Our traditional management plan was: don't be greedy, don't take more than you need and respect everything around you. That's the management plan – it’s such a simple management plan, but so hard for people to carry out.

Tom Trevorrow, Ngarrindjeri Elder (Trevorrow, 2010)

Introduction

Aboriginal and Torres Strait Islander People have occupied Australia for millennia and are recognised as having the oldest living culture on Earth (Flood 2006, p. 133). For tens of thousands of years, Australia's First Peoples have relied upon an intimate understanding of the Australian continent's biogeochemical systems and cycles for their survival and flourishing. Their knowledge should be perceived as a gift to environmental planners (and all Australians), not a hindrance. Arguably, Aboriginal and Torres Strait Islander People and communities also have the oldest continually surviving system of land tenure in the world (Reynolds 1999, p. 217).

Before European invasion and colonisation, the Aboriginal peoples of Australia developed and applied three important principles in caring for 'Country': 'Ensure that all life flourishes. Make plants and animals abundant, convenient and predictable. Think universal, act local' (Gammage 2011, p. 4). These principles are reflected in Tom Trevorrow's quote above, and appear in the Murray-Darling Basin Authority's (MDBA) publication about including Aboriginal voices within the Murray-Darling Basin Plan (MDBA 2011, p. iv). As one of the most ambitious environmental plans undertaken in Australia to date, the plan is instructive for how it seeks to embrace Aboriginal knowledge about environmental planning and management.

For Australia's First Peoples, Country has always been, and always will be, at the centre of their identity and being. The term 'Country' is defined by Rose (1996, p. 7) as 'nourishing terrain'. Rose continues:

Country is a place that gives and receives life. Not just imagined or represented, it is lived in and lived with. People talk about country in the same way that they would talk about a person: they speak to country ... visit country, worry about country, feel sorry for country, and long for country. . . . Country is not a generalised or undifferentiated type of place . . . Rather, country is a living entity with a yesterday, today and tomorrow, with a consciousness, and a will toward life.

Everything about Aboriginal society is inextricably interwoven with, and connected to, Country. Without their land, Aboriginal people are removed from their identity and themselves
Aboriginal people maintain ‘that the physical and biological world is culturally produced’ and that continued Aboriginal labour is therefore necessary for ‘the life of the countryside to continue’ (Allen 1997, p. 148). Perhaps anticipating the social turn in environmental sciences, Rose and Clarke (1997, p. x) recognised that the indivisibility between the cultural and the natural in Aboriginal land management practices, how knowledge is gained and applied, and how land is used ‘brings social and environmental justice into a single field of action’. Such ideas have profound implications for Australian environmental planning.

This chapter briefly explores Australia’s First Peoples’ understandings of, and ways of living with, Country. It juxtaposes Australia’s First Peoples’ and other Australians’ approaches to the environment and environmental planning. We begin by examining the effects of dispossession and alienation of Australia’s First Peoples from their lands. The idea of ‘Country’ is discussed as a way to frame First Nations’ struggles for recognition of land and native title rights. Next, the size and nature of the ‘Indigenous estate’ and its environmental significance is considered. The contested spaces and intractable tensions between Australia’s First Peoples and other Australians over resource use and environmental conservation are also examined. The chapter concludes with a discussion of the imperatives for Aboriginal and Torres Strait Islander involvement in environmental planning and identifies key challenges.

Dispossession, dislocation and the struggle for land rights and native title

Of all the peoples around the World colonised by the British, the First Peoples of Australia were the most comprehensively dispossessed (McRae et al. 2003, p. 181), such that by the early 1960s, no Aboriginal and Torres Strait Islander People in Australia owned their land because of their status as Australia’s First Peoples (RCIADIC 1991, p. 483). Aboriginal and Torres Strait Islander People’s resistance to dispossession of their land since the outset of colonisation has been well documented (see Reynolds 1987, 1995; Attwood 1989, 2005; Attwood and Markus 1999; Clendinnen 2003; Perkins and Langton 2008, pp. 333-377). However, it was not until the concerted land rights campaigns of the 1960s and 1970s that governments around Australia began responding to these claims. Two events stand out: (1) when the Gurindji stockmen walked off Wave Hill cattle station in the Northern Territory in 1966 protesting about appalling wages and conditions; and (2) in 1971, the Yolngu people lost their claim for their traditional land at Yirrkala on the Gove Peninsula in the Northern Territory in Milirrpum v. Nabalco Pty Ltd (1971). The Gurindji stockmen’s protests gained widespread support for land rights, because they also petitioned the Commonwealth government, requesting the return of their traditional lands (Gumbert 1984, p. 22). The Whitlam Government did so in 1975 (SEWPaC 2008; NAA 2013).

