# Indigenous Governance of Development in Australia: Sustainability, Innovation and Self-Determination

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**Dr Diane Smith**
Senior Research Fellow,
Assoc Dean (Education/Research) and
Higher Degree Research (HDR) Program Manager
National Centre for Indigenous Studies
The Australian National University
Acton ACT 2601
Australia
Ph: +61 (0)2 6125 0160
Email: Diane.smith@anu.edu.au
Web: http://ncis.anu.edu.au/

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> *The challenge for traditional owners, like the Yawuru, is how do we, as a people, leverage our native title rights so as to promote our own resilience and reliable prosperity in the modern word?*
> (Senator Patrick Dodson, presentation on Yawuru Native Title and Development to the 'Indigenous Common Roots, Common Futures Workshop', University of Arizona, Tucson Arizona 2012).

> *Governance is not just a matter of service delivery, organizational compliance, or management. It is about the self-determining ability and authority of clans, nations and communities to govern: to decide what you want for your future, to implement your own initiatives, and take responsibility for your decisions and actions.*
> (David Ross, Central Lands Council Director, presentation to the 'Strong Aboriginal Governance Summit', Tennant Creek, Northern Territory, 2013).

## Background to the big issues

Australian Aboriginal and Torres Strait Islanders (also referred to as Indigenous peoples) currently face a number of major development challenges. Some arise from the socioeconomic conditions of their communities and lands; for example, Australia is among the world's wealthiest countries, yet Indigenous Australians are its poorest citizens. Their poverty is not only deep and widespread but persistent, defying policy prescriptions. Research indicates they continue to have high rates of unemployment, early mortality, a high reliance on welfare transfers, alongside lower levels of income and education relative to other citizens of Australia (Australian Government 2019; Biddle 2019). The Indigenous population is also increasing at a faster rate than other citizens, so that young families are forming more quickly. The implication, from this viewpoint, is that levels of Indigenous socioeconomic disadvantage may remain unacceptably high without sustained development.

Other development challenges are actually the products of success. An increasing number of Indigenous groups across Australia have secured valuable rights and interests in lands, waters, cultural heritage, resources and intellectual property, enabling them to establish enterprises with external stakeholders, negotiate major resource development agreements, and extend the bases of their jurisdictional authority (see Figures 1 and 2).

**Figure 1. Indigenous Land Use Agreements in Australia, 2019.**



**Figure 2. Indigenous Estates and Claim Determination in Australia, 2019.**

There is a small baseline of field-based international and national research with Indigenous peoples (see for example, Dodson & Smith 2003; Harvard Project 2008; Hunt et al 2008) suggesting that having effective governance is arguably a powerful predictor of success in sustaining socioeconomic development. The implication is that effectively governing development may have direct impacts on the well-being and cultural vitality of Indigenous Australians. As a consequence, Indigenous Australians face the daunting challenge—in the ongoing context of a settler colonial nation state—of determining how best to govern their assets in order to secure tangible outcomes from development that make life better in ways they desire. The need to attract capital, to move from welfare dependence to productive economic activity, to build relationships with other economic actors and deal with other jurisdictions, to persuade their own citizens to remain in community and invest time, energy and ideas there, even the effort to expand or revive subsistence activities—all of these are requiring Indigenous Australians to reconsider their own governance structures and related capabilities. The result is that the issue of governance has joined development near the top of some First Nations' lists of concerns. Moreover, the additional challenge in this is not only to gain more control over their own development agenda, but to find ways to make control meaningful within their own cultural contexts.

At the same in Australia, there has long been a mismatch between Indigenous group's own political and economic agenda, and those of the nation state and its governments *for* them. Indigenous goals have tended to focus on getting recognition of their collective cultural identities, land and resource rights, and maximising their self-determination and self-governance over those. While the state's responses and objectives have focused on socioeconomic integration, improving service delivery to overcome disadvantage, and pushing the transformation of collective rights into individual property rights to suit Australia's market economy. National and state governments have been reluctant to address Indigenous self-determination; they instead address Indigenous disadvantage and poverty. From their perspective, development is cast as an economic necessity in which matters of 'culture' and 'collective identity' are often posed as obstacles and deficits to be overcome. But what if the two are connected? What if self-determination and self-governance are essential elements in overcoming indigenous poverty and disadvantage? And what if Indigenous culture and collective identities are critical to providing robust bases for generating and sustaining improved outcomes from development?

