A Sustainability Research Group Discussion Paper

Beyond The Boundaries*

Exploring Indigenous Sustainability Issues

Within a Regional Focus

Through The

State Sustainability Strategy

Prepared by

Steve Kinnane

(Assoc. Lecturer, AIS - Murdoch University/ Policy Officer Sustainability Policy Unit)

for the

Sustainability Policy Unit

Department of the Premier and Cabinet

April 2002.

* Titled with reference to Prof. Marcia Langton's call for the need to develop new solutions, "beyond narrow disciplinary boundaries."

Acknowledgements

This discussion paper has been prepared as a part of the State Sustainability Strategy as a means to engage further discussion and input towards the Draft Sustainability Strategy to be completed by May 10, 2002.

After consideration of the Cabinet Standing Committee on Social Policy, the overall Draft Sustainability Strategy will be made available to the public for wider comment and input before the finalisation of a final State Sustainability Strategy in September, 2002. Input to this paper has principally involved research of relevant publications and policies with the input of relevant State Agencies, informal community input, and negotiation. This paper is not intended as a representative product of Indigenous community consultation as such wider consultation has not been possible within the scope of the project. This paper is intended as a means to generate responses that will feed into the final State Sustainability Strategy in September 2002.

Contents

1.0   Overview

o   **Aboriginal Country Management Programs are being promoted as a short to medium-term program of recurrently funded and Indigenous controlled Aboriginal Ranger Programs that will act as a catalyst to wider Indigenous community negotiation of Regional Sustainability Strategies.**

o   **Indigenous Regional Sustainability Strategies are being promoted so as a means to instil principles of sustainability into the Comprehensive Regional Agreement Process and towards a wider long-term framework agreement process.   These strategies, by their nature being based in negotiated principles of sustainability, must involve a wholistic negotiation of economic, environmental, social and cultural issues.**

o   Regional Indigenous Sustainability Strategies are not intended as a quick solution, but as a means to focus current the Comprehensive Regional Agreements process and eventual wider regional Framework Agreements. To invigorate regional Indigenous governance initial regional strategies must be negotiated. The Sustainability Strategy is a means of supporting this process.

o   As Regional Indigenous Sustainability Strategies would have to be negotiated in concert with the Comprehensive Regional Agreements process, ATSIC Regional Councils, the ATSIC State Council, and the Indigenous Affairs Advisory Committee would be considered key agency stakeholders and participants in this process.

o Regional Indigenous Sustainability Strategies are collective in their make up, supporting Indigenous community understandings that sustainability is not an individualised pursuit, but one based in obligatory responsibilities and relationships.

o Indigenous Sustainability Strategies aim to facilitate direct regional Indigenous negotiations with key State and non-government agencies within a long-term community development process. Aboriginal Country Management Programs would support at Indigenous community management of Aboriginal lands and considerations of wider issues relating to long-term Regional Indigenous Sustainability Strategies.

o These strategies would have to be facilitated by ATSIC Regional Councils in collaboration with the Department of Indigenous Affairs, and Indigenous structures arising from the negotiation process for each region.

o In seeking to instil principles of sustainability into this process, a flexible approach is essential so that Indigenous notions of what constitutes sustainability can be negotiated.

o Regional Indigenous Sustainability Strategies are being suggested as a long-term strategy focussing on the key issue of relevance in the consideration of sustainability for Indigenous communities - one of regional governance.

o **As the challenge towards responsible management, and therefore any hope of sustainability for Indigenous communities is, "to develop beyond narrow disciplinary boundaries,"[1] Regional Indigenous Sustainability Strategies are being proposed as a flexible, long-term approach to such negotiated, boundary crossing solutions.**

2.0   Introduction

For Indigenous Western Australians sustainability issues vary across a range of diverse areas. These areas include; integration of Environmental Management Systems and Indigenous Knowledge Systems[2] (associated with 'country' management, biodiversity conservation, and mine rehabilitation) - including considerations of womens and mens roles in such negotiations. They also include protection of spirtual cultural heritage, and the equally key issues of housing, infrastructure, education, substance abuse, dometic violence, and economic development. All of these issues interrelate and influence each other within Indigenous community development.

Professor Marcia Langton has identified that, **"sustainable ecological management is principally a problem of human decision making,"** and that, **"the challenge for responsible management**...**is to develop beyond narrow disciplinary boundaries**."[3]

---

[1] Langton, M., Op. cit., p 74.

[2] Langton, M., *Burning Questions: emerging environmental issues for indigenous peoples in northern Australia*, Centre for Indigenous Natural and Cultural Resource Management, NTU, Darwin, 1998, p 8.

[3] Ibid, p 74.

Within the current climate of negotiated outcomes, a truly sustainable approach must be adopted whereby Indigenous communities are able to negotiate directly with government and industry on all of the above issues. Such negotiations must aim to cover the types of services, plans, and support that Indigenous communities will require to be able to achieve sustainable control and management of Indigenous natural and cultural resources, as well as the ownership, control and maintenance of Indigenous community lands, infrastructure and services. All of these issues are inseparable within any strategy that is seeking sustainability.

Negotiated approaches have already been instigated at a number of levels between Native Title Representative Bodies, Industry, Local Government, The Aboriginal and Torres Strait Islander Commission (ATSIC), and the State. Likewise, agreements have also been negotiated between discrete Indigenous Organisations, Local Governments, and the State, outside of National Native Title Tribunal processes. The most effective means by which the State Government can support Aboriginal communities toward actual sustainable outcomes is to negotiate collectively on a regional basis towards facilitating appropriate regional Indigenous governance structures.

The key focus of the Indigenous component of the State Sustainability Strategy is reviving Indigenous regional governance. This discussion paper outlines a process for consideration by Indigenous community groups, the Western Australian Government, and Indigenous service delivery agencies in facilitating Indigenous communities to achieve a regional approach towards sustainable Indigenous community development. The focus of this approach is to invigorate regional Indigenous governance structures being developed under current negotiations towards Comprehensive Regional Agreements through the development of Regional Indigenous Sustainability Strategies.

This discussion paper backgrounds the need for Regional Indigenous Sustainability Strategies within any process aimed at facilitating Indigenous community sustainability. It further outlines why such a regional process, based in sustainability principles, is useful within the wider Comprehensive Regional Agreement process. In accepting the need for a wider regional framework approach, instigating a process of Regional Indigenous Sustainability Strategies would enable the creation of negotiated regional platforms for implementing future regional Indigenous governance structures as an ongoing and integrated part of the Comprehensive Regional Agreement Process.

3.0   Indigenous Sustainability Issues

3.1   Regional Indigenous Sustainability Strategies - a Collective Approach

Indigenous community development issues have been given a high priority by the Gallop State Government. **The Western Australian Government's Indigenous Affairs Policy has committed to, "a new approach involving a partnership between governments and communities that will facilitate the development of self reliance for Indigenous**

Australians."[4] Stated approaches to this commitment include a new flexibility and changes to the way in which the public sector works with Indigenous peoples, the need to build on existing strengths and assets and, importantly for Indigenous Western Australians, "sustainable economic growth."[5]

In announcing the State Sustainability Strategy the Western Australian Premier, Dr Geoff Gallop, summed up the implementing of this strategy as, "a critical step in forging a better future for all Western Australians."[6] In launching the Consultation Paper for the State Sustainability Strategy, Dr Gallop, reiterated that 'partnerships' were an essential element of any Sustainability Strategy, and that, "it is only through sharing and understanding the full spectrum of problems and opportunities that confront the State that we can resolve our mutual problems."[7]

The most recent evidence of this commitment was forged in the signing of an agreement between the Government of Western Australia, (represented by the Premier, Dr Geoff Gallop, and the Minister for Indigenous Affairs, Mr Alan Carpenter), and Aboriginal Western Australians (represented by ATSIC WA State Council Chair, Mr Ian Trust, and ATSIC National Chiarman, Mr Geoff Clark). The agreement, "Statement of Commitment to a New and Just Relationship,"[8] includes a commitment to, "regional agreements based on partnerships,"[9] within a process of working towards a wider 'partnership framework,' including a, "commitment to improved governance, capacity building and economic independence."[10] Further to this commitment, the Minister for Indigenous Affairs recently stated that, "It is important that we break down the barriers that have bedevilled us for so long," and called for a need to acknowledge the mistakes of the past, and for government agencies to embrace new ideas.[11]

Central to any consideration of sustainability for Indigenous Western Australians is the recognition and determination of inherent native title rights, alongside negotiated capacity building programs, negotiated delivery of services, the building of infrastructure, and access to economic opportunities via universally recognised citizenship rights enjoyed by all Western Australians. As has been repeatedly stated, for many years now, this requires a whole-of-government approach to Indigenous service delivery**.**[12]

---

[4] WA Labour Party Indigenous Affairs Policy Statement, 2001, p 1.

[5] Ibid.

[6] Gallop, G., Brief Ministerial Statement to the Western Australian Parliament, 05/11/2001.

[7] Focus on the Future: Opportunities for Sustainability in Western Australia; A consultation paper for the State Sustainability Strategy for Western Australia, Forward, December, 2001, p 1.

[8] 'Statement of Commitment to a new and Just Relationship between the Government of Western Australia and Aboriginal Western Australians,' 2001, p 5.