These two events are regarded as marking the beginning of the modern phase for Aboriginal land rights because they provided a focus for political action (Gumbert 1984, p. 1; McRae et al. 2003, p. 201; Perkins and Langton 2008, pp. 333-377). But the first land rights statute was passed by the South Australian government in 1966. Since then, all Australian jurisdictions have enacted land rights legislation in some form, with the exception of Western Australia, which continues to hold land in reserve ‘for the use and benefit of Aboriginal inhabitants’, reflecting ‘protectionist’ style legislation from the nineteenth century (AHRC 2005, p. 22) and a paternalistic and segregationist attitude to First People. The term for the ‘use and benefit of Aboriginal inhabitants’ arises from the proclamation of a reserve under section 25(1) of the
Aboriginal Affairs Planning Authority Act 1972 (WA) or the vesting of a reserve under Part 4 of the Land Administration Act 1997 (WA).

These land rights statutes pre-date the landmark Mabo v. the State of Queensland (No. 2) case of 1992 (hereafter Mabo [No. 2]) in which the High Court of Australia recognised the prior and continuing occupation and ownership of the Murray Islands in the Torres Strait by the Meriam Island people and determined that the notion of terra nullius (land belonging to no-one) was a legal fiction. The High Court said the concept of native title at common law was also applicable to mainland Australia (Mabo [No. 2] at 10). In response, the Australian Government enacted the Native Title Act 1993 (Cth) to provide mechanisms for the recognition and protection of native title rights and interests where they continue to exist, either wholly or partly. In essence, however, the High Court’s decision in Mabo [No. 2] is also about recognising the existence and legitimacy of another system of law and custom held by the Aboriginal and Torres Strait Islander people of Australia, and this is yet to be understood and absorbed into other aspects of Australian society and governance. Central to this landmark decision is the importance of Country to Aboriginal and Torres Strait Islander people.

What is Country?

Anthropologist, historian and philosopher Deborah Bird Rose, in her ground-breaking work for the Australian Heritage Commission in 1996, observed that Aboriginal people were not ‘conservationists’ in the contemporary sense of the term, because ‘they had managed the continent so that they did not have to face the massive loss of life-support systems’ that have accompanied European land management (Rose 1996, p. 4). As noted earlier, Rose illuminates how, for Aboriginal people, Country is a ‘nourishing terrain’ (Rose 1996, p. 7). What is abundantly clear from Rose’s research is that Australia’s First Peoples apply a much deeper and holistic approach to land management, and have radically different perceptions about the environment, than most other Australians.

Christie (1990, p. 56) (linguist teacher, Yirrkala community) asserts that:

Aboriginal science is a mode of knowledge production which has evolved to allow human beings to fit into, rather than outside of, the ecology. It is a science in which all human dimensions, the social, economic, religious and political, are integrated and interpreted within, and in terms of, the rest of the physical universe.

In contrast, the Western scientific system has ‘placed humanity apart from and above the natural world, and in command of apparently inexhaustible resources’. The knowledge systems from Western science, which underwrite contemporary Australian environmental planning, have improved our ability to exploit land and natural resources for our own comfort and wealth, rather than living within our ecological bounds (Christie 1993). In contrast, Christie (1990, p. 61), argues that Aboriginal science ‘is based upon constant, ongoing, highly tuned responsiveness to the physical and social environment, a subtle and complex responsiveness which involves simultaneous reception and processing of large amounts of extremely varied and constantly fluctuating stimuli’ and that, from an Aboriginal perspective, Western science ‘is hopelessly impoverished by its inadequacy to account for social, psychological, spiritual, economic and political realities’. This understanding of Aboriginal land management has important ramifications for environmental planning.
The ‘Indigenous estate’ and its environmental significance

The term ‘Indigenous estate’ is used by Altman (2012a) to describe land under Aboriginal or Torres Strait Islander ownership or management in Australia. To date, through the various legislative and judicial measures for the recognition of Aboriginal and Torres Strait Islander land rights — and through direct purchase — Aboriginal and Torres Strait Islander people now own or manage nearly 23 per cent or 1.7 million square kilometres of Australia’s land mass, predominantly under a variety of group or community titles (Altman 2012a, p. 9). The geographic coverage of Aboriginal and Torres Strait Islander owned or managed land and the spatial location of discrete Aboriginal and Torres Strait Islander communities around Australia is shown in Figure 2.1.

