**THE LAND AND ENVIRONMENT COURT**

**OF NEW SOUTH WALES**

**BANCO COURT**

**THE CHIEF JUDGE**

**THE HONOURABLE JUSTICE B J PRESTON**

**AND THE JUDGES AND COMMISSIONERS OF THE COURT**

**TUESDAY 2 FEBRUARY 2016**

**SWEARING IN CEREMONY OF**

**THE HONOURABLE TIMOTHY JOHN MOORE**

**AS A JUDGE OF THE LAND AND ENVIRONMENT COURT**

**OF NEW SOUTH WALES**

1. **MOORE J:** Chief Judge, I have the honour to announce that I have been appointed a Judge of the Land and Environment Court of New South Wales. I present to you my Commission.
2. **PRESTON CJ:** Thank you, Justice Moore.

(Commission read)

(Affirmations of office taken)

1. **PRESTON CJ:** Justice Moore, I welcome you to the Court, both on my own behalf and on behalf of all of the Judges and Commissioners of the Court. Ms Loukas, do you move?
2. **MS CHRISSA LOUKAS SC, TREASURER OF THE BAR COUNCIL OF NEW SOUTH WALES:** May it please the Court.
3. On behalf of the New South Wales Bar I welcome the appointment of your Honour, Justice Moore, to the Land and Environment Court. The President of the Bar Association, Noel Hutley, has a commitment in another place but he has asked me to convey his sincere congratulations to your Honour.
4. I pay my respects to the Gadigal people, the traditional owners of the lands on which this Court now stands and I acknowledge the attendance of distinguished guests, Members of Parliament, judicial officers and the legal profession.
5. Justice Moore, the planning and environment laws and institutions of this state are imbued with your influence. You are regarded as having a hands-on approach coupled with a formidable and versatile intellect, an intellect which has had considerable impact on diverse areas in this state, be it reforming a bureaucracy, be it legislating to establish an Environment Protection Authority or mediating for the return of ancestral lands to Aboriginal people.
6. Additionally, your contribution to the jurisprudence of this Court since 2002 is considerable; having served as a Commissioner, then Senior Commissioner and Acting Judge your elevation surprised no one and all expect your transition to be seamless. Today your Honour joins a distinguished cohort of former parliamentarians and ministers to be appointed to the Bench. I mention Garfield Barwick, Bob Ellicott, Terry Sheahan and Robert McClelland to name a few.
7. You were elected to the New South Wales Parliament in 1976 while still a law student, graduating with a Bachelor of Laws at the University of New South Wales in 1977. You continued to hold the seat of Gordon until 1992. Your long involvement with the environment portfolio began as shadow minister from 1984 to 1988 and then minister from 1988 to 1992. As I alluded to earlier, your list of achievements in the environment portfolio is considerable. This is quite remarkable given the opposition from those with vested interests. Some people may have erased their memories of public outrage but they were difficult times. Raw sewage was being pumped out on to Sydney’s iconic beaches and people opposed to ocean outfall, POOO, and other groups organised numerous protests against this appalling practice.
8. Your Honour rolled up your sleeves and transformed the Water Board, where once you worked as a labourer, from a monolithic and distrusted statutory body into a state corporation with a commercial focus and environmental responsibilities that met community expectations. Indeed, no element of the Board’s operations was beyond ministerial purview. I am told that you are a keen recreational caver, a fact which is even more remarkable given that your Honour has been described as being the size of a prop forward and that you sometimes took to a canoe to inspect the inner workings of mains sewers.
9. Along the way your Honour became an object of fascination to the media. The Sydney Morning Herald’s Mark Coulton wrote in 1992, “Tim Moore was a rare Liberal, smart, articulate and funny, an environmentalist, the National Party hated him.” Louis Garcia wrote, in 1992 also, “His obvious civil libertarian credentials have not endeared him to some right-wingers who even now believe Mr Moore is something of a closet socialist”. Such comments can be dismissed as banter from another time but, from the perspective of 2016, it is remarkable that a Liberal minister could enjoy the respect simultaneously of both Nick Greiner and Bob Carr. Your Honour was always a man of principle, not petty politics.
10. After your resignation from Parliament in July 1992, your Honour was appointed as Executive Director of the New South Wales Master Builders’ Association. You then went to Canberra to serve as Assistant Secretary of the Aboriginal Reconciliation Branch of the Department of Prime Minister and Cabinet from 1993 to 1996. In this role your Honour was also Secretary to the Council for Aboriginal Reconciliation.
11. Your Honour was admitted to practice at the New South Wales Bar in 1997. You read with Brian Preston, as his Honour the Chief Judge then was, and David Cowan. Your Honour took a room in 4 Wentworth Chambers and practised predominantly in commercial, planning, environmental and building law. Notably, the New South Wales Government appointed you as a mediator to negotiate with traditional landowners for the transfer, leasing and joint management of five national parks. Among them was the 40,000 hectare Mutawintji National Park north-east of Broken Hill which your Honour described at the time as the first of its kind in eastern Australia and the most significant step for reconciliation in this state. Another was the transfer of 253 hectares of Wellington Common to the Wiradjuri people.
