

# The Future of Ecological Governance and Regulation in Northern Australia 2017 Annual Conference

## Conference Program

DAY 1 Friday 24 November		Roundtables
8.00am – 8.20am	Registration and Coffee	
8.20am – 8.30am	<i>Acknowledgement to Country:</i> Aunty Anne Leisha, Co-chair, Griffith University Aboriginal & Torres Strait Islander Council of Elders, Elder in Residence, Co-chair, Global Indigenous Elders Council Member of WINHEC & WINU	
8.30am – 9.00am	<i>Welcome:</i> Professor Don Anton, Director Law Futures Centre, Griffith University  <i>Opening Address:</i> President Fleur Kingham, Land Court of Queensland	
9.00am – 10.30am Roundtable discussion	Roundtable 1: <b><i>Achieving Integrated Governance</i></b>  Broad question: How to move from fragmented governance towards integrated governance that is capable of addressing the cumulative social, cultural, economic and environmental aspects of northern land, sea and resource use?	
10.30am – 11.00am Open discussion	<b>Moderator:</b> Professor Allan Dale, Professor of Tropical Regional Development, the Cairns Institute, James Cook University (Qld)  <b>Discussants (alphabetically):</b> <ol style="list-style-type: none"> <li>1) Mr Grant Maudsley, President, Agforce Queensland (Qld)</li> <li>2) Mr Jim Higgs, Tropical Fisheries &amp; Aquaculture Manager, WWF Australia (Qld)</li> <li>3) Mr Mark Coffey, Head, Office of Northern Australia, Commonwealth Government</li> <li>4) Dr Chris Butler, Law Futures Centre, Griffith University (Qld)</li> <li>5) Dr Marcus Barber, Senior Research Scientist CSIRO (Qld)</li> </ol>	
11.00am – 11.30am	Morning Tea	

11.30am – 1.00pm Roundtable discussion  1.00pm – 1.30pm Open discussion	<p>Roundtable 2: <i>Overcoming Compartmentalised Regulation</i></p> <p>Broad question: How to move from compartmentalised regulation towards legal tools that have capacity to regulate the cumulative effects of a wide range of ecological, cultural, social and economic impacts on terrestrial, marine and freshwater environments?</p> <p>Moderator: Ms Clare Martin, Chair, Territory Natural Resource Management (NT)</p> <p>Discussants (alphabetically):</p> <ol style="list-style-type: none"> <li>1) Mr Vin Lange, CEO Centrefarm Aboriginal Horticulture Limited (NT)</li> <li>2) Professor Lee Godden, Director of the Centre for Resources, Energy and Environmental Law, Melbourne University (Vic)</li> <li>3) Mr Jeremy Fisher, Principal, Kingfisher Law (NSW)</li> <li>4) Dr Philippa England, Law Futures Centre, Griffith University (Qld)</li> <li>5) Dr Wendy Craik, Chair Climate Change Authority (ACT)</li> </ol>
1.30pm – 2.30pm	Lunch
2.30pm – 4.00pm Roundtable discussion  4.00pm – 4.30pm Open discussion	<p>Roundtable 3: <i>Embracing Diverse Values in Development</i></p> <p>Broad question: How to move from a development model based on the economic priorities associated with apparent southern models of development towards political and legal frameworks that are capable of embracing diverse values derived from the north's unique ecological (and related social and cultural) characteristics?</p> <p>Moderator: Dr Kate Andrews, Consultant &amp; EO NRM Regions Australia</p> <p>Discussants (alphabetically):</p> <ol style="list-style-type: none"> <li>1) Professor Ruth Wallace, Director of Northern Institute, Charles Darwin University (NT)</li> <li>2) Dr Bill Fogarty, A/C Deputy Director, National Centre for Indigenous Studies, ANU (ACT)</li> <li>3) Dr Jane Addison, College of Business, Law and Governance, James Cook University (Qld)</li> <li>4) Professor Don Anton, Director Law Futures Centre, Griffith University (Qld)</li> </ol>
4.30pm – 5.00pm	Summing up the day's proceedings and close
5.00pm – 7.00pm	Conference Drinks and Nibbles