At the moment, there are major gaps in our knowledge about these possible connections, which hamper practice solutions and outcomes. In particular, how can longer-term genuine improvements in development outcomes be achieved: outcomes that have credibility and deliver real changes in the conditions of people's lives that Yawuru leader, Senator Patrick Dodson, refers to above? And what constitutes 'effective' governance and 'sustainable development' for Indigenous Australians? These matters are hotly contested. Yet, while stories of disaster and deficit still dominate many public discussions of Indigenous issues, new stories of Indigenous resourcefulness and resilience are surfacing.

**The Indigenous Governance of Development (IGD) Project**

A new multidisciplinary national research project in Australia — the *Indigenous Governance of Development: Self-determination and Success* — has commenced its initial design phase in 2019 and will begin targeted fieldwork in 2020 for a four-year period to investigate precisely these questions. The applied research project is primarily Indigenous led, comprising a collaboration between the Australian Indigenous Governance Institute ([www.aigi.com.au](www.aigi.com.au)), researchers from the Australian National University and University of Western Australia, six Indigenous First Nations partners across the country. At its heart, the IGD project is exploring Indigenous understandings and practices of 'sustainability', 'development' and 'governance', and how their intersection is determining local priorities and outcomes. This paper presents an early overview of the Indigenous initiatives being undertaken by the six Indigenous partners and the kinds of innovations they are making to governance in order ensure it is fit for their development purposes. A national survey of the 500 Indigenous applicants to the *Australian Indigenous Governance Awards* (IGA) will contextualise the regional findings.

The United Nations Development Program (UNDP 2009) agrees that governance is at the heart of sustainable human development and is a prerequisite for effectively responding to poverty,

environmental and social concerns. *The United Nations Declaration on the Rights of Indigenous People 2007* further places informed consent and self-determination as key to Indigenous governance and development outcomes. The project aims to investigate what this means in practice, testing the small literature base that proposes a link between exercising effective and culturally legitimate Indigenous governance, and securing improved socioeconomic outcomes (for Australian research see Bauman et al. 2015; Hunt et al. 2008. For international research, see Blaser et al. 2004; Harvard Project on American Indian Economic Development 2008; Riggirozzi and Wylde 2018).

The objectives of the project are multiple and applied—to make the research count on the ground. The first aim is to examine what 'development' itself means to Indigenous Australians in their diverse contexts. What development priorities and outcomes are groups pursuing at different scales, and why? A closely related second aim is to examine how they are designing and implementing collective governance to attain a self-determined development agenda. The issue here is whether different modes of governance enable or impede the equitable and inclusive participation of members and achievement of outcomes. The third aim is to identify gender, age and generational factors that intersect with governing development. For example, how do young Indigenous women and men participate and express their voices? How are governing capabilities transmitted intergenerationally? Given development priorities and goals can change over time, the fourth aim is to identify Indigenous innovation and experimentation in designing governance solutions to be adaptive and 'fit for purpose'. Understanding how Indigenous groups self-evaluate these aspects of governance performance is the fifth aim. Here, we are considering consider what constitutes valid and meaningful principles or descriptors of 'effectiveness' and 'success' for Indigenous peoples. A linked sixth aim is to examine the data and intellectual property strategies which Indigenous groups are using to make informed decisions and self-evaluate how they govern development. The project hypothesis is that causal consequences operate in both directions: i.e., practically effective, culturally legitimate governance generates development and outcomes, and success in securing development outcomes reinforces governance confidence and reputation.

There is considerable debate about what 'governance' means for whom, and what constitutes 'good' or 'poor' governance (de Alcantara 1998; Hunt et al. 2008; Kerins 2013; Smith 2005). And there is equally heated debate about what constitutes 'development' and from whose perspective (Altman and Kerins 2012; Bulloch 2018; Cowen and Shenton 1996; Sachs 1992; Scambary 2013). These debates are particularly pertinent in intercultural contexts. Recently, a global Indigenous debate has been questioning the development concept's colonial legacies and implicit acceptance of particular kinds of economic growth at the expense of Indigenous modes of development and cultural priorities (Escobar 2008; UNPFII 2016; Yarrow 2008). The same can be argued for the colonial legacies implicit in the concept of governance.