12. Your Honour was appointed as a Commissioner of the Land and Environment Court in November 2002. In 2009 you were appointed Senior Commissioner and have twice served as an Acting Judge. Indeed, between June and December 2015 your Honour handed down, by my estimate, 18 decisions in matters ranging from the discharge of oil into Newcastle Harbour, air pollution discharged from a factory in Moorebank, and an offal tower erected without development consent at a chicken farm in Mangrove Mountain.
13. Justice Moore, the jurisprudence of sustainable development is of growing importance to current and future generations. The Land and Environment Court is a specialist court combining the roles of judges and technical experts in innovative ways. The New South Wales Bar is more than satisfied that your knowledge and experience make you eminently suited to the tasks that lie ahead. We wish you every success in this new phase of your career. May it please the Court.
14. **PRESTON CJ:** Ms Wright, do you move?
15. **MS PAULINE WRIGHT, SENIOR VICE PRESIDENT OF THE LAW SOCIETY OF NEW SOUTH WALES:** I do move. May it please the Court.
16. Your Honour, on behalf of the Council of the Law Society of New South Wales with some 30,000 members of the solicitors’ branch of the profession and our President, Gary Ulman, who is prevented also from coming here today due to other commitments, I am delighted to convey to you the sincerest congratulations upon your well‑deserved elevation. I would also like to acknowledge the Gadigal people on whose land we meet today.
17. Born on 8 November 1948 to Sir John Cochrane Moore AC and Lady Julia Moore, your Honour first lived on the North Shore with your parents, your sisters Kate and Jennifer and your brother Michael (who was later to become a Judge of the Federal Court of Australia).
18. I must indulge my interest in history and make mention of your exceedingly interesting legal and literary ancestry. Your father, Sir John, was a respected jurist and President of the Conciliation and Arbitration Commission, while your mother was a prominent West Australian diplomat, one of the three women admitted to the Diplomatic Service in 1943.
19. Your maternal grandmother was the renowned novelist and playwright, Henrietta Drake-Brockman, and your grandfather, Geoffrey Drake-Brockman, was a Commissioner of the Far North-West of Australia.
20. On your father’s side, you are also descended from interesting people: a prominent Presbyterian and solicitor of the Lower North Shore, William Palmer Moore, and his father, Robert White Moore, who was a publican of the oldest watering hole in Sydney, the Fortune of War Hotel (where no doubt many of us have spent at least a few hours in our lives).
21. After finishing at Knox Grammar School your Honour worked as a clerk and an industrial advocate and served in the Citizens’ Military Forces, as the Reserves were then known. Remarkably, as has been mentioned by my learned colleague, at the University of New South Wales you studied on a part-time basis whilst serving as the Member for Gordon, an extraordinary thing.
22. Following your parliamentary career as Minister for the Environment, you took up posts in the senior public service in Canberra, of course before becoming a Commissioner of this Court in 2002 and then becoming Senior Commissioner some seven years later and then an Acting Judge.
23. Around the Court Registry your Honour has been described fondly as something of an “omnipresence” but an incredibly helpful one. Your generosity in sharing your wealth of knowledge to assist the Court staff is described as “invaluable and much appreciated”, with your Honour time and time again providing sound advice, assisting the Registrar on matters of practice and procedure in Court.
24. Your Honour has a reputation as a considerate and compassionate man who made an extremely capable and diligent Senior Commissioner and Acting Judge, and who will make the transition to Judge with ease.
25. A natural mentor, your Honour has distinguished himself as someone who affords close attention to the task at hand and the people around him.
26. Often described as an “action man”, your Honour is determined to achieve the Court’s aim of the just, quick and cheap resolution of the real issues in proceedings despite what you refer to with your characteristic linguistic flair as “the symphony of cash register played by the learned brethren of our fraternity”.
27. An intellectual and voracious reader, your Honour is known to be fond of dropping bricks into ponds, as you have described it. Your Honour is known to read files thoroughly and thoughtfully before the parties arrive. In doing so you have not infrequently identified certain bricks in the case that have escaped the attention of the parties but which, after the ripples in their minds’ ponds have settled, are happily accepted and lead to a mutually agreeable resolution.
28. This is no doubt due to your Honour’s rich background in mediation on which you have written extensively.