**DAY 2 (half day)**  
**Saturday 25 November**

**Roundtable 4 and Outcomes Session**

8.00am – 8.30am	Coffee
8.30am – 10.00am Roundtable discussion	<p>Roundtable 4: <i>Using a Broader Knowledge Framework for Regulation</i></p> <p>Broad question: How to move from narrow scientific knowledge bases underlying environmental regulation towards an approach to decision-making required by environmental law that is capable of being informed by, and captures, a diverse range of knowledge bases including scientific and Indigenous world-views?</p>
10.00am – 10.30am Open discussion	<p>Moderator: Professor Stuart Bunn, Director Australian Rivers Institute (Qld)</p> <p>Discussants (alphabetically):</p> <ol style="list-style-type: none"> <li>1) Ms Heron Loban, Law Futures Centre, Griffith University (Qld)</li> <li>2) Dr Christine Lachlan Arrowsmith, Group Manager/Principal Engineer, Water Technology (Vic)</li> <li>3) Associate Professor Sue Jackson, Principal Research Fellow, Australian Rivers Institute (Vic)</li> <li>4) Professor Mick Dodson, Director, National Centre for Indigenous Studies, ANU (ACT)</li> <li>5) Dr Richard Brinkman, Research Program Leader, Australian Institute of Marine Science (Qld)</li> </ol>
10.30am – 11.00am	Morning Tea
11.00am – 1.00 pm	<p>Outcomes Session</p> <p>Synthesises the outcomes of the four round tables to develop key areas for targeted research on improving the legal and policy framework to support the ecological future of Northern Australia. Explores potential collaborative research linkages for addressing these issues.</p>
1.00pm	Close

## Background

In 2016, the Law Futures Centre launched a research project designed to explore the future of ecological governance in Northern Australia in response to the Commonwealth Government's 2015 White Paper on the development of Northern Australia, "*Our North, Our Future*". The project has evolved to become the Northern Australia Legal Futures Research Program (NALF Program) led by researchers in a newly established Northern Australia Legal Futures Network (<https://www.lawfutures.org/northern-australia-law-futures-network>).

An article published by researchers in the NALF Program in May 2017<sup>1</sup> highlighted issues of environmental concern that were raised by the White Paper - mostly by omission. The researchers identified some of the White Paper's untested assumptions about the North's environment and culture and provided a brief analysis of a number of environmental and other regulatory gaps in the model of development it advocates. They also considered the past, present and future of ecological governance and regulation in the north. The researchers concluded that in order to avoid repeating the failures of previous development plans for the north, reforms should emphasise a strategic, ecologically focused governance framework developed in the north, for the north, with input from all interested parties.

This legal framework, which involves the system(s) for decision-making, policy development and regulation, needs to effectively deal with the unique characteristics and inherent dynamism of northern ecosystems, as well as address complex interactions between nature, borders, culture and sovereignty.

## Conference aims

The major aim of this Conference is to bring together all interested stakeholders – industry, government, Indigenous organisations, the legal profession, non-governmental organisations and the academe – to consider the legal and policy framework for Northern Australia's ecological future. Over the course of four sessions, attendees will seek to identify those aspects of the framework that require further elaboration and study. Based on the work in those four sessions, in a fifth session, attendees will be asked to narrow the issues needing further work to those that are the most pressing and that are likely to attract research funding. The conference organisers hope that this process will establish collaborative research linkages across sectors for addressing these issues.

## Conference format - Roundtables

The conference is in a roundtable format in order to foster innovative ideas, robust debate and practical outcomes for each of the conference themes. Each roundtable session will consist of five discussants and a moderator. The moderator will lead the discussion and participate more fully in the session discussion than a panel chair would in a traditional conference panel. Discussants in the roundtables will not present formal papers, but rather will engage in a discussion or exchange about specific questions and issues arising from a paper prepared by the moderator beforehand and circulated by the organisers to conference attendees. Discussants are encouraged to think about remarks in advance based on the moderator's paper, even if the nature of a roundtable is less formal than a traditional panel. The broader conference participants will also have the opportunity to contribute to the discussion in each theme.