[9] Ibid, p 5.

[10] Ibid, p 4.

[11] Carpenter, A., 'Introductory Address,' *Breakfast Forum - Economic Development Through Effective Governance: The Harvard Project,* Parmelia Hilton, Perth Western Australia, 28/03/02.

[12] Report on Indigenous Funding, Commonwealth Grants Commission, Canberra, March, 2001, p 92. This has also recently been re-stated by Peter Yu with regards to a decade of Indigenous community investigation of these issues of regional governance, in, Yu, Peter, 'Aboriginal Rights and Governance, A Kimberley Perspective, April, 2002.

Inherent Indigenous rights are not individual rights. They are rights vested in community, country, and customary law. Inherent rights are both obligatory and beneficial. They provide for individual place and relationship, but operate within a collective Aboriginal whole-of-community approach. This is widely understood and accepted as an Indigenous approach to land, heritage, community and culture, and must be vested in any process that claims the mantle of sustainability.

In recognising inherent Indigenous rights within the Statement of Commitment, the Western Australian State Government has committed itself to a collective approach to resolving these issues. Such Aboriginal collectives, operating out of Indigenous community structures, will necessarily be regional, and this approach is clearly supported within the Statement of Commitment towards the stated need for a wider 'partnership framework.'

As such, this paper supports a collective approach towards invigorating Aboriginal community self-reliance and inter-regional Indigenous bilateral, and multilateral agreements. This approach is at odds with the Howard Federal Government's recent Five Point Plan, 'focussing; on, and supporting 'individuals,'[13] but within contemporary ATSIC policy frameworks.[14] As was recently reiterated by Peter Yu, "The challenge for Indigenous people in this country is to articulate our position and assert through self-determination our personal and collective rights."[15]

Within the scope of the State Sustainability Strategy any proposed Indigenous sustainability strategy will impact on all areas under consideration. The most effective means for Indigenous engagement over such a wide range of issues is through direct negotiation over issues of development and planning as they relate regionally, to Indigenous communities. This represents a realistic approach to sustainable Indigenous community development. It represents an approach that operates within Indigenous protocols of custodial and ownership rights over areas and issues that specifically relate to particular communities, groups, or individuals, and their obligatory responsibility in regards to these issues for their own peoples.[16] This approach is also relevant with regards to the many levels of contractual, statutory and corporate responsibility that have increasingly become a major element of Indigenous organisations and community life.

This proposal does not seek to mirror the Comprehensive Regional Agreement process, nor to create unnecessary duplication, but to focus the Comprehensive Regional Agreement process towards eventual regional framework agreements. Indigenous Regional Sustainability Strategies are being promoted as a complementary process to current negotiations towards a long-term regional agreement framework being developed between the State and ATSIC.[17]

This is the key role of ATSIC as described by Peter Yu, as playing a vital role in,

---

[13] Ruddock, P., 'Chaning Direction', ATSIC National Policy Conference, Canberra, 26/03/02, p 4.

[14] Clark, G., 'Setting the Agenda,' ATSIC National Policy Conference, Canberra, 26/03/02, p 6.

[15] Yu, Peter, 'Aboriginal Rights and Governance, A Kimberley Perspective, April, 2002, p 3.

[16]Coombs, H. C., *Land of Promises: Aborigines and Development in the East Kimberley*, AIAS Press, Canberra, 1989, p 8.

[17] 'Statement of Commitment', Op.cit., p 4.

"enabling the emergence of the new Aboriginal governance structures by re-directing resources to capacity building for Indigenous governance as an urgent priority."[18]

3.2   Regional Governance

Indigenous communities have been calling for direct negotiation over all aspects of community development and sustainability issues within our homelands for decades.[19] Issues affecting Indigenous community development have generally been framed in terms of self-determination, social justice, and inherent Indigenous rights to land and country. Supporting these core issues have been our desires towards realising appropriate delivery of services, suitable funding of community programs, and management of day-to-day Indigenous community governance. Issues of governance are at the heart of sustainability strategies in general, as sustainability by its nature is a process-oriented discipline. Sustainability calls for the integration of environmental, social, and economic factors in future human development, and therefore, for Indigenous communities, must include culture, country, and governance.

For the diversity of Indigenous communities that exist within the State or Western Australia, sustainability will require consideration of different issues, programs, priorities, and negotiations. In all cases, considerations of 'country' will be integral to the process. As such, sustainability will mean different things to different communities throughout the State and these strategies must be negotiated as a part of the more focussed pilot-program approach to Comprehensive Regional Agreements currently underway.

What is most important within any sustainability strategy is that it enables separate and diverse Indigenous community groups to negotiate their own priorities and programs leading towards their own determination of sustainability principles, processes, and outcomes. These processes must be owned by Indigenous communities within principles agreed to by separate Indigenous groups, as outlined within Local Agenda 21.[20] Local Agenda 21 was adopted as a means to implement Agenda 21, a development agenda for the Twenty First Century arising out of the United Nations Conference on Environment and Development (1992), commonly referred to as the Rio Earth Summit. Essential to the development of Local Agenda Plans is the requirement that the relevant community visions for the future must exist at their heart, if they are to form a durable and sustainable process towards sustainability. This is why Regional Indigenous Sustainability Strategies must, by their nature be negotiated with regional Indigenous communities.

If such regional processes and principles are not clearly negotiated and accepted within Indigenous frameworks, resulting programs will not be reflexive and dynamic enough

---

[18] Yu, Peter, 'Aboriginal Rights and Governance, A Kimberley Perspective, April, 2002, p 10.

[19] Attwood, B., *The Struggle for Aboriginal Rights: A Documentary History*, Allen and Unwin, Sydney, 1999.

[20] ICLEI, 'Sustainable development: the local context,' in, *The Local Agenda Planning Guide*, ICLEI, Canada, 1996.

to allow for continued negotiation, and will therefore not be taken up by Indigenous peoples.

At the heart of these sustainability issues - from environmental (country) management to the delivery of services for Indigenous communities - is the need for self-reliance, responsibility for our own programs, and obligations towards the management of Indigenous natural and cultural resources. Whether relating to negotiations with mining companies, non-government organisations, State government agencies, or Federal government agencies dealing with co-management of national parks and Indigenous protected areas, or delivery of health services, regional governance is the key issue. However, the provision for negotiation alone is not the solution.   As outlined previously these negotiations must be based within agreed principles of sustainability that are suitable to, accepted by, and owned by Indigenous communities. If the cycle of short-term grants and a top-down program based, "jobs-and-income"[21] approach is to be re-defined in favour of a "nation building"[22] approach, these strategies must support longer-term solutions. As punctuated by Peter Yu, and understood all too well within our communities, **"the deplorable economic and social circumstances in our communities will change for the better only when the Aboriginal communities can construct their own systems of governance and plan for their people's long-term development."[23]**

3.3   Indigenous Sustainability Principles

Indigenous Regional Sustainability Strategies are being promoted so as a means to instil principles of sustainability into the Comprehensive Regional Agreement Process and towards a wider Framework Agreement process. These strategies, by their nature being based in agreed principles of sustainability, must involve a wholistic negotiation of economic, environmental, social and cultural issues. For Aboriginal communities in Western Australia, these issues, bound up in 'country', are inseparable, and necessarily lead to longer-term Regional Framework Agreements.

The Gallop State Government has adopted a definition of sustainability as, "the simultaneous achievement of environmental, economic, and social goals."[24] This definition is described within the 'Consultation Paper' for the State Sustainability Strategy as challenging, "Western Australia to focus on the resolution of major environmental, social, and economic problems through an approach to development that creates new opportunities."[25]

Relating to the 1987 United Nation's World Commission on Environment and Development (UNCED) definition of Sustainable Development as, "Development which meets the needs of the present without compromising the ability of future generations to meet their own needs,"[26] the Western Australian State Government's currently adopted definition, supporting the

---

[21] Cornell, S., and Kalt, P., Op. cit., p 5.

[22]Ibid, p 7.

[23] Yu, Peter, 'Aboriginal Rights and Governance, A Kimberley Perspective, April, 2002, pp 2 - 3.

[24] Focus on the Future: Opportunities for Sustainability in Western Australia, Op. cit., p 2.

[25] Focus on the Future: Opportunities for Sustainability in Western Australia, Op. cit., p 2.

[26] *Our Common Future*, World Commission on Environment and Development, Oxford University Press, Oxford, 1987.

overall State Sustainability Strategy, is broad enough to allow for Indigenous community negotiations of what constitutes sustainability on a regional, and country basis for Indigenous peoples. However, as with other definitions of the process of sustainability, a consideration of the principles by which this process is defined is essential.

