

## Indigenous land and sea management

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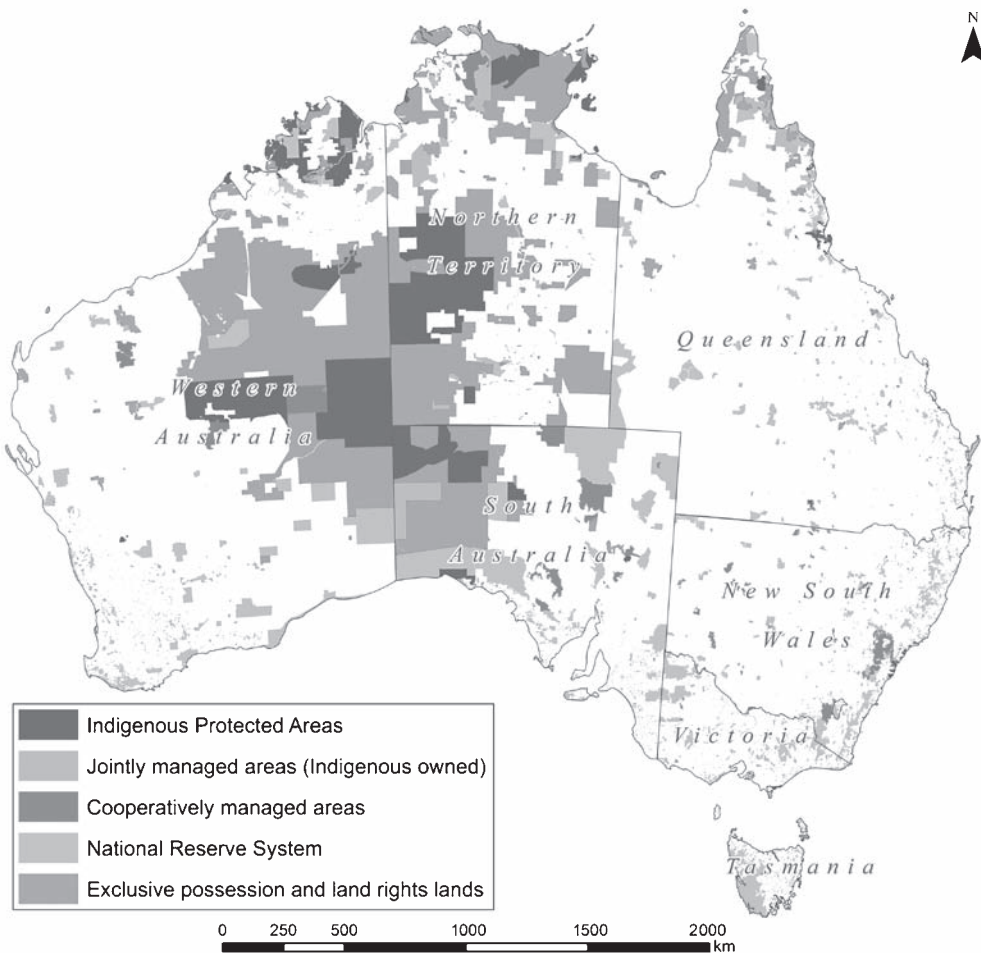
1. Recognise the size and environmental significance of Indigenous-owned lands.
2. Respect the UN Declaration on the Rights of Indigenous Peoples including those articles that call for recognition of Indigenous rights in lands and resources.
3. Recognise that customary natural resource management is a legitimate basis for joint management of protected areas.
4. Recognise that Indigenous landowners need assistance to manage historical and emerging postcolonial threats to their ancestral lands and waters.
5. Recognise Indigenous customary marine tenure and aspirations to manage sea country.
6. Respect the contributions that Indigenous and local knowledge can make to address environmental problems and equitably resource Indigenous knowledge production and reproduction and exchange with Western science.
7. Equitably resource the investment deficit in management of Indigenous-owned lands.
8. Recognise Indigenous property rights in existing and emerging natural resource markets.
9. Resource Indigenous aspirations to live on country to ensure a peopled and managed landscape.
10. Resource research and action planning to assess and improve the cost effectiveness and sustainability of Indigenous management regimes.

