

Curriculum Vitae – Patricia Lane

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Nationality: Australian (born Yass, NSW)

Tertiary Education: B.A. (1980) Sydney University
LL.B. (1982) Sydney University (Hons II)
LL.M. (1990) Sydney University

Professional

Qualifications: Admitted as Legal Practitioner, Supreme Court of NSW, 1982
Commenced practice at NSW Bar, 1998.

Employment: Barrister-at-Law, NSW Bar – practice areas: Property, Equity, Insolvency, Environmental Law, Native Title, Administrative Law.
Senior lecturer, University of Sydney (fractional appointment)
Senior Fellow, University of Melbourne (Centre for Energy and Resources Law – Native Title and Resource Development Law - LLM).
Arbitrator appointed under the *Mining Act 1992 (NSW)* and *Petroleum (Onshore) Act 1991 (NSW)* since 2008.

Summary of Expertise:

- 32 years tertiary teaching experience in property, equity and commercial law;
- 22 years experience in both conducting mediations and representing parties at mediations.
- 20 years experience in indigenous land rights law and practice;
- 15 years professional advocacy experience in property, equity, environmental and administrative law;
- 10 years involvement and experience with issues concerning the Sudanese Peace process;
- 7 years experience as a senior administrator in Australian Courts and Tribunals

Other Employment and History:

2010: Entered on list of mediators for Native Title matters maintained by Federal Court of Australia.

2008: Appointed fractional Senior Lecturer, University of Sydney (subjects taught: Property and Commercial Law,

Conveyancing, Real Property, Advanced Real Property, Interpretation)

2007: Resource person, Joint Mediation Support Team for the AU/UN mediation on Darfur in Sirte, Libya, November 2007 (see supplement at end of CV with respect to work concerning Sudan).

Appointed Member of the Arbitration Panel under s.139 *Mining Act 1992 (NSW)* to conciliate and arbitrate on agreements for access to land for mineral prospecting.

2006: Employed by Peace Research Institute, Oslo (PRIO) to act as resource person on land and wealth sharing at the Inter-Sudanese Talks (see Sudan supplement):

- in **July 2006** on **Eastern Sudan** at Asmara, Eritrea – mediated by the Government of Eritrea;
- from **September 2005-March 2006** (6 weeks total) on **Darfur** at Abuja, Nigeria – mediated by the African Union.

2005: Part-time lecturer, University of Sydney (Conveyancing)

May-June 2005: Reporter nominated under *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)* – report on application for a declaration for protection of Wongi Waterholes, Maryborough, Queensland.

May, October 2003: Member of International Monetary Fund and World Bank Resource Team - Sudan Peace Negotiations, Kenya (see Sudan supplement).

2000 - 2002: Part-time lecturer Sydney University (Native Title (LLM) 2000-2002; Insolvency Law (LLM) 2000-2002); Fractional senior lecturer semester 1 2002 (Real Property, Personal Property).

Casual Lecturer University of Technology Sydney (Indigenous Peoples and Land Law (LLB,) 2002; Comparative aspects of Aboriginal self-determination (LLB, 2001).

1998-2000: Member (Part-Time) National Native Title Tribunal.

1998-2000: Senior Lecturer in Law, Sydney University (fractional) (Real Property & Personal Property).

1994-1997: Registrar, National Native Title Tribunal.

1992-1994: Senior Deputy Registrar - Federal Court of Australia.

1990: Deputy Registrar - Federal Court of Australia.

1989-1990: Lecturer in Law - Sydney University (Real Property, Equity, Conveyancing).

1987: Research Officer - Law Courts Library Sydney

1984-1986, 1988: Associate (law clerk) - Federal Court of Australia - Justice RW Fox and Justice WMC Gummow.

1983-1984: Research Assistant - Sydney University.

Notable Cases

- *Director General Department of Climate Change v Olmwood Pty Ltd* [2010] NSWLEC 15 (Land and Environment Court – unlawful clearing charge)
- *Shelbina Pty Ltd v Richards* [2009] NSWSC 1449 (NSW Supreme Court – easements)
- *Athanasakis v O’Shea* (2009, Court of Appeal, judgment reserved – easements, relief against forfeiture)
- *Booth v Spardini Pty Ltd* [2009] FMCA 213 (Federal Magistrates Court of Australia – consumer protection)
- *Trewin v Felton* [2007] NSWSC 851 (NSW Supreme Court – easements – noted 2007 Australian Law Journal)
- *Greentree v Minister for Environment and Heritage* [2005] FCAFC 128 (Full Federal Court – appeal from determination of unlawful interference with internationally significant wetland)
- *Yazgi v Permanent Custodians Limited* [2007] NSWCA 240 (12 September 2007) – wife’s interest in home not encumbered by a mortgage forged by her husband as indefeasible mortgage secured no moneys – construction of mortgage instrument.
- *Ceedive Pty Ltd v May* [2005] NSWSC 222 and successful appeal as to part: *May v Ceedive Pty Ltd* [2006] NSWCA 369 – status of houses purportedly sold separately from land as fixtures, rights of tenants – protected tenancy.
- *Gray v Gray* [2004] NSWCA 408 (Court of Appeal, NSW - wills and succession)
- *Minister for the Environment Heritage v Greentree* [2003] FCA 857 (Federal Court of Australia – *Environmental Conservation and Biodiversity Protection Act (Cth) 1999* – charge of unlawful impact on wetland of international significance)
- *Stockland (Constructors) Pty Ltd v Carriage* [2002] NSWSC 1179 – status and ownership of Aboriginal relics found in land – whether interest in land sufficient to support a caveat preventing dealing with the land.
- *Lawson v Minister Assisting the Minister for Natural Resources (Lands)* [2004] FCAFC 308 – native title to land and waters – extinguishing effect of resumption and vesting.

