Australian Government

Australian Institute of Health and Welfare

Australian Institute of Family Studies

Closing the gap
clearinghouse

Engaging with Indigenous Australia— exploring the conditions for effective relationships with Aboriginal and Torres Strait Islander communities

Summary

What we know

- Without genuine engagement of Indigenous people it will be difficult to meet the targets of the Council of Australian Governments (COAG).

- The United Nations (UN) Declaration on the Rights of Indigenous Peoples calls on states to obtain free, prior and informed consent of Indigenous people through their representative institutions before adopting legislative or administrative measures that would affect them; it provides an international framework of best practice for engagement.

- Engagement requires a relationship built on trust and integrity: it is a sustained relationship between groups of people working towards shared goals; on the spectrum of engagement, a high level of participation works better than lower levels (such as consultation) where problems are complex.

- Compared with the experience in similar developed settler countries, Indigenous engagement in Australia is not based on a comprehensive legal framework or treaty that enshrines certain rights for First People, or gives First People significant levels of control: experience overseas also emphasises the importance of investing in Indigenous governance capacity and related resources.

- Recent government efforts to improve coordination and whole-of-government working for engagement indicate that a need remains for:
  - greater flexibility in funding arrangements
  - approaches towards accountability systems and capacity development that reflect a whole-of-government approach
  - greater coordination of and authority for senior local staff
  - shifts in bureaucratic cultures to support collaboration.

What works

Engaging successfully with Indigenous communities requires:

- an appreciation of—and the cultural competency to respond to—Indigenous history, cultures and contemporary social dynamics and to the diversity of Indigenous communities; valuing the cultural skills and knowledge of community organisations and Indigenous people
- clarity about the purpose and the relevant scale for engagement, which may call for multi-layered processes: engagement needs to relate to Indigenous concepts of wellbeing
- long-term relationships of trust, respect and honesty as well as accessible, ongoing communication and information
- effective governance and capacity within both the Indigenous community and governments themselves
- appropriate time frames (including for deliberation and responsive funding, where applicable).

Participatory processes

- Engagement involves Indigenous agency and decision making, a deliberative and negotiated process, not just information giving or consultation, and it starts early in the program or project development.
- Engagement is based on Indigenous aspirations and priorities, within an Indigenous framework, process, context and time frame; that is, it is an Indigenous-driven process with government as facilitator/enabler within a framework of Indigenous self determination.
- Engagement builds on existing community governance structures and Indigenous strengths and assets, rather than on deficits and gaps, in an empowering process, with small achievements along the way to mutually agreed longer term goals.
- Power inequalities are recognised, and sincere attempts are made to share power, through contracts or agreements; decision making processes and agreed conflict resolution mechanisms are transparent. Unequal power in relationships can be reduced by strong mutual accountability relationships in agreements.
- There is a high degree of clarity about desired outcomes, indicators and steps to achieving them, with clearly defined roles and responsibilities in agreements and partnerships, mutual accountabilities and some continuity of personnel.
- Parties engage in joint planning of monitoring and evaluation to meet the rights and needs of each party. There is willingness to share responsibility and accountability for shared objectives.

Governance, leadership and capacity building

- Effective and legitimate Indigenous governance arrangements, with internal protocols, are agreed to facilitate partnership working.
- There is strong and strategic Indigenous leadership, with guidance from Elders.
- Indigenous leadership is adequately resourced and supported for the engagement process.

- Governments or other agencies provide very high-level leadership as well as secure, adequate resources, and culturally competent staff capable of building trusting relationships. These agencies demonstrate flexibility and a willingness to be honest about resource or other limitations, and set achievable goals.
- Continuing investments are made to strengthen the governance and capacity development of both Indigenous and government partners for effective partnership. These efforts start early, and continue over the long term, building on existing community organisations and governance structures.
- Governments have the capacity to respond to Indigenous priorities with pooled and flexible funding arrangements.

What this means: effective engagement

Effective engagement is a sustained process that provides Indigenous people with the opportunity to actively participate in decision making from the earliest stage of defining the problem to be solved. Indigenous participation continues during the development of policies—and the programs and projects designed to implement them—and the evaluation of outcomes.

Engagement is undertaken with an understanding of the historical, cultural and social complexity of specific local or regional Indigenous contexts and with a genuine attempt to share power in relationships that foster mutual trust. It requires adequate governance arrangements. It also requires capacity within both the Indigenous community and the governments (and/or others) involved to enable the Indigenous community to negotiate their aspirations and for governments (and/or others) to respond in a flexible and timely way. Engagement is most successful when the parties have agreed clear outcomes they want to achieve, are clear about roles and responsibilities and steps to discharge them, and jointly identify indicators of success and monitoring and evaluation processes that meet their respective needs. Although we don't yet know how effective engagement based on the UN Declaration on the Rights of Indigenous Peoples will be, the Declaration presents an emerging international human rights standard for engagement based on free, prior and informed consent, a concept which is only now being explored in practice.

What doesn't work

- Ignoring the lessons above and failing to incorporate them in engagement approaches.
- Hurried, one-off 'consultations' that are organised without Indigenous input into their design, where the parameters for discussing the analysis of the problem and possible solutions are centrally determined and fail to take proper account of Indigenous aspirations, ideas of wellbeing, and social contexts.
- The absence of legitimate and effective Indigenous community governance for long-term engagement and shared ownership of the goals and processes.
- Fragmented and siloed departmental and jurisdictional arrangements among governments, with each agency trying to engage with the same Indigenous people and organisations. This means they do not respond holistically to Indigenous priorities. This places unnecessarily heavy burdens on Indigenous people.
- Staff operating on inaccurate assumptions about the Indigenous community, its membership, its governance, and who can represent its views; and failing to recognise the diversity within any Indigenous community.
- The complex governance arrangements currently in place in remote Australia; these are inadequate to foster engagement: people want a say in decision making, consistent and adequate funding of services and government departments to be more accountable to them than to distant capitals.

What we don't know

- We don't know how to overcome the persistent challenges governments face in trying to engage on the ground in a flexible, whole-of-government way within systems that are based on upward departmental accountabilities.
- It isn't known how to engage effectively where an Indigenous community is in conflict, has highly fractured governance or has weak leadership.
- There is little or no research evidence about successful engagement arrangements in urban areas or the Torres Strait Islands.
- There is no research evidence about either models of engagement for national or other levels of policy development or the role of Indigenous peak bodies in engagement strategies.
- The evidence from the most recent innovations by various jurisdictions in relation to engagement models and approaches (see p.18 'Engagement by states and territories') is not available.
- The range of sectors for which there is significant research on successful approaches to program/project level engagement is limited.
- Research evidence of how free, prior and informed consent has been put into practice in governmental engagement processes and its impact is not yet available.

Introduction

To implement the Closing the Gap policy, Australian Government policy aims to strengthen government engagement and partnerships with Aboriginal and Torres Strait Islander Australians, recognising that without genuine engagement it will be difficult to achieve the key policy targets (the COAG targets) (FaHCSIA 2011a). This paper overviews the research-based evidence on how such engagement can be developed and maintained. It examines what research shows about:

- the conditions that enable governments and others (non-government organisations and the private sector) to engage effectively with Indigenous communities
- how these conditions can be enhanced for effective engagement between governments and Indigenous communities.

The major focus of this paper is on research into government engagement at the regional level as this provides the most research or evaluation evidence. A separate resource sheet, *Engagement with Indigenous communities in key sectors* (Hunt 2013), examines research evidence for engagement in specific sectors where a reasonable body of evidence exists, and Indigenous engagement with non-government organisations that work in international development. Some of these organisations also work in Australian Indigenous communities.

This paper draws on Australian and international research undertaken largely since 2000. This date was chosen as it marked the start of major changes in government policy and governance of Indigenous Australia, and the development of major interest and research in Australia about governance and leadership. In particular, this paper draws on research undertaken by the Indigenous Community Governance Project (2004–08). It includes material sourced through bibliographic searches on ProQuest and the International Bibliography of the Social Sciences, peer reviewed journal articles and books, significant government research and evaluation reports, and material from university-based discussion papers. With only a handful of exceptions, all research referred to in this paper is in the public domain.

The paper is structured as follows.

• The first section broadly examines the concepts of citizen and community engagement, particularly in relation to marginalised groups.

• The second section explores factors specific to engagement with Indigenous people.

• The third section outlines the policy context for engagement in federal and other jurisdictions.

• The fourth section examines the international framework and practices in other comparable states.

• The fifth section analyses research relating to the efforts of government and others to engage Indigenous people at the regional level.

• The sixth section summarises common findings from program and sectoral engagement in early childhood services, environment and natural resource management, and health programs. These are the three sectors where most research evidence is available; more detail on these sectors is provided in the Clearinghouse resource sheet *Engagement with Indigenous communities in key sectors* (Hunt 2013).

Background

What is engagement?

A recent review of citizens' engagement in policy making and the design of public services (Holmes 2011) recognises the difficulties of putting ideals of democratic participation and 'active citizenship' into practice, particularly for marginalised communities. The international literature the paper surveys indicates that 'engagement' is about a 'relatively sustained and systematic interaction' (Holmes 2011:13). It is not 'a single process or set of activities. It is an ongoing process or conversation that builds trust and relationships' (FaHCSIA 2012:1). While acknowledging the unequal power relationships between parties, the review says engagement is at its best when it 'results in the joint determination of outcomes and confers legitimacy upon them' (Holmes 2011:13). Therefore, engagement is seen as an interaction between groups of people working towards shared goals.

The elements of engagement Holmes (2011) identifies are access to information, consultation and participation, with the latter having a deliberative nature that may enable participants to share their understanding of issues and solutions and hence make better decisions.

A major international conference on community engagement held in Brisbane in 2005 highlighted four core principles in community engagement: integrity, inclusion, deliberation, and influence:

• *Integrity*: when there is openness and honesty about the scope and purpose of engagement

• *Inclusion*: when there is an opportunity for a diverse range of values and perspectives to be freely and fairly expressed and heard

• *Deliberation*: when there is sufficient and credible information for dialogue, choice and decisions, and when there is space to weigh options, develop common understandings and to appreciate respective roles and responsibilities

• *Influence*: when people have input in designing how they participate, when policies and services reflect their involvement and when the people's impact is apparent (ICEC 2005).

Spectrum of engagement

The idea of a *spectrum of engagement* is common in engagement literature. Most models derive from Arnstein's original 'ladder of participation', which ranged from citizen control to tokenism (Arnstein 2011; Cornwall 2008). The UK Health for All Network sets out a contemporary version of this, with a continuum of community participation from high to low: it ranges from a situation in which the community has control, has some delegated powers, is involved in planning jointly, provides advice, and consults or receives information through to a situation where it has no control (Ife & Tesoriero 2006). Policy makers have to select the point on the spectrum at which they need to engage. However, Reddel and Woolcock (2004:85) emphasise that consultative models within a rational, linear policy making model that fail to embrace political complexity 'ultimately reinforce centralised and passive models of decision making'.

Engagement as participation, at the high end of the spectrum, is seen as being particularly important for so-called 'wicked' or complex and difficult problems, where adequate time frames and collaboration are essential to find solutions (Head 2007; Holmes 2011; Saxena 2011). Indigenous affairs can often reflect such 'wicked' or complex problems (Hunter 2007; Jarvie & Stewart 2011). Various sources urge 'co-production,' a process that enables citizens and others 'working as partners across a spectrum of activity—from diagnosis and analysis of issues through to tactical and strategic considerations in pursuit of jointly devised outcomes' (Holmes 2011:21; see also Bovaird 2007; SCDC 2011; World Bank 1996).

