

## CNTA Annual Conference 4-5 February 2021



**Venue: Women's College: University of Queensland**

### Day 1

**Theme: The Challenges**

**8.30-9.00** Registration/coffee

**9.15-9.30** Opening by Deputy Vice-chancellor (Student and University Experience), Professor Ian Anderson AO (ANU) *Recorded*

**9.30-9.50** Nic Peterson, Director of CNTA: Opening Address

**9.50- 10.30** Chair Nic Peterson:

**Key note speaker Justice Debbie Mortimer (via zoom):** *Re-evaluating the role of expert reports in Native Title proceedings.*

The focus of the presentation will canvas reasons for providing expert reports, how they can be most useful to the Court, and the parties, and if there are alternative ways of providing anthropological expert evidence.

**10.30-11.00** Morning tea

**11.00-12.30** Small group discussion:

*What are the challenges (big and small) of working in project teams? What solutions are effective?*

**12.30-1.30** Lunch

**Theme: Opportunities for Collaboration**

**1.30-2.15** Chair: Richard Martin

**Kevin Keefe:** *Making things, right? Case studies in collaboration and conflict since the Mabo decision.*

In 1993, after the High Court Mabo decision, and before the Native Title Act was legislated, the Council for Aboriginal Reconciliation produced a policy guidance booklet called: *Making Things Right: Reconciliation After the High Court's Decision on Native Title*. This paper reviews case studies in both conflict and collaboration in the native title landscape since that time and points to potential lessons for native title practice today.

### 2.15-3.30 small group discussion - points arising...

- Does the imbalance of power and resources between native title bodies on one hand, and government and industry on the other, mean that Agreement making is inherently flawed?
- What can NTRBs/NTSPs do to improve their chances of negotiating effective Agreements?
- What role could the NNTT have in ensuring successful Agreement Making?
- Are Native Title Agreements, ILUAs, dependent on free, prior, and informed consent?

### 3.30- 4.00 Afternoon tea

### 4.00- 5.00 Chair Kara Dunn

**Panel** (speakers for Q & A on institutional collaboration)

*What are the opportunities for cross-institutional collaboration in native title?*

**Chris Fewings** (Registrar of the National Native Title Tribunal)

The Tribunal had been undertaking desk top research in relation to native title determination applications since 1996. Such research was known colloquially as “reading bricks” encompassing extensive bibliographies, historical and contemporaneous mapping, and secondary source materials. Initially, the documents were prepared to assist Members with mediation when the Tribunal had the mediation function under the NTA.

The Federal Court now has a very active role in claim mediation and no “bricks” have been created since 2012. However, the NNT has made the “bricks” available online for interested parties, especially traditional owners who want information on their country.

Once the *Native Title Amendment Act* (2019) is passed by the Senate the NNTT will be empowered to assist in dispute resolution with Prescribed Bodies Corporate. We anticipate that help from anthropologists will be required around traditional decision making and group composition to ensure the NNTT is well informed in the dispute resolution processes.

We also intend working collaboratively with ORIC and native title holders to achieve transparent outcomes and provide corporate governance assistance through education – given public education of native title issues is an enduring role of the NNTT.

**Ophelia Rubinich** (Australian Institute of Aboriginal and Torres Strait Islander Studies) Assistant Director for the Return of Cultural Heritage (RoCH) Program.

Current areas of focus in AIATSIS' NTU include the management of native title materials, the development of PBCs, compensation, law reform and sea and fisheries rights. The NTRU provides access to the AIATSIS collection, manages the Prescribed Body Corporate website, and produces resources and publications.

Opportunities exist for collaboration - through research partnerships, advisory committees, an annual legal workshop, and the National Native Title Conference.

**David Allinson** (Manager, Social and Indigenous Policy, Queensland Resources Council).

Linkedin: <https://www.linkedin.com/in/dallinson>

The Queensland Resources Council (QRC) is the peak body for the resources sector companies in Queensland. Resources companies are uniquely placed to enter partnerships with Indigenous people and communities. For example, the resources sector is the highest, per capita, private employer of Indigenous people in Queensland.

The QRC facilitates conversations around best-practise Indigenous participation initiatives and works with government, under a Memorandum of Understanding, to create sustainable employment and business opportunities to build strong Indigenous families and communities in Queensland.

**Belinda Burbidge** (Policy Director, National Native Title Council)

The NNTC is a peak lobby group of CEOs of NTRBs and NTSPs and PBCs nationally. Belinda is the Director of Policy at the National Native Title Council (NNTC). Belinda is the first anthropologist to work at the NNTC bringing research perspectives to the role. She manages native title policy and advocacy at the NNTC through a combination of research, policy development, advocacy, sector engagement and communications.

The NNTC is currently focused on the following arenas: compensation and best practice agreement-making, reform to the native title sector – particularly Prescribed Bodies Corporate (PBCs), regional engagement and development, cultural heritage rights, and economic development.

A national anthropology reference committee now assists with advice on compensation strategies.