Other Experience:

- Visiting Fellow, Macquarie University (Property Law) (1998- 2003)
- Lecturer, Real Property, NSW Barristers and Solicitors Admission Board (1986-1994); Examiner, Real Property (1988-1994), Lecturer, Conveyancing (1991-1993), Lecturer, Real Property (1999-2000)
- Part-time tutor Sydney University (Real Property, Contracts, Equity, Commercial Law) (1982-1994);
- Harvard Program of Instruction for Lawyers – mediation and negotiation course (June 1994);
- Member ALRC working group – reference on the Adversarial system (1998);
- Member Resources Energy and Environment Law Subcommittee, Law Council of Australia (continuing);
- Member of Contents Committee – Australian Indigenous Law Reporter (1998 to present).
- Seminar presentations, Australian Property Institute (1998 and continuing) – “Expert evidence”, “Fixtures and Valuation” and “Liability for Hazardous Activities on Land – considerations for Plant and Machinery Valuation”.

Select Publications

Books and monographs

- (forthcoming) *Australian Land Law* Chapter in Legal History (Vol 1) Federation Press, NSW.
- “Sale of Land, Commentary and Cases” with D. Skapinker (LawBook Co, Publication date June 2009).
- Chapter “Indefeasibility for What? – Interpretive Choices in the Torrens System” in “Property and Security: Selected Essays” ed Edgeworth, Bennett Moses and Sherry, 2010 Thomson Lawbook Co, Sydney.
- Chapter “Warming Up Cold Porridge – Amending the Native Title Act” in Tehan, Langford eds “Section 223 Native Title Act” (forthcoming 2010)
- “Regulatory failure in planning and heritage law – the battle of Sandon Point” (forthcoming)
- “In Africa with Professor Gray – Property theory and the practice of peacemaking” (paper delivered 2011, publication forthcoming)
- “Unholy Alliances – Water rights and Australia’s Constitution” – accepted paper for International Property Law Conference, Pretoria, South Africa October 2010
- Major research and writing contribution to Chapter 25 of “Land Law” 4th ed (2002); 5th ed (2005), 6th ed (2010) Professor Peter Butt.
- “Mabo, Wik & Native Title” (with Professor Peter Butt and Robert Eagleson) 4th edition Federation Press, Sydney, 2001.
- “Hot Topics – Native Title” (with Susan Phillips) Legal Information Access centre, State Library of NSW (2001).
- “Carriage of Goods by Rail in Australia” – contribution to Palmer “Bailment” 2nd ed (subsequently substantially reproduced in Laws of Australia) 1993

- “Helmore’s Personal Property and Mercantile Law” (with JW Carter, E Peden and G Tolhuurst) 10th edition, (Law Book Co, Sydney, 1992).
- “Court Management Information” – Research monograph produced for the Australian Institute of Judicial Administration, AIJA, 1992. (Summary published in (1993) 67 ALJ 527)

Various articles and papers on native title law and practice, including:

- “Traditional Title to Land in Australia” – presented at public session, “Property in Four Dimensions” University of Geneva, Geneva, Switzerland January 2013.
- “Response to Commonwealth Government discussion paper outlining proposed amendments to the Native Title Act 1993” (with Justice R. French) reprinted in “Implementing the Native Title Act” (NNTT, Perth, 1997)
- “Native Title and Regional Development: Reinventing Old Relationships” (with T. McRae) Northern Australia Regional Outlook Conference, September 1997.
- "Outlook for Regional Development: Opportunities for Regional Agreements." (with R. Farley) Northern Australia Regional Outlook Conference Proceedings (Darwin : 1997)
- “Sustainable Partnerships” (with T. McRae) in “In the Wake of Wik” (NNTT, Perth, 1999)
- “Mediation under the Native Title Act” (1998) 17 AMPLA Journal 322
- “Native Title Litigation” (1999) 18 Aust Bar Review 142
- “Native Title – the End of Property As We Know It?” (2000) 8 Australian Property Law Journal 1.
- “Mediating Native Title – Have we got a Deal for you?” in “Native Title in Perspective” (AIATSIS, Canberra, 2000)
- “Native Title and Inland Waters” Indigenous Law Bulletin Vol 4 No 29 (April/May 2000) p.11.
- “A Quick Guide to Indigenous Land Use Agreements” presented at Mirimbiak Nations Aboriginal Corporation Legal Conference, April 2000 (published in Keon-Cohen (ed) “Native Title in the New Millenium” AIATSIS 2001)
- “A quick guide to ILUAs for Governments” (NNTT, 2001)
- “Indigenous Land Use Agreements – some practical considerations” conference paper, UNSW CLE “Native title law and Practice” June 2001
- “The Common Law of Native Title in Australia” (with Justice RS French) (2002) 2 Oxford University Commonwealth Law Journal 15
- Seminar, Sydney University Environmental Law Centre, “Strangers in the Night” – Native Title, Heritage and Planning Law” September 2003
- Seminar, University of NSW CLE “Mining and Human Rights” August 2003
- Case notes and headnotes for the Indigenous Law Bulletin and the Australian Indigenous Law Reporter.