The IGD project builds on national and international research. Over the period 2002-07, a pioneering 'Indigenous Community Governance' (ICG) research project investigated the cultural foundations of Indigenous governance in Australia. That earlier research identified core 'design principles' underpinning Indigenous cultural modes of governance (Hunt et al. 2008; ICG Project 2006). It concluded that deeply held Indigenous cultural parameters, combined with the surrounding 'governance environment' and the 'governance of governments', significantly shape the effectiveness and legitimacy of contemporary Indigenous governance arrangements. Those findings expanded on international research, notably the Harvard Project on American Indian Economic Development (2008), which linked governance effectiveness to its institutional 'cultural match'. Since then, researchers in Australia have examined local circumstances and sector-specific parameters (for example, Howard-Wagner et al. 2018; Moran and Elvin 2009; O'Faircheallaigh 2018; Scambary 2013; Sullivan 2011). Yet research has struggled to systematically track and comparatively analyse how Indigenous groups across the country are designing and exercising governance at the intercultural interface (Nakata 2007) of development. The IGD project aims to address this gap.

**The need for an integrated theoretical and conceptual framework**

Much has been written about the concepts of self-determination, governance and development, including their Indigenous forms. The IGD Project employs an integrated theoretical and conceptual framework to identify the intersecting institutional, structural, cultural and socioeconomic factors at play in the Indigenous governance of self-determined development. For the purposes of this paper and our project, these core terms are defined in the following way:

*The concept of self-determination* is informed by the UNDRIP principles. Accordingly, our working definition of self-determination is the right of Indigenous Australians to freely determine, make decisions about and assume responsibility for their political status, their economic, social and cultural destiny, and what takes place on their lands, in their governing systems and development strategies (Davis 2011: 79). In this we follow Mera Penehera et al. (2003) who describe self-determination as 'having meaningful control over one's own life and cultural well-being'. In other words, it does not refer simply to self-administration or the self-management of programs or service delivery controlled by outside authorities. In exploring this concept we are particularly interested in how self-determination is created through the ordinary, daily practices of governing to achieve preferred development.

*The concept of governance* refers to the principles, institutions, relationships, mechanisms and related capabilities by which the will of a nation, clan, group or community is translated into sustained, organised action to achieve objectives that are collectively important. It can range from the organisation of economic activity, to law-making and enforcement, to dispute resolution, and building relationships with others. It is about the ability (as opposed to the right or authority) of nations and their organisations to govern: to decide for themselves what they want for their future and to implement such decisions. This draws attention to matters of relative power, decision-making authority, participation and voice. Such an approach is informed by Smith's (2011) theoretical construction of Indigenous governance in Australia as a culturally-based mode of relational networked social order.

*The concept of development* we take to mean the ability of Indigenous nations and groups to support themselves over time: to sustain self-governance and to provide their citizens with the opportunity to live productive, satisfying lives. According to Lea and Wolfe (1993:1–2) development is 'change or transformation that makes life better in ways that people want'. From this viewpoint, development in Indigenous contexts can take a variety of forms, from growth in traditional subsistence and cultural activities to increased participation in market economies, from Indigenous-citizen entrepreneurship and land management to joint ventures with non-Indigenous corporations.

The World Commission on Environment and Development's *Brutland Report* (WCED 1987: 43) proposed that development is *sustainable* when it 'meets the needs of the present without compromising the ability of future generations to meet their own needs'. However *sustainable* development for Indigenous Australians is, as Dodson (2002:3–4) notes, 'a direction more than a place'. It is involves value judgements about the preferred direction and speed of change. Not surprisingly, what constitutes sustainable development for one Indigenous group may not be the case for another.

The project's conceptual framework is thus one of 'development with culture and identity' (UNPFII 2016), focusing research inquiry on how groups govern to generate a self-determined development agenda, and then enact planned interventions or transformations in order to improve their lives in ways they want. In this way, development might be considered 'sustainable' when it delivers desired outcomes, reinforces cultural resilience, aligns with collectively identified directions, and promotes the abilities of current and future generations.

**The Indigenous partners**

Detailed participatory action research will be undertaken in partnership with Indigenous partners at six case-study locations (see Table 1). These span rural, remote and urban locations across the continent and encompass diversity in their scale, governance, collective rights and development focus. Teams of university and community-based Indigenous researchers will undertake fieldwork annually, providing robust qualitative, quantitative and comparative evidence. Preliminary work in co-designing the project scope and methods began 2018-2019 with the partner communities.

