

Native Title Conference 2011: Our Country, Our Future

By Jessica Weir and Alicia Barnes

The Turrbal, Jagera, Yuggera and Ugarapul Peoples, the traditional owners of the wider Brisbane area, welcomed delegates to this year's conference in an evening ceremony performed by Maroochy Barambah and the Wakka Wakka Dancers. Queensland South Native Title Services were our co-conveners, and the QSNTS board and staff made a huge contribution to the program as chairs and speakers, and the overall running of the conference. Almost 600 delegates met at the Brisbane Exhibition and Convention Centre from 1-3 June, to participate in what is Australia's largest Indigenous policy conference.



Nunukal Yuggera Aboriginal Dancers

This year the annual Mabo Lecture was delivered for the first time by a Meriam woman, Dr Kerry Arabena, who is Chief Executive of the Lowitija Institute. Dr Arabena gave a deeply personal lecture – sharing her life's instructions and respect for those she has learnt from, her Meriam peoples and other warriors. She spoke about Eddie Koiki Mabo as a great visionary, and urged the audience about the need for great vision for the next 50 years – not just for native title, but for the role of traditional owners and their knowledge of land and sea in a future that faces great environmental challenges, including climate change. Dr Arabena also spoke about the principle of equality in diversity, and recognising the equal value of Indigenous knowledge in helping to determine a vision and strategy for the management of country.



Dr Kerry Arabena, who is Chief Executive of the Lowitija Institute, delivered the 2011 Mabo Lecture

Our international keynote speaker was Andrew Leach CEO of the Aboriginal Housing Management Association, Canada, and member of the St'at'imc Nation. Mr Leach spoke about good leadership and strong Indigenous organisations, by drawing on stories from Canada's First Nations. Mr Leach recalled how far Canada's First Nations have come since the 1980s, when leases and limited jobs were the primary benefits sought out of agreements for use of native title land. Today, Mr Leach revealed how there are more meaningful and longer term strategies that will deliver money and development into the future. He identified a common thread through all the success stories: strong leadership, sound management, strong partnerships, organisational cohesion, internal accountability, and dedication to following through on an agreed strategy.



International keynote speaker Andrew Leach CEO of the Aboriginal Housing Management Association, Canada

The Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Gooda gave a keynote about moving forward as a nation through the recognition of Indigenous peoples rights, and through addressing lateral violence within Indigenous societies. He spoke about the United Nations Declaration on the Rights of Indigenous Peoples, and urged the Australian Government, which has signed this declaration, to now implement it. Mr Gooda also spoke about the recognition of Australia's first peoples in the constitution – asking the audience, if the constitution is our birth certificate, then surely it should reflect our complete genealogy as a nation, not just one branch of the family tree. Lateral violence was the other key issue Mr Gooda spoke about. This violence is the rage, anger, terror and fear that Indigenous people inflict on each other, as a result of the experience of disadvantage, discrimination and oppression. As Mr Gooda said:

Lateral violence is something we need to address ourselves, but we also need to be aware of how governments can create the environment for lateral violence through a lack of recognition and engagement and pitting [native title] groups against each other.



The Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Gooda

Chief Justice of the Federal Court Patrick Keane gave a keynote centering on the ability of native title holders to unlock, if they choose, the economic potential of their land. More specifically, he questioned the validity of the view that native title rights in relation to land are in all cases inalienable. Chief Justice Keane considered this question in relation to determined native title for trustee

Prescribed Bodies Corporate (PBCs). The *Native Title Act* and relevant regulations appear to allow trustee PBCs to surrender, transfer or otherwise deal with native title rights and interests, but do not suggest that the Crown is the only party capable of receiving such rights and interests. Accordingly, his Honour argued that native title rights post-determination were alienable to some extent.



Chief Justice of the Federal Court Patrick Keane

He found the trustee PBC provisions may empower native title holders to deal with native title in ways that can unlock economic potential. Chief Justice Keane also noted that in consent determination negotiations, the parties should not expect the Court to delay the hearing of the claim simply because arrangements for the accommodation of native title interests have not been concluded. This is because the Court's role is determining who holds native title and establishing a PBC to deal with this title. Land management issues, the interaction of native title rights with the broader economy, and the intersection between native title interests and the interests of others, can be managed in the future through choices made by Indigenous people and given effect through their PBC and the negotiations conducted by it.

A feature of this year's conference was a new session format called the Dialogue Forums, which was introduced by program convener Dr Jessica Weir to increase interaction between speakers and the audience. There were five Dialogue Forums held in the Public Program, each discussing a set question about native title, including: development issues on country, how to reform 'proof' of native title, case management loads, native title benefits, and constitutional reform. These Forums gave a greater role to the audience in setting the native title agenda at the conference. After seeing the new

format in action, it will be further refined and included in next year's conference. The next conference will be held in Townsville in early June, and will mark the 20th anniversary of the Mabo decision. As always, a pre-conference workshop will be held the day before the conference for Indigenous people and their native title representative bodies to discuss matters of strategic importance. In 2011, the pre-conference workshops considered the potential of the Greens holding the balance of power in the Senate in reforming the *Native Title Act*.

The conference program was streamlined this year into four concurrent sessions after morning tea, and closing plenaries at the pre-conference workshop and on the last day of the conference, to allow a greater shared experience across the conference body.

Conference sessions covered a broad range of topics, including legal developments, urban native title, carbon markets, heritage, water, and native title anthropology. Indigenous Talking Circles were held throughout the conference and this year the first Men's Talking Circle was held with the topic social and emotional wellbeing. The Women's Talking Circle developed a list of recommendations, including greater recognition for the voice of women in native title, and more opportunities for women to meet and discuss native title. A Youth Talking Circle was held to strengthen the native title conversation between Indigenous youth and older generations. Papers and Presentations are being made available on the conference website, depending on availability and permission by the speaker.



Wagga Torres Strait Island Dance Company



Dialogue Forum: Greg McIntyre, Glen Kelly, Joe Edgar, Gordon Marshall, Nolan Hunter, Perry Agius and Jessica Weir discuss the question 'do we need to choose between country and development, or can we have both?'