29. Your Honour is also legendary for your impartiality but with a manner that manages at the same time to be helpful and considerate to litigants in person and other parties. And litigants in person are of course increasingly frequently coming before the Court. Indeed, with objectors in person I have on more than one occasion witnessed your Honour wrangling dozens, if not hundreds, of objectors successfully (and that is no mean task), at on-site hearings.
30. During the life of the Court your Honour has played a significant role in developing materials for the implementation of the new Trees (Disputes Between Neighbours) jurisdiction of the Court. Your Honour also had a major role in transitioning civil jurisdiction under the Mining Act from the Mining Warden to this Court.
31. I note that as Senior Commissioner you took a year’s leave, not to take a well-deserved holiday in some exotic location but to chair a comprehensive review into the New South Wales planning system, “The Way Ahead for Planning in New South Wales” as it was titled.
32. In contrast with your great-great grandfather’s profession at the Fortune of War, I am told that your Honour partakes of alcohol extremely rarely and is far more likely to unwind with a good book or spending time in the great outdoors. Indeed, your Honour has been designated “a man with no vices”, a charge to which you reportedly responded, “none that I’m telling you about anyway”.
33. Your Honour even abstains from any semblance of a sweet tooth. On one occasion, however, I am told that this got you into some trouble. As an Acting Judge your Honour invited two of the counsel before you that day for a coffee and a biscuit in chambers. Your Associate asked whether she should arrange for biscuits knowing your Honour does not generally have them, “No, don’t worry”, your Honour said cheerfully, “I already have biscuits”. Your Honour then set about preparing your chambers for the guests’ arrival, assorting the biscuits smartly on a plate. After your guests had been and gone you told your Associate, “Counsel didn’t finish all the biscuits so you can have them with the Tippie if you like”. Your Associate approached your desk and saw what seemed to be the very same number of biscuits on the plate, with the exception that one half of one biscuit had disappeared. She could not help noticing that the biscuits smelt a bit odd. Against her better judgement she tasted one. Your Associate relates that it was nothing short of appallingly stale. Your Honour’s lack of a sweet tooth had meant that the biscuits had sat dormant in the cupboard for several years before making it to the plate. Graciously, once informed of the situation, your Honour apologised to counsel from the Bench after lunch.
34. According to your staff your Honour is never one to get work out of the way or complete the bare minimum of tasks: you are always looking for something to do, something to contribute. So averse is your Honour to missing an opportunity to work, even when you are occupied by the steering wheel in the mornings you resort to the aid of your cybernetic scribe, “DragonDictate”. This program is most useful to your Honour as you drive to the station before work, when you are known to dictate to the Dragon at a prodigious rate. Registry staff have learned to anticipate the length of your documents based upon the amount of time you would have spent in the car that morning; given that you live some 80 kilometres south-west of the city centre that is nothing to sneeze at.
35. It is very pleasing, your Honour, that your entire family could be here today: your wife, Leanne, and your youngest children, Emily and Luke, as well as Alex Moore who is studying science at the University of Queensland, and your twin daughters, Ruth Stackpool Moore, who is Director of Litigation at Harbour Litigation Funding in Hong Kong, and Lucy Stackpool Moore, who works in public health as an HIV/AIDS expert.
36. I am told that you and your children are learning the Indonesian language, Bahasa, attending evening classes every Tuesday and travelling to the country frequently.
37. As has been mentioned, your Honour has a keen interest in speleology and bushwalking as well as the world of frogs, portraits of which curiously take pride in your chambers looking over your proceedings.
38. Upon the conclusion of your parliamentary career your Honour declared in the Legislative Assembly, “I have a life to live beyond this Parliament”. What has followed in the almost 25 years since then has represented a fulfilment of those words.
39. Your service to access to justice, the court process, the environment and the public has been nothing short of exemplary and yours is a justly deserved elevation.
40. The professional life that you have been leading hitherto as an Acting Justice will be cemented from this important day to further extend the dedicated and valuable contribution to the people of this state that you have made thusfar. I wish you, personally and on behalf of the solicitors’ branch of the profession, all the best for your time on the Bench and again congratulate you. As the Court pleases.
41. **PRESTON CJ:** Justice Moore, I invite you to reply.
42. **MOORE J:** I acknowledge that we are present on the land of the Eora nation and that its elders, past and present, have and remain the trustees of this land.
43. Ms Loukas, Ms Wright, I thank you for your kind words. I am delighted that my best friend and partner of over 20 years, Leanne, and my five children are able to be here, as is my comparatively recently acquired son‑in‑law. I regret that my daughter Lucy’s partner has not been able to join us from London.