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<sup>1</sup> Fran Humphries, Donald K. Anton, Poh-Ling Tan, Afshin Akhtar-Khavari, Chris Butler & Philippa England, 'Ecological Governance and the Development Plan for Northern Australia' (2017) 32(2) *Australian Environmental Review* 46-50.

## Conference themes

The conference themes will address four significant challenges facing the creation of an effective the legal and policy framework for delivering a rich and robust ecological future for Northern Australia. Those challenges include: 1) fragmented governance, 2) compartmentalised regulation, 3) neglected values in development, and 4) narrow knowledge bases.

### 1) *Fragmented governance*

Current ecological governance is jurisdiction specific (three levels of government plus a range of governance bodies including Indigenous Land Councils, Joint Authorities and Regional Councils). Cooperative federalism and red tape reduction processes have not achieved the **integrated legal governance** necessary to address the cumulative social, economic, cultural and environmental impacts of northern land, sea and resource use.

### 2) *Compartmentalised regulation*

Current regulation is subject-specific and designed to tackle components of environmental management (e.g. water, agriculture, fisheries, mining, and shipping). It does not yet have the capacity to regulate the **cumulative effects** of a wide range of ecological, cultural, social and economic impacts on terrestrial, marine and freshwater environments. These cumulative effects can have a greater impact on the north's ecological long-term resilience.

### 3) *Neglected values in development*

The sectors earmarked for development in the Commonwealth's White Paper include food and agribusiness, mining, energy and tourism. From one vantage point, the White Paper appears to assume that a southern Australian economic and extractive model of development is best for northern Australian land and seascapes without necessary and adequate study of the implications. There is no clear vision of how the **value(s)** associated with the north's unique ecological, and related social and cultural characteristics are to be included in policy formulation. There is no indication of how these values should be protected and enhanced through legal frameworks to support economic development.

### 4) *Narrow knowledge bases for decision-making*

Today's northern land and seascapes have been shaped by thousands of years of traditional knowledge approaches to management and use. Contemporary Australian environmental regulation has largely evolved to accommodate an approach to land, sea and resource management based on scientific world-views. The marginalisation of **traditional and other knowledge** systems in crafting legal frameworks to support economic development limits the range of management and conservation options available to decision-makers and policy and law developers that suit northern ecological, economic, social and cultural characteristics.

## Expected conference outcomes

In addition to planned publications, a main outcome of this conference will be identifying ways to **overcome** barriers to effective environmental governance and regulatory frameworks, and **move** from these **towards** opportunities for more innovative legal ways to secure the north's ecological future.

In relation to the four conference themes, anticipated outcomes will start to address four key questions:

- 1) Theme one: How to move **from** fragmented governance **towards** integrated governance that is capable of addressing the cumulative social, cultural, economic and environmental aspects of northern land, sea and resource use?
- 2) Theme two: How to move **from** compartmentalised regulation **towards** legal tools that have capacity to regulate the cumulative effects of a wide range of ecological, cultural, social and economic impacts on terrestrial, marine and freshwater environments?;
- 3) Theme three: How to move **from** a development model based on the economic priorities associated with apparent southern models of development **towards** political and legal frameworks that are capable of embracing diverse values derived from the north's unique ecological (and related social and cultural) characteristics?;
- 4) Theme four: How to move **from** narrow scientific knowledge bases underlying environmental regulation **towards** an approach to decision-making required by environmental law that is capable of being informed by, and captures, a diverse range of knowledge bases including scientific and Indigenous world-views?

Within these broad questions, each moderator will prepare a discussion paper, with input from the organisers, as the basis for the roundtable discussions. Organisers will send the papers to conference attendees two weeks before the conference.