### Introduction

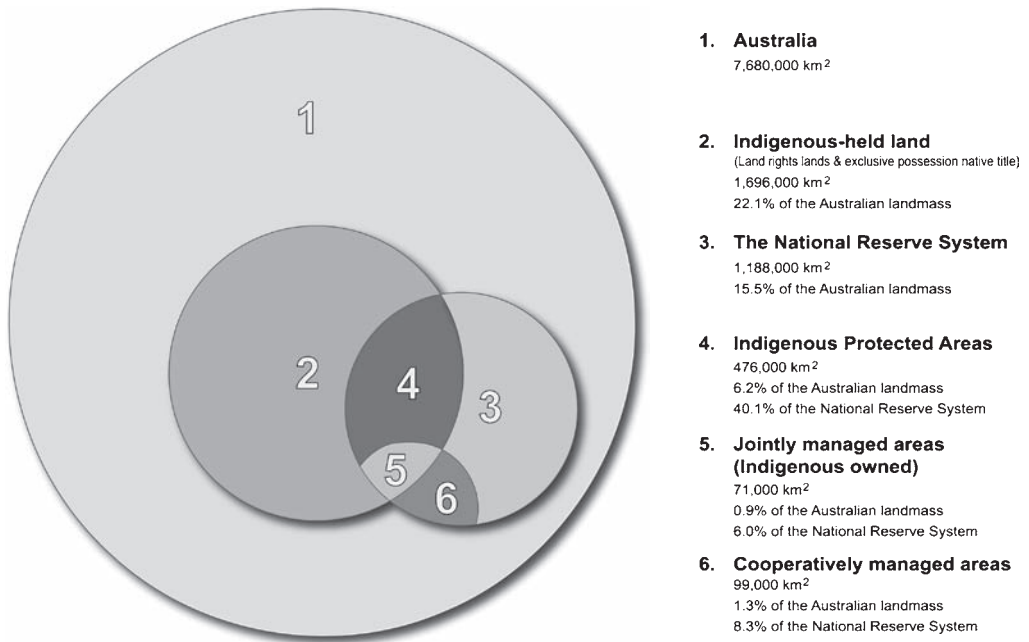
Australians are increasingly responding to national issues of climate change, water shortage, biodiversity loss and ecological sustainability: carbon pollution reduction and management of fresh water in the Murray–Darling Basin have been high profile, hotly contested political issues. What remains poorly understood is that more and more land is coming under Indigenous ownership and management and that these lands are among the most environmentally intact across the Australian continent. Given their substantial land holdings and traditions of resource management, Indigenous people will have a growing role to play in tackling national and global environmental challenges and finding solutions in both the Indigenous and national interest. This fact needs urgent recognition.

Recent research by Altman and Markham (2013) using official data and GIS techniques indicates that, with land rights and native title laws, there has been a rapid restitution of land ownership to Indigenous traditional owners. It is estimated that today, just over 20% of the Australian land mass is held under exclusive possession native title or land rights regimes, while non-exclusive (shared) native title has been determined over a further 10% (see Fig. 22.1). With 326 registered native title claims still to be determined (at 30 June 2013), it is inevitable that Indigenous land ownership will continue to grow beyond the 31% of the continent it currently covers. Other areas of environmental significance include national parks that are jointly managed with the active involvement of Indigenous people. Since 1996, 60 Indigenous Protected Areas (IPAs) have been declared over Indigenous owned land; these areas now comprise 40% of the Australian terrestrial conservation estate (see Fig. 22.2). Over 30 other areas of environmental significance that are subject to Indigenous institutions of ownership and management are proposed IPAs.