Sustainability as a process-oriented discipline operating within certain 'sustainability principles' towards negotiated, agreed ideals of what constitutes a sustainable outcome for particular communities. Taking the three core objectives of the State's definition as being; i) to enhance individual and community well being and welfare by following a path of economic development that safeguards the welfare of future generations, ii) to provide for equity within and between generations, and, iii) to protect biological diversity and maintain essential ecological processes and life support systems, and instilling these within a Indigenous community principles creates a focussing of what may constitute sustainability on a regional Indigenous basis.[27]

Underpinning the Australian Government's definition and principles is a western notion of connection to land and natural resources. **When framed against Indigenous community values of spiritual cultural practice, connections to land, or management of Indigenous natural and cultural resources within Indigenous 'country', these principles, supporting what constitutes sustainability for Indigenous communities, may vary markedly from mainstream western notions of what constitutes a sustainable outcome.**
As Mr Michael Dodson has identified, with regards to the complexity of Indigenous approaches to managing social, economic, and environmental issues within our communities, "there is another dimension that invests the land with meanings and significance - that transforms land and environment into landscape, and into country. That other dimension is culture."[28] Within the vast array of diversity that exists within Indigenous communities, ranging from separate regional nations, historical communities, and cultural organisations, to individual family and kin group rights, sustainability considerations regarding economic, social, and environmental issues are based within this key understanding of 'country'.

Where the management of 'country' is an obligatory responsibility that impacts upon community wellbeing, general considerations of the, "welfare of future generations", requires negotiation embodying Aboriginal community values as they pertain to specific groups and regions. Such approaches are unlikely to simply equate with western ideas of a 'triple bottom line.' This process will require an engagement of the key principles of sustainability as they define the scope of these negotiated achievements.

The five key principles of sustainability require;
- i)   inter-generational equity, (that the present generation does not borrow against the natural resources that will be required by future generations),
- ii)   the instilling of the precautionary principle (that decisions regarding development should err on the side of caution until the most realisable, resilient, and integrative solution involving community participation is negotiated),

---

[27] Ibid. - In line with the Australian Federal Government's 1992 definition.
[28] Dodson, M., 'Indigenous peoples, social justice, and rights to the environment', *Ecopolitics IX Proceedings, Perspectives on Indigenous Peoples Management of Environmental Resources,* NTU, Darwin, 1995, p 25.

iii)   the understanding that the local and global ramifications of human development are inextricably linked,

iv)   that there be limits to growth as it impacts upon our ecological systems on which all life depends that will not simply be solved through streamlining of governance, and,

v)   that community participation is vital to any sustainable outcomes.[29]

As with the overall State Sustainability Strategy, these key principles must be considered when framing any Regional Indigenous Sustainability Strategy. Whether Aboriginal communities exist within lands reclaimed and recognised within the Native Title Act, within out-stations carved out of pastoral leases and National parks, within remote regional and rural towns, within discrete outer suburbs of towns and cities, understandings of 'country,' will always exist in regards to negotiations towards sustainable futures. The Kimberley Region is an example where there are twenty different language groups, however, as related by Peter Yu, "the glue that holds this wider Aboriginal Kimberley Region together is respect for each other's traditional ownership, cultural responsibility, and local autonomy."[30]

For some Indigenous communities operating out of specific spiritual cultural practice with regards Indigenous natural and cultural resources, **the precautionary principle in regards to development will be amplified by the greater investment of the community's wellbeing determined by what happens within 'country.'** Communities, peoples, and individuals are responsible for these 'countries', and as such, to provide for equity within and between generations, considerations of economic development will have to be negotiated through these responsibilities to maintain and enhance 'country' within all aspects of Indigenous meanings of the word, combining social, economic, environmental, and spiritual considerations.

Similarly, the aim to protect biological diversity and maintain essential ecological processes and life support systems is of crucial concern to Indigenous communities dealing with State, National, and International Conventions on Biodiversity, and in light of recent agreements over Trade Related Implications of Intellectual Property Rights.[31]

What may be considered sustainable for a mining development may not be considered sustainable for an Indigenous community.   Unless clear understandings and negotiations over the life cycle of the mine, including provisions for Indigenous community employment, Indigenous community negotiation over mine rehabilitation policy, and Indigenous community monitoring of such processes within their 'county' is included within such agreements, they can not be considered as sustainable.[32] Such considerations are becoming more clearly understood within Industry and Government, but are at the beginning of a process of change for which clear outcomes are yet to be realised. Indigenous Regional Sustainability Strategies can be utilised to provide Indigenous

[29] Beder, S., 'What is Sustainable Development', in, *The Nature of Sustainable Development*, Scribe Publications, Newham, 1993.

[30] Yu, Peter, 'Aboriginal Rights and Governance, A Kimberley Perspective, April, 2002, p 3.

[31] Brenner, C. and Persley, G., 'Agricultural Biotechnology, Poverty Reduction and Food Security in Asia,' Draft Report for the Asia Development Bank, March, 2001, Vol 1, p 10.

[32] Sheehy, B,, 'The Report of the MMSD Australia Project: Draft Report,' January, 2002, p 72.

benchmarks for negotiating such agreements on a Comprehensive Regional Agreement basis, leading in to the wider regional framework.[33]

International treaties and conventions will also impact upon considerations of Indigenous negotiations over country within any process in creating Indigenous Regional Sustainability Strategies. The Convention on Biodiversity (1993) requires, for instance, that bio-prospectors obtain prior informed consent of the relevant Indigenous community before conducting research.[34]   If bio-prospecting were to be supported within a mainstream component of the State Sustainability Strategy, Indigenous communities, through instigation of Regional Sustainability Strategies, would have a framework of bodies ready to deal with any such approaches considered unsustainable to Indigenous communities. This is an example where Indigenous community principles of sustainability would be necessarily at odds with mainstream western notions of sustainability. Likewise the Earth Charter's call for, "special attention to the rights of indigenous (sic) peoples and minorities....the right of indigenous peoples to their spirituality, knowledge, lands and resources and to their related practice of sustainable livelihoods," would provide a forum of international support, leading up to the RIO+10 Earth Summit in 2002, that Indigenous communities would be considering in regards to any possible negotiated agreements.[35]

3.4   Suggested Regional Indigenous Sustainability Strategy Principles

The principles outlined within this section are related for discussion purposes only. Beyond the previously broadly stated sustainability principles (inter-generational equity, the precautionary principle, the inter-linkage of local and global ramifications of human development, the limits to growth as it impacts upon our ecological systems, and that community participation is vital to any sustainable outcomes), it is not for this paper to be prescriptive about such principles.[36]
It is envisioned that within the Regional Indigenous Sustainability Strategy process, such principles, for them to be agreed to and owned by Indigenous communities, will require principles to be formulated on a regional and cultural basis, and these would become part of a wider regional Indigenous governance framework.

The following, listed in no particular order or hierarchy are provided as examples to give some indication of principles under consideration within such processes;
i)   that native title be recognised and protected,[37]
ii)   that the non-extinguishment of native title be accepted,[38]

---

[33] This is in line with recent Indigenous consultations within the Minerals Mining and Sustainability Process in which the Perth meeting of the MMSD process recommended the need to, "Create Minimum Standards relating to mining development of Indigenous Cultural Natural Resources based on best practice within MNC mining company Home territories." "Create a regionally representative body/ mechanism for monitoring these standards." "And, that mining companies commit to resourcing this body, both by industry, and in facilitating greater governmental, and development agency involvement." MMSD Conference, Perth, 07/02/2002.
[34] Fourmile, H., 'Using Prior Informed Consent Procedures Under the Convention on Biological Diversity to Protect Indigenous Traditional Ecological Knowledge and Natural Resource Rights,' in, *Indigenous Law Bulletin*, Vol 4, Issue 16, 1998, p 14.
[35] Earth Charter, Section 12, Social and Economic Justice, 2002.
[36] Beder, S., Op. cit.
[37] *Submission to the Review of the State Government's General Guidelines,* Op. cit., p 6.

iii)   that management is considered *inseparable* from traditional ownership of land and sea,[39]
iv)   that management is a *responsibility* and *obligation* that comes with belonging to country,[40]
v)   that guardianship, in relation to resource management, includes the ethic of stewardship in an Indigenous sense based on the nature of the resource in question,[41]
vi)   that resources be managed in a sustainable manner,[42]
vii)   that results of all negotiations are made open and accessible to the negotiating parties,
viii)   that future developments take account of regional cultural diversity,[43]
ix)   that issues of land, economy, society, culture, and governance be considered in regards to any Regional Indigenous Sustainability Strategy process,[44]
x)   that a 'nation-building' approach be instilled into the Regional Indigenous Sustainability Strategy process,[45]
xi)   that Indigenous Knowledge Systems are incorporated in land management in a reflexive process towards building skills in Indigenous communities and educating mainstream environmental and land management agencies and field workers,[46]
xii)   that capacity building programs be associated with and be implemented to support the Regional Indigenous Sustainability Strategy process within the Comprehensive Regional Agreement Process,
xiii)   that agreements include annual monitoring meetings between parties possibly convened within Regional Indigenous Sustainability Strategy Groups within the Comprehensive Regional Agreement process to ensure progress on agreed outcomes,[47]

3.5   Barriers to Sustainability for Indigenous Communities

Mr Pat Dodson stated in 1996, "The track behind us is littered with relics of policies, programs and projects that failed, that wasted taxpayers' money and failed to deliver real outcomes to those crying out for them. They failed because they did not include Indigenous people in making the decisions.....**To impose policies, to impose programs without participation, without involvement, without concern for self-determination or empowerment, is to return to the bitter mistakes of our past."[48]**

---

[38] Ibid.

[39] Kimberley Land Council, Land and Sea Management Unit, Summary of Projects, February, 2001, p 1.

[40] Ibid. Both this principle and the one above have been eloquently outlined by H. C Coombs, Op. cit., and Langton, M., Op. cit.