**Table 1: Research Partner Case Studies**

| Case Study | Project Overview |
|---|---|
| 1. **The Ten Deserts Alliance** | Location: a network of Indigenous protected areas spanning arid zones covering 35% of Australia across five state and territory jurisdictions.<br>Focus: This is a new collaboration of Indigenous organisations and groups to support integrated work of Indigenous land managers and rangers across the desert. The focus is on new 10 Deserts governance structures being designed to roll out these land management initiatives, including research evaluation and feedback. |
| 2. **Taungurung Clans Aboriginal Corporation (TCAC)** | Location: East Victoria.<br>Focus: TCAC is the corporate representative of the Taungurung people. They and the Victorian government are negotiating a Traditional Owner Settlement Agreement likely to include development opportunities such as co-management of parks and compensation. The focus is on the governance process and transitions as these are implemented. |
| 3. **Nyungar First Nation** | Location: the south-west region of Western Australia.<br>Focus: the South West Native Title Settlement is the most comprehensive native title agreement in Australian history involving benefits for six Nyungar Agreement Groups. This focuses on Nyungar governance of the agreement via their organisation SWALSC. |
| 4. **Borroloola** | Location: Northern Territory.<br>Focus: The McArthur River Mine was established in 1993 for 25 years with a right of renewal on the lands of the Gurdanji, Marra, Gudanji and Yanyuwa peoples. They are rebuilding customary governance to replace external structures and seeking native title compensation. The focus is on these efforts in the context of major development effects. |
| 5. **Northern Basin Aboriginal Nations (NBAN)** | Location: northern Murray-Darling Basin, NSW.<br>Focus: NBAN is an organisation of 22 Indigenous groups in the northern Murray-Darling Basin representing their natural resource and water management interests. In 2018, NBAN secured $20 million in cultural water entitlements. The focus is on the governance of these entitlements, and trading of water between Indigenous nations. |
| 6. **Torres Strait Islands region** | Location: Torres Strait Islands (TSI).<br>Focus: The TSI have a history of local and regional structures of governance to accommodate their dispersed island and cultural geographies. This includes 17 local governments, a Regional Authority, a native title sea claim and 34 land-use agreements. The focus is on governance options to support these diverse development opportunities. |

**A case etudy example: The Ten Deserts Alliance**

The Ten Deserts of Australia (Figure 3) are one of the few great natural places remaining on Earth. The area represents the world's largest connected network of protected areas and spans over 35 per cent of the continent (2.7 million sq kms) across five state and territory government jurisdictions. These ten Australian 'deserts' are in fact well vegetated with highly diverse ecosystems, including sand dune deserts, sandstone ranges, vast plains of mulga woodland, grassland and stony 'gibber' desert, and ephemeral wetlands which fill with life when rains come. Rich in unique plant and animal life, the landscape is also home to many of Australia's threatened animals including the Night Parrot, the Greater Bilby, the Great Desert Skink and Black-flanked Rock Wallaby. Despite being relatively intact, these unique desert ecosystems and the values they contain are under increasing threat due to vast destructive wildfires, invasive noxious weeds and feral animals. The impacts of these threats are further exacerbated by climate change. The deserts are furthermore repositories of rich mineral deposits (see Figure 4).