Various other papers and articles on commercial and property law:

- CLE presentation – “The Effect of Andrews” with Prof Elisabeth Peden, Parsons Centre CLE program, March 2013.
- Property Law Update: MCLE Seminars, March 2011, 2012.
- Property Law Update: Thomson LBC CLE presentations: 2011, 2012
- ‘Ethical Issues for Property Lawyers’ Legalwise Seminars 2010 (2 seminars)
- ‘Property Law Update’ Legalwise seminars 2010, 2009, 2008.
- Case notes for “The Conveyancer” section of the *Australian Law Journal* 2007 on drafting contracts for the sale of land, and deposits.
- Informal Interests in Land (LAAMS Seminar ‘Property Law Update’ 21 March 2001)
- ‘Termination of Contract’ (LAAMS Seminar ‘What’s New In Property and Conveyancing’ 17 February 2000)
- ‘The Nature of Mortgages’ (LAAMS Seminar ‘Nuts & Bolts of Securities Law’ 8 June 1999)
- Casenote on *Bahr v Nicolay (No 2)* (1988) 164 CLR 604: “Fraud and Personal Equities Under the Torrens System” (1988) 62 ALJ 1036 (The Conveyancer).
- “When Is a Bank Cheque Not a Bank Cheque” (1984) Law Soc J 88

Referees

Names and contact details for referees on any aspect of the CV can be provided on request.

Supplement to CV – Sudanese experience

2003 Resource person on land employed by IMF and World Bank at CPA talks, Machakos May 2003; Lake Naivasha October 2003. With wealth sharing resource team, I consulted with National Government and SPLM/A to prepare and present text on wealth sharing, including land and natural resource management, fiscal federalism, currency and banking, and development among other issues. Draft text was substantially adopted in the protocol on Wealth Sharing signed January 2004, which was recast in the Interim National Constitution.

2005-2006 Resource person employed by Norwegian government to assist with Wealth Sharing Commission on the issue of land at the Inter-Sudanese Talks on Darfur, 6th and 7th round in September, October, December 2005 and January and February 2006 at Abuja Nigeria. At these talks my role was firstly to prepare and present presentations to parties on options for legal frameworks for resolving land issues, and natural resource management. In conjunction with the resource person team in wealth sharing, I prepared a workshop program for delivery at Nairobi, Kenya, in November 2005, to bring together party representatives in an informal and principle-based discussion on the issues in wealth sharing, including land, environment, and natural resource management (as part of the five-day workshop program). Subsequently at the Abuja talks in December 2005 and following, I consulted with the parties in conjunction with the mediators and resource team to prepare draft text on wealth sharing, including fiscal federalism, development, land and natural

resources, return and resettlement of refugees and internally displaced persons, and compensation. This text was signed, with minor amendments, by the Government and the Minawi SLM/A faction as the Darfur Peace Agreement.

- 2006** Resource person on land employed by the Norwegian government to provide resource assistance to the Eritrean mediation and the Eastern Front negotiating parties in July 2006, including delivering workshops and training to Eastern Front participants on land, natural resource management, environmental regulation, the structure and background of the CPA and DPA, and the basics of principled negotiation. Talks were held in Arabic, so I had minimal input into drafting the concluded agreement.
- 2007** Resource person employed by the UN in the joint AU-UN mediated talks in Sirte, Libya, in November 2007. My role included consultation with members of those movements who attended the talks, and the Sudanese Government, on land and natural resource management. I assisted in the preparation and delivery of a two-day workshop program on development, fiscal federalism, land and the principles of environmental management for sustainable development, in conjunction with the resource team. Subsequently I participated in preparing a comprehensive workshop program (along the lines of the Nairobi workshop for the earlier DPA process) for delivery as part of the on-going process.
- 2010** Participated in negotiations on Darfur at Doha Qatar in July 2010, employed by UN as resource person to mediators on Wealth Sharing and Land issues. This mission involved consultations with Darfuri representatives of the Law and Justice Movement and Justice and Equality movement to assess options for a resolution of outstanding issues on wealth sharing, drafting text and assisting at mediations, at times standing in for mediation chairman of wealth sharing Boubou Niang.

13 St James Hall Chambers, March 2013