[41] Resource management Act, New Zealand, *Consultation with Tangata Whenua*, Ministry for the Environment, (Manatu Mo Te Taiao), 1991, p 8.

[42] Our Place" Our Future, Op. cit., p 117.

[43] Ibid, p 120.

[44] *Regional Agreements Manual*, Prepared by FOCUS, for ATSIC, February, 2001, pp 13 - 15.

[45] Cornell, S., and Kalt, P., Op. cit., p 7.

[46] Ibid.

[47] Yencken, D., and Porter, L., 'Specific Recommendations', in, *A Just and Sustainable Australia*, The Australian Collaboration, Melbourne, 2001, p 78. This report considers that yearly review meetings be implemented between all agencies with Indigenous programs.

[48] Kaufman, P., *Wik, Mining, and Aborigines,* Allen and Unwin, Sydney, 1998, pp 171 - 172, citing Dodson, P, Address to the National Press Club, 1996.

As identified within the discussion regarding key sustainability issues for Indigenous communities, the key barriers to change exist in the form of division, lack of negotiation, lack of provision to change such patterns for Indigenous communities, and lack of capacity building and facilitation. In adopting a negotiated approach to sustainability within Indigenous community development, there must be continued access to government funding, program support, and a long-term commitment to a process in which negotiations can take place.

Previous models of development have failed Indigenous communities through a lack of accountability, a lack of appropriate resources, a lack of Indigenous community ownership of processes, and through short-term grants based solutions that were not embedded in longer term processes.[49] As Coombs stated with regards to community development in the Kimberley region, "Aboriginal people take a cumulative view; they have long perceived that *ad hoc* improvements to their conditions or even their bargaining positions are insufficient to overcome their many problems. The problems as perceived by Aboriginal people are interrelated; so too should be the solutions."[50]

In terms of land and environmental management within Indigenous country in Australia, Coombs further noted that, "policies and programs concerning the management of Aboriginal lands have....emphasised conventional Australian views about the importance of commercial resource use, or the significance of conservation of wildlife.....primarily in 'Euro-centric' fashion, with only limited consultation with Aborigines".[51]

As stated by the Honourable John Ah Kitt at the Kimberley 'Our Place: Our Future' Conference,
"Our Place: Our Future," takes on a meaning far broader than the lands of the Kimberley's traditional owners. It resonates throughout the lands of all the Indigenous nations of the continent. Our choice is clear, we enter a period of despair, or we come out fighting."[52] Mirroring the arguments of Coombs[53], a decade before, Mr Ah Kitt called for an abandonment of the 'trickle down' model, which he described as a model, "of entrenching poverty and dispossession, a theory of wealth creation for the few, at the expense of the many. It doesn't work anywhere in the world, and it certainly doesn't work for Aboriginal Australia. There has to be a new model, or even a series of models, and it is the task of Aboriginal people to develop these models if we are to survive into the next century."[54]

These situations of mismanagement are well documented. A recent Department of Indigenous Affairs commissioned study found that, "social disadvantage is also closely related to social disruption and, to a degree, the inability of communities to preserve infrastructure quality. And lower funding levels contribute to all the problems here

---

[49] Gerritsen, R., Crosby, J. & Fletcher, C., Revisiting the Old in Revitalizing the New: Capacity Building in Western Australia's Aboriginal Communities - A Discussion with Case Studies, Final Report to DIA, NARU, The Australian National University, June, 2000, p 13.

[50] Coombs, H. C., Op. cit., p xv.

[51] Ibid, p

[52] Ah Kit, John, Our Place: Our Future, Conference Report, KLC, 1998, p 36.

[53] Coombs, H. C., Op. cit., p 7.

[54] Ah Kit, Op. cit., p 37.

represented. Poor capacity also directly contributes to lower funding levels."[55] This lack of 'social capital'[56] is seen as a direct result of past policies of exclusion and management of Indigenous communities that are requiring new negotiated models for resolution of past injustices, and a systemic inability to allow Indigenous community self-determination.

These issues are also identified in the ATSIC commissioned, 'Regional Agreement's Manual'.[57] Within this manual it was identified that negotiated outcomes, and as such, a sustainable regionalised approach to community development/ nation building, required, "plenty of time and patience, effort, commitment and resources."[58] Similarly, in seeking to engage within the process oriented discipline of sustainability as a means towards better negotiated outcomes for Indigenous communities, there is a need to avoid falling back into any form of what the Harvard Project on American Indian Economic Development has described as, "institutional dependency, a situation in which tribes have had to rely on someone else's institutions, someone else's rules, someone else's models, to get things done."[59] As stated by Peter Yu, "Indigenous public policy can be based on self-determination principles and rely on good governance arrangements or it can continue to be assimilationist and suffer the consequences and burden that comes with dependency."[60]

Therefore, the barriers to sustainability for Indigenous community development are clearly ones of ingrained institutional politics, a lack of resources, and a lack of capacity building. It is a revolving door that successive governments and agencies have been caught in for far too long. However, the social capital that exists in the will of Indigenous communities for negotiated changes presents an opportunity for new, fresh, and cycle breaking ways forward.

Regional Indigenous Sustainability Strategies are not intended as a quick solution, but as a means to focus current the Comprehensive Regional Agreements process and eventual wider regional Framework Agreements. To invigorate regional Indigenous governance initial regional strategies must be negotiated. The Sustainability Strategy is a means of supporting this process.

3.6   Key Stakeholders

As Regional Indigenous Sustainability Strategies would have to be negotiated in concert with the Comprehensive Regional Agreements process, the ATSIC Regional Councils, the ATSIC State Council, and the Indigenous Affairs Advisory Committee would be considered key agency stakeholders and participants in this process.

Key stakeholders, with regards to sustainability for Indigenous communities within the State Sustainability Strategy, are further identified within the 'Statement of Commitment to a New and Just Relationship between the Government of Western Australia and Aboriginal Western

---

[55] Gerritsen, R., Crosby, J. & Fletcher, C., OP. cit., p 13.
[56] Cox, E., 'Raising Social Capital' in A Truly Civil Society: 1995 Boyer Lectures, Sydney, ABC Books, 1995, pp 14 - 26.
[57] *Regional Agreements Manual*, Prepared by FOCUS, for ATSIC, February, 2001.
[58] Ibid, p 31.
[59] Cornell, S., and Kalt, P., Op. cit., p 11.
[60] Yu, Peter, 'Aboriginal Rights and Governance, A Kimberley Perspective, April, 2002, p 3.

Australians.' This agreement recognises the parties as being the Government of Western Australia and the Western Australian ATSIC State Council. Western Australian Aboriginal Native Title Working Group, Western Australian Aboriginal Community Controlled Health Organisations, and the Aboriginal Legal Service of Western Australia are only observers within this process.[61]

Within this umbrella of State Government, Federal Government, and Indigenous Non-government bodies, other key government agencies involved in the process towards sustainability would include the Department of Indigenous Affairs, the Regional Development Commissions, Regional Local Government Authorities, the Department of Industry and Technology, and other relevant State service delivery agencies dealing with health, housing, education, infrastructure and planning.

Other key stakeholders would include the National Native Title Tribunal and the Native Title Unit of the Department of Premier and Cabinet, the Indigenous Land Corporation, and of course, Incorporated Aboriginal Organisations created and controlled by Indigenous communities.

4.0   Existing Strategies

4.1   The 'Statement of Commitment' and
Regional Indigenous Sustainability Strategies

As previously related, the most recent and major policy document/ strategy to which the Regional Indigenous Sustainability Strategy relates is the 'Statement of Commitment to a New and Just Relationship' signed by ATSIC and the Western Australian Government signed in October 2001.

Within the 'Statement of Commitment' is an understanding of how policies and practices of past State Governments have impacted upon Indigenous communities through, "dispossession, settlement, and the cumulative acts of colonial and State governments since the commencement of colonisation," and that these acts, "left an enduring legacy of economic and social disadvantage that many Aboriginal people experience."[62]

The 'Statement of Commitment', also outlines the essential importance of understanding and relating to regional Indigenous solutions when it states that, "circumstances of Aboriginal people can differ significantly between regions and localities. Regional and local approaches are required to address issues that impact on Aboriginal Communities, families, and individuals."[63] The key to achieving this regional approach is agreed as a process whereby Aboriginal people and Government, "work together in partnership and share responsibilities."[64]

---

[61] Statement of Commitment to a New and Just Relationship', Op. cit, p 3.
[62] 'Statement of Commitment to a New and Just Relationship, Op. cit., p 2.
[63] Ibid.
[64] Ibid.

