



**SUPREME COURT  
OF QUEENSLAND**

North Queensland Law Association Conference  
Friday 27 May 2022  
Opening Address

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**The Hon Helen Bowskill  
Chief Justice**

Good morning everyone. It is my great pleasure to be here today in beautiful, sunny Townsville, to open the North Queensland Law Association Conference for 2022. Today marks the start of National Reconciliation Week, a time for learning, unity and reconciliation. In that regard, I acknowledge the first and traditional owners of this land, the Gurambilbarra Walgurukaba People, and also their neighbours to the south of the Ross River, the Bindal People, and pay my respects to their Elders, those who have spoken for this land in the past and who do so today.

Shortly, we will hear an address from Mr Dean Parkin, the Director of “From the heart”, entitled “Mabo: 30 years on”.

It is amazing to reflect that this significant decision, which represented a seismic shift in constitutional and property law in Australia, celebrates its 30<sup>th</sup> anniversary this year, having been delivered by the High Court on 3 June 1992.

Where were you in June 1992?

I was sitting in a Land Law lecture, about that time. The lecturer was Carmel McDonald, who would later go on to serve for 23 years as a member of the Land Court, including eight years as its President.

I can actually recall the evening when I was sitting with my cohort of part-time students, in a lecture theatre down at QUT in Brisbane, all of us weary at the end of the working day, getting ready to be enthused about the next exciting instalment of Land Law. Carmel came in, with a look of real excitement about her, and told us about this ground breaking decision of the High Court that had been handed down, and then tried to explain it to us, in the space of one short lecture.

Even apart from *Mabo*, 1992 was actually quite a momentous year.

On the world stage:

- In February, US President George H W Bush and Russian President Boris Yeltsin proclaimed a formal end to the Cold War at a meeting in Camp David;
- In early April, following the proclamation of independence from Yugoslavia by the parliament of Bosnia and Herzegovina, Serbian troops commenced a siege on Bosnia, the capital of Sarajevo, triggering the Bosnian War which would rage for nearly four years;
- On 29 April, four police officers tried for the beating of Rodney King in Los Angeles were acquitted, triggering six days of rioting causing 63 deaths and over \$1 billion in damage before order was restored by the military;
- In early November, Bill Clinton defeated George HW Bush in the Presidential election;
- On 20 November, a fire broke out in Windsor Castle, causing extensive damage. The public outcry over the cost of the restoration led to the Queen agreeing to pay tax on her income; and
- On 9 December, the Prince and Princess of Wales – that's Charles and Diana - announced their separation.

Closer to home:

- On 2 April 1992, Margaret White became the first woman to be appointed a Judge of the Supreme Court (having previously served as a Master of the Supreme Court). Her Honour had acted for the State of Queensland, in an earlier stage of the *Mabo* litigation, led by John Byrne QC, later Justice Byrne, and the Senior Judge Administrator of the Supreme Court for many years; and
- On 29 July, the first female Governor of Queensland, Leneen Forde, took office. In yet another delightful historical connection, Leneen Forde and Carmel McDonald were both part of the class of 1970 at the UQ Law School, and both were also founding members, amongst others, of the Women Lawyers Association of Queensland.

Now let's fast forward to June 2022.

In terms of the practical outcomes of the *Mabo* decision, and the subsequent enactment of the *Native Title Act 1993* (Cth), there have been a total of 446 positive native determinations made across Australia – that is determinations that native title exists in the whole or part of the relevant area. About 42% of the area of Australian land is affected by a positive determination that native title exists (either exclusive (14%) or non-exclusive (27%) native

title rights and interests). In Queensland, the area of land covered by positive determinations of native title is about 31% (the majority of that being non-exclusive native title).

Those determinations are of course of great significance, in terms of acknowledging and recognising the traditional owners of the land concerned. What is also very important, though, is the social and economic opportunities that can flow from this. And native title is only part of the story. The recent change of Federal Government brings with it a commitment from that new government to the Uluru Statement from the Heart. I anticipate we will hear much more from Dean Parkin, in his address shortly, about what can and should be done to produce better, fairer outcomes for Aboriginal and Torres Strait Islander people.

