removal itself, together with the racial factor, is then strongly associated, in my experience, with considerable differences in socio-cultural practice and outlook on the part of those removed to institutions and places of the `dominant society', and those Indigenous people who remained in camps and places of communal residence.
- A gulf between parties who have come into the space on either side of a decimated area, some from much further afield, with social differences and distance persisting more or less strongly over time; this is an element of the Katherine situation.
- Subsequent re-calibration of the social situation may occur, as in Pine Creek; perhaps, as here, made more feasible when there has been no strong contention about `originary' status of groups but the establishment of new forms of connection between groups and to their sense of a common home base in the town.

  In conclusion I also note the following observations about conflict and the questions of mediation (from Kingham and Bauman 2005:1, with some modifications):

- that the requirement to establish connections to country can create conflict within communities

- mediation of native title issues does not occur in isolation. Existing and historical disputes or conflicts may impact on it. The mediator needs to be aware of them and work with the parties to ensure that they are appropriately managed.

- Indigenous communities may have their own processes of disputation and resolution, although the latter is not guaranteed. Many disputes are very long-lasting, have usually existed at some level prior to native title and are maintained in new contexts of land claims and native title, often more intensively than before as the stakes appear to be raised and the requirements of explicit articulation of claims become more demanding

- 'peacekeepers' and 'peace builders' may play critical roles. Indigenous expertise in these areas should be acknowledged and incorporated into mediation processes where possible

It may also be that some disputes are so deeply entrenched that they cannot be easily `managed'. We should not overestimate outsiders' ability to `manage' issues of delicacy, social standing, and practical import. In some cases, it seems that conflict is so established that it has become an existential matter to continue it. It is up to researchers to become as aware of conflicts as may be useful, to speak as frankly as possible with claimants about the possible consequences for connection claims, and – where needed – to provide frank qualitative assessment of connection evidence. It is a difficult, delicate but necessary balance for researchers to act in a supportive manner to arrive at understanding of situations but also to speak frankly. This is especially difficult in contexts where, first, there may be little capacity for or history of discussion among different points of view within communities; and second, where many claimants seek, not only support in making their claims, but advocacy, often as against others, for them.

Acknowledgements: I have been assisted by comments and discussion with colleagues, including Pat McConvell some years ago on Kija and the association of languages with country in the eastern and central Kimberley; Gareth Lewis,

concerning Pine Creek; Alan Rumsey, who has provided materials and with whom I have discussed Wanjina-Wunggurr-Wilinggin in the Kimberley; Peter Sutton with whom I have discussed Wik; Ase Ottosson which whom I have exchanged commentary on Alice Springs; and Toni Bauman and Rob Blowes on mediation. Thanks to CNTA for the invitation to participate in the annual conference.

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