There are approximately 1,200 discrete Aboriginal and Torres Strait Islander communities in Australia, with a total population of 100,000 people or about 20 per cent of the total estimated Aboriginal and Torres Strait Islander population of Australia. A few of these communities have a population of over 500 people, but nearly 1,000 have a population of fewer than 100 each. The larger communities are regarded as townships, and the tiny communities are...
generally referred to as outstations or homelands (Altman 2012b, pp. 9-10). The diversity of these holdings is well documented elsewhere (AIATSIS 2006; AHRC 2005; Pollack 2001). However, statutory land rights regimes and the native title processes were never designed to complement each other. Both favour Aboriginal and Torres Strait Islander people in remote locations who have been able to retain close ties to their traditional lands. As Altman describes it: ‘most Aboriginal lands are in the very remotest regions far from urban electorates and often viewed as almost unoccupied “wilderness”, hardly in need of management’ (2012a, p. 12). The only schemes that sometimes favour urban Aboriginal groups are the land purchase schemes operated only by the NSW and Commonwealth Governments.

Altman and colleagues’ research shows that ‘the Indigenous estate’ (land under Aboriginal or Torres Strait Islander ownership or management) contains some of the highest conservation priority lands in Australia (Altman et al. 2007). They make the following pertinent observations about the estate:

- it includes a rich diversity of ecosystems including monsoonal tropics to dry desert areas that are of global significance;
- significant portions remain ecologically intact, largely because they have not been subject to intensive commercial development;
- much of the estate includes areas that are connected and ecologically healthy functioning environments and waterways that provide a range of ecosystems services and species habitats; and
- its sound environmental condition has allowed the survival of species that have declined or become regionally extinct in other parts of Australia (Altman 2012a, p. 10).

Initially the Commonwealth Government did very little to support the management of this estate, regarding it as either a form of privately owned land or of low priority because its environmental condition was relatively intact (Altman 2012a, p. 12). It is only in the past 14 years that the Commonwealth, and to a much lesser extent the States/Territories, commenced providing limited funding to the management of these lands (Altman 2012a, p. 13). For example, in recent years the Commonwealth has included several Indigenous Protected Areas (IND.PAs) as part of the National Reserve System and created the Working on Country program that supports 660 properly paid Aboriginal and Torres Strait Islander rangers working at over 80 sites across Australia at an estimated cost of $240 million (for the period 2007 to 2013). Largely through these initiatives, ‘rangering’ has become a thoroughly intercultural practice, combining traditional cultural practices with the adoption of Western science and technology, a pragmatic recognition that a ‘two-way’ or ‘two toolbox’ intercultural approach is now essential for dealing with twenty-first-century postcolonial natural resource management problems, ‘including depopulation, the orphaining of country that needs human presence for management, and broad scale and pervasive environmental threats’ (Altman 2012b, p. 221).

Aboriginal and Torres Strait Islander rights, resource use and environmental conservation: contested spaces and intractable tensions

The term ‘environment’ is usually associated with the natural and biophysical aspects of life, such as land, water, flora and fauna, air and climate (Williams and Smart 2012, p. 128). In contrast, ‘resources’ are elements of the environment that we use to fulfil our human needs for food,
society, warmth, transportation and gratification, and 'they have to be placed in a social, economic, cultural, political, administrative and technological context' (Conacher and Conacher 2000, p. 3). Environmental planning enables us to understand the connections or links between various resources, their environments and their use, in ways that ideally, maximise benefits and minimise adverse impacts (Williams and Smart 2012, p. 130). How the environment, the use of resources, and conservation are understood and valued, varies between and within different cultures (Pickerill 2009, p. 68).

Aboriginal and Torres Strait Islander people have a special spiritual and cultural relationship with land and water, which means their land, water and cultural rights are inseparable (McLoughlin and Sinclair 2009, p. 4). According to Lee (2011, p. 128), the complex relationships that Aboriginal and Torres Strait Islander people in Australia have with their traditional country and their environment 'drive the cultural and traditional lives of Aboriginal people and are central to their sense of well-being, and the health of their families and landscapes'. Or as Lee (2011, p. 128) puts it more succinctly: 'Aboriginal people belong to Country, Country does not belong to them; they are of the Country and the landscape forms their identity.' This connection is recognised under international law. For example, Article 25 of the United Nations (UN) Declaration on the Rights of Indigenous Peoples, specifically provides that Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationships with 'traditionally owned or otherwise occupied lands, territories, waters and coastal seas and other resources' (UN 2007). While not legally binding, the endorsement of this UN Declaration by the Australian Government in 2009 nonetheless represents a significant acknowledgement of the unique connection between Australia's First Peoples and their lands and waters (McLoughlin and Sinclair 2009, p. 4).