44. I have had the pleasure today of wearing the family jabot worn by my father at the Bar prior to his elevation to the Bench and by my brother, Michael, at the Bar prior to his elevation to the Bench - the remainder of the family robes are even more tattered than my receding hairline and it is not possible or appropriate to wear them in decent company.
45. In 1970, the Beatles sang of “a long and winding road that brought me to your door”. My long and winding road to this door that is opening today started shortly before that with my bushwalking, caving and rock-climbing activities in the 1960s and my first active environmental involvement - joining an organisation known as FIDO, the Fraser Island Defenders’ Organisation.
46. It also occasioned my first political involvement when I wrote to the then Premier of Queensland, the late and unlamented Sir Johannes Bjelke-Petersen, a letter complaining about their treatment of the President of the Fraser Island Defenders’ Organisation. I received a reply signed by an officer of the Premier’s Department with the title Assistant Mailroom Clerk and the letter said, in total, “The Premier has instructed me to advise you that your letter has been received”.
47. From that I have gone on to be supported, encouraged or inspired by six people to whom I wish to refer this morning, two Premiers, two Chief Judges and two ordinary (but each in their own way extraordinary) persons in our community.
48. The first Premier to whom I wish to refer is Nick Greiner who I am pleased is with us this morning. In 1984, as has been mentioned, Nick gave me the task of trying to persuade the world that the Liberal and National parties had a degree of environmental compassion. We used to joke of presenting an aspect to the public that was “warm, dry and green”, meaning socially responsive, economically rational and environmentally responsible.
49. He indulged my idiosyncratic habit of writing my own cabinet submissions after we were elected to government in 1988. He entrusted me with the introduction of Freedom of Information legislation in the state and, when we agreed to introduce fixed four-year terms for the New South Wales Parliament, he sent me to St Mary’s Cathedral to consult what is known as a pascal calendar to ensure that the New South Wales state election (if fixed) would not conflict with Easter at any time prior to 2040, a date by which he was confident after that there would be neither of us present to be dealt with if there was such a conflict.
50. His preparedness to indulge my writing of my own cabinet submissions led to three pieces of legislation of which I am particularly proud. First, the cabinet submission for the Environmental Offences and Penalties Act in 1989 was drafted during a weekend conference in Hobart when I had little else to do, the papers being so boring. The Environmental Trust legislation was drafted over a weekend in Kosciusko National Park, put to cabinet, produced as a bill and introduced to Parliament - taking the trade waste funding away from Sydney Water and putting it into the trust funds. The Managing Director of Sydney Water at the time, Bob Wilson, was not told about the legislation until after it had been introduced to the Parliament and he expressed some consternation but my friend, David Harley, who is here today and was Chair of the Board, was in on the secret in advance and had to share the guilt for doing it.
51. One of the major things that we achieved between 1988 and 1992 was the establishment of the Environment Protection Authority.
52. Nick took the view, which he expressed to me and with which I concurred, that it was necessary to have a strong regulator, an adequately resourced and staffed regulator because, although the Wran Government through Neville Wran and many of its Environment Ministers (including my friend and colleague, Terry Sheahan, who will now become my colleague on the Bench), had done much at the “green end” of the environment during those years, little had been done in what we used to describe as the “brown end” of the environment.
53. Cabinet was an interesting process during those years and there was at least one occasion - my recollection being as to whether or not the EPA should have responsibility for pesticides legislation, a matter of some passionate interest to my bucolic brothers and sisters, when the vote in cabinet, a vote that rarely took place in a formal fashion, was two in favour of the EPA having the authority and 18 against. Fortunately, my second vote was the Premier’s and the resolution was carried.
54. In the late 1980s, I read an article in the Aboriginal Legal Bulletin called Faces in the Stone which dealt with the Mutawintji blockade that had started in 1983 over Aboriginal control and management of important art and sacred sites in the state. Nick agreed to my request that I should be allowed to develop a cabinet proposal for Aboriginal ownership and joint management of such culturally significant sites. I visited Mutawintji. I visited the Mutitjulu community and the Uluru-Kuta Juta Management Board with my then colleague (and still friend), Brad Hazzard, to make sure that the model would work in New South Wales.