An evaluation of the Communities in Crisis policy, which led to government interventions in four remote Aboriginal communities between 2003–04 and 2006–07, found that the diagnosis of the causes of the crises in these communities was superficial, and that a deeper analysis may have led to a better response. It found that, despite the urgency, the policy might have been better designed if formal consultation with all stakeholders had occurred at the outset. In particular, effective consultation with the affected communities was also poor except in one instance: in that case, continuing consultation throughout the process had generated greater community ownership of the intervention (SGS E&P 2007). The importance of involving people in the diagnosis of the problem is reinforced by this study.

Holmes (2011) argues a compelling case for engagement to mean 'co-production', which Boyle and Harris (2009:11) define as 'delivering public services in an equal and reciprocal relationship between professionals, people using services, their families and their neighbours'. But Holmes notes a number of challenges. These relate to the power sharing that this implies. The implication is that sham consultation can damage trust rather than build it. Testing a co-production approach in a Māori context, McKenzie and colleagues (2008) found that it suggests a shift in priorities and focus towards jointly developing policy solutions rather than service delivery, program and funding models. Such ways of working are far from the more usual bureaucratic 'command and control' approach, and go beyond consultative approaches more commonly used (Holmes 2011). The challenges of shifting to this more participatory governance are well summarised by Edwards and colleagues (2012); in particular, these challenges are the need for leadership, trusting relationships and willingness to share power; the requirement to reshape accountabilities and align organisational structures; the need for an organisational culture that supports such ways of working; and better evaluation of what works. Innovative strategies to enable people to participate meaningfully are needed (Nimegeer et al. 2011).

Skills and capacities needed for engagement

Good engagement requires, among other things, developing a shared understanding of the problem; learning how to generate common goals and clear mutual expectations about the whole project or program cycle; and the ability to make mutual adjustments, reduce control and develop a facilitative leadership style (Edwards 2001; Head 2007). High-level skills, participative methodologies, horizontal relationships or networks, and personal attributes and values are needed for facilitation in complex and difficult policy areas (Edwards 2002; Guilfoyle et al. 2008; Holmes 2011; Stewart 2009). Learning to share power and work collaboratively is crucial (Head 2007) as this involves being able to develop respectful and trusting relationships, agree on the principles to guide

relationships, understand different value frameworks, develop clear goals and expectations in the partnership's work, clarify roles and relationships, agree on how to evaluate outcomes and agree on dispute resolution mechanisms (Edwards 2001). Various reports also refer to the communication and relational skills necessary for whole-of-government working (ANAO 2007; KPMG 2007).

Skills required for successful engagement with Indigenous communities may include:

- cultural competency (including awareness of Indigenous history, culture and values)
- understanding the practical implications of the service delivery principles for Indigenous Australians in the National Indigenous Reform Agreement
- community engagement, community planning, community development and capacity building as central elements of the design and development of services
- being able to harness the flexibility and adaptability of community sector organisations
- being able to work in a whole-of-government way; and skills for program implementation (Department of Finance and Deregulation 2010:360).

Hagan (2009) lists a range of personal capabilities necessary for successful engagement which reflect some of these skills in more detail. These include the ability to 'tune in' to people and what is going on in a context; to be adaptive and responsive and to adjust to what is emerging; to understand protocols of Indigenous communication; to deal constructively with conflict, complexity and chaos; to learn to lead from anywhere, including from behind; to 'let go of ego' and support others to grow and develop their own capacities; to 'demonstrate genuine care interest and respect'; and to 'work with barriers to change' (Hagan 2009:36). This range of skills, particularly those for community development and capacity building, are not standard for public servants. The quality, nature and breadth of training needed for staff in both policy and field roles in order to engage effectively are highlighted by the Australian Government Coordinator General for Remote Indigenous Services (CGRIS 2011).

Holmes (2011) also emphasises that engagement with marginalised groups is particularly difficult. Such citizens may not have the capacities, or even the desire, to engage with governments. There may also be many practical barriers to their engagement. Government agencies may need to invest in building the capacity of more vulnerable groups to participate through non-government organisations (Head 2007). This was found to be so in implementing the Stronger Families and Communities Strategy of the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) in relation to Indigenous projects (RMIT University CIRCLE 2008). The strategy also found that considerable time was needed to build trusting relationships. Success was more likely when Indigenous projects were managed or overseen by capable support organisations with strong pre existing relationships with the Indigenous community.

Appropriate engagement strategies may vary with 'spatial scale' (from local to national) and according to the 'problem issues and policy arenas' (Head 2007:446). The breadth (wide/narrow) and depth (from involvement in all stages to information or consultation only) of participation are also key considerations (Cornwall 2008) for achieving 'optimal participation'. In practice, there can rarely be 'full participation by all stakeholders'. It is important to get the balance right for the purpose (Cohen & Uphoff 2011; Cornwall 2008).

Problems can arise from 'bureaucratic silos' and the weak capacities of government agencies to 'join up' government. Such problems are particularly apparent where horizontal coordination across departments and vertical coordination across different levels of government are required to solve complex problems more holistically (Head 2007). This involves devolved decision making, partnerships and crossing institutional boundaries, recognition of power inequalities as critical, and trust, which is something that can only be developed over time with good faith. Head (2007:450) makes it clear that 'building capacity for longer-term joint interaction may be as important in the early years of a program as ensuring immediate and tangible on-ground benefits for communities'. Governments, however, tend to want quick results, to maintain control, have heavy reporting demands and demonstrate low levels of trust in community organisations as decision makers (Campbell et al. 2007).

Engagement with Indigenous Australians

This section explores some aspects of engagement that are very specific to Aboriginal and Torres Strait Islander Australians.

History, culture and language as factors in engagement

The history of engagement between governments, the wider settler society and Aboriginal and Torres Strait Islander people affects contemporary engagement. Early experiences of such engagement may have involved violent conflict, forced dispossession and displacement, protectionist policies that denied Aboriginal people basic rights, separated families and entrenched discrimination and inequalities with the settler society. The effects of these historical policies, some of which ended only in the 1970s, reverberate through Aboriginal society and families today in unresolved trauma (Oscar & Pedersen 2011). A guide to engagement with Aboriginal people published in Western Australia points out that Aboriginal people may be wary of governments due to this harsh history (ATSIC et al. 2005). (They may also be wary of other non-Indigenous organisations and companies, of course). Other writers refer to tensions in relationships and a distinct lack of trust that has to be overcome if there is to be any successful engagement (Lloyd et al. 2005; Voyle & Simmons 1999).

However, while governments and others have had major effects on Indigenous people and communities, it is important to recognise that Indigenous cultural forms and practices have been incredibly resilient. As Dillon and Westbury (2007:57) note, 'Indigenous societies right across Australia are built on a robust and extraordinarily resilient cultural foundation' (see also Oscar & Pedersen 2011). This has to be taken into account in any engagements with Indigenous communities. Indeed, Dillon and Westbury (2007) stress that failure to appreciate the diversity of Indigenous people and acknowledge Indigenous cultural and value frameworks condemns policies and programs to failure.

This point is also emphasised by Macdonald (2008) who explains that while Aboriginal people may want to engage with the state, they want to do so on their own terms and in ways that make sense to them, rather than being required to engage on terms and for purposes that the state determines unilaterally. Her research with Wiradjuri people of New South Wales showed that these Indigenous people want to engage with governments as Wiradjuri people, and have their cultural difference recognised. She argues that their Regional Land Council for some years provided them with a mechanism to advance their economic and social agenda without compromising their Wiradjuri identity. The regional body drew on longstanding regional relationships, transforming them for contemporary purposes, with decision making controlled, as far as was possible, by Wiradjuri people. Yet Macdonald argues that, by asserting themselves as Wiradjuri, they threaten the state's jurisdiction and authority, and the state, in turn, uses coercive powers to reassert itself. Thus the relationships between Wiradjuri and governments are full of contradictions and tensions, making 'engagement' difficult. This tension underlies the challenges of government engagement with Indigenous people far more widely than this single example.

Marika and colleagues (2009), for example, outline the difficulties Yolngu people face trying to engage with western governance systems while maintaining their cultural integrity: they argue that the state needs to take more responsibility for working cross-culturally, rather than leaving it to Yolngu individuals and institutions to bridge the differences. Poirier (2010) found that, in Balgo, people's resistance and expression of self-determination meant that they did not always want to engage in ways and through a bureaucratic form (a council) that government sought to use; they preferred their own cultural approaches. Strakosch (2009) argues that Indigenous community reluctance to engage in Shared Responsibility Agreements or Regional Partnership Agreements was interpreted by government as a lack of capacity, rather than a form of resistance. Parsons (2008) also noted differences between the concepts and perspectives non-Indigenous mining company staff used when talking about Indigenous engagement and those used by the Indigenous community. In particular, company staff saw 'indigeneity as static, non-negotiable and non-problematic', while Indigenous community

members saw 'indigeneity as inextricably bound up in identity, land and respect' (Parsons 2008:122). This affected how Indigenous people engaged and how they saw the mining company's operations. Even when using the same terms, different people may attach very different cultural meanings to them.

Language and understanding of cultural protocols are important for successful engagement. In more remote communities where English may be a second or third language, this means using interpreters, properly prepared for the task to be undertaken, and working with staff trained to use them. Concepts and terms that government staff use in everyday communications may be quite foreign to the Indigenous community. In all locations, translating 'government speak' to enable community members to fully understand its meaning and implications is important to avoid confusion and misunderstanding and to ensure that communication is effective (CGRIS 2011; Kennedy 2013).

Key considerations for Aboriginal people and organisations when engaging with governments are: 'On whose terms? About what? How?' These are critical issues.

Engaging with Indigenous 'communities'

Policies frequently refer to engagement with a 'community'. This concept has to be unpacked, so that outsiders are clear with whom they wish to engage and for what purpose. There are many different kinds of Indigenous 'communities' located in rural, remote and urban areas, with networks stretching far and wide. Some are discrete geographic settlements. Others are 'communities of identity and interest' that are physically dispersed across different locations. Everywhere, family ties and relationships to 'country' lie at the heart of Indigenous 'communities of identity'. Communities of people referring to themselves as 'Bininj', 'Noongar', 'Yolngu' or 'Yuin' have their own cultural boundaries, which generally bear no relationship to government administrative or jurisdictional boundaries (Hunt & Smith 2006).

Most Indigenous 'communities'—whether they are discrete settlements or dispersed communities of interest or identity—are complex mixes of residents with different cultural and historical ties. This can generate social schisms as well as strong loyalties (Kidman 2007). Different families, clans, nations, language and ceremonial groups live within most geographically discrete Indigenous communities. Some of these groups have an historical attachment to the place; others have custodial land rights in that location. These communities may include, for example:

- traditional owners and native title claimants of the land on, or near which, a settlement has been built
- people married to traditional owners
- other Indigenous people who have no land ownership ties but strong historical and residential attachment to the place
- returning 'diaspora' people who form part of the 'Stolen Generation'
- non-Indigenous residents, some of whom may have married into Indigenous families.

In some locations, where people have historically been relocated, the mix of people is extremely complex with multiple communities of identity present. These groups have different, sometimes overlapping, rights and interests and both diverse and shared needs. High rates of mobility among some groups also change the balance in community composition, creating enduring regional networks of linked communities (Hunt & Smith 2006, 2007; Hunt et al. 2008).While there are often different communities of identity and interest within a geographic location, there are also dispersed 'communities of identity' in urban and regional areas, as extended kinship networks stretch across long distances to connect to suburbs in major cities (Cowlishaw 2009; Yamanouchi 2010).

Leadership within Indigenous communities is dispersed, hierarchical and contingent on the context. It has ceremonial, organisational, familial, residential, age and gender dimensions (Hunt & Smith 2006:30). Leadership is therefore complex and it is important to identify the right leaders with whom to engage according to the particular purpose. It should also be noted that over long generations of residence, many Indigenous families

have built up strong attachments to particular communities and, more recently, to particular community organisations. Therefore, different organisations may reflect the different interests within a particular 'community' (Hunt & Smith 2007). Senior and Chenhall (2007:326) found that successful partnership to stop petrol sniffing in a community required 'a thorough knowledge of the community and the dynamics of decision making within it', as well as adequate support of Indigenous efforts by non-Indigenous people and institutions.