If one overlays the latest resource atlas maps over a template of Indigenous lands, it is very apparent that they include some of the most biodiverse terrestrial and aquatic



**Fig. 22.1** Indigenous-owned lands and protected areas, August 2013 (Source: Jon Altman and Francis Markham, The Australian National University).



**Fig. 22.2** Relationship between Indigenous owned lands and the National Reserve System. (Source: Jon Altman and Francis Markham, The Australian National University).

environments in Australia. Many of the nationally important wetlands, riparian zones, forests, reefs, rivers and waterways are located on Indigenous lands. Mapping also shows that these lands are at risk of species contraction and face major threats from feral animals, exotic weeds, changed climatic and fire regimes, pollution and over-grazing (Altman *et al.* 2007). The latest available climate science suggests that with global warming, substantial negative biodiversity impacts on this crucial part of the continental landmass and adjacent offshore areas are inevitable (see Chapter 23). The national policy approach needs therefore to carefully consider the potential benefits from supporting Indigenous efforts to ameliorate threats and minimise or avoid degradation of their lands. This proposition is based on the recognition that resource management effort is much less expensive and more effective than environmental restoration.

Paradoxically, this vast land ownership coincides with high levels of Indigenous poverty and disadvantage that are among the most persistent and intractable challenges facing the nation. The Indigenous population is heterogeneous and lifestyles are diverse. Although the majority of Indigenous people reside in urban settings, the substantial numbers resident in rural and remote Australia face immense and unique challenges. Support for environmentally beneficial relationships with country could make important contributions to reducing the vast differences in social outcomes between Indigenous and non-Indigenous Australians.

The last 40 years has seen what could be termed a land-titling revolution as Indigenous interests have successfully managed to attain recognition of their prior ownership of the continent, mainly in remote Australia where Aboriginal reserves were located and unalienated crown land was available for claim (Holmes 2010). But nowhere is this land in pre-colonial ecological condition and everywhere it faces a range of post-colonial threats, especially from

invasive plants and exotic feral animals. Australia is now entrenched in an era of land and resource challenges and it is imperative that effective environmental management regimes and resource strategies are implemented in partnership with Indigenous communities.

Support for Indigenous land management has escalated in response to these challenges and opportunities, especially with the establishment by the Howard Government of the Working on Country program that now sees 83 Indigenous ranger groups employing ~700 rangers Australia-wide. There is documented evidence of enhanced state investments in Indigenous land management, up from an average 1.3% of the environmental management budget in 1992–97 to 20% in 2010–12 (Hill *et al.* 2013). But these enhanced investments have not managed to keep pace with growth in Indigenous participation in natural resource management, let alone with aspirations for participation as evidenced by the backlog of over 30 IPA consultation projects alongside a government commitment to their rapid increase. This indicates that there is an ‘investment deficit’ in managing Indigenous-owned land, putting at environmental risk over one-fifth of the country and exacerbating the potential for adverse spill-overs, particularly to adjacent conservation and private lands. There is also a possibility that existing IPAs will lose funding and capacity as available but relatively fixed financial commitments are shared with newly declared IPAs.

This chapter promotes the following four principles:

- (i) The **social justice principle** that the ownership of land should benefit Indigenous people in accord with their aspirations. It is recognised that aspirations are diverse – not all Indigenous people want to be land managers and conversely not all want to work in mines or tourism or migrate to mainstream employment. Indigenous land-owner aspirations in relation to land management need to be clearly heard through appropriate forms of representation and parity of participation in environmental decision making.
- (ii) The **funding equity principle** that Indigenous people should be remunerated equitably from the public purse for land and resource management undertaken in the public interest. Furthermore, when land is successfully reclaimed in degraded condition or facing major threats, there is a moral obligation sanctioned by the UN Declaration on the Rights of Indigenous Peoples to provide compensatory funding to allow landowners to attempt to restore its environmental condition as best possible and to avoid future degradation. In 2009, the Australian Government belatedly endorsed the UN Declaration. Articles in the Declaration call for states to provide compensation where traditional lands have been damaged without the free prior and informed consent of owners.
- (iii) A **national interest principle** that it is for the benefit of all Australians to ensure that natural and cultural landscapes are maintained and well managed because they deliver crucially important ecological services, such as clean water and fresh air. For example, a large proportion of Australia’s pristine rivers are bounded by Indigenous lands – their maintenance will require effective management of the riparian zone to protect them from threats such as exotic weed infestations and wild fires.
- (iv) A **cultural difference principle** recognising that many Indigenous people have a different ontological relationship to a landscape that is sentient, imbued with both ancestral beings and their ancestors. Many who live on the land believe that their environmental relationships and philosophies are essential to cultural vitality and resilience, as well as underpin social and economic wellbeing. Current environmental policy tends rhetorically to promote recognition and protection of Indigenous cultural

values. However, a dominant western view of management has often resulted in the exclusion of Indigenous practices and values from conservation and natural resource management institutions. The most direct and enduring means of embracing, protecting and enhancing cultural values is through ensuring access to country and the equitable participation of Indigenous people in a suite of management activities.

We bundle these principles into an overarching framework that deploys Fraser's (2009) three dimensions of social justice: **recognition** of land and resource rights; **redistribution** of resources to reflect that Indigenous-owned lands comprise a rapidly growing share of the National Reserve System; and **representation** to ensure that there are institutional means established to provide minority Indigenous perspectives effective voice.

## Key issues

### 1. Recognise the size and environmental significance of Indigenous-owned lands

Indigenous-owned lands, mainly in central and northern Australia, have very high biodiversity value and much of it is contiguous and ecologically co-dependent with National Reserve System lands. An early review of the National Reserve System concluded that the inclusion of Indigenous lands in remote Australia was critical to establishing a system that is comprehensive, adequate and representative of the full range of ecosystems (Thackway *et al.* 1994). In the last decade, most land added to National Reserve System has been Aboriginal owned and is managed as Indigenous Protected Areas.

### 2. Respect the UN Declaration on the Rights of Indigenous Peoples including those articles that call for recognition of Indigenous rights in lands and resources

The UN Declaration on the Rights of Indigenous Peoples contains several articles (e.g. 25, 26 (1), 26 (2)) that refer to Indigenous resource rights. Of special significance are assertions that Indigenous people have property rights in their traditional resources and that it is incumbent on states to ensure that legal institutions recognise such rights. There is also reference to due compensation when resources have been damaged or used without the free prior and informed consent of owners, and a legal obligation to protect resources. There is heightened potential for international law to influence domestic environmental law and policy and, although the UN Declaration is not legally binding in Australian domestic law, since the passage of the *Human Rights (Parliamentary Scrutiny) Act 2011*, there has been increased reference to it in Australia. Indigenous advocacy organisations such as the National Congress of Australia's First Peoples frequently operate at a supranational scale by deploying articles in the Declaration in a new 'inter-mestic politics' (Fraser 2009).

### 3. Recognise that customary natural resource management is a legitimate basis for management of protected areas

To advance Indigenous recognition and protection of 'natural values' according to a protected area model of conservation, governments also need to recognise and protect Indigenous values and objectives on lands where Indigenous ownership and connection have been disrupted. This can be achieved through the restoration of Indigenous land management practices under joint management arrangements.

Australia aimed to match world best practice in protected area management by encouraging all levels of government to set a goal of negotiating consent agreements with the appropriate Indigenous groups for the management of all existing protected areas by 2013, the date of the recent World Parks Congress. Bauman *et al.* (2013) indicate that this aspirational goal has not been achieved.