In terms of Regional Indigenous Sustainability Strategies, the most important objective and purpose of the 'Statement of Commitment' includes an agenda to,
"agree on a set of principles and a process for the parties to negotiate a State-wide framework that can facilitate negotiated agreements at the local and regional level."[65]
In negotiating these outcomes this agreement includes the provision for the protection and respect of Indigenous, "inherent rights," including that there be, "legislative protection of Aboriginal rights...equity with respect to citizenship entitlements...regional and local approaches to address issues that impact on Aboriginal communities", and, "a commitment to improved governance, capacity building and economic independence."[66]

The Partnership Framework outlined within the 'Statement of Commitment,' is seen as a means of achieving action in translating the agreed principles into meaningful outcomes via the mechanism of, "regional agreements based on partnerships,"[67] enabling the establishment of, "State-wide policies and administrative arrangements to support negotiations and agreements at the regional and local level."[68] **In this sense, the 'Framework', which is also described as being able to support Aboriginal people in the negotiation process, is seen to be taking on the roles of a 'governance' body, yet the 'Statement of Commitment' is unclear about exactly what agencies, or agency will be responsible for implementing such processes.**
The nearest that the agreement comes to dealing with issues of 'management' and 'facilitation' in the actual implementation of such regionally negotiated agreements is with reference to the 'Structure for Continuing Dialogue.'[69] This structure is outlined as consisting of, "regular liaison between the Cabinet Standing Committee on Social Policy and the ATSIC State Council supported by the Aboriginal Peak Bodies," as well as, "regular meetings of the Indigenous Affairs Advisory Committee."[70] The Indigenous Affairs Advisory Committee is made up of the Minister for Indigenous Affairs, the Director Generals of ten State Government Agencies, and representatives of the ATSIC State Council.

However, there is not yet a created department, agency, or agreed body of shared responsibility that could be seen to implement the proposed regional agreements. Regional Indigenous Sustainability Strategies can be considered long-term planning that acts a step in creating regional Indigenous governance structures.

4.2   Existing Programs and Strategies

The Department of Indigenous Affairs has stated an aim to achieve, "partnerships and shared responsibilities with Indigenous communities, program flexibility and coordination between government agencies, with a focus on local communities and outcomes."[71]

---

[65] Ibid.
[66] Statement of Commitment to a New and Just Relationship', Op. cit, p 3.
[67] Ibid, p 4.
[68] Ibid, p 5.
[69] Ibid,, p 6.
[70] Ibid.
[71] DIA Annual Report, 2001.

As a part of this strategy the Department of Indigenous Affairs has implemented a number of cross-agency collaborations between Regional Department of Indigenous Affairs Offices, Regional ATSIC Divisions, and Western Australian State Agencies, such as the Education Department. The Department of Indigenous Affairs has also instigated a number of demonstration projects aimed at bringing Indigenous community infrastructure and service delivery in line with general regional community levels of development and opportunity, a process described as normalisation.

This strategy saw the creation Aboriginal Reference Groups. The implementation of the Geraldton Aboriginal Reference Group in 1999 resulted in a Local Framework Agreement between this Reference Group and eight government agencies, described as the first of its kind in Australia. [72] Feeding into such regional agreement processes could be the recently formed Community Actions Groups that have been initiated to allow for extended Aboriginal family representation in dealing with local community issues. These groups are finalised after negotiation and 'family mapping', or community profiling, so that all parties with relevant links are represented.[73] A similar pilot program is the agreement in the form of an Memorandum of Understanding between the Ngaanyatjarra Council and the WA Government with regards to directly involving local Indigenous communities in agreements on educational programs.[74]

The Department of Indigenous Affairs, 'Indigenous Start up and Incentive Land Care Grants,' an Aboriginal Lands Trust initiative, will provide added support for country management and rehabilitation programs on a project-funding basis. Assisted by the National Heritage Trust and the Indigenous Land Corporation, the program is essentially an Aboriginal focused Land Care Program. While not dealing specifically with issues of Regional Indigenous Sustainability Strategies, this program could be used to aid regional long-term regional country management programs through project funding on an interim basis.

The Department of Industry and Technology's Office of Aboriginal Economic Development has a long association with ATSIC State in the coordinating of business development programs towards Indigenous self-determination. Apart from broader Indigenous economic development on a project basis, the Department of Industry and Technology's Office of Aboriginal Economic Development has facilitated the Western Australian Indigenous Tourism Operators Committee with a view to raising the profile and interaction of Indigenous tourist ventures within the mainstream tourism industry. Further strategies have been framed around issues of 'country' management, eco-tourism, and Indigenous engagement of development on regional issues.

The Kimberley Land Council's Land and Sea Management Unit works with Traditional Owners, Aboriginal communities and their corporations, non-government organisations and government agencies to take practical approaches to natural resource management in the Kimberley.

---

[72] Communities News, Issue No 21, DIA, WA, Dec, 2001, p 6.
[73] Ibid., p 7.
[74] Ibid.

Supporting agencies include WA Waters and Rivers Commission, the Cooperative Research Centre for Tropical Savanna Management, the Office of National Tourism, Environment Australia's Indigenous Protected Areas Program, and the Ord Bonaparte Program.
The primary strategies employed by the Land and Sea Management Unit are applied collaborative research, knowledge conservation, participatory planning, interagency cooperation, management planning, policy reform, enterprise development and employment creation.

The main theme of the Land and Sea Management Unit's work is to support Traditional Owners in the "sustainable occupation" of their country. "Sustainable occupation" is intended to mean; family groups living on traditional homelands, contemporary uses of natural resources that are self-sustaining and do not compromise traditional management and ecological values, and securing ownership and control of country so as not to be displaced or disadvantaged by other land users. (eg. tourism, national parks, mining, pastoralism, etc.)

The Land and Sea Management Unit projects aim to demonstrate Aboriginal connection to country through traditional ecological knowledge and management responsibilities as the basis for addressing environmental issues in the Kimberley. The use of surface and groundwater resources, and Aboriginal ownership and management of conservation reserves are currently key issues for the Land and Sea Management Unit. An example is the Healthy Country project, which brings together Aboriginal people, regional managers of State Natural Resource Management agencies, local government, and non-government organisations to take a cooperative, regional, and strategic approach to sustainable land and water management in the Kimberley. Currently, the Kimberley is not recognised as a regional entity by the Natural Heritage Trust, which means that Kimberley people lack participation in the allocation and priority setting for environmental funding.

The Land and Sea Management Unit works collaboratively through agreements with other organisations such as the Kimberley Language Resource Centre, Northern Land Council Caring for Country Unit, and Balkanu Cape York Development Corporation, and with research agencies such as Cooperative Research Council's Tropical Savannas Management, CSIRO, or Murdoch University. All Land and Sea Management Unit projects and workers are funded from non-ATSIC sources. ATSIC does not fund land management programs. Funding has been secured on a project-by-project basis by grants awarded through applications. Up to now, this funding has been from Commonwealth sources. There has been no funding offered or secured from State sources. The Land and Sea Management Unit also lobbies State and Federal agencies to allocate their own operational and project budgets towards working collaboratively with Traditional Owners, and seeks to host project workers and researchers from external agencies within Kimberley Land Council.

Although a wide range of projects are being implemented, the Manager of the KLC's Land and Sea Unit says that "there is a need to shift funding from a project-by-project approach to a longer-term program basis, to maintain continuity and build capacity, and improving democratic practice by managing the allocation of funds with the direct participation of people from the Kimberley."[75]

---

[75] *Summary of Projects,* Land and Sea Management Unit, Kimberley Land Council, February, 2001.

The North Australian Indigenous Land and Sea Management Alliance, established between the Kimberley Land Council, the Northern Land Council, and the Balkanu Cape York Development Corporation, "aims to build capacity by facilitating knowledge sharing across the north."[76] This alliance represents a clear desire by Indigenous communities to engage in agreements based within Indigenous frameworks of responsibility as a means to creating sustainable outcomes in regards to management of country, as well as creating partnerships for intra-Indigenous knowledge sharing, and negotiation over wider regional issues that exist beyond singular community boundaries.

On-the-ground collaborative projects between western scientists and Indigenous holders of traditional knowledge have been operating with some success. Ranging from the Alternative (Appropriate) Technologies movements that have been gaining wide support in remote regional communities, and the work of the Centre for Indigenous Cultural Resource Management (of the Australian National University) in Darwin, these projects involve careful negotiation of Indigenous and western knowledge towards shared aims of, caring for country.[77] Including the Dhimurru Land Management Corporation, the Bawinaga Aboriginal Corporation, and projects within the Yolngu Arafura Wetlands, these projects involve regeneration of mine-damaged lands, coastal regions, and turtle management programs. The turtle program has involved negotiation of resource rights, obligatory rights, environmental preservation aims, and the sharing of traditional knowledge (in ceremony) with scientists so as to fully negotiate a suitable outcome. As Professor Langton has related, "Yolngu traditional owners have demonstrated a commitment to preserving their ancestral environments in innovative ways combining their own knowledge and practices with those scientific endeavours which explicitly aim to support Aboriginal endeavours."[78]

New Zealand adopted a national legislative framework for such negotiations under its Resource Management Act (1991). This model required that Local Authorities take into account the principles of the Treaty of Waitangi with regards to any planning and decision making.[79] Where it differs from the proposed Regional Indigenous Sustainability Strategies process, is that it was adopted within a management framework, similar to a Comprehensive Agreement for the entire country, but based within local Government, and legislated nationally with responsibility for implementation resting with a single Department of Conservation.
Operating across the nine regional districts, it operates in a similar way to the Aboriginal Heritage Amendment Act WA (1995), whereby processes for development go through a heritage monitoring process. Although the Regional Management Authority involves much stronger provisions for Maori negotiation, this has only been made possible through the provisions of the already existing Treaty of Waitangi.[80]

A Regional Indigenous Sustainability Strategy process would be similar in that it would

---

[76] *Savannah Links*, Cooperative Research Centre for Tropical Savannahs Management, Issue 19, July - September, 2001, p 5.
[77] Langton, M., 1999, Op. cit, pp 59 - 71.
[78] Langton, Op. cit., p 62.
[79] *Managing our Future*, Ministry for the Environment (Mantu No Te Taiao), August,, 1991, p1.
[80] Ibid.

facilitate Indigenous communities to negotiate in an integrated Indigenous controlled and designed process with government, Industry, and other Indigenous communities. Such strategies would act as a means to achieving already called for changes in relation to medium term projects, programs, and issues of management for Indigenous communities.