Other Australians also value the environment for the natural resources that are essential to our economic activity and quality of life. Following the publication of the Brundtland Report in 1987, the term 'sustainable development' achieved widespread popularity. Brundtland defined 'sustainable development' as '[d]evelopment that meets the needs of the present without compromising the ability of future generations to meet their own needs' (Brundtland 1987). In Australia, the rationale adopted by the Australian Government was to use the term 'ecologically sustainable development' (ESD), which it defined as: 'using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained and the total quality of life, now and in the future, can be increased' (Commonwealth of Australia 1990). The approaches of other Australians to the environment tend to focus on improving the scientific management of particular places or species for their landscape value or biodiversity, with a primary focus by conservationists on maintaining their 'wilderness' or 'wild' values (MacGregor 2004, p. 603; Pickerill 2009, p. 68).

Consequently, as noted by Pickerill (2009, p. 68), there is a juxtaposition between the Aboriginal and Torres Strait Islander peoples' views and other Australians' views of the environment, with Aboriginal and Torres Strait Islander peoples' understanding of the environmental and cultural domains as inseparable, and other Australians' understanding of the environment as something to be kept apart from human interference, while also acknowledging humans' interconnectedness with it through concepts of 'sustainable development'. In recent years, these stark differences between Aboriginal and Torres Strait Islander peoples and conservationists have come into very sharp relief over contests about land use and resource developments.

For example, in Cape York Peninsula in Queensland, the 'wilderness' status and 'inviolability' of conservation areas for 'deep green' conservationists, remains a burning issue (Holmes 2011a, p. 58). Holmes describes the contests on Cape York as 'bedevilled by shifting alliances
and schisms within Aboriginal and conservationist constituencies’, noting that they are ‘characterised by their complexity, durability and intractability’ (2011a, p. 53), and that land tenure and land use have become significant policy instruments in shaping futures for Cape York Peninsula’s lands and peoples (Holmes 2011b, p. 232). Similar conflicts have also been very evident in Western Australia over the proposed development of a natural gas precinct at James Price Point, approximately 60 kilometres north of Broome, to process gas from the Browse Basin located off the west Kimberley coast (KLC 2013; Environ Kimberley 2013). And we can see related issues emerging in conflicts over the wild rivers legislation in Queensland.

At the heart of these contestations is the radically different relationship between Australia’s First People’s conception of Country and Western notions of ‘pristine wilderness’, conservation, preservation and a binary separation between reason and emotion, culture and nature, humans and the environment. It points to a need to rethink what we mean by environmental planning in Australia, and how we relate to Country. Pickerill (2009, p. 78) believes there is a growing mutual ownership of the issues at stake here, and that ‘it is in the acceptance of the complexity of these dynamics where hope springs’.

**Imperatives for Aboriginal and Torres Strait Islander involvement in environmental planning**

As I have argued elsewhere (Wensing 2012, pp. 264–265; Wensing and Small 2012, p. 6), there are six imperatives operating at both the domestic and international levels as to why environmental planners and environmental planning processes must engage with Aboriginal and Torres Strait Islander people’s relationships to land and waters, and in particular to their cultural ties and obligations (SAMLIV Project Team 2003). These imperatives are significant for ethical, political and legal reasons.

First, and as discussed above, because Aboriginal and Torres Strait Islander people have maintained strong links with their Country as well as core elements of their spiritual association with their land and waters, they have a crucial and legitimate stake in environmental planning processes affecting their lands and waters (SAMLIV Project Team 2003, p. 15). They also have an intimate knowledge of Australia’s biogeochemical processes that Western science is only beginning to understand.

Second, the legal structure underpinning the recognition of customary rights in land is now well established in Australian law. Brennan J. set out the parameters for the relationship between customary property rights and titles derived from the Crown when he recognised the pre-existence of customary ownership and rejected the notion of terra nullius in Mabo [No. 2]. This decision forces an acknowledgement of the special land rights and interests of Australia’s First Peoples.

Third, where native title exists or is likely to exist it will always be necessary to comply with the relevant processes under the Native Title Act 1993 (Cth), requiring either the negotiation of an Indigenous Land Use Agreement (ILUA) or compliance with the relevant future act process where a dealing or activity constitutes a future act under that Act.