55. I then went and talked to the traditional owners of the Mutawintji lands. That brings me to the second person to whom I wish to refer - Badger Bates was an Aboriginal sites officer in western New South Wales when I visited the lands. Badger is a Paakantji man of the Darling River. He sat with me and my children, Lucy and Ruth, at Homestead Gorge in Mutawintji and explained to us the significance of what is the state’s premier rock art site - the only site in New South Wales that has petroglyphs and stencils in the same locality. He explained to me and to my children why that land should be returned to its Aboriginal owners. When I subsequently applied to and worked for Paul Keating as an Assistant Secretary in the Prime Minister and Cabinet Department, Badger was one of my referees and I was and remain proud to claim him as a friend and an inspiration.
56. Shortly before I left the Parliament, I introduced a bill for the insertion of Part 4A into the National Parks and Wildlife Act for the provision of a structure for the return of Aboriginal lands to Aboriginal ownership and joint management. I had some amusement at the time when my friend, Vivienne Ingram, told me that when parliamentary counsel had rung up and asked who the departmental drafting instructing officer was, she took delight in telling them that it was the Minister, “it was his idea, not the department’s, you should talk to him about what he wants”.
57. The second Premier to whom I wish to refer is Bob Carr. Bob did three very important things for me in my ongoing involvement with the environment and with the Court. First, he had the exceptional good taste to ask me whether I would like to be appointed as a Commissioner of the Court which, as history demonstrated, I accepted with alacrity.
58. He appointed me (with the concurrence of Pam Allan) to mediate the hand-back of the Mutawintji lands, a process that extended for over 18 months, one weekend a month. It made me familiar with the concept of conducting mediations on picnic tables (although the mouth of Mutawintji Gorge is a lot more attractive a location than that which we usually use as Commissioners of the Court).
59. During that process, one of the things I had to deal with was the concern that conservation groups had about letting “the blackfellas” have control of the lands. Bob suggested I take a deputation out to meet the traditional owners. I did so and one of the concerns that had been expressed was that the 35 endangered yellow-footed rock wallabies (located at the Coturaundee Nature Reserve - part of the Mutawintji lands) were in imminent danger of being eaten by the traditional owners. This concern was explained to the traditional owners by one of the conservation delegates. A young man of the traditional owners said, in a very articulate but short speech, that there was absolutely no way they would ever eat a yellow-footed rock wallaby - pointing to the yellow-footed rock wallaby that was on the Local Land Council’s insignia. In a bit of a “come in spinner”, expecting that there would be a description of some deep spiritual significance of the yellow-footed rock wallaby, a senior conservation representative (who I choose not to name) enquired why this was the case. The young man said, “They taste terrible!”.
60. The second thing of a practical functional nature that Bob did was to invite me to mediate the Wellington Common native title dispute, something to which I will return. Both the Mutawintji and Wellington Common mediations demonstrated that, with goodwill and sensibility, there can be an accommodation between Aboriginal interests and European interests in land management.
61. I turn now to the first of the Chief Judges to whom I wish to refer, Peter McClellan.
62. He did three things that were of critical importance, one to me personally and the others to the Commissioner cohort of the Court of which I was then one.
63. First, he stepped us away from the old “yes or no” attitude to merit applications - suggesting that we should decide matters on the basis of the “best community outcome” and what I have subsequently written about as the “amber light” approach. He also introduced for our Court (and now throughout the civil courts processes), a practice adopted of concurrent evidence - a little, as some have remarked, like herding cats - but a process that has saved vast amounts of time and money and indeed the requirement to balance what might otherwise be competing positions where resolution can be resolved through that process.
64. The other thing that he did happened when I asked him why there was no publication on Caselaw of the decisions of Commissioners of the Court. He thought about it and said “do it” and that led me to negotiate with the Caselaw team and then publish a case (in which in the first instance Ms Wright’s firm was involved), *Ralph Betts v Gosford Council* [2003] NSWLEC 217, and Ms Duggan was counsel in the matter, (perhaps she would not like me reminding her of it as he was not successful on that occasion) but it was the first case published on Caselaw of a Commissioners’ decision.
65. The second Chief Judge to whom I wish to refer is sitting immediately on my left - a position, at least ideologically, that some might dispute - but nonetheless I am pleased to refer to what he has done, both for me and for the Commissioners of the Court generally.