Martin (2009) argues, in the context of Aboriginal engagement in mining agreements, that engagement of Aboriginal community members simply through representative boards or committees cannot be assumed to be an effective way of engaging Aboriginal communities for a number of reasons. These are detailed below.

- Information may not flow from 'representatives' across kin/family boundaries.
- Public meetings can be dominated by powerful individuals and restrict participation by others with less political clout.
- Meetings do not allow for extended consideration of matters, consultation with the people with relevant knowledge and seniority or a process of consensus building (formal meetings can be used to ratify decisions once reached through Aboriginal processes).
- Such approaches tend to foster a passive, 'rent-seeking' attitude to the interaction of beneficiaries as they have little opportunity to be active participants in shaping the agreements.

Martin also emphasises the need for capacity development among beneficiaries if they are to maximise the opportunities that mining agreements may offer. Thus, he suggests a number of principles for the relationships between agreement entities and beneficiaries. These principles essentially ensure capacity development and structured processes to enable beneficiaries to actively participate in agreements and take a long-term approach to the benefits.

Scambary's (2009:193) study of three mining agreements concluded that 'relationships between the mining industry and regional land councils and NTRBs (native title representative bodies) can be characterised as fraught'. He notes the dynamic nature of the community in relation to specific land interests and indicates that the beneficiaries may be redefined over time. Scambary also shows how mining agreements can limit the agency of Aboriginal people they are intending to engage due to a range of other socioeconomic and cultural factors. He argues that successful engagement requires the mining industry to accommodate 'existing Indigenous skills and knowledge' (2009:201) so that Indigenous people can engage with the mining economy while maintaining their cultural identity.

Scale of engagement

For outsiders, another key issue is the scale of the 'engagement'. A fundamental aspect of Indigenous societies is a tension between autonomy (Maddison 2009) and relatedness. This plays out on many levels and in all contexts. For instance, autonomy is expressed through the way Indigenous people organise themselves:

> …whereby they try to achieve a balance between maintaining the autonomy of a small group of people (for example, their extended family, small group or local organisation) at the same time as trying to maintain their connections with a wider set of relationships (for example, to their clan, a set of families, a group of organisations or a wider regional network). The principle highlights the value to people of having their independence but not at the expense of their shared relations and vice versa (Hunt & Smith 2007:15).

Relatedness encourages a tendency towards larger scale regional networks which bring small groups together into broader alliances and confederations. These operate using the principle of 'subsidiarity'. This means that decision making within such networks is devolved to the lowest level competent to make particular decisions. Higher levels in an alliance make only those decisions that cannot be made at the local level (Sanders & Holcombe 2008). Sanders (2005) refers to 'dispersed' governance as being typical of the way

Indigenous people manage the tension between autonomy and relatedness. Smith (2011) describes Indigenous governance as a form of networked nodal governance, where the networks are links of relatedness, and the nodes are key people or institutions of influence at the intersection of several networks. An understanding of these approaches to Indigenous organisation and decision making is essential to effective engagement processes.

Governance and capacity for engagement

Jarvie and Stewart (2011) make it clear that when working in a complex and dynamic situation:

> a community engagement strategy based on sound community governance principles is the best option…because it is the community (not government) that possesses the most significant knowledge of its problems and community engagement in solving those problems appears critically important (Jarvie & Stewart 2011:271).

If engagement is to be ongoing, and relationships of trust are to be developed, Indigenous people need to develop governance arrangements that enable them to collectively engage with governments, and have governments engage with them on different scales and for different purposes. Governance, in this context, means the processes, relationships, institutions and structures by which a group of people organise to represent themselves, negotiate their rights and interests with others, and decide how their affairs are managed.

Indigenous governance needs to be legitimate in the eyes of those being governed; that is, those making decisions need to be properly authorised to do so and community governance bodies need to reflect the diversity of the people they are representing through the governance arrangements (Hunt & Smith 2006, 2007).

Bearing the above points in mind, one of the key challenges facing governments and Indigenous people is that Indigenous governance is complex. It has often been historically severely disrupted and modified by western influences. Therefore, it may have to be renewed and made both effective and culturally legitimate for contemporary needs. That is, it has to deal with the historical mix of people and the networks of relationships, and the cultural expectations and protocols that give it legitimacy in the eyes of Indigenous people. At the same time, it must meet the expectations of governments and others for contemporary decision making. This is no easy feat, but it can be achieved. The research studies included in this paper illustrate how important developing sound governance arrangements is to effective engagement. Community development approaches to governance building work best (Hunt et al. 2008; Hunt & Smith 2006, 2007; Marika et al. 2009). See Box 1 in relation to Indigenous community justice programs.

Research with marginalised communities here and elsewhere (Batty et al. 2010; Gerritsen et al. 2000; RMIT University CIRCLE 2008) also demonstrates that governments need to invest in Indigenous governance and management to enable Indigenous capacity to be developed for effective engagement. A key issue is how to make the Indigenous governance arrangements work for ongoing engagement with governments and others. Research reveals that governance on the government side of the engagement is also a critical factor. This is discussed later in this paper.

> **Box 1: Indigenous community justice programs**
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> A review of Indigenous community justice programs found three conceptions of 'community' underlying the range of program interventions studied: community as (1) a place or locale, (2) as a common interest or (3) as governance or engagement. The review found that where programs were unclear about these different approaches, or mixed these conceptions of 'community,' program outcomes could be compromised. It found a number of core requirements for successful interventions, which are detailed below:
>
> > Measures that facilitate self-determination in decision making and future direction; intervention and developmental programmes that are culture- and community-specific; an emphasis on social justice and equity; involvement of Indigenous people in design, delivery and evaluation; and the empowerment of local communities to identify their own problems and develop appropriate responses (Ryan et al. 2006:315–16).
>
> Therefore, viewing 'community' as 'governance or engagement' (the third conception listed above) leads to greater success in community justice interventions.

Engaging with organisations

To outsiders, Indigenous organisations are often the most visible expressions of governance in communities and are the key points of 'engagement'. For Aboriginal people as well, their preferred approach to engagement with governments and government services is often through their own organisations (Yamanouchi 2010). Research conducted by the Indigenous Community Governance Project (Hunt & Smith 2006, 2007) recognised that these organisations themselves are intercultural (see also Martin 2005). On the one hand, they have been formed under western law with its technical compliance rules and program funding accountability. On the other hand, to be effective on the ground, they have to be seen as legitimate by Indigenous people who want to do things Indigenous ways. Indigenous organisations are often innovative in the ways they engage with their members and constituents, seeing this as essential to their accountabilities (The Australian Collaboration & AIATSIS 2007). Such organisations are embedded in a wider institutional context of Indigenous law, traditions, kinship systems, values and behavioural norms. Some important aspects of an organisation's governance emerge from culturally based Indigenous institutions such as the rights and interests of traditional landowners, the norms of extended family life, rules for the acquisition and transmission of knowledge and the age and gender dimensions of leadership.

Recognising that Indigenous values and world views may not always accord with the views of the dominant society, Martin (2005) argues that:

> capable Aboriginal organisations can assist Aboriginal people to engage more strategically with the dominant society using a wider range of options over which they can exercise a degree of control than if they were dealing directly as individuals with government, and to achieve ends which are in keeping with their own aspirations (Martin 2005:123–4).

But organisations may struggle to engage effectively if the terms of engagement do not meet the aspirations of their constituencies (Morphy 2008; Vaughan 2011).

Effective engagement with Aboriginal communities through organisations requires a sensitivity to the challenges and constraints these organisations face when engaging with outside bodies. A common challenge facing Indigenous organisations is how to manage and align the different institutional demands placed on them in the ways they operate. Indigenous organisations and governments interact with each other in ways that impact on both (Hill et al. 2001; Smith & Hunt 2008). There are not two separate spheres—Indigenous Australia and governments; they intersect, overlap and impinge on each other in one social space, where power, culture

and influence are being negotiated. Thus, engagement is not simply a matter of having the right technical approaches; engagement in this context is inevitably political in the sense that it is about the exercise of power and the assertion of interests (Pitts & Mundine 2011). Organisations have to manage the different expectations of their communities and their funders or managers about their purpose and how they should operate (Hill et al. 2001; Morphy 2008). Historical 'engagements' may have also shaped organisations or affected organisational patterns in particular locations (Lange 2005). Limerick's (2009) study of Aboriginal Councils in Queensland recommends reforms that would enable greater Indigenous responsibility and autonomy, as well as support strategies to assist Indigenous leaders manage conflicts between kin interests and community governance. Limerick suggests that successful councils practise strategic community engagement and strategic engagement with government and other institutions.

Purpose of engagement

Engagement may be for policy development, program development or implementation, and may be a place-specific engagement (see later for examples). Whatever the purpose, linking the engagement to Indigenous aspirations is critical to sustained success. As various studies indicate, genuine community ownership of problems and solutions is more effective than externally derived solutions and programs (Hagan 2009; Mitchell 2000; Moran 2004). For example, Vaughan (2011) explains that information communication technology programs that contribute to the wellbeing aspirations of remote communities are sustained by them, whereas those that simply provide access but fail to make the link with Indigenous people's own aspirations fall by the wayside. Furthermore, failure by governments to respond supportively to Indigenous initiatives can lead to worsening socioeconomic conditions that eventually demand a response (Smith 2007). Starting with Aboriginal concerns and strengths and taking time are crucial (Hagan 2009; Milliken et al. 2007).

Time frames and media for engagement

Adequate time frames are required for community engagement, and engagement needs to start early. Time on the ground to build relationships, to listen, learn, build on strengths and collaborate in the development of plans and strategies are important to success (Hagan 2009). Time frames may reflect a need for capacity building in the early stages of program or project implementation and the need to build trusting relationships and generate sustainable outcomes in Indigenous settings (RMIT University CIRCLE 2008).

A review of environmental assessment procedures in the Northern Territory recommended a three-visit consultation process as a minimum: the first visit to invite people and find a suitable time for a meeting and to consider gender issues in the consultation process; the second to provide information in language so that people understand the issues (with interpretation as required); and the third, after allowing sufficient time for communities to discuss the proposal, to obtain their views (BIITE 2009).

People can be engaged in innovative ways. For example, where funding is concerned, tight deadlines and other requirements can mean that community wishes are not adequately reflected in projects funded (O'Hare 2010). In contrast, Bishop and colleagues (2009) describe a successful process of engaging Indigenous people in research about their participation in project funding opportunities in Western Australia. This example illustrates how bureaucracies need to change power relationships, enabling Indigenous people to conduct research through empowerment, capacity building and cultural respect: it reveals the practical factors that prevent Indigenous people from participating in funding applications. Acceptance of video and oral submissions was subsequently adopted.

Policy context

National policy on engagement

Within Australia, trends in public service reform, particularly the 2010 Declaration of Open Government, encourage fostering a 'culture of engagement' and collaboration with citizens (Holmes 2011). The current Indigenous-specific policy framework 'Engaging Today, Building Tomorrow' was released in 2011. It defines engagement as:

> …any process that involves Aboriginal and Torres Strait Islander Australians in problem solving or decision making and uses their input to make better decisions. Engagement is about two things—first, the relationship between government and Aboriginal and Torres Strait Islander Australians and second, the way we work together to get things done (FaHCSIA 2011a:41).

The policy framework also sets out some core principles that should underpin any engagement: it should be respectful, informed, ethical, outcomes focused, sustainable and responsive (including by providing feedback). The framework emphasises that engagement is necessary to achieve better socioeconomic outcomes. As it states:

> a key lesson from the COAG Indigenous community coordination trials and the Northern Territory Emergency Response is that engagement with Indigenous communities is essential to achieve measurable improvements in economic, health and social indicators (FaHCSIA 2011a:9).