Fourth, declarations by government that the extinguishment of native title has occurred (partly or wholly) will not make the laws and customs of Aboriginal and Torres Strait Islander people disappear. The term ‘extinguishment’ is just a metaphor for placing limits upon the extent to which recognition will be accorded to Aboriginal and Torres Strait Islander people under Australian law (Neate 2002, p. 118; French J. in Lardil 2001 at 45), and, regardless of judicial or legislative status, Aboriginal people will always retain their special relationship with and responsibility for land and sea country (Rose 1996; Dodson 1998, p. 209).
Fifth, good planning is persuasive storytelling about the future (Throgmorton 1992) and, as Jackson (1997, p. 226) notes, any future narrative must be a new story, not the kind of fiction that legitimised terra nullius and rationalised unjust and racist land use and environmental planning decisions. As practitioners, environmental planners have an ethical and moral responsibility to ensure past wrongs are not repeated. There is a strong environmental justice dimension to this imperative (see chapter 17).

Last, and most significantly, in 2007 the General Assembly of the UN endorsed the 'Declaration on the Rights of Indigenous Peoples' (UN 2007). The rights in Articles 3, 19, 23 and 26 can be seen as enabling rights that are fundamental to the realisation of the full suite of development rights, including the right to cultural difference and the right to pursue a pathway to social and economic development that is determined and controlled by the Indigenous people themselves. In particular, the nature of any negotiations and subsequent agreements should always be underpinned and premised on the key principles of 'the right of free, prior and informed consent', consistent with Article 19.

It is important therefore, when doing business with Aboriginal and Torres Strait Islander communities that environmental planners always negotiate and develop a set of protocols and procedures for accommodating Aboriginal and Torres Strait Islander rights and interests in environmental planning and assessment processes. This could include creating opportunities for Aboriginal and Torres Strait Islander people to develop their own Cultural Land Use and Occupancy Plans. Such plans could document the full scope of traditional owner interest over their traditional lands, including but not limited to cultural and other sites, hunting and seasonal food sources, access to and use of marine and terrestrial resources that would enable them to independently assess the potential impact of third-party interests or proposals over their lands and provide them with the authority to engage in formal negotiations on proposed use and developments on their Country (Peter Yu, personal communication 2011).

Further, as discussed at the beginning of this chapter, Aboriginal and Torres Strait Islander people have a considerable tradition of caring for the land – with a long-term view (Rose 1996; Sinatra and Murphy 1999; Gammage 2011, pp. 4 and 323), and their perspectives on environment, resource use and development decisions can greatly enhance the quality of environmental planning decisions. Indeed, Burgess et al. (2005, p. 117) have found that maintaining close association with and caring for Country is a key determinant of health and that continued investment in natural resource management programs also delivers concrete social and economic benefits for Aboriginal communities.

**Conclusion: the need for dialogue**

As a nation, Australians no longer have a choice about if we will have a relationship with Aboriginal people, rather the choice is about the quality of those relationships; ‘whether those relationships enrich and strengthen our national life, or whether they are fraught and painful’ (Graham 1998, p. 8). Indeed, the very nature of Aboriginal and Torres Strait Islander peoples’ inherent, ongoing and deeply held spiritual connection with land and waters, regardless of its judicial or legislative status, demands that environmental planners and the institutions we work for, examine the implications of our decisions and consider how the historical exclusion of Aboriginal and Torres Strait Islander people from these processes can be redressed (Neate 2004, p. 6). Pickerill (2009, p. 77) rightly concludes that we need a better understanding of the cultural differences between Australia’s First Peoples and other Australians’ approaches to the environment and environmental planning, and we need to create safe spaces for finding com-
mon ground through careful listening, dialogue and meaningful community engagement to help bridge the cultural divides (McLoughlin and Sinclair 2009, p. 6).

There are two critical challenges here: first, a practice that has allowed one culture to exert its dominance and authority over another has to be dismantled, and in its place a relationship based on mutual respect has to be built with the potential to enrich and strengthen Australia’s national life (Wensing 2012, p. 270); second, governments, landowners and conservationists throughout Australia need to give greater recognition to Aboriginal and Torres Strait Islander environmental knowledge and forms of natural and cultural resource management, not only as being legitimate in their own right, but also as an articulation of deep cultural obligations to country and kin (Altman 2012b, p. 231) and to extend this recognition into institutional involvement in environmental planning in meaningful ways. Environmental planners, and indeed all Australians, have much to learn from Aboriginal and Torres Strait Islander people; our task now is now to take up these challenges.

Note
1 See International Covenant on Civil and Political Rights (UN 2004), Articles 1, 27; International Covenant on Economic, Social and Cultural Rights (UN 1967), Articles 1, 15; Declaration on the Rights of Indigenous Peoples (UN 2007), Articles 3, 11-13, 19, 23, 26-31, 32.

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Books, chapters, journals, reports etc.