**Figure 3. The Ten Deserts region, Australia**



Source: Ten Deserts website  https://tendeserts.org/about/
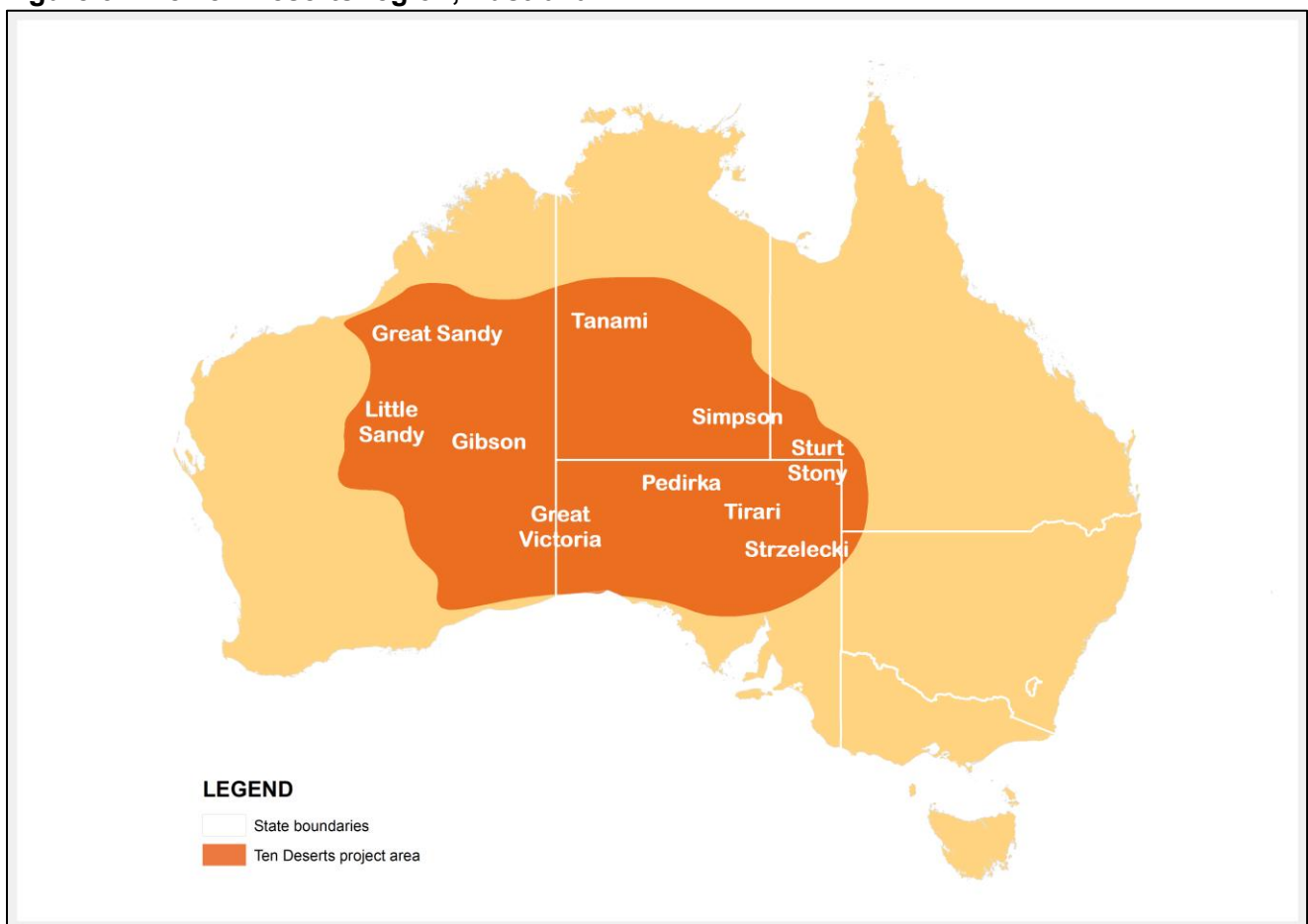
This desert region is of immense cultural value to its Indigenous traditional owners who are represented by multiple language and tribal nations having a history of occupation spanning more than 50,000 years. Importantly, Indigenous nations are custodians of substantial areas of desert Australia under varied land right regimes and native title claims and determinations. By strategically marshalling these rights and interests, Indigenous desert groups have negotiated multiple beneficial agreements (land, cultural, heritage, resource).