The framework canvasses 'engagement' at different steps in the policy cycle, and recognises that staff capability for engagement needs to be strengthened, along with the capacity of non-government organisations, contractors and Aboriginal communities and organisations. FaHCSIA has provided a set of 'tools to support engagement' to assist officers (FaHCSIA 2011b). Schedule A of the National Indigenous Reform Agreement acknowledges that, to date, engagement has been at a 'very broad' level, but it suggests some mechanisms that can be used to provide or solicit information from Indigenous parties (COAG 2008: A-19). A COAG framework process on governance and leadership is currently being developed that should be an essential complement to the policy on engagement.

Mechanisms for engagement at national policy level and engagement arrangements with the National Congress of Australia's First Peoples

Government efforts to find mechanisms for engagement of Indigenous people are not new. At the national level, the Royal Commission into Aboriginal Deaths in Custody makes this very point in relation to the 'persistence of a government desire for a single, representative Aboriginal political voice' at the national level (RCIADIC 1991:1). However, three bodies established by governments for that purpose (the National Aboriginal Consultative Committee, the National Aboriginal Congress and, most recently, the Aboriginal and Torres Strait Islander Commission) have all been abolished. This has largely followed tensions in the relationship and differing perceptions about powers and roles.

The most recent body—in this case established by Indigenous people themselves, namely the National Congress of Australia's First Peoples—is independent of government but funded by it. In September 2012, the Congress released a framework for its engagement with Australian Government agencies. The framework clarified roles and responsibilities of each partner, the principles on which such engagement should be based and protocols for such engagement. It also set out some operational arrangements, in particular for high-level engagement between the Australian Government and the Congress (National Congress of Australia's First Peoples 2012). In the health sector, the Congress has joined with 11 national Indigenous health organisations to form the National Health Leadership Forum which will work with government on a national health equity plan (National Congress of Australia's First Peoples 2011). This is an important development: First People are at the table with governments to plan. While engagement at the national level is necessary from a national policy perspective,

there are many different levels of engagement needed. To that end, various efforts have been trialled by governments to find appropriate avenues.

Other guidelines for engagement

Various jurisdictions and departments in Australia, as well as international bodies, have issued guidelines or strategies for engagement with Indigenous or marginalised people for their officers (for example, see Ah Chin 2005; ASC 2008; ATSIC et al. 2005; CAPP 2006; Chappell 2010; Communities Scotland 2005; Queensland Department of Aboriginal and Torres Strait Islander Policy and Development 1998; New South Wales Department of Premier and Cabinet 2011; OCVS 2008b; Queensland Department of Communities & Office for Aboriginal and Torres Strait Islander Partnerships 2005; Te Puni Kokiri 2006a; Torres Strait Regional Authority 2011). Many of these tend to focus more on how an individual officer should consult with Indigenous communities, than on the governance arrangements necessary for sustained engagement towards the participation end of the spectrum. It is the latter type of engagement that research suggests may be necessary in the complex and difficult area of Indigenous affairs. Charles Darwin University has also conducted research on how to improve its own engagement with Indigenous communities (Campbell & Christie 2008) and the Western Australian Office for Children and Youth has developed an approach to engagement of Indigenous children in social policy, which is well described by Vicary and colleagues (2006). Communities Scotland (2005) has developed a set of national standards with indicators for community engagement which, while not specific to Indigenous communities, are designed with marginalised communities in mind.

Recent Australian Government approaches to engagement

Since 2004–05, various new strategies and programs have been developed by the Australian Government. These aim both to improve engagement with Indigenous people and to strengthen whole-of-government coordination arrangements, so as to become more responsive to Indigenous communities. Before 2004–05, the Aboriginal and Torres Strait Islander Commission had 36 regional councils, which it used for engagement with its constituents. When these bodies were abolished, the Australian Government moved to Shared Responsibility Agreements at a much more local level as its preferred level of engagement. The Australian Government had earlier explored, with other jurisdictions, how to improve engagement with Indigenous communities through the COAG Trials, with a focus on regional level engagement. These trials began in 2002–03 in eight sites across Australia (one in each jurisdiction) within a policy framework of partnership and shared responsibility. They were intended to build Indigenous community capacity to negotiate with governments and strengthen government capacities to work in coordinated, innovative and flexible ways with Indigenous communities (ATSISJC 2004a,b).

The COAG agreed on some principles for engagement with Indigenous men, women, children and communities. These principles emphasise the importance of strong relationships to achieve outcomes; the need to empower Indigenous people and engage them in the design and delivery of programs and services; the recognition of local circumstances; ensuring local representation is appropriate; being transparent about the type of engagement along the spectrum, from information to decision making; and recognising Indigenous language, culture and identity (COAG 2008:D-67).

Efforts have been made to improve coordination among governments through various mechanisms. These include establishing Indigenous Coordination Centres (ICCs) and, in the Northern Territory, Government Business Managers (GBMs). Indigenous Engagement Officers have been appointed to work with GBMs. Reviews and audits of many of these initiatives indicate the kinds of issues that remain a challenge for effective engagement. There remains a need for:

- more flexibility in funding arrangements
- accountability and reporting arrangements that reflect a whole-of-government approach (accountability still relates vertically to individual departmental goals)

- simpler contract arrangements where multiple agencies are involved
- a whole-of-government capacity development strategy—rather than increasing levels of individual agency control as the approach to reducing risks—when funding Indigenous organisations and communities
- greater authority and ability of GBMs or ICCs to effectively coordinate across a range of government agencies
- an ability to join up and track the responses of government agencies to local Indigenous initiatives, and the timeliness of funding such responses
- shifts in departmental cultures and capabilities to support collaboration, and protocols for more coordinated working
- better monitoring and evaluation of community engagement.

While a stable, active government presence in communities is seen to contribute to better community engagement, officers on the ground need the management and implementation systems behind them to enable them 'to respond quickly to changing circumstances and emerging policy initiatives' (ANAO 2010:21). In some cases, weaknesses in implementation mean that measures to improve community engagement have not really taken effect (ANAO 2012b). The audits undertaken by Australian National Audit Office have not assessed the actual quality of the community engagement, and highlight the lack of performance measures in that area (ANAO 2007, 2010, 2011, 2012a,b; KPMG 2007; Morgan Disney & Associates 2007; Office of Evaluation and Audit (Indigenous Programs) 2009).

Though some writers were critical of the mutual responsibility provisions of SRAs, and the power imbalances they reflected (McCausland & Levy 2006), a review of 80 Shared Responsibility Agreements indicated that success occurred where:

- the process is driven by the community and its members feel they have a say rather than having obligations imposed
- the community council or other community representatives have a strong, representative grasp on the community's aspirations
- the central participants are consulted, including young people
- community consultations are well promoted (for example, they are well advertised: 'throw in a BBQ')
- effort is directed at community capacity building
- training is provided in meeting practices and procedures where required
- contingency plans are developed with communities for when targets are delayed or not met (Morgan Disney & Associates 2007:69).

Shared objectives that were realistic and achievable were also critical to success. However, Sullivan (2007) argues that negotiating SRAs largely distracted from the more significant task of developing credible and effective regional arrangements and nurturing the necessary cultural shift within the bureaucracy to facilitate genuinely joined-up government.

The initial review of the 2007 Northern Territory Emergency Response (NTER) found that 'the Intervention diminished its own effectiveness through its failure to engage constructively with the Aboriginal people it was intended to help' (Yu et al. 2008:10). This was perhaps an extreme case of poor engagement but, as the review found, 'the single most valuable resource that the NTER has lacked from its inception is the positive, willing participation of the people it was intended to help' (Yu et al. 2008:10). Subsequently, there have been consultations with Aboriginal people in the Northern Territory in relation to redesign of the NTER and, most recently, the development of the Stronger Futures in the Northern Territory policy.

The Cultural and Indigenous Research Centre Australia was contracted by the FaHCSIA to review the consultation and communication design and processes. The Centre noted that the consultations carried out in 2011 had improved over those conducted in 2009, particularly in relation to training of facilitators, interpretation, openness

of public meetings, and the reporting template. However, it also noted a range of limitations, notably the level of participation in meetings, particularly the ability of women and youth to participate actively; variability in the skills of facilitators; the format for reporting; and the wide scope of the consultations which restricted in-depth discussion. However, the same consultations have been criticised by Indigenous people for not involving them in the design stage. Criticisms include using complex materials that were not translated into Indigenous languages, being partisan, being excessively broad and general, being rushed and failing to provide a process for reaching agreement or providing subsequent feedback (Nicholson et al. 2012).

The report of the Northern Territory Coordinator-General for Remote Services (Office of the Coordinator-General for Remote Services 2012:47) concludes that these consultations are better described 'as a series of discussions and information sessions'. The Coordinator-General reports that many Indigenous people resent what they perceive as the Commonwealth's 'top-down approach to policy and program development' (Office of the Coordinator-General for Remote Services 2012:49). The different perceptions about these experiences reflect different expectations about where on the spectrum of engagement particular activities fall, with many Aboriginal people clearly seeking engagement that is based towards the participation end, while government is focusing on 'consultation'.

The 2011 NTER Evaluation Report found that although coordination and engagement had improved over time, significant challenges remain. This was particularly the case in developing engagement strategies that are 'fit for purpose', appropriately timed in the policy development and budget process, suit Aboriginal time frames, are not fragmented and one off but foster 'coordinated discussion on interrelated policies and programs', provide feedback and do not overburden people (FaHCSIA 2011c:152). The NTER report notes that 'there is no program to evaluate decision making processes and how they support or constrain government officials undertaking engagement with communities' (FaHCSIA 2011b:41). Furthermore, it reported a lack of leadership and governance capacity development to support better engagement with communities (FaHCSIA 2011b:45). Harris (2011) comments that the evaluation indicates local Aboriginal people have had little say in the programs that have been implemented and their culture has been poorly addressed.

The Australian Government Coordinator-General for Remote Indigenous Services has also identified a clear need to build governance capacity to facilitate engagement in many of the 29 communities with which he is working, and among governments providing services to these communities (CGRIS 2009). The recent publication of a 'Local Community Awareness Program Kit', to provide a model for locally-specific community cultural awareness development among staff working in remote locations, also aims to enhance staff capabilities to engage successfully (CGRIS 2012:14; FaHCSIA n.d.).

A common criticism voiced by Indigenous people is that government engagement is simply 'consultation', often too hurried, and that there is no feedback about what happens as a result of their input. Some complain of 'consultation fatigue' (Lloyd et al. 2005), often adding that despite an overload of consultation—where people keep repeating the same things to a stream of officials—things do not change much on the ground (Tempo Strategies 2012). Nevertheless, evidence suggests that Indigenous people want to participate in decisions about the significant things that matter to them (Hunt et al. 2008), in which they may not currently have a say. The House of Representatives Standing Committee on Aboriginal Affairs as far back as 1990 suggested that governments should move from consultation to negotiation with Indigenous communities (HRSCAA 1990). However, some 20 years later, the report of the Northern Territory Coordinator-General for Remote Services states as follows:

> What is termed engagement by governments is often a largely passive, information session that does not allow sufficient time to engage communities in meaningful participatory planning or decision making. Dissemination of information does not constitute informed decision making by Aboriginal people and is not consultative (Office of the Coordinator-General for Remote Services 2012:55).

It appears that the pattern in many parts of Australia is of centralised decision making with a weak form of consultative engagement that, as Reddel & Woolcock (2004) state, reinforces passive models of decision making.

Engagement by states and territories

At the state and territory level, there are now various mechanisms for engagement in relation to government services. In some jurisdictions there are peak bodies of Aboriginal organisations that seek to engage with government on policy-related matters (for example, New South Wales, Northern Territory).