#### **4. Recognise that Indigenous landowners need assistance to manage historical and emerging postcolonial threats to their ancestral lands and waters**

Although Indigenous lands are relatively environmentally intact, they face numerous challenges, many from introduced pests. Managing remote locations constitutes one of the nation's most significant land management challenges (Altman and Whitehead 2003; Altman 2012). Most Indigenous owners are socio-economically disadvantaged and lack financial and other capacity to independently deal with the myriad of current and future threats and to restore degraded ecosystems. There are now at least three studies that show Australians are willing to pay more to support Indigenous natural resource management (Zander 2013), but governments have been slow to react to such sentiments.

#### **5. Recognise Indigenous customary marine tenure and aspirations to manage sea country**

Australia has some of the most diverse, unique and spectacular marine life in the world. Indigenous groups in many of these rich (and often remote) environments regard the sea, islands, reefs, sandbars and seagrass beds as an inseparable part of their terrestrial estates and have an extensive knowledge of environmental zones in the coastal and marine environment (Jackson 2004; Barber 2005). Through sea claims and the strategic activities of local land and sea management agencies, coastal Indigenous communities are seeking a primary role in the use and management of marine and coastal environments and resources.

Marine management requires restructuring to allow for two things: Indigenous economic engagement in the commercial fishing industry; and the co-management of Australia's maritime jurisdiction alongside Indigenous systems of governance and management. This step would serve as a means of settling the many claims to sea, inter-tidal zone and estuaries and islands and aquatic living resources that remain unresolved despite the High Court Blue Mud Bay decision of 2008 that recognised that the Aboriginal terrestrial estate extended to the low water mark in the Northern Territory. The management implications of the recent (August 2013) High Court judgment in the Torres Strait Regional Sea Claim (Akiba) recognising non-exclusive native title commercial fishing rights will be of significance. Sufficient resources are needed to support the environmental protection and stewardship activities of management groups, such as coastal surveillance, marine debris and ghost net clean-ups, and threatened species management.

#### **6. Respect the contributions that Indigenous and local knowledge can make to address environmental problems and equitably resource Indigenous knowledge production and reproduction and exchange with Western science**

Indigenous natural resource management practice is shaped by culturally specific systems of knowledge, historical association, practical experience and social institutions such as property rights. The rapid growth in grass-roots Indigenous initiatives in recent years has

seen the emergence of partnerships between Indigenous experts and western-trained scientists in many parts of Australia (Altman and Kerins 2012; Russell-Smith *et al.* 2009). Indigenous knowledge – values, beliefs and specific content – may help improve current understanding of critical ecological processes, as well as offer insights into ethical and normative dilemmas facing consumer societies in the quest for sustainability (Fischer *et al.* 2007; Weir 2009).

However, quite clearly environmental changes require new approaches. There is an urgent need to negotiate new systems and practices to allow the engagement of divergent knowledge systems in natural resource management research and practice (Ens *et al.* 2012).

There is also a need for programs to conserve Indigenous languages now given additional support under the new Australian Cultural Policy, and support youth education and other social practices that validate and transfer Indigenous knowledge across generations. While a pilot Learning on Country (junior ranger) program is under way, there is still an urgent need for inclusion of Indigenous ecological knowledge in school curricula. Indigenous land management agencies require digital technologies (e.g. geographic information systems) and the capacity to record, codify and integrate different forms of Indigenous and Western scientific knowledge. There is also a pressing need to ensure stronger intercultural governance of resource management organisations in accord with both customary and western accountability criteria (Hunt *et al.* 2008; Muller 2008). Addressing this last challenge will require a major effort. However, the potential significance of Indigenous contributions to the sustainability challenge could well spearhead broader innovation in Indigenous and environmental policy reform.

## **7. Equitably resource the investment deficit in management of Indigenous-owned lands**

There is growing recognition of an investment deficit on Indigenous-owned lands (Altman and Kerins 2012). A recent review of Indigenous land management in Australia (Hill *et al.* 2013) highlights that this is still a problem as a rapid growth in resource commitments cannot keep up with a far more rapid growth in the acreage brought under Indigenous environmental management regimes.