**Figure 4. Mineral deposits and mining on Indigenous lands.**
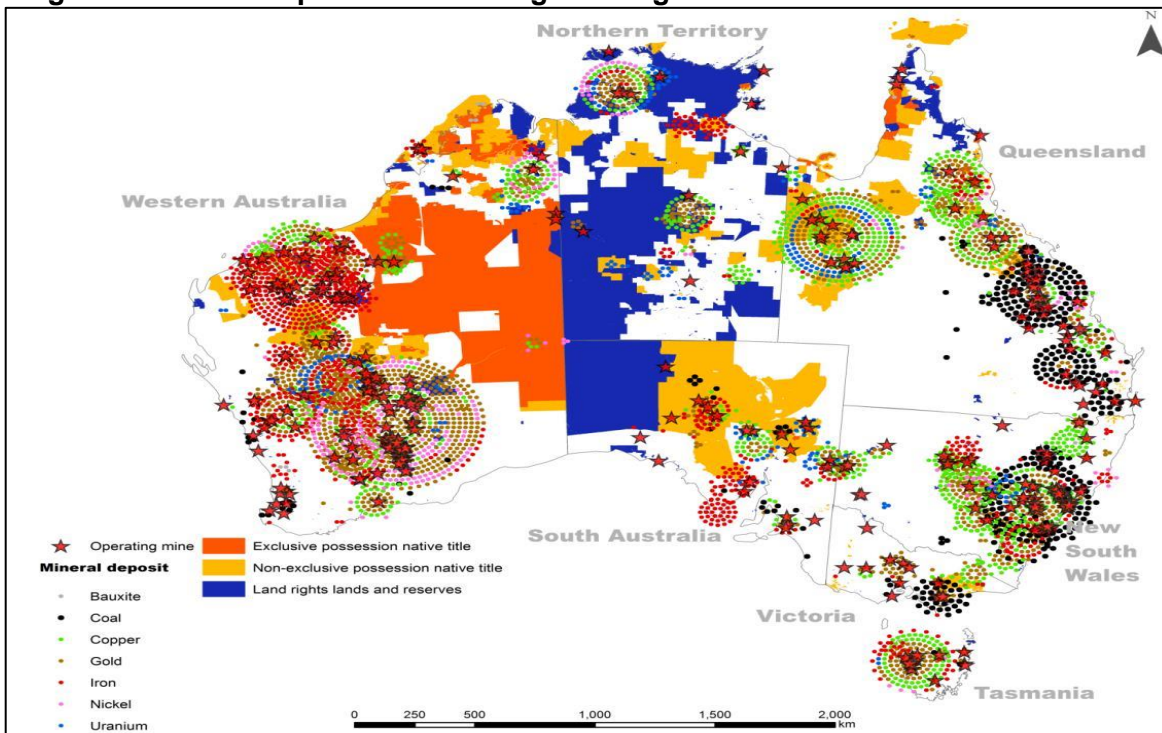


In 2018, the desert Indigenous nations through several of their key representative organisations came together to form the Ten Deserts Alliance with the ambition of enabling traditional owners to address these threats through multiple programs of work by Indigenous rangers and land managers. The Alliance's vision is to sustain the largest Indigenous-led connected conservation network on Earth to keep Australia's outback healthy for global benefit. In Australia, the benefits of Indigenous land management programs are well documented and reinforce their broader social, cultural and economic benefits. These benefits are derived through the provision of employment and training opportunities, reinstatement of cultural authority, and increased pride and confidence for both individuals and communities.

**Figure 5. The Ten Deserts Alliance – Programs and Outcomes.**



Source: Ten Deserts website  https://tendeserts.org/about/
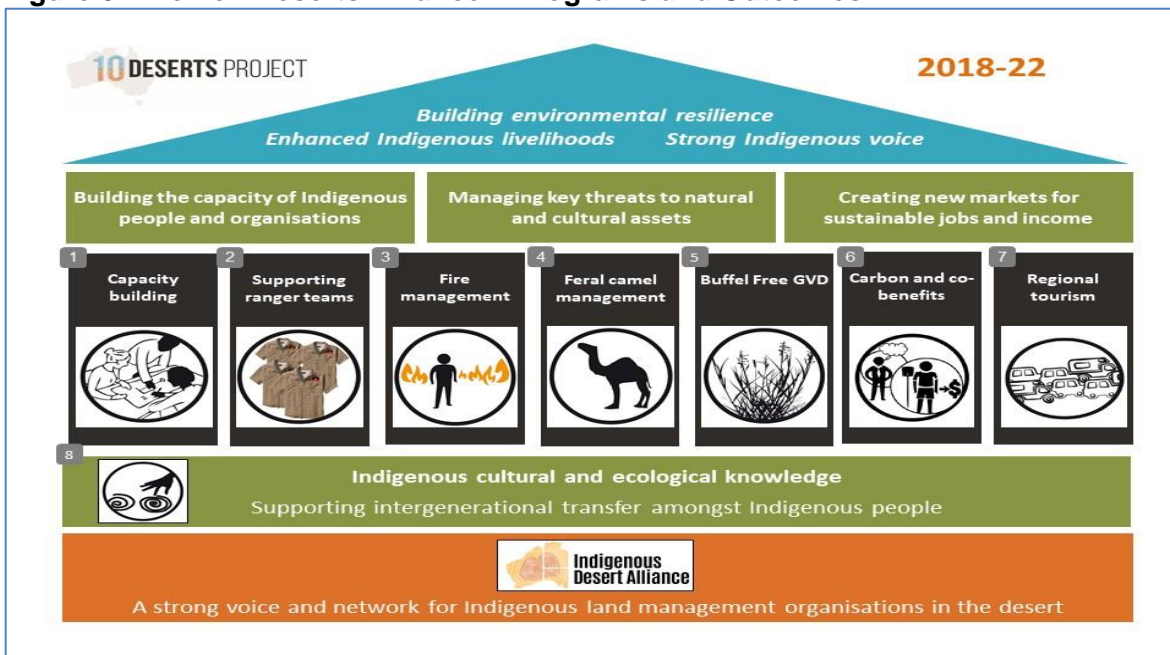
These on-ground activities are being complemented by the creation of a new governance mechanism as a representative structure for the entire alliance into the future. The project is led by Desert Support Services (DSS) and involves some of Australia's most successful Indigenous organisations supported by international and regional conservation partners. To deliver the project outcomes over the life of the project, a major Indigenous organisation and nation partnership has been established with:

1. Alinytjara Wilurara NRM Board
2. Central Land Council
3. Kanyirninpa Jukurrpa)
4. Kimberley Land Council
5. Nyangumarta Warrarn Aboriginal Corporation
6. Indigenous Desert Alliance
7. The Pew Charitable Trusts
8. The Nature Conservancy
9. Arid Lands Environment Centre

Other Indigenous organisations will be involved and supported by the alliance for discrete activities at both a local and regional level. The involvement of international partners will enable the lessons learnt to be shared more broadly. Supporting and empowering the Aboriginal traditional owners who live in this landscape to 'look after' their traditional lands is critical to improving Indigenous livelihoods and building the environmental resilience of the desert region. The Ten Deserts project will build on people's culturally-based connections to 'country' and integrate Indigenous cultural and ecological knowledge with contemporary natural resource management best practice, to foster new approaches to be developed to respond to both existing and future threats. Providing employment opportunities and growing the network of Indigenous rangers will help to sustain remote communities for future generations. The project will also complement and enhance highly successful government programs for Indigenous rangers and protected areas.

It is hoped an enduring outcome will be the creation of a representative structure for Indigenous land management organisations in the desert which will raise the profile of the First Nations alliance and their collective land management concerns, and provide the enabling governance conditions to secure future long-term funding and revenue streams. The funding streams include increased government commitments, carbon abatement and tourism to attract additional revenue for Indigenous communities.

**Preliminary insights from the IGD project**

The project is in the very early days of its research program. Nevertheless there has been significant early discussion and co-design of the scope of research amongst the Indigenous and non-Indigenous partners. Some preliminary insights have emerged.

Indigenous future thinking

For many Indigenous peoples, the internal 'test' of sustainability in their development initiatives, and the effectiveness and legitimacy of their governance of development involves coming up with answers to a set of difficult questions, many of which call for future-thinking.

For example: What kind of nation or community are we trying to build, not only for ourselves but for future generations of our people? What kinds of development might be acceptable and consented to now, and be acceptable to our people in the future? What role should collective Indigenous culture play in development initiatives, and how might that change over time? Who should benefit from development, and will the benefits of current development continue to be available for future generations? How do we maximise self-determination over the long run and enhance the ability of future generations of Indigenous people to maintain the strengths of the past and to determine for themselves the shape of their own lives? What development strategies will best address current disadvantage along with future equity issues? And importantly, who should make those decisions and how? These are the future-thinking questions the Indigenous partners are keeping at the forefront of

their considerations, as one way of building greater 'future accountability' and cultural resilience into their current development actions and solutions.

<u>Indigenous views of development</u>

A common thread running through our early project discussions about development has been the priority Indigenous groups place on promoting development activities that support the present capacity of citizens to lead productive lives ("that makes people's lives better in ways that *they* want"), but without compromising their culture or the options of future generations. This kind of approach to development is what could be called creating a 'sustainable journey'.

There has been strong endorsement that the challenge of effectively re‑engaging with Indigenous community members needs to be put back into heart of development considerations, and of how to govern development. Also raised in discussion is the 'dark side' of development—especially of being pressured to respond to external opportunities that then undermine Indigenous cultural resilience and self-determined agenda. This was seen to particularly be the case in contexts where imposed development becomes entangled in poor governance or unresolved issues of who is the 'self' in self‑determined development.