5.0   Regional Indigenous Sustainability Strategies

5.1   What are Regional Indigenous Sustainability Strategies?

Regional Indigenous Sustainability Strategies are being promoted as a means to focussing the Comprehensive Regional Agreement Process within negotiated principles of sustainability, as they are envisioned in a regional Indigenous sense. These Regional Indigenous Sustainability Strategies are necessarily collective in their make up, supporting Indigenous community understandings that sustainability is not an individualised pursuit, but one based in obligatory responsibilities and relationships to our respective peoples and countries.

Regional Indigenous Sustainability Strategies are similar to Local Agenda 21 Plans that were created out of the 1992 United Nations Conference on Environment and Development's Agenda 21. They are negotiated strategies created to enable a community to outline their own clear development guidelines and broaden the scope of factors considered in Indigenous community decision-making. Regional Indigenous Sustainability Strategies would take place alongside the Comprehensive Regional Agreement process and form the platform for future Regional Framework Agreements, as committed to by the WA State Government within the 'Statement of Commitment.'

Regional Indigenous Sustainability Strategies are therefore a transitory strategy toward much stronger framework agreements based in regional Indigenous governance. However, as a strategy, they would require implementation of medium term outcomes, monitoring of compliance, and any negotiated changes in direction.

5.2   What are the aims of Regional Indigenous Sustainability Strategies?

The key aim of Regional Indigenous Sustainability Strategies is to invigorating Regional Indigenous governance structures. While the State negotiates with a few key Indigenous groups on pilot-based Comprehensive Regional Agreement's, Regional Indigenous Sustainability Strategies would be engaged within the aim of supporting the State's commitment to a
State wide Framework Agreement with Aboriginal Western Australians. Indigenous Sustainability Strategies would aim to facilitate direct regional Indigenous negotiations with key State and non-government agencies within a long-term community development process. Regional Indigenous Sustainability Strategies are aimed at ensuring Indigenous community ownership, responsibility, and control of Indigenous community governance and development.

5.3   How do Indigenous Regional Sustainability Strategies relate to the

Comprehensive Regional Agreement Process?

Indigenous Regional Sustainability Strategies work as a negotiated step towards wider Regional Frame-work Agreements. The two processes necessarily feed into the other. An example is that the Tjurabalan Comprehensive Agreement will necessarily require mediation and negotiation with wider Indigenous peoples within the Kimberley region due to the already important and valuable linkages and service delivery benefits that will result.

Tjurabalan represents a Comprehensive Regional Agreement process that will, and should take place with those Traditional Owners only over their lands and resources. However, there will be historical, cultural, and economic connections with other Indigenous communities in the region that will have to be considered. Indigenous Regional Sustainability Strategies, being negotiated alongside the Comprehensive Regional Agreement process, would form an important negotiation process towards the kinds of Framework Agreements that will be necessary for viable Regional Indigenous Governance.

Regional Indigenous Sustainability Strategies differ from program-based solutions as communities are encouraged to control the development of the strategies on a regional basis, considering systemic problems, rather than applying short-term project based solutions to problems. They also encourage community groups to plan for future needs, considering long-term trends.

5.4   What are the steps to Creating Regional Indigenous Sustainability Strategies?

Short-term (1-2 Years) Instigate a pilot program of regional 'country management' within the Kimberley region of Western Australia. Through supporting the already negotiated structures of country management and knowledge conservation that have been created through the Land and Sea Management Unit of the Kimberley Land Council the Western Australian Government could instigate an Aboriginal Community Ranger Program.

The Aboriginal Country Ranger Program would act as the catalysts of on the ground community negotiation of issues of sustainability. Through providing employment of twenty Aboriginal Rangers within the twenty Aboriginal Language groups within the Kimberley Region, the State would be aiding the future creation of Regional Indigenous Sustainability Strategies. This model is similar to the Victorian Aboriginal Heritage Officers Network, which employs twenty-five Aboriginal Heritage Officers over five regions. These twenty-five Heritage Officers are funded directly out of State treasury funds, not on a grants based cycle. It is recommended that these Aboriginal Country Rangers be similarly funded on a long-term basis.

Project funding that is available federally and though the State's Aboriginal Land-Care Program would be utilised to engage wider Indigenous community involvement on discrete projects. Resource developers and State Agencies are already negotiating directly with the Kimberley Land Council on a Range of Issues. The implementation of such an on-the-ground system of Country Management would aid Native Title Determination and negotiations over exploration and resource management. Indigenous communities could negotiate their own clear long-term strategies towards management of their countries and as such this would

provide a negotiated framework for future resource and governance agreements. This approach fits within the State's commitment to negotiating regional partnerships with Indigenous communities on a regional basis, and supports long-term employment and resource management opportunities.

Medium-term (3 - 5 years) Instigate other regional Aboriginal Country Programs in other regions of the State. The pilot program could be utilised as a template for future possible programs, but these other programs would likewise have to be negotiated on a region-by-region basis. Within a whole-of-government approach the resources that would traditionally have been based in Conservation and Land Management would be devolved to regional Aboriginal Country Management Programs. These would likewise operate in a collaborative manner with other mainstream conservation and resource management agencies, but in a role of management of recognised Indigenous Countries, rather than as a consultative arrangement. This is more strongly aligned with the practices of New Zealand's Resource Management Act (1991), where Maori involvement in future development of Maori lands is strongly recognised.

In a similar manner to the Kimberley Land Council's Land and Sea Management Unit, these programs could be based within Native Title Representative Bodies. The processes of native Title Representative Bodies will necessarily change over time as Native Title Determinations are concluded. The capacity that has been built up in these bodies will be immense, and will require a role in some form in future regional governance models that will be adopted as the state fulfils its commitment to the idea of a State-wide framework agreement. As the roles of prescribed Bodies Corporate are finalised, there will need to be a consideration of regional networks by which Native Title Holders negotiate within Indigenous countries.

Long-term (5 - 10 years) Regional Indigenous Sustainability Strategies are negotiated as a companion process to the Comprehensive Regional Agreement process that ATSIC, the State, Native Title Holders, and other Indigenous community groups are entering into. For groups not currently engaged in such processes, a Regional Indigenous Sustainability Strategy could be utilised as a means by which any future negotiation over resources and services could be framed.

There need not be exhaustive research and community mapping by government agencies to identify relevant community members. being allocated and based within the ATSIC regional planning model, once a process towards such strategies was begun, the relevant regional community groups could negotiate frameworks for responsibilities, rights to speak for certain places and issues, and the unfolding issues of most relevance. The regional Aboriginal Country Management Programs would have formed important on-the-ground practical catalysts for the consideration of these long-term strategies. Such structures, whether historically based, family based, or tribally based will not be neatly investigated and laid out for communities through further consultation and research. The aim is to start a process that is supported as a part of the planning process in an open manner.

Native title processes have, for many regions, already provided substantial research and development of group structures. Native Title Representative Bodies are already engaged in

these wider community negotiations, and their social capital and knowledge base in this regard needs to be invested in. The same goes for major regional Indigenous service delivery agencies. The structures already exist.   The idea is to invigorate the structures that already work, and allow them to develop, rather than provide them with a drip feed of funding and reporting requirements.

Indigenous Regional Sustainability Strategies feed into current State commitments towards partnership agreements and negotiated outcomes across a range of issues that will be identified by Indigenous community members as being of greatest importance. Through supporting a regionally negotiated process, engaging communities initially through the ATSIC Regional Councils and ATSIC Regional Planning Process, a Regional Indigenous Sustainability Strategy would provide the basis for communities to forward plan minimum standards of resource management, community service delivery, and community infrastructure development.

Starting as a strategy, the capacity building and negotiations leading from agreed regional principles of Indigenous community development, management, and control would inform future framework agreements.   These discussions would formulate the broader principles relating to Indigenous sustainability issues by which Regional Indigenous Strategies would be framed.

5.5   Who are the Key Stakeholders and who would be responsible for Implementing and Monitoring Regional Indigenous Sustainability Strategies?

The responsibilities for implementing and monitoring Regional Indigenous Sustainability Strategies, and the budgetary requirements for the long term engagement of all parties with the strategy, would need to be framed within the Comprehensive Regional Agreement process.

This approach supports the Commonwealth Grants Commission findings that essential features of any partnership approach include a, "cross functional perspective… a financial stake for all parties," and, "Indigenous control of, or strong influence over, service delivery expenditure and regional and local service delivery arrangements that emphasise community development, inter-agency co-operation and general effectiveness."[81]
Once set in motion, the regional strategy process would provide a frame for the eventual Indigenous regional governance structures. **Where such Regional Indigenous Sustainability Strategies would differ from compartmentalised regional plans is that they are by their nature an integrative arrangement. Separate processes employed by government agencies towards normalisation of services, preventative measures, capacity building, and return of land would require an integrated negotiation, within each region, and as such Regional Indigenous Sustainability Strategies would reflect a whole of government approach.** Such Strategies would also instil an approach based in collective community negotiation, over an assimilation driven approach via a unitary individual focus, as recently expressed by the Howard Federal Government.