- In Victoria, there are Local Indigenous Networks.
- In New South Wales, at the state level, a Council of Aboriginal Peak Organisations is represented on a Ministerial Taskforce on Aboriginal Affairs among other bodies; at regional and more local levels, there are 40 Partnership Communities trialling new engagement arrangements.
- In Queensland, there are Round Tables with Aboriginal local governments, Negotiating Tables and Government Champions for particular locations (Hagan 2009; Reddel & Woolcock 2004).
- In South Australia, there is an Indigenous Engagement Commissioner.
- In the Northern Territory, there are new shire arrangements (although these are likely to be changed by the Country Liberal Party Government elected in August 2012).
- In the Australian Capital Territory, there is an Elected Body.
- In Western Australia, there are various instances of regional engagement, such as the Fitzroy Futures Forum.

None of these have been evaluated for a public audience in terms of their effectiveness as a mechanism for Indigenous engagement. A critical issue raised in the Northern Territory election was 'the concern people felt that they had lost control of their local government councils which were perceived to be unresponsive to community concerns. This was described as people having 'lost their voice' (Northern Territory Government 2013:1). Box 2 summarises research about the shires' local boards. The research was undertaken by the Central Land Council in 2009.

An implementation review of the Family Responsibilities Commission has been conducted as part of the Cape York Welfare Reform Trial. This review identified a need to strengthen links between the Commission and other agencies and support services and to strengthen communication strategies with the community (ATSIS 2012; Gilbert 2012).

> ### Box 2: Local boards in the Northern Territory shires
>
> In 2008 the Northern Territory Government implemented major local government reform, establishing eight large shires across the territory. To provide community level engagement with shires, local boards were established; the shires would consult these boards as reference groups. Research conducted 18 months later, covering six communities in two large Central Australian shires, revealed that these local boards were not working well as an engagement strategy. The reasons were as follows:
>
> - The selection process for local board members—and their intended roles—were not well understood by community members.
> - Boards were not seen as a legitimate voice for the community because of the lack of community involvement in the board meeting process.
> - There was poor engagement of board members in the meeting processes; meeting were very formalised, with long reports issued by shire staff. The boards were meant to be advisory community bodies, yet many local board members felt too shy or ashamed to speak.
> - Local boards had less power and decision making authority than the community councils they replaced. They did not know the budgets or funding available for their local community.
> - The shires were not responsive to community issues or requests raised at local board meetings, due in part to limited scope of shire responsibilities and the timing of local board meetings relative to that for shire meetings.
> - Local board members were not paid to attend meetings as were shire staff, nor was lunch provided.
>
> In particular, the local boards were advisory only and did not have decision making powers; this was a critical factor in the problems that subsequently emerged (CLC 2010). According to the report of the Northern Territory Coordinator-General for Remote Services (Office of the Coordinator-General for Remote Services 2012), there is considerable Aboriginal concern about the proliferation of advisory boards and the loss of Aboriginal control in decision making that resulted from the shire reforms at the same time as the NTER.

Various jurisdictions take diverse approaches to engagement in specific sectoral areas, such as health, education, and employment and justice. In some cases, peak bodies or advisory committees provide policy input at the jurisdictional level; in others they do not. There are also native title representative bodies in all jurisdictions and land councils in some, which provide engagement mechanisms in relation to land and cultural heritage matters. However, there is little or no research evaluating the effectiveness of these mechanisms.

One of the most interesting examples may be the engagement by the Murray–Darling Basin Authority (MDBA) with Indigenous nations within the entire river basin. This has been through two major groupings of nations: the Murray Lower Darling Rivers Indigenous Nations organisation and the Northern Murray–Darling Basin Aboriginal Nations. In this case, the Indigenous groupings of traditional owners have defined and organised themselves, while receiving some support for their governance from the MDBA. This is an example of significant Indigenous input to a critical national policy in which Indigenous interests have to compete with powerful other voices.

A 2003 study of Indigenous engagement for the MDB Commission suggested that there was a wide gulf in perceptions between governments and Indigenous people about the effectiveness of Indigenous engagement: 'most government agencies are focussed on increased 'consultation' while Indigenous people are focused on 'control' (Forward NRM & Arrilla—Aboriginal Training and Development 2003:8). Most recently, the MDBA (2011) has expressly referred to the UN Declaration on the Rights of Indigenous Peoples and the concept of free, prior and informed consent in its 'principles of engagement' (see Appendix A), indicating a shift in thinking among governments; however, it is probably too soon to evaluate the implementation of the new engagement principles. Yet the shift the MDBA is endeavouring to make is an important one.

Engagement in remote Australia

Dillon and Westbury (2007) contend that since the 1970s, governments (particularly in relation to remote Australia) have:

> …maintained the appearance that they have been engaged with Indigenous communities…but they have failed to maintain the sustained traction that would have made that engagement substantive (Dillon & Westbury 2007:209).

A large RemoteFOCUS study argues that the current complex governance arrangements in remote Australia 'are a threshold cause of policy failure' and a major shift is needed towards 'locally appropriate institutions that have sufficient authority, legitimacy and effectiveness to fulfil their functions'. Thus, it argues for 'intense regional engagement' and sets out the principles on which such reform could be devised and implemented (Walker et al. 2012:11). It emphasises the need to address the call of Indigenous as well as other people in remote Australia for a say in decision making, consistent and adequate funding of services and more accountability to *them*—not to distant capitals. People want to engage with governments but the mechanisms for them to do so appear not to be 'fit for purpose'. In particular, studies undertaken for RemoteFOCUS in the Pilbara illustrate how Aboriginal people have been made almost invisible in the rapid social and economic changes taking place there (see chapters 10–16 by Edmunds in Walker 2012). Engagement with them has been extremely poor.

Walker and colleagues (2012) argue that Aboriginal people prefer their engagement with the state to be mediated by their local Aboriginal organisations. They suggest that mining companies are perceived as being more successful than governments in this engagement because mining companies deal with collective rights through native title representative bodies; governments deal in citizenship services to individuals that do not align so well with Aboriginal organisational structures, particularly since the demise of Aboriginal and Torres Strait Islander regional councils (Walker et al. 2012). Indeed,

> …outside of the negotiations between resource companies and specific native title holding groups there has been a consistent failure to bring Aboriginal people into meaningful partnerships that will ensure they achieve the full benefit of the Pilbara vision and opportunity (Walker et al. 2012:48).

The RemoteFOCUS report also indicates that governments struggle to recognise the strengths in unfamiliar Aboriginal organisational forms. Instead, governments seek to impose organisational arrangements that are familiar to them, but which are incapable of sustaining meaningful relationships with their constituents. Yet, the report cites examples (the Pilbara Marine Reference Group and the Groote Eyland Regional Partnership Agreement) where workable structures of engagement exist, through people and governments uniting around 'common purpose, defined responsibilities, defined resource commitments for all parties and defined timelines for action' (Walker et al. 2012:48). Interestingly, Edmunds' study (Walker 2012) indicates that the Pilbara Marine Reference Group is a network of native title groups, while the Groote Eylandt Regional Partnership Agreement was negotiated with the Anindilyakwa Land Council, a traditional owner representative body under the *Aboriginal Land Rights Act 1976* (NT).

Kennedy's (2013) study of government engagement with an outstation community in Central Australia during the NTER reinforces the centrality of 'common purpose' to engagement. Her study provides some important conclusions about the conditions necessary for effective engagement. She notes that Aboriginal choices to engage (or not) in consultations and programs 'are influenced by socially determined, heterogeneous wellbeing values' as well as 'pragmatic assessments of the viability and appropriateness of service arrangements in achieving these valued ways of being' (Kennedy 2013:275-6). Drawing on Sen's (1999) capability theory, she argues that governments need to understand the reasoning that shapes Indigenous choices, and the centrality of cultural and social values of relatedness to their sense of wellbeing. Indigenous people will engage if they can see the connection between what governments (or others) are offering, and how that might enhance their own sense of wellbeing. This requires meaningful discourse in which Aboriginal people have a genuine 'voice', where

they fully understand what is being discussed, have time for proper consideration of ideas and development of consensus, and where mutual understanding develops. This enables 'shared understandings and agreements for solutions to the complexities inherent in how Indigenous wellbeing values are to be supported in contemporary environments' (Kennedy 2013:285). Kennedy concludes that there are a number of principles essential for effective engagement: recognition of cultural heterogeneity, recognition of relatedness, accessible communications, appropriate opportunities for deliberation, and provision of information and analysis. Following such principles, Kennedy believes, will overcome the problem that Aboriginal people in her study did not feel they had meaningful opportunities to understand or influence government.

Native title and land rights underpinning engagement

In Australia there is no comprehensive national legislation or agreement that frames Indigenous–government relations, and hence sets the basis for engagement across the nation. The only legal bases for engagement are related to the *Native Title Act 1993* (Cwlth) and diverse land rights legislation in state and territory jurisdictions. The Native Title Act provides for certain mandated engagement processes to enable native title holders or claimants to exercise their rights and interests in relation to land. This is particularly so with respect to 'future acts'; that is, possible developments on that land which might adversely affect their rights and interests. It provides a range of procedural rights ranging from notification, through consultation to consent, depending on the nature of the 'future act'. In the best case, Indigenous people are able to negotiate with proponents, provide consent and seek compensation for rights foregone. The Act does not allow veto rights over mining and exploration, but requires the consent of the native title holders for alienation of Crown land where native title is recognised. Over 100 registered native title bodies corporate, established under the Act, provide a point of engagement for governments and others to enable native title holders to exercise these procedural rights. However, these corporations often have limited capacity and are poorly resourced (Bauman & Ganesharajah 2009). Nevertheless, the native title regime provides a mechanism for engagement on land-related matters, where a native title claim has been registered or recognised.

In an innovative development, the *Traditional Owner Settlement Act 2010* (Vic.) recognises traditional owner groups and provides an alternative to court procedures to settle native title claims across Victoria. It provides for agreements which, for example, transfer ownership of some national parks to native title holders under a joint management regime, as well as access and use arrangements for other Crown land. In addition, it provides some resourcing for native title holders to carry out their roles (Department of Environment and Primary Industries 2013; Department of Justice 2013). Thus, it has strengthened some land-related engagements.

In addition, native title has contributed to improved relations and engagement between Aboriginal people and the mining industry; for example, in the case of the Argyle Diamond Mine (Doohan et al. 2012). Native title rights also underpin engagement arrangements in the new Carbon Farming Initiative where projects to store carbon or reduce emissions are carried out both on Indigenous-owned land or land where native title rights and interests are recognised (Department of Climate Change and Energy Efficiency 2012). Thus, native title is emerging as a mechanism for engagement, which can be towards the participative end of the spectrum.

Land rights, as well as legislation related to land and cultural heritage legislation, vary with the state or territory jurisdiction. They are largely concerned with Indigenous people's rights and roles in matters relating to land use and cultural heritage but cannot be explored in more detail in this paper.

Whatever the formal Australian legal context, Barber (2010) shows how Indigenous law and western laws still interact and contribute to the nature of engagements between Indigenous traditional owners and other Australians—in this case, fishers around Blue Mud Bay (where native title has been established over the intertidal zone). While policing of laws is minimal in such a remote location, Barber illustrates how relationships based on respect for Indigenous law contribute to positive relationships between fishers and Yolngu people, while the converse also applies.

International best practice in Indigenous engagement

The UN Declaration on the Rights of Indigenous Peoples (UN General Assembly 2007), which Australia has supported since April 2009, provides an international articulation of best practice expected in engaging with Indigenous people. The Declaration reinforces Indigenous peoples' right to self-determination. Articles 18 and 19 of this Declaration state the following about Indigenous people and decision making:

> *Article 18*: Indigenous peoples have the right to participate in decision making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision making institutions.

> *Article 19*: States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them (UN General Assembly 2007:8).