Due to COVID-19 issues there is **no Annual Dinner this year**. However, a good tip for those wanting to meet and eat, is the **Regatta Boatshed in Toowong**.

## Day 2

### *Theme: Compensation: Achieving impact*

#### **9.00-9.40 Chair: David Allinson**

**Kevin Smith:** *The relevance, role, and response of native title to an expanding Indigenous affairs landscape*

In 2021, Traditional Owners will have to juggle the new era of compensation, complex legislative changes introduced by the Native Title Legislation Amendment Bill 2019, new regulatory requirements under the CATSI Act as well as the response to the Juukan Gorge Inquiry, Closing the Gap Agreement and Voice to Government agenda.

#### **9.40- 10.30** Small group discussion of Kevin's key question, e.g.

*What must PBCs and NTRB/SPs do to rise to this challenge and what government support is necessary to facilitate sustainable outcomes?*

#### **10.30-11.0 Morning tea**

#### **11.00-11.30 Chair Petronella Vaarzon-Morel**

**David Trigger** – *Issues and challenges in compensation research (via zoom)*

In relation to 'cultural loss', what is the connection to country arising from 'traditional law & custom'? Who are the right people (= 'n.t. holders') holding that connection?

A legal assumption can be that these issues are clear, arising from a determination. But given the significance of now recognised 'collateral detrimental effects' [T Ck HC para 200], the dimensions of 'effect' in cultural terms is an emerging research task.

#### **11.30-12.30** Small group discussions: questions to consider.

*How do we understand the notion of 'loss' and 'effects' on native title connections? How might we methodologically approach significant research questions such as:*

- *The effects of 'acts' on spiritually linked areas beyond the location of the acts themselves?*
- *The effects for persons across all those with 'connection'- but given diverse kinds of traditional connections, is there a continuum of kinds of 'cultural loss'?*
- *The anthropological feasibility of a national approach?*

#### **12.30-1.30 Lunch**

## **Theme: Looking to the Future**

### **1.30 - 2.00 Chair Kim De Rijke**

**David Evans** – *Governance Issues for Trusts*

Indigenous Land Used Agreements (ILUAs) entered by Aboriginal corporations normally leads to the establishment of trusts to receive royalty payments on behalf of Community members. These trusts can be complex in nature and are generally established with significant and onerous compliance requirements. Having sat on several Indigenous boards in the Pilbara WA as an independent director, David explores the issues and challenges for trust boards and prescribed body corporates (PBCs) in addressing the requirements contained in the trust deeds.

### **2.00-3.00 Managers' Panel. Chair: Lee Sackett**

**Mia McCullough** (QSNTS)

**Getting up to speed for compensation claims:** this involves three streams –

- relevant judgements
- reasoning and implications of these (legal)
- understanding tenure types and what to look for in the Queensland context (tenure).

**These 3 streams will be discussed relative to;**

1. the context of Compensation in SEQ
2. QSNTS' approach to preparing for compensation claims in SEQ, including challenges to date, and
3. Networking with rep bodies and other relevant organisations:

**Pascale Taplin** (NQLC) **All that information bound up in dusty old books.**

Materials management in the context of high attenuation of local knowledge.

**Emma King** (NLC) **The devolution of applied anthropology in representative bodies and land councils.**

I discuss how applied anthropology has been progressively devalued by the native title (and land rights) sectors over the past 20 years, and the factors responsible for its demise.

### **3.00-3.30 Afternoon tea**

### **3.30-4.00 Chair: Mary Edmunds**

**Ian Sweeney:** *Working collaboratively in Aboriginal-led community development based on income streams from Aboriginal lands – the CLC experience.*

As Aboriginal groups become land holders in receipt of income from mining agreements, lease payments, and other sources, the challenges of how to manage, invest and transform futures with the income streams have emerged. Over the past 15 years, the Central Land Council's Community Development program has learned much from its deeply collaborative engagement with Aboriginal groups in negotiating the challenges to achieving sustainable social and economic outcomes.

**4.00- 5.15pm** A special visit to UQ Anthropology Museum in the Michie Building UQ campus. The current exhibition is a historical look at Queensland Aboriginal Creations and the artists who exhibited with them. More details in the hyperlink below.

<https://anthropologymuseum.uq.edu.au/exhibitions/queensland-aboriginal-creations-agency-and-legacy>

**Museum Director Michael Aird** will be our guide. He will discuss the history of the museum, and time permitting, his own research project on native title in South-East Queensland developed through historical photographs.

### **Conference Evaluation**

CNTA would greatly appreciate you taking our short evaluation survey as this contributes to our quality control and capacity to meet your needs. It also enables you to comment on issues of special concern.

### **Acknowledgements**

Thanks to Women's College for use of their venue and the organisational efficiency of **Anne Kuskopf**. It is a pleasure to again hold a CNTA conference here.

Thanks must also go to **Joel Harding of Craftmedia** for enabling CNTA to further our outreach given the challenges posed by COVID.