---

[81] Report on Indigenous Funding, Commonwealth Grants Commission, Canberra, March, 2001, p xix.

Individual Partnership Agreements, Indigenous Land Use Agreements, and Memorandums of Understanding could be supported through Regional Indigenous Sustainability Strategies, providing support to relevant parties caught up in negotiations, and identifying for Industry, conservation, and other agencies the appropriate negotiating parties.

Existing agreements that could have been supported by such strategies include:
o Native Title Representative Bodies and Industry groups such as the recently signed Kimberley Land Council Memorandum of Understanding with Argyle Diamonds entering a two year process towards a framework agreement and,
o intra-agency agreements such as the Geraldton Aboriginal Reference Group agreement with Eight State Agencies, and the Northern Australian Indigenous Land and Sea Management Alliance agreement facilitating country management between peak Indigenous NTRBs.

In the case of the Kimberley Land Council Memorandum of Understanding with Argyle Diamond Mines, this agreement has already been based within a regional Indigenous body with solid Indigenous community executive control, and is based within regionally understood and negotiated Indigenous approaches to ownership and responsibility.

Regional Indigenous Sustainability Strategies are proposed as a means by which the Indigenous Affairs Advisory Committee and ATSIC could support long term regional strategies that Indigenous communities are seeking to negotiate. Regional Indigenous Sustainability Strategies could be supported through the ATSIC Regional Planning Process negotiated with intra-agency partnerships towards agreed sustainability outcomes, as instigated by Indigenous communities. As such, these strategies would have to be facilitated by ATSIC Regional Councils in collaboration with the Department of Indigenous Affairs, and the Indigenous structures arising from the negotiation process in each region.

ATSIC Regional Councils will be the first point of negotiations of such strategies. In Regions such as the Kimberley, where there is a strong Native Title Representative Body with appropriate executive structures and a history of community representation, this may be the most appropriate regional governance body. This role would have to be conducted in collaboration with the expected creation of Prescribed Bodies Corporate that are the legally required bodies that will result from positive native title determinations. In regions such as the Wheat-belt there are strong Indigenous service delivery organisations that may form the basis of future regional governance structures in the region.

Operating within Professor Peter Newman's concept to "take the ideas of planners and give them a 'sustainability' makeover"[82] the approach in facilitating Regional Indigenous Sustainability Strategies, in complying with Local Agenda 21 processes, "can build on work that is already being undertaken, ensuring that it is long term, involves the community and

---

[82] Newman, P., 'Sustainability and Planning: A Whole of Government Approach,' ISTP, Murdoch University and the Department of Premier and Cabinet, 2001, p 13.

takes account of principles such as ecological integrity, precaution and equity between and within generations."[83]

To this end the Regional Indigenous Sustainability Strategies should be aimed at invigorating the Western Australian State Government's current approach towards cross-sectoral and intra-agency cooperation and good governance. The regional nature of the strategies is an essential element of the process towards engaging local Indigenous control and ownership of key issues relating to Indigenous community development, resource management and negotiation, service delivery, and future investment in economic and social capital. This regional support focus was outlined in the Department of Indigenous Affairs commissioned report into capacity building as an essential element of facilitating sustainable governance for Indigenous communities.[84]

The currently supported programs towards the creation of Aboriginal Reference Groups and Community Actions Groups within the Department of Indigenous Affairs could be a means by which this process is further supported within existing structures in areas where these approaches take hold. However, Regional Aboriginal Country Management Programs would act as a catalyst toward such negotiated strategies as they would be dealing with the issues of country management on-the-ground on a daily basis.

Operating out of Indigenous partnerships with facilitation via ATSIC and the Department of Indigenous Affairs, negotiation of Regional Indigenous Sustainability Strategies would deal with issues of Regional significance, framing principles of these specific Indigenous community values into the process. Such Regional Indigenous Sustainability Strategies could then operate within the planned wider State Framework that the State has committed to. The long-term possibility for Regional Sustainability, as recommended by the Kimberley 'Our Place: Our Future" Conference (1998) would see the establishment of a "Regional Authority as a one stop shop which recognises the region's cultural diversity, represents all people of the Kimberley and coordinates service delivery and regional agreements."[85] However, the creation of Regional Indigenous Sustainability Strategies would allow communities to determine, on a regional scale, wider sustainability issues, while enabling medium term resolution of issues of most need.

5.6   Regional Indigenous Sustainability Strategy Examples

Example One

An Native Title Representative Body has been operating successful Country Management Programs within its region through the work of its Environment Officer, and the fortunate position of having one off Natural Heritage Trust funding, through the one off sale of Telstra, to rely on. The programs are set to run for three years. The Native Title Representative Body fulfils all of its obligations to the Traditional Owners who are involved integrally in the management and care of programs, and other state agencies are attracted to the party, but only

---

[83]'Background to LA 21', in, *Our Community, Our Future*, Commonwealth of Australia, Canberra, 1999, p 14.

[84] Gerritsen, R., Crosby, J., and Fletecher, C., Op. cit., p 7.

[85] Our Place" Our Future, Op. cit., p 127.

on a short-term basis. The Community Ranger scheme that has been put in place is seeing tangible results in terms of employment, rehabilitation of water holes, spiritual cultural rejuvenation of country, through being able to get back to country, and protection of specific cultural heritage sites from tourists. The three-year funding period is running out. There is no more National Heritage Trust funding, or at best, a recurrent funding program that exists at the whim of Federal policy shifts in Canberra. The Environment Officer, with years of community experience and trust, was also funded under the National Heritage Trust funding, and is forced to seek work elsewhere. The new round of grants are still being worked out in Canberra as there has been an election and the new government wants to place it's own stamp on the funding program. The government decides that this year it will favour lighthouse restoration over country management.

If an Aboriginal Country Management program were established from direct recurrent funding, or from an Aboriginal Country Management Trust, the community could negotiate an outcome with relevant State and National agencies to utilise the Aboriginal Rangers as the appropriate group to manage specific country management within their region. This could be negotiated to come from direct recurrent programs, so as to replace duplication of ranger services, and place management of this Indigenous country within the hands of the appropriate Indigenous community. As this is a more complex negotiation, the State would need to facilitate support for the negotiation process, either through legal support to the Native Title Representative Body's Environment Section, because all the other lawyers are tied up in native title cases. The Native Title Representative Body will need such support as it is already under funded, and is focussed on dealing with Comprehensive Regional Agreements and Indigenous Land Use Agreements and representing Native Title Claimants.

The Aboriginal Country Management Program informs a wider Regional Indigenous Sustainability Strategy, having been negotiated as a part of the Comprehensive Regional Agreement process, and does not affect the Comprehensive Regional Agreement, but revives already operating social capital that has been started up within the community through a grants based program and has achieved tangible results. The tangible results are what the community can stand by as its negotiating position, supporting a long-term Regional Indigenous Sustainability Strategy.

In this way, the Aboriginal Country Management Program Acts as a medium term solution to a direct community need, but is based within a long-term process towards a Regional Indigenous Sustainability Strategy within a Regional Framework Agreement, arising out of other Comprehensive Regional Agreements.

Example Two

An indigenous community is managing a property that has been leased back under the Aboriginal Lands Trust. This community wants to trial alley farming on its land as a means to stopping erosion and returning nutrients to poor soils. The farm is operating with aid from the local Community Development Employment Program, and is breaking even. The community could approach ATSIC or Department of Indigenous Affairs for funding, even though its plans fall outside of its agreed Business Plan, but the deadlines for funding has

been missed for the next rain season, which is arriving soon, and funds are under pressure due to the many applications for funding.

If a Regional Aboriginal Country Management Program were established, the community could recommend a negotiated outcome with the Department of Conservation and Land Management towards the provision of trees for planting. In return, the community could allow agreed terms by which the alley-farming project is monitored by the Department of Conservation and Land Management. The community would be able to supply in kind labour, and not have to dip into funds that it received from the previous year's wool-clip, which it has earmarked for fencing of the river to stop further erosion.

Where this differs from grant-based programs is that communities do not have to fit prescriptive grant outlines that have been organised within centrally located agencies that may not necessarily fit their needs. The community, with strong social capital in the form of a cohesive and successful Community Development Employment Program and traditional links to the country, is best able to negotiate and manage issues related to their country. What they require is to be involved in a regional long-term strategy that is regularly discussed and negotiated, has cross agency links and networks, and utilises agreements to facilitate its programs against negotiated Indigenous community principles. Being able to negotiate with a local Country Management Ranger, the community it is more likely to receive due care and attention, and the community can deal through the Country Management Program towards a wider Regional Indigenous Sustainability Strategy to assist it in negotiating its own position in long-term.