'Free, prior and informed consent' is the key concept, but precise criteria or requirements for how it is to be obtained in specific locations are not well articulated in an Australian policy context, or internationally (Marschke et al. 2008). The Australian Human Rights Commission has developed a simple guide to the Declaration which sets out briefly how it sees what this concept means in practice for Indigenous people (AHRC 2010). The Yorta Yorta Nation Aboriginal Corporation has also developed a model for partnerships with governments and others for managing Yorta Yorta Country, grounded in free, prior and informed consent (YYNAC 2010). These documents indicate that free, prior and informed consent requires engagement at the participative end of the spectrum. A review of the Environmental Impact Assessment Procedures in the Northern Territory indicated that the UN Declaration should be a reference point for review and reform of the procedures (BIITE 2009) and its detailed recommendations should attempt to align the process more closely with the Declaration.

In some respects, the best guidelines currently available that provide direction on this matter relate to engagement with Indigenous people in respect to research. The *AIATSIS guidelines for ethical research in Australian Indigenous studies* (AIATSIS 2012) set out the rights of Indigenous people when engaging with researchers. Indigenous people possess the same rights when engaging with any other agencies that are developing policies or programs with them. These principles can therefore guide any agency seeking to engage with Indigenous people. Further valuable guidance is provided in *Ten principles relevant to health research among Indigenous Australian populations* (Jamieson et al. 2012). Again, though designed for health research, these principles could have much wider application. Carter (2008) describes her approach to all stages of research with Indigenous people on environmental management, including interpretation of data and development of recommendations, using similar principles. Other studies of participatory action research with Indigenous people indicate how free, prior and informed consent can be attained in a context of mutual learning, where researchers and Indigenous people bring their different world views and knowledge systems to the research endeavour, enabling effective engagement (Claudie et al. 2012; Cleary 2012).

Other international research

This section examines research on engagement practices in three comparable countries: the United States of America (United States), New Zealand and Canada.

Native nations in the United States

Literature from the United States indicates that governments need to facilitate indigenous sovereignty or self-rule, giving indigenous people real decision making power. This brings with it real accountability to the indigenous community being served. While not all Native Americans live on native land, research on 'native nations' in the United States indicates that giving tribal governments significant jurisdiction has generated social

and economic benefits (Jorgensen 2007). United States researchers argue that failure to come to grips with such decision making authority is severely hindering the reduction of Indigenous poverty in Australia.

In the United States, until the 1960s and early 1970s, native nation reserves, although technically sovereign, were essentially controlled by non-Indigenous administrators. In 1934, the Indian Reorganization Act established tribal governments, but these were rarely designed by native nations themselves. In the mid-1960s the Community Action Program allowed funding to go directly to native nations for real tribal decision making. This began to have some impact. It led, in 1975, to further legislation, which enabled native nations 'to take over direct management of federal government programs on Indian reservations' (Cornell 2007:63). This legislation gave native Americans the chance to reset their governance to align with cultural requirements and to achieve cultural legitimacy. These new arrangements have led to socioeconomic improvements (Begay et al. 2007).

However, self-government alone is insufficient. What is required for success is capable governing institutions that enable power to be exercised effectively. This includes having dispute resolution mechanisms, skilled administration and separating politics from day-to-day business or program management. A further requirement is congruence between the governing institutions and the indigenous political culture—or 'cultural match'. Researchers emphasise that a 'one-size-fits-all' approach does not work, and that indigenous people should decide how self-governing institutions should be structured, as well as who the appropriate 'self' is in self-governance (Cornell 2006, 2007; Cornell & Kalt 2003a,b; Cornell et al. 2004). Indigenous leadership that can inspire others to take action to change their communities for the good of the community as a whole is also required, as is having a strategic orientation—that is, an ability to think, plan and act in ways that support a long term vision of a nation's future (Cornell 2006).

Māori experience

In New Zealand, relationships between Māori and Pakeha (settlers) are based on the Treaty of Waitangi, signed between representatives of the British Crown and more than 500 Māori chiefs in 1840. Contemporary provisions to recognise the Treaty have been legislated through the *Treaty of Waitangi Act 1975*. That Act established the Waitangi Tribunal, which hears and resolves Māori claims relating to land and other historical grievances including through formal Crown apologies and compensation. The Act and subsequent legislation, as well as formal relationship agreements, provide a legal basis for all relationships between Māori and Pakeha institutions (Harmsworth 2005; Ward 1999; Whitinui 2011). Formal Māori trusts and *iwi* [tribal] authorities manage the assets transferred to Māori. They ensure that legal agreements between Māori *iwi*, *hapu* [tribes and sub-tribes] and the Crown that are related to redressing past breaches of the Treaty of Waitangi are implemented. Formal agreements between government bodies and Māori are known as Crown–Māori Relationship Instruments and are guided by a policy framework developed by the Ministry of Justice in 2004 (Te Puni Kokiri 2006b). Uniquely, Māori who have lived in urban environments for a number of generations and identify primarily as urban Māori are represented by Urban Māori Authorities.

Since the mid-1980s, the government in New Zealand has devolved delivery of government services to *iwi* organisations. As a result of this action—and successful claims made under the Treaty of Waitangi—these *iwi* organisations now control significant natural resource assets. For example, the largest claim, which led to the 1992 *Treaty of Waitangi (Fisheries Claims) Settlement Act*, established the Māori Fisheries Commission (now the Maori Fisheries Trust, Te Ohu Kaimoana) with assets worth NZ$415 million (Findlay 2006). Thus, *iwi* authorities and urban Māori authorities act as intermediaries in the relationship between their members and the Crown. They are viewed positively by those members as they contribute to the desire of Māori to live as Māori. These organisations have grown and responded to the opportunities that a considerable transfer of resources has provided them to deliver services and to contribute to the economic development of their members. Their relationship with the Crown, though often frustrating, is instrumentally valuable and works where there is some degree of goal congruence, even where understandings about that vary between the parties (Findlay 2006).

Settlement of Treaty of Waitangi claims may include legislation. One example is the *Ngai Tahu Claims Settlement Act 1998*, which transferred significant financial and natural resources to the *iwi* authority. It also specifies the matters on which Ngai Tahu wish to be consulted, in particular about land and conservation matters. Using settlement resources, Ngai Tahu have established an environmental unit with a dedicated liaison officer with the Department of Conservation. Further, Ngai Tahu 'guardianship groups', usually at the *hapu* [or sub-tribe] level, meet regularly with each of the five regional offices of the department. Ngai Tahu also have the right to contribute to the department's annual business plan, and *runanga* [local guardianship groups] annually present their priorities to Department of Conservation staff. This process is contributing to a positive relationship between Ngai Tahu and the Department of Conservation. According to the Office for the Community and Voluntary Sector (OCVS 2008a), the factors considered to be significant to this good relationship are:

- the strong legislative framework
- Department of Conservation staff and Ngai Tahu representatives being dedicated to the process
- early involvement at the drafting stages of Department of Conservation policy or projects
- active Ngai Tahu volunteers.

A review of Māori engagement in freshwater management conducted for the Department of Environment found that Māori, particularly post-settlement *iwi* authorities, were strongly engaged in freshwater management. It recommended further capacity building of Māori to increase this engagement, along with measures to give statutory acknowledgement in the context of Treaty settlements, education of all parties, improved monitoring of plans and policies, and use of 'indicators for measuring Māori values and relationships' (Boffa Miskell 2009:1).

One of the most researched areas of Māori engagement is at the local government level (Local Futures 2005; Local Government New Zealand 2007). Local and regional councils in New Zealand have statutory obligations under the *Local Government Act 2002* and the *Resource Management Act 1991* to consult with or engage with Māori or 'provide opportunities for participation', particularly *tangata whenua* (people of the land). The Resource Management Act 'guarantees *tangata whenua* an opportunity to contribute to the preparation of plans and policies' and 'where *tangata whenua* have legitimate interest in or are affected by an application they also have the right to have their views considered in the decision making process' (Reid 2011:4). This can place considerable demands on under resourced *iwi* organisations. The Local Government Commission has recommended that local governments should assist *iwi* and Māori organisations to develop strategic plans to enable them to better manage their engagements with many authorities. Among the support it recommends, are:

- funding or seconding a planner to work within a Māori organisation
- providing office space and equipment
- training and development
- assistance with printing and production
- financial support (Reid 2011:7).

At the same time, the Commission recommends developing staff and councillor capacities to engage with Māori and 'engage with…*tangata whenua* on their own ground' (Reid 2011:7). Harmsworth (2005) developed some 'good practice guidelines' based on over a decade of experience, particularly at local government level and in relation to natural resources management. The guidelines cover detailed and specific recommendations, but emphasise the importance of relationships built on 'a sound set of principles, and on trust, respect, and cultural understanding' (Harmsworth 2005:37). Further, Harmsworth notes that:

> those local authorities that have sought to understand and respect *iwi/hapu* [tribe/sub-tribe] environmental values, and the exercise of *kaitiakitanga* [guardianship by traditional owners] as complementary to their own work activities, have generally formed much more solid partnerships than those local authorities that have not recognised the importance of *iwi/hapu* values and *kaitiakitanga*, or see the *iwi/hapu* role in conflict with themselves (Harmsworth 2005:38).

Cheyne and Tawhai (2007) found that Māori engagement with local government was far from perfect. Their research conveyed three key messages:

1. information flow, because knowledge is power and Māori need access to good, timely information about local government issues to participate effectively

2. diversity, which means that Pakeha local governments must adopt more Māori ways of doing things and give greater priority to Māori issues

3. accountability to Māori communities, which implies far better communication with them.

The findings of a recent set of studies also reinforce what contributes to successful local government engagement with Māori:

- council staff understanding of and appreciation for Māori issues and local histories

- strong support for the relationship from council leadership

- engagement throughout all levels of the council

- adequate resourcing to follow up the engagement process

- relationships based on trust and mutual respect (Reid 2011:9).

Canada: First Nation, Inuit and Métis relationships

The Canadian situation is also very different from that in Australia. Section 35 of the *Constitution Act 1982* recognises the pre-existing aboriginal and treaty rights negotiated since colonisation and contemporary land claim agreements with the Indian, Inuit and Métis people of Canada. Subsequent to a number of Supreme Court decisions, the Crown also has a duty to consult and, where appropriate, accommodate in situations where actions of the Crown may cause adverse impacts on potential or actual treaty or aboriginal rights (AANDC 2011). Canadian Government policy also supports the inherent right of aboriginal people to self-government within the framework of Canada's federation and its national Charter of Rights and Freedoms.

To this end, the Canadian Government continues to negotiate self-government agreements with aboriginal groups, allowing them jurisdiction over a very wide range of matters relevant to their ability to govern themselves. Certain matters that impact beyond any aboriginal group remain the jurisdiction of the federal government or provincial governments (AANDC 2010). Numerous treaties and land claim agreements underpin the relationships between the Canadian Government and aboriginal people (Arthur 2005; Mulrennan & Scott 2005). Sterritt (2012), however, argues that the Treaty process, at least in British Columbia, has achieved little due to the government's negotiating mandates that are poorly aligned with international norms, the small size of First Nations and their weak capacities to negotiate major treaties. At the national policy level there has for many decades been a national association representing aboriginal people, currently known as the Assembly of First Nations. This advocacy body represents 630 First Nation communities, bound by the Charter of the Assembly of First Nations adopted in 1985. It presents the views of First Nations on a wide range of matters to government and others.