66. First, of course, I should compliment him on his extraordinary perspicacity and wisdom in his recent recommendations to the government for appointment of acting judicial members and judicial members of the Court.
67. However, he has, over the past years, introduced a number of major reforms (within the concept of a multi-door courthouse for this institution) that have had a significant impact on and improvement to the processes of the Court.
68. The resurrection of the conciliation conference process; national mediation accreditation for Commissioners; the use of Commissioners to mediate civil enforcement proceedings and to hear compulsory acquisition compensation cases and the like has radically changed the nature and challenges for the Commissioners of the Court.
69. For me personally, I had the pleasure of reading with his Honour when I came to the Bar as a late vocation. I have to confess to him (now that it is too late for him to change his mind), that about the only thing that I can remember was developing a detailed technical understanding of the need for (and design of) roll-over cross-over drains on forestry roads on the north coast of New South Wales, something that I have not needed to go back to in the intervening period of time.
70. The transition to the trees jurisdiction, the mining jurisdiction and the like have been major changes in the work of the Commissioners of the Court and they have given me and my now former Commissioner colleagues many opportunities to expand the jurisdiction and, particularly in the tree jurisdiction, to do something that courts do not often get to do – which is dispense justice rather than merely apply the law.
71. The last individual to whom I wish to refer was in many ways a most extraordinary person. Nick Greiner gave me the opportunity to meet two towering figures of the late twentieth century in different circumstances, Nelson Mandela and Simon Wiesenthal. The third figure to whom I would add, in an entirely different way, is a woman named Rose Chown.
72. Seventeen days after the Native Title Act was enacted, Rose lodged the first claim, a claim on behalf of the Wiradjuri Wellington Town Common Committee for the return of Wellington Common.
73. Rose was a Wiradjuri woman of the Macquarie River country. She lived and was raised on Wellington Common in a corrugated iron two-roomed dwelling with an earth floor. She was, in her employment, a cleaner at Wellington Hospital but she had a vision for the return of the Common to her people where her people had been pushed out to live in corrugated iron dwellings with earthen floors some 30 or so years earlier. Rose was a humble but determined woman.
74. I have had the advantage of many capable, determined and intelligent women in my life - my mother, my sisters, my wife and my daughters amongst them - but Rose stands out for her determination and drive to seek justice for her people.
75. Bob Carr and Andrew Refshauge asked me, five years after the claim had been lodged and when no progress had been made on it, to see whether I could mediate.
76. There were five parties to the mediation and, when I first sat down with the officers of the Department of Aboriginal Affairs, I discovered that there were problems for each of the five parties.
77. The Department thought that rendered a mediation impossible. I said, to the contrary, if everybody needs to get something out of it, there is a chance to achieve what needs to be done. A year or so later, again after spending weekends wandering around Wellington Common (at one stage, Andrew Refshauge, who was then the Minister for Aboriginal Affairs, and I had to take a sledgehammer and surveyor’s pegs out and ourselves peg out a line on the Common that had been agreed to by the parties), I had the pleasure of attending a ceremony at which Andrew committed to returning the Wellington Common as freehold title to the Wiradjuri women.
78. Although the Native Title Act and Aboriginal Land Rights Act processes took a further seven years, I had great pleasure in 2007 in attending at Parliament House when the then Minister for Aboriginal Affairs handed the title deeds over to Rose.
79. All stories, however, do not end happily. Rose died - with her death leaving an unfulfilled vision for what she sought for her people from Wellington Common.
80. Rose died because of the unfortunate fact that, in our society, the life expectation of Aboriginal people is less than of those of us with European heritage. She died with an unfulfilled vision but a vision that demonstrated that, over the years, there is an ability of the system to deliver some justice to those who are disadvantaged in our society.
81. In conclusion, Chief Judge, the narrowing of the spectrum of predictability in merit decisions in the Court over my now 13 years as a member of it; the quality of the Commissioners’ decision writing; and the Court’s capacity to adapt to new rules (such as the trees disputes, mining disputes and, in future, the dealing with the changes to the strata plan laws) means that, after 35 years, the Court (as a combination of the Judges and the Commissioners) continues to adapt and refresh itself and remains as relevant now as it was when it first commenced. It has been and remains an honour to serve as one of its members.
82. Finally, I would like to thank your associate, Chief Judge, and my associate for arranging today’s function and that which will follow.
83. **PRESTON CJ:** The Court will now adjourn.