Accordingly, and in line with Escobar's (2008) modelling of development as a 'territory of difference' that is as much cultural as economic, the project reframes development as both intercultural and relational; specifically, as 'development with culture and identity' (UNPFII 2016). The significance of this reframing is threefold. It directs attention to the:

(i)  repertoire of Indigenous capabilities that constructively empower collective governing agency and choice about development (Nussbaum 2011; Sen 2004);

(ii)  subtle Indigenous understandings and practices of governing development at the cultural interface; and

(iii)  implications for development outcomes when there is a mis/alignment with actual governance abilities, practices and structures (Crenshaw 1991).

<u>Indigenous approaches to governance</u>

Preliminary discussions amongst project partners raised the related point that governance is about *Indigenous* ways of getting development done for the nation and community. And it is as much about a group's practical ability to get things done, as it is about their right and authority to govern. Here an emerging insight it that self‑determination actually has to be generated as a current lived reality, whereby people work to exercise daily control over the things they can, rather than a distant goal in the future. Examples cited of such self-determined governance‑in‑action include: the building of alliances and partnerships between Indigenous groups, the negotiation of agreements and joint ventures with external parties, undertaking evaluations of progress and taking remedial actions, resolving intra-Indigenous cross‑boundary and membership issues, and designing workable regulations and laws etc. These are acts of sovereignty—not erosion of sovereignty—as nations and tribes flex their governing powers to decide who their development partners are and how those partnerships will be implemented.

The project Indigenous partners stressed that the legitimacy of their governance solutions, and innovations for development is directly linked to having a strong mandate from their community members. For everyone, this raised the challenging issue of how to make sure that communities are fully engaged in the work of revitalising governance. They mentioned the time‑consuming practical work that is required to keep often dispersed Indigenous citizens up to date on relevant legal, social, economic and political initiatives.

Indigenous approaches to the role of culture

In strengthening or rebuilding governance for development purposes, Indigenous people are consistently looking for a closer cultural alignment between their governance and development arrangements, and their values about how authority and decision making should be exercised. Our Indigenous project partners consistently and strongly pressed for the central role of culture in the kind of future world they want to create for their families and communities. From this standpoint, culture is not seen as a problem, but as a source of strength and innovation.

However, there is no simple fast-track answer to designing solutions for governing development that are culturally credible. Some fundamental conditions or principles for embedding the place of culture in governing development include the concept of informed Indigenous choice, whereby Indigenous people generate the solutions on the bases of their inclusive participation in informed decision making. Such decision making is likely to have greater internal legitimacy and credibility with citizens. But it also takes time—to talk, consult, get feedback with members and mould a consensus; time to experiment, change and adapt. This requirement for time is often at odds with contemporary development and market demands for quick decision making. The concepts of informed consent, and of development that integrates culture and identity, both raise fundamental issues of control, capacity, voice and power—that is, of governance.

Another issue raised in early project discussion is the dilemma of 'culture versus cult' where people revert to a fantasy version of what they think their culture was like in the past; often reconstructing it as an idyllic romanticised way of being and doing. In doing that, culture can become reified and translated literally into cult or template which is then forcibly inserted into governance or development arrangements. Such pastiche creations can actually undermine culture so that people become trapped in a distorted view of the past. One consequence is that governance becomes correspondingly unworkable. In spite of these significant dilemmas, our project partners stressed that Indigenous ingenuity is able to generate more effective and credible solutions than those coming from outside.

Indigenous innovation

The focus on purposeful Indigenous experimentation and innovation in the ways they govern development offers an important reframing. It positions Indigenous peoples as 'innovation agents', strategically redesigning and adapting their governance arrangements to secure critical outcomes. Following Kemp, Parto and Gibson (2005), the IGD project argues that sustainability (whether of governance solutions or development outcomes) is best viewed as a socially instituted process of adaptive change in which innovation is a necessary element. In this way, governance innovation can be understood as the process of creating, gaining support for and implementing novel ideas or solutions to address collective development needs and priorities. This refinement also enables self-determination to be conceptualised as being produced through governance innovation that enables collective participation and voice. An important qualifier in this is that governance solutions should not be set in concrete too early. New arrangements need space and time to enable adaptation and finessing to take place.

Early project discussions suggest there may be positive implications for the sustainability of development outcomes when these Indigenous peoples are able to generate and effectively govern their own self-determined development agenda. In particular, when culture, law, land and collective decision making are kept at the heart of arrangements for governing development.

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