The engagement between indigenous people and their provincial and federal governments is therefore based on quite different foundations from those in Australia, and there is limited relevant literature. Walker (2008:24) discusses ways to improve how urban municipalities work with diverse aboriginal communities, noting that a key theme in research about this interface has been the need for non-aboriginal people and governments to have 'an understanding and appreciation for the pursuit of self-determining autonomy and what that amounts to in different contexts'. Blanchet-Cohen and colleagues (2011:87) found that indigenous youth perceived the health system to be disrespectful of youth and culture. They argued for engagement based on a broad approach to health incorporating the links between culture, identity and health, and affirming young indigenous people as 'determiners of their own health'. McLean and colleagues (2012) describe the engagement of aboriginal people in a contamination clean-up in the western Arctic. The successful engagement of Inuvialuit people in this process was attributed to 'listening, fostering respect and building relationships' (McLean et al. 2012:206), empowering them through shared leadership, capacity building and genuine participation in decision making.

Various studies have explored the wide range of co-management agreements that have been negotiated in relation to natural resources, particularly waters, forests, wildlife such as caribou and buffalo, and minerals (Mulrennan & Scott 2005; Notzke 1994; Spaeder & Feit 2005). The literature recognises that these agreements have given aboriginal people a greater right to participate in natural resource management decisions. It is ambivalent, however, about the extent to which this has empowered them—or rather subverted this aboriginal goal—so that aboriginal people now participate in bureaucratic frameworks of state control. The capacities and continued resistance of aboriginal people appear to influence whether these arrangements have delivered on aboriginal aspirations (Mulrennan & Scott 2005). Nadasdy's (2003) research in the Yukon found that when aboriginal people engage in land claim and co-management agreements, they have to develop new bureaucratic behaviours and institutions. These have engendered so many changes to their ways of being and knowing, that they threaten or dilute the very culture that these arrangements are supposed to protect.

Canadian experience of indigenous engagement with the private sector indicates that industry has increasingly taken up the role defined by the Crown's legal duty—to consult and accommodate— and is 'acting as the surrogate to the Crown' (Fidler 2010:236). Voluntary negotiated agreements are also increasingly used to provide companies with more certainty, to minimise adverse impacts and create aboriginal economic and employment opportunities (Fidler 2010). These are best developed from the very outset of a project proposal and can shape the relationship between developers and an aboriginal group, reconciling contrasting intercultural perspectives on mineral development (AANDC 2011). For one such agreement, which covered all stages of the project from the issuing of a permit, construction and operation to closure, the key positive features identified were:

- the breadth of its scope and time frame
- a framework for communication and partnership
- a legally binding enforceable contract, which requires the aboriginal group to sign off that the company has fulfilled its obligations before mine closure and exit is allowed
- the benefits to a mining company from the aboriginal community, and the support the mining company gave to the aboriginal community (Fidler 2010:240).

Other reports also emphasise early and meaningful engagement with aboriginal communities in exploration activities and resource development projects, as well as investment in training and business development to enable communities to make the most of employment and related opportunities (AANDC 2011). Caine and Krogman (2010:76) found good indigenous participation when what they termed 'impact and benefit agreements' were negotiated, but implementation was often weak and indigenous people had no legal recourse if agreements were not fully honoured. Luig (2011) found that indigenous people struggle to gain legitimacy in negotiations that are framed and controlled by the state and companies. O'Faircheallaigh (2007:1) found that to realise the potential of environmental agreements (EAs), 'greater effort must be made to develop structures and processes specifically designed to encourage Aboriginal participation; and EAs must themselves provide the financial and other resource required to support EIA [environmental impact assessment] follow-up and Aboriginal participation'. A major workshop of aboriginal leaders and mining and energy representatives, informed by 16 case studies of relationships between aboriginal people and resource industries at various stages of development, identified 19 critical success factors. Five of these factors were voted the most important, and are listed below.

- There must be effective communication and information sharing between all parties involved.
- All parties must be fully committed to the engagement process.
- The capacity in the communities must be developed and sustained throughout the life cycle of a project.
- Engagement frameworks need to be clear, open and flexible.
- The values and the social, economic and political structures of the communities need to be clearly understood by industry and stakeholders.

There were also five key challenges identified. These are:

- the lack of capacity in areas that are essential for successful engagement (limited aboriginal understanding of the mining and energy industry and ramifications of contracts)
- poor management of the expectations of key players—in both the community and industry
- unsettled land claims and treaty issues
- inability to identify who should be contacted by industry during the engagement process
- government 'red tape', which causes long delays (ATG IGWG 2008).

Summary of international research

This brief survey of research on engagement with indigenous people in other comparable countries certainly indicates that, in each country, the legal and policy basis of the relationship that underpins the engagement between the settler societies and the First Peoples is different from that in Australia.

- It emphasises self-government, treaty or agreement-like relationships, and the importance of investing in indigenous capacity and resources, noting the important role played by First Nations organisations.
- It emphasises respect for First Nation values and difference from the settler society (for example, the desire of Māori to live as Māori).
- It also emphasises very early engagement with aboriginal people where resource projects are concerned.

In Australia, native title and land rights arrangements are the closest equivalent arrangements to these, though their scope varies across states and territories.

Research findings on engagement at the regional level

The most studied level of broad engagement with Indigenous people in Australia in recent years is at the regional level. Reilly and colleagues (2007) indicate that Indigenous communities frequently see regional governance as the preferred model, and explore existing legislation that supports regional governance. However, they note that there are also political, social and cultural issues (such as representation, power, jurisdictional matters, capacities and resourcing) that are important. The independently researched studies or evaluations that provide lessons about engagement with Indigenous communities at a regional level bear out these comments. These studies are described briefly in Table 1.

Table 1: Independently researched studies or evaluations that provide lessons about engagement with Indigenous communities at a regional level

Initiative	Region	Focus	Study author(s)
COAG Trials	One region in each jurisdiction	Whole-of-government engagement with Aboriginal community trials, with different priorities in each location. The trials involved partners that included an Aboriginal local government (Northern Territory), Murdi Paaki Regional Council (New South Wales) and, elsewhere, specially established committees with representatives of local Aboriginal organisations and communities	Morgan, Disney & Associates et al. 2006a,b,c Pope & Lewis 2008 Urbis, Keys, Young 2006a,b,c Gray 2006 Quantum Consulting Australia 2006 Pugh 2006
Murdi Paaki Regional Assembly	North-west New South Wales	Governance and multiple sectors/projects, with unincorporated Aboriginal committees (working parties) and a Regional Assembly	Jarvie 2008, 2010 Jarvie & Stewart 2011 Jeffries 2006 Jeffries et al. 2011
Ngaanyatjarra Regional partnership	Western Desert, Western Australia	Regional Partnership Agreement with regional Aboriginal corporation embracing four projects, including development of Strategic Investment Plan and subsidiary SRAs	Sullivan 2011
Three different approaches to engagement in Noongar country	South-west Western Australia	Community Action Groups Noongar Nation and Noongar Partnership Agreement South West Aboriginal Land and Sea Council (Native Title Representative Body)	Barcham 2011
Fitzroy Futures Forum	Fitzroy Valley, Kimberley, Western Australia	Town planning and government services provision with an especially created body including governments and community representation	ATSISJC 2011
An integrated strategy building economic, human and social capital in an Indigenous community	Lockhart River, Queensland	Community capacity building and innovative strategies for engaging with Aboriginal people at community level supported by 'Government Champion'	Hagan 2009
Groote Eylandt and Bickerton Island Regional Partnership Agreement (progress evaluation)	Groote Eylandt and Bickerton Island, Northern Territory	Place-based approach to complex disadvantage including infrastructure; housing; education and training; economic development; health; safety; and youth, sport and recreation	Tempo Strategies 2012

Below is a summary of what worked or did not work from these studies which, between them, covered 12 very diverse regions and a variety of arrangements between governments (Australian Government and other jurisdictions) and Indigenous organisations and communities.

What worked

The following are instances where engagement worked:

Leadership

- High-level government engagement and clear policy framework adaptable for local conditions, enabling a whole-of-government agenda and holistic place-based approach.
- Regionally based senior people with decision making authority, high-level negotiation skills, and ability to listen carefully to what is expressed. Skilled, culturally competent staff capable of building trust and respectful relationships and of achieving strong relationships between government and representative community members.
- Leadership across all levels, governments and communities. People on the ground willing to try new approaches and make things work; 'one size doesn't fit all'.

Resources

- Staff to manage the partnerships and follow up decision making and access to flexible funds—for the partnership itself, for capacity building and for activities/programs that are jointly agreed.

Participatory processes

- Thorough engagement with communities in setting the agenda, initiating actions and determining priorities, with clarity about decision making processes. Local solutions planned collaboratively so that strategies empower people.
- Planning from community level upwards to regions. Level of autonomy for local groups to decide their own priorities and activities and have a voice in their own development—community negotiation is essential.
- Identification of strengths, assets and positives—to build confidence and self-esteem; developing leadership capabilities and potentials, and avoiding negative judgements; 'less monitoring and more mentoring' (Hagan 2009:27); genuine community developmental, strengths-based approach—the process is very important.
- Clarity about processes and effective communication between partners and within agencies—information sharing is a key driver of coordination.
- Clarity and shared agreement about desired outcomes and indicators, and well developed plans to achieve them, with clarity in relation to actions and responsibilities; achievable, realistic goals, and not promising what cannot be delivered.
- Long time frames (for example, several years) so that people 'work at their pace and in their spaces' (Hagan 2009:25); realising that 'change is chaotic and emergent' (Hagan 2009:31) and not a linear process.

Governance and capacity building

- Building on existing governance structures, mechanisms and processes wherever possible (in some cases, the Indigenous bodies had developed or evolved over many years).
- Support and capacity building for communities and community representatives for engagement with governments, with a strong commitment to further governance development, with processes and structures designed by Aboriginal people and hence viewed by them as legitimate.
- Cultural legitimacy and government funding, which are essential requirements for developing a regional Aboriginal governance body through which governments can engage.

What did not work

The following are instances where engagement did not work:

Government arrangements

- Governments and departments with different priorities, expectations, levels of commitment or policy and implementation frameworks that were never resolved to enable effective working with the Indigenous partners.
- Inadequate translation of high-level government goals into specific plans and actions with clear responsibilities allocated; top-down implementation of solutions designed outside the community; fragmented short-term projects.
- Using more subordinate members of government who had few tools to make government aspirations work; hence commitments made were not met, and discussions were repetitive. Organisational cultures which discouraged flexibility and risk taking, which made it difficult to achieve whole-of-government changes without high-level mechanisms.
- Turnover of key administrative and leadership personnel in governments and communities; 'fly-in, fly-out' services that do not have time to build relationships; insufficient focus on relationship building.
- Absence of streamlined, flexible funding and increased administrative burden, or 'red tape'; domination of departmentalism and program silos; community projects re-shaped to fit funding opportunities.

Capacity of communities

- Communities with a weaker capacity to engage with government, including those with weak facilitation and low social capital; communities cynical about the ability of governments to change; communities where there was little government support for the necessary community learning/capacity building.
- Communities with problems in community-level governance (including tensions, divisions, family conflicts and lack of resolution) which impeded the ability of leaders to operate effectively with governments.

Relationships

- Insufficient participation and sense of shared ownership by Indigenous people in decision making, governance and accountability; where government started from a 'blank slate' assumption and planned from the perspective of its own requirements, rather than community perspectives.
- Lack of clear, genuinely shared objectives, performance indicators or benchmarks; these need time at the outset to be worked through fully, along with shared access to local level data for monitoring and evaluation; too much focus on fixing the negatives, rather than learning and positive results.
- Lack of clarity among government agencies about roles and responsibilities in the partnership arrangements and failure to follow agreed processes; lack of clarity and transparency about government processes for the Indigenous community—both of these issues caused confusion and frustration.
- Not making government limitations and parameters clear to Indigenous partners from the outset.
- Not sustaining the partnership or organisation due to a lengthy hiatus in funding, or a cessation of funding.
- Physical distances, which made communication and engagement difficult.