Example Three

Having received a successful Native Title Determination, Traditional Owners are faced with operating under a Prescribed Body Corporate, in which their Native Title is vested. Although the community successfully operated within a 'nation' framework in reclaiming its Native Title Rights, the community is actually made up of a series of separate historically and culturally diverse settlement based organisations that control and maintain specific countries within the overall 'nation' Traditional Lands. These organisations still want to function, operating their own programs, within their own recognised boundaries of responsibility and obligation. Traditional Owners can only speak for relevant country.

The overall community is engaged in negotiations with State and National agencies towards a Comprehensive Regional Agreement. It has already taken eight years for the community to reclaim their lands. It will take many more years to negotiate the Comprehensive Regional Agreement with regards to provision of services, relationships with Local Governments, and creation of economic enterprises that may also be in negotiation with mineral exploration companies. One of the communities wants to negotiate an Indigenous Protected Area with Environment Australia. They want to release funding so as to train up Rangers and manage their country. The other separate communities making up the complete group of Traditional Owners have no problem with this. They consider that it is one community's right to manage and control those lands.

The State and National government agencies are engaged in the Comprehensive Regional Agreement and are focussed on the resolution of this process. While the negotiations are occurring the community wants to get a Ranger Program going. But the Comprehensive Regional Agreement process takes a long time. While the governments are engaged in the Comprehensive Regional Agreement process, they are seen to be doing their thing, and there is a lag time between the enabling of more short and medium term processes that the community wants to see starting up sooner.

Aboriginal Country Management Programs could be the means by which the community negotiate intermediate outcomes that could act as building processes whilst the wider Comprehensive Regional Agreement is being developed. Having considered long-term approaches to management and principles of what is accepted and what is not, the community can move forward knowing that the planned program fits within the wider framework process.
Further, as there is a regional approach, the community can benefit from other programs already in place, or being negotiated, towards similar ends. Instead of operating out of the dark, being focussed only on their own Comprehensive Regional Agreement, the negotiations within the regional sustainability strategies have provided the community with information about how to approach this problem.

While the big meetings are concerned with issues of accountability, management, operation, and funding of the Prescribed Body Corporate, the community can see on the ground results from their right to negotiate such agreements as owners of their country, and the Aboriginal rangers are aiding the continued management and access to that country. They could be implemented in medium term programs that are negotiated, outside of basic grant arrangements, and without having to start from scratch. The agreement about what is desired, and what is achievable is leads into the creation of a wider Regional Indigenous Sustainability Strategy.

6.0   Conclusion

This paper has been framed within current movements toward Comprehensive Regional Agreements based within the State Government's stated aim of seeking partnership agreements to achieving a process that works towards sustainable Indigenous communities and an eventual State Framework Agreement. Regional Indigenous Sustainability Agreements are being proposed as a long-term means by which the State government could strategically facilitate Indigenous communities on issues of need, management, infrastructure, and governance at the regional level.

Through a localised, regionally supported approach, such strategies are considered within this paper as complementary to the Comprehensive Regional Agreement process. Regional **Indigenous Sustainability Strategies are being considered as a means toward supporting a process of 'nation building'[86] for Indigenous peoples of Western Australia towards wider Regional Framework Agreements, within a wider State Framework Agreement.**

[86] Ibid.

Within this aim, Regional Indigenous Sustainability Strategies are directly supported through the creation of Regional Aboriginal Management Country Programs.

This paper has examined the potential of a Regional Indigenous Sustainability Strategy process as the means of engaging with the discipline of sustainability as it will be negotiated within diverse Indigenous community frameworks. In seeking to instil principles of sustainability into this process, flexibility is also considered an essential element of any process that will be of use within the multitude of Indigenous frameworks negotiating what sustainability may mean for Indigenous communities.

However, any Regional Indigenous Sustainability Strategy arising out of the State Sustainability Strategy will require capacity building programs for Indigenous communities, both as part of an the negotiation process, and in instigating any proposed outcomes. Although stated in regards to the Tjurabalan negotiations, Peter Yu stated that,"Without an effective Aboriginal governance structure," any proposed Comprehensive Regional Agreements process, "may result in more efficient welfare service but essential dynamics of the current neo-colonial relationship will remain entrenched."[87]

Aboriginal Country Management Programs are being proposed as short to medium-term catalysts through providing recurrent long-term support for already existing schemes and desires towards Aboriginal Country management. Regional Indigenous Sustainability Strategies are being suggested as a long-term strategy focussing on the key issue of relevance in the consideration of sustainability for Indigenous communities - one of regional governance. As the challenge towards responsible management, and therefore any hope of sustainability for Indigenous communities is, "to develop beyond narrow disciplinary boundaries,"[88] Regional Indigenous Sustainability Strategies are being proposed as a flexible, cross-sectoral transition towards such negotiated, boundary crossing solutions.

_____

Bibliography

A Just and Sustainable Australia, The Australian Collaboration, Melbourne, 2001,

ATSIC Corporate Plan, 2001 - 2004.

Attwood, B., *The Struggle for Aboriginal Rights: A Documentary History*, Allen and Unwin, Sydney, 1999.

---

[87] Yu, Peter, 'Aboriginal Rights and Governance, A Kimberley Perspective, April, 2002, p 9.
[88] Langton, M., Op. cit., p 74.

'Background to LA 21', in, *Our Community, Our Future*, Commonwealth of Australia, Canberra, 1999.

Beder, S., 'What is Sustainable Development', in, *The Nature of Sustainable Development*, Scribe Publications, Newham, 1993.

Brenner, C. and Persley, G., 'Agricultural Biotechnology, Poverty Reduction and Food Security in Asia,' Draft Report for the Asia Development Bank, March, Vol 1, 2001.

Carter, J., (et al) 'Collaborative Ecological Reesearch with Aboriginal People: A case study'. Centre for Indigenous, Natural and Cultural Resource Management, Darwin, 1998.

Commonwealth Grants Commission, 'Report on Indigenous Funding,' Canberra, March, 2001.

Communities News, Issue No 21, DIA, WA, Dec, 2001.

Coombs, H. C., (et al) 'The promise of the land: Sustainable use by Aboriginal communities' centre for Resource and Environmental Studies, Australian National University, Canberra, 1990.

Cornell, S., and Kalt, P., *Sovereignty and Nation Building: The Development Challenge in Indian Country Today,* The Harvard Project, 2001.

Cox, E., 'Raising Social Capital' in A Truly Civil Society: 1995 Boyer Lectures, Sydney, ABC Books, 1995.

DIA Annual Report, 2001.

Dodson, M., 'Indigenous peoples, social justice, and rights to the environment', *Ecoplolitics IX Procedings, Persepectives on Indigenous Peoples Management of Environmental Resources,* NTU, Darwin, 1995.

Earth Charter, Section 12, Social and Economic Justice, 2002.

Focus on the Future: Opportunities for Sustainability in Western Australia; A consultation paper for the State Sustainability Strategy for Western Australia, Forward, December, 2001.

Fourmile, H., 'Using Prior Informed Consent Procedures Under the Convention on Biological Diversity to Protect Indigenous Traditional Ecological Knowledge and Natural Resource Rights,' in, *Indigenous Law Bulletin*, Vol 4, Issue 16, 1998.

Gallop, G., Brief Ministerial Statement to the Western Australian Parlaiment, 05/11/2001.

Gerritsen, R., Crosby, J. & Fletcher, C., Revisiting the Old in Revitalizing the New: Capacity Building in Western Australia's Aboriginal Communities - A Discussion with Case Studies, Final Report to DIA, NARU, The Australian National University, June, 2000.

Kaufman, P., *Wik, Mining, and AboriginesI,* Allen and Unwin, Sydney, 1998.

Langton, M., *Burning Questions: emerging environmental issues for indigenous peoples in northern Australa*, Centre for Indigenous Natural and Cultural Resource Management, NTU, Darwin, 1998.

Managing our Future, Ministry for the Environment (Mantu No Te Taiao), August, 1991.

National Strategy for Ecological Development, Australian Commonwealth Government, 1992.

Newman, P., 'Sustainability and Planning: A Whole of Government Approach,' ISTP, Murdoch University and the Department of Premier and Cabinet, 2001.

Our Common Future, World Commission on Environment and Development, Oxford University Press, Oxford, 1987.

'Our Place: Our Future,' Conference Report, KLC, 1998.

Regional Agreements Manual, Prepared by FOCUS, for ATSIC, February, 2001.

Resource management Act, New Zealand, *Consultation with Tangata Whenua*, MInistry for ther Envirionment, (Manatu Mo Te Taiao), 1991.

Savannah Links, Cooperative Research Centre for Tropical Savannahs Management, Issue 19, July - September, 2001.

Sheehy, B,, 'The Report of the MMSD Australia Project: Draft Report,' January, 2002.

'Statement of Commitment to a new and Just Relationship between the Government of Western Australia and Aboriginal Western Australians,' 2001.

Submission to the Review of the State Government's General Guidelines - Native Title Determinations and Agreements, By the WAANTWG, 16/05/2001.

Summary of Projects, Land and Sea Management Unit, Kimberley Land Council, February, 2001.

Yencken, D., and Porter, L., 'Specific Recommendations', in, *A Just and Sustainable Australia*, The Australian Collaboration, Melbourne, 2001,

Yu, Peter, 'Aboriginal Rights and Governance, A Kimberley Perspective, April, 2002.

WA Labour Party Indigenous Affairs Policy Statement, 2001.

_____