Indigenous landowners and residents are currently delivering a suite of environmental services such as weed control, fire management, coastal surveillance and bio-security. Until May 2007, this work was mainly supported by equivalents of welfare entitlement paid under the Community Development Employment Program (CDEP). From 2007, the federal government introduced a new Working on Country Program to fund ~700 salaried positions to 2012. But these more formal arrangements have been at the expense of earlier flexible and community-controlled programs that accommodated diverse local circumstances. And publicly funded jobs also increasingly give primacy to external priorities in assessing management and performance rather than deploying local measures of success. There is a need for multiple forms of funding support and models for outcome evaluation that reflect both Indigenous and non-Indigenous priorities.

## **8. Recognise Indigenous property rights in existing and emerging natural resource markets**

There is political debate and often protracted legal conflict over Indigenous access to natural resources such as fisheries, evident in High Court cases such as Blue Mud Bay in the Northern Territory and the Torres Strait Regional Sea Claim. Such conflict could be

avoided if Indigenous property rights were legally recognised in both existing and emerging natural resource markets in fisheries, freshwater, carbon and biodiversity offsets. Legal recognition would offer Indigenous landowners the opportunity to trade in the provision of environmental services, many of which are compatible with other aspirations and promote desirable environmental outcomes. Changes need to be made to resource policies to provide clarity of property rights and to assist with the establishment of institutional arrangements to deliver benefits and investment in environmental objectives. The establishment of an Indigenous Carbon Fund to enhance engagement in abatement and sequestration opportunities under the Carbon Farming Initiative is an option being pursued by several Indigenous companies.

### **9. Resource Indigenous aspirations to live on country and to ensure a peopled landscape**

There are over 1000 small Indigenous townships and homelands/outstations located on Indigenous-owned land, mostly in remote Australia. There has been poorly informed debate in recent years about the economic viability of these small communities (Altman 2012). With the 'land titling revolution', Indigenous people are exercising aspirations to live on the land they now legally own. There is growing recognition that occupied landscapes are essential for the effective management of Australia's environment (Altman and Kerins 2012). Appropriate support of outstations is central to cost-effective Indigenous natural resource management delivery (Luckert *et al.* 2007). The restoration of sustainable settlement patterns on Indigenous-owned land could enhance Indigenous social wellbeing and health status (Burgess *et al.* 2009), while also improving the nation's environmental management capacity.

### **10. Resource research and action planning to assess and improve the cost effectiveness and sustainability of Indigenous management regimes**

There is only limited research that assesses the cost effectiveness of different tenures and management regimes (Woinarski *et al.* 2013), and the contributions that Indigenous people make to meeting national and international conservation goals. To enhance the environmental management capacity of the Indigenous population, additional research is urgently needed that encompasses both Indigenous and non-Indigenous perspectives on effectiveness that include environmental, economic and socio-cultural costs and benefits.

## **Conclusion**

Indigenous Australians are owners and environmental managers of a very significant and growing portion of the Australian continent. Much of this land is still environmentally intact and abuts or forms a part of the National Reserve System. At a time of growing national awareness about issues such as climate change, water shortages, environmental degradation, ecological sustainability and about Indigenous disadvantage, there are clear opportunities to enhance Indigenous engagement in land and sea management. This is a particular form of Indigenous economic development that is somewhat different from Closing the Gap initiatives that seek to integrate Indigenous people into the mainstream in the quest for statistical equality.

Active engagement in 'caring for land and sea country' accords with the aspirations of many Indigenous people to live on their ancestral lands and to be actively engaged and



adequately remunerated for land and sea management work. Such activity, if realistically resourced, should generate local, regional, national and global environmental and other social benefits. But realism suggests that such livelihoods will be generated in Indigenous hybrid economies that engage with customary, market and state sectors simultaneously rather than in forms of economy that selectively overlook customary forms of work organisation and performance on country and the human capital embedded in Indigenous knowledge systems.

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