More broadly, in the 30 years since June 1992:

- We have had many more women become judges of all courts, and we are now on to our second female Chief Justice and our second female President of the Court of Appeal – most definitely approaching, if not arrived at, the time when this element of diversity should be unremarkable, although greater diversity is to be welcomed;
- Sadly, we are still seeing parts of the world ravaged by War, most particularly at present the utterly devastating situation in the Ukraine;
- In stark contrast to 1992, the police officer who killed George Floyd was convicted of murder, and another three police officers were convicted of violating his civil rights; and
- On a lighter note, Prince Charles is still waiting to take on the role of King.

Another interesting development, in the past 30 years, actually relates to the structure of the Supreme Court. It was in December of 1991 that the *Supreme Court Act 1991* became law. That Act created the permanent Court of Appeal that exists today and the position of Senior Judge Administrator. The Supreme Court was divided into the three divisions that exist today:

- The Office of the Chief Justice
- The Court of Appeal; and
- The Trial Division.

Within the speech given on the occasion of the second reading of the Bill which became that Act, is the following:

“... Honourable members must consider the kinds of changes that have occurred in the crimes committed in this country in the last 10 or 15 years. Crimes have become complex because they are committed with the use of highly complex machinery such as computers. Technology has been introduced that can be used by criminals with great minds and intelligence in the course of breaking the law and it requires equally

great minds and diligence to unravel the crime and judge it properly. A judge holds an awesome responsibility.”

That is true – but what would that member of Parliament have made of an iPhone I wonder, or encrypted messaging?

According to the first annual report prepared by the Senior Judge Administrator for the newly created Trial Division, in the first six months of the restructured Court’s operation to June 1992:

- In the criminal jurisdiction in Brisbane, 156 defendants were dealt with, by trial or sentence.
- In the civil jurisdiction, the figures were divided up into Commercial causes; Personal injury; and “Other”. A total of 240 civil actions were set down for trial; and of those 109 were tried to judgment; 110 settled after they were set down and 21 were adjourned. Personal injury actions represented the vast majority of those.

If we fast forward 30 years, across the State, in the year to June 2021, in the criminal jurisdiction we dealt with 2238 defendants. Even allowing for a technical meaning of “defendant” in the context of the reporting, that is an enormous increase. A total of 2565 civil matters were finalised in that year. I don’t know what the division is, in terms of subject-matter, although we do know of course that personal injury litigation in the courts has dramatically altered over the last 30 years.

There is a section of the June 1992 Report dedicated to “information systems and technology in the trial division”. I regret to say that I feel as though I recognise much of what is described and said there, in terms of the shortcomings of the information and technology systems that were available. That reflects one of the main priorities that I see for the Courts – the introduction of a reliable civil case management system, which will among other things facilitate electronic filing and storing of court documents. There is a project underway, but it is some time yet before we will see that implemented in the Supreme and District Courts in particular. I intend to give this close attention.

Other priorities include reviewing how we do things, particularly in the civil jurisdiction, to ensure that, for example, case management lists remain fit for purpose or to identify if there is a better way that we can, consistent with rule 5 of the UCPR, facilitate the just and expeditious resolution of the real issues in civil proceedings at a minimum of expense. There is also work underway to review Practice Directions, both in the civil and the criminal sphere. So watch this space in the months ahead.

The Court is slowly getting back to the level of work pre-Covid; and I hope that is the case for your firms and practices also. As we continue to emerge from the Covid pandemic, and all the challenges that presented for us professionally and personally, I feel optimistic about the future of the justice system. There is an energy and an appetite not only for the

immediate work of the court, but also for the bigger picture. In that respect, as I've previously observed, I think one of the silver linings to come out of Covid is the establishment of regular and direct lines of communication between the courts and the profession, and I look forward to that continuing.

I am very pleased to be here in Townsville, and to have the opportunity to participate in this conference today. The program is impressive, both in terms of the range of topics to be addressed, and the eminence of the speakers. Those who have had any role in organising a conference like this know just how much hard work goes into it, and the organisers are to be truly commended for their efforts. So too are the presenters, because that takes an enormous amount of work as well. I look forward to meeting with and chatting to as many of you as I can, during breaks today and also at the function tonight at Magnetic Island, which sounds absolutely wonderful.