An example of successful engagement that draws on past learnings

The Groote Eylandt Regional Partnership Agreement, which has had the opportunity to learn from earlier experience and evaluations, has clearly made significant progress to date but needs to endure over many more years. The evaluation (Tempo Strategies 2012) notes that a combination of factors led to its current success, many of which reflect the success factors and pitfalls listed above. In terms of community engagement, the evaluation report notes the need to develop the capacity of community members to engage, the need for interpreters (due to low levels of English literacy), and the skills of those charged with consulting the community including the need for training in how to consult effectively in a cross-cultural environment. The main concern is to further reduce the number of consultation visits and improve their quality. A thematic approach (for example, youth development) which brings together multiple agencies and builds on what is already known about community needs and preferences is recommended (Tempo Strategies 2012).

Other research relevant to place-based approaches

These challenges of place-based working are not unique to Indigenous Australia. Many writers have suggested that hierarchical modes of government are not effective given the complexity and multidimensional nature of certain contemporary problems, which frequently demand collaboration across institutional boundaries and hybrid networks (Considine 2006; Kettl 2002; Lynn 2003; Salamon 2002). Place management is the attempt to resolve complex interrelated problems in specific disadvantaged regions or communities, by drawing together mainstream programs (Walsh 2001). But while agencies may plan together, they still retain separate 'goals, structures and responsibilities' (Reddel 2002:55), which presents a problem.

Davis and Rhodes (2000) argue that Australia's governing norm is through contracts that set out mutual obligations. This approach places conflicting demands on public servants expected to govern by networks; this requires shared norms of cooperation and trust through which agreed objectives are defined (Rhodes 2005). Managers can no longer impose objectives for other organisations. Rather, they have to rely on skills of persuasion, high-level interpersonal communication skills, reciprocal rather than manipulative behaviours, and the construction of long-term relationships (Davis & Rhodes 2000). These issues mean that the Australian public service may find governing through networks rather difficult. This is even more the case in governing Indigenous Australia, where high-level cross-cultural skills have to be combined with issues of politics and power (Goldsmith & Eggers 2004; Salamon 2002).

Goldsmith and Eggers (2004:119) note that 'cultural differences that make it hard to align values, agree on goals and share knowledge' can be constraints in network operations. Both governments and Indigenous people have their own cultural values, institutions and systems. These differences are not about individuals, since on both sides individuals struggle to bridge the intercultural space with a great deal of sensitivity and knowledge. Rather, it is a mismatch of systemic values and approaches that makes achieving successful network partnerships very difficult. Making these value differences explicit and negotiating how parties can work together despite them may be necessary.

Moran and Elvin (2009) also make the point that top-down linear solutions do not work in complex systems; complex systems require greater devolution of decision making to enable Aboriginal people to become stronger agents in their own development. Coupled with this, the system needs better feedback loops to become more adaptive to what emerges.

A review of several place-based approaches in Indigenous justice (Gilbert 2012)—including the COAG trials; the Meeting Challenges, Making Choices Project, Cape York (2002–05); and the Communities in Crisis initiative (2003-2007)—found that these hold out the promise of governments partnering successfully with Indigenous people. It found that more recent initiatives (such as the Lake Tyers Community Renewal Project, Fitzroy Futures Forum, and the National Partnership on Remote Service Delivery) have built on prior learning, but that they need robust, collaborative governance arrangements among other conditions for success. Hagan (2009) shows holistic,

strength-based engagement approaches that are well thought through can, over several years, lead to positive social and economic outcomes (Note: This is not an independent evaluation of the program but an insider description, though various outcomes are clearly documented.) Yet Moran shows that gaining and maintaining community ownership is sometimes difficult, even with participatory processes (Moran 2004, 2008).

To date, the shift to mainstreaming has paradoxically resulted in an increase in the number of departmental relationships that an Indigenous community organisation has to maintain, rather than the reverse, since each government department retains its autonomy to deal with communities (Hunt 2007). If Indigenous communities on the ground are to have an experience of more genuinely joined-up governance, they need to be able to access joined-up funding in a far more comprehensive way. Reddel (2008), reviewing various place-based initiatives, including in Cape York, argues that behaviour change among all players is needed, and '[a]ligned with behaviour change is the need for improved knowledge transfer between all these actors' (Reddel 2008:15). Drawing on Moran (2008), Reddel:

> distinguishes between local knowledge held by consumers and leaders and administrative knowledge held by services providers. Bringing these two types of knowledge together can improve Indigenous governance and service delivery, particularly from a place based perspective' (Reddel 2008:15).

Research findings on program and sectoral engagement

Three key sectors are best represented in the literature on engagement. They cover different levels of engagement from local, to regional, state-wide and national. The three sectors are child care services, environmental/natural resource management activities, and health programs. The lessons learnt from these sectors are consistent with those on regional engagement and are likely to apply far more widely (see Clearinghouse resource sheet no. 23, *Engagement with Indigenous communities in key sectors* (Hunt 2013), which provides more detail about the findings relating to the specific sectors).

Common lessons about what works

Some common lessons about what works are evident across all three sectors best represented in the literature on engagement. What works is summarised below.

- There is a commitment by all parties to developing long-term sustainable relationships based on trust (Burton 2012; Salisbury 1998); Indigenous people are able to set their own time frames compatible with their own cultural protocols—short-term outcomes may not be met within the desired time frames of governments, but longer term outcomes will be better (Gilligan 2006; Smyth et al. 2004).

- Partnerships with Aboriginal people work within a framework of Aboriginal self determination (Bailey & Hunt 2012; Burton 2102; Raymond et al. 2012) or Aboriginal decision making, with Indigenous-driven priorities (Bauman & Smyth 2007; Rockloff & Lockie 2006); for example, the process was Aboriginal-controlled from setting the research agenda and through all stages (Couzos et al. 2005); the process was Aboriginal driven and built the capacity of all parties in the partnership (Salisbury 1998). The process must be deliberate and adaptive, facilitated by people committed to Indigenous empowerment, priority setting and decision making; governments need to be responsive to Indigenous priorities (Gilligan 2006; Smyth et al. 2004).

- Power inequalities are addressed (Voyle & Simmons 1999); power inequality is recognised at the outset and genuine efforts are made to share power, including agreed conflict resolution processes and transparency about decision making; agreements spell out mutual benefits to each party (Carter 2010); Aboriginal parties are formally recognised, which demonstrates respect by other parties to the engagement; contracts or agreements provide a sense of greater power in otherwise unequal engagements (Hemming et al. 2011; Lloyd et al. 2005). Unequal power in relationships can be reduced by strong mutual accountability relationships in agreements (Burton 2012).

- Staff appreciate the historical context (Voyle & Simmons 1999) and cultural knowledge. Staff understand the social and historical context in each place and recognise contemporary fluidity (Nursey-Bray et al. 2009). Cultural competency in terms of knowledge, skills and attitudes is critical and it includes recognition and valuing of the cultural knowledge and skills of community organisations and Aboriginal and Torres Strait Islander people (Burton 2012).
- There is willingness to share responsibility and accountability for shared objectives; for example, joint planning, monitoring and evaluation in line with the rights and needs of parties (Bauman & Smyth 2007); collaborative formulation of criteria and indicators for annual self-assessments (Zurba et al. 2012).

Conclusion

This paper notes on the spectrum of engagement that international research demonstrates that where problems are complex and where the engagement is with marginalised groups, a high level of people's participation works best and real power sharing is necessary. International experience in relation to First Peoples in other developed settler countries emphasises self-government, treaty or agreement-like relationships that give First Peoples significant rights or control. The UN Declaration on the Rights of Indigenous Peoples sets an internationally agreed standard of free, prior and informed consent by Indigenous peoples on matters that affect them. Experience in other comparable countries also highlights the importance of investing in indigenous governance capacity and resources, noting the important role played by First Nations organisations. It emphasises respect for First Nation values and difference from the settler society (for example, the desire of Māori to live as Māori).

In Australia, research indicates that Indigenous engagement works best in a framework that respects Indigenous control and decision making and supports development towards Indigenous aspirations. Early engagement to enable deliberation about shared goals is necessary, and support for Indigenous governance development and capacity to engage is important. The development of respectful and trusting relationships is key to success. This takes time, people with the right skills and approaches, good communication and leadership by all parties. Clarity about processes, roles and responsibilities, mutually agreed outcomes and the steps to achieve them and a willingness to share responsibility for progress are essential.

Current engagement approaches by Australian governments tend towards the consultative end of the engagement spectrum—largely information giving with some discussion, rather than thorough consultation. This approach tends to reinforce central decision making and citizen passivity, rather than the shared ownership and shared goals that are essential to success. It contributes to consultation fatigue. When Indigenous people do not have the opportunity to participate in analysing the problem and developing agreed solutions, engagement is likely to be less successful. The research summarised in this paper gives a great deal of guidance on how engagement can be undertaken successfully, drawing on examples that show what can be achieved where such principles and approaches are adopted.

Whole-of-government collaborative working is necessary and must be responsive to Indigenous priorities and aspirations. Recent government efforts to improve coordination and whole-of-government working for engagement indicate that this remains a challenging area. There is a need for greater flexibility in funding arrangements, for accountability systems and capacity development approaches that reflect a whole-of-government approach, for greater coordination authority for senior local staff and for shifts in bureaucratic cultures to support collaboration.

There has been little or no research about engagement in national or other levels of policy development, or how the various mechanisms that different jurisdictions and sectors use for planning at jurisdictional level function. Nor is there any research on the effectiveness of various Indigenous peak bodies in their engagement with governments. While jurisdictions are trialling new approaches to engagement since the abolition of the Aboriginal and Torres Strait Islander Commission, there is as yet no publicly available assessment of their

effectiveness. Importantly, although the Australian Government indicated its support for the UN Declaration on the Rights of Indigenous People in 2009, efforts to consider how the right to free, prior and informed consent can be put into operation in engagements with Australia's Indigenous people have barely begun. The approach of the Murray–Darling Basin Authority is a rare example of the explicit adoption of key rights from this Declaration in policy principles, which has yet to be evaluated in practice.

Appendix A

The Closing the Gap Clearinghouse Assessed collection includes summaries of research and evaluations that provide information on what works to overcome Indigenous disadvantage across the seven Council of Australian Governments building block topics.

Table A1 contains a list of selected research and evaluations that were the key pieces of evidence used in this issues paper. The major components are summarised in the Assessed collection.

To view the Assessed collection, visit <http://www.aihw.gov.au/closingthegap/collections/>.

Table A1: Assessed collection items for *Engaging with Indigenous Australia–exploring the conditions for effective relationships with Aboriginal and Torres Strait Islander communities*

Title	Year	Author(s)
Rethinking Aboriginal community governance	2005	Martin DF
Building Indigenous community governance in Australia: preliminary research findings	2006	Hunt J & Smith DE
Synopsis review of the COAG Trial evaluations	2006c	Morgan Disney and Associates, Tracey Whetnall Consulting and Wis Wei Consulting
Community engagement: participation on whose terms?	2007	Head BW
UN Declaration on the Rights of Indigenous Peoples	2007	UN General Assembly
An integrated strategy building economic, human and social capital in an Indigenous community	2009	Hagan D
Coping with complexity: adaptive governance in desert Australia	2009	Moran M & Elvin R
Mining agreements, development, aspirations, and livelihoods	2009	Scambary B
From community crisis to community control in the Fitzroy Valley	2011	Aboriginal and Torres Strait Islander Social Justice Commissioner
Indigenous governance structures in the southwest of Western Australia	2011	Barcham M
Working with complexity: community engagement and the Murdi Paaki COAG Trial 2002–2007	2011	Jarvie W & Stewart W
A yarn on the river: getting Aboriginal voices into the Basin Plan	2011	Murray–Darling Basin Authority
Council–Māori engagement: the ongoing story	2011	Reid M

(continued)

Table A1 (continued): Assessed collection items for *Engaging with Indigenous Australia–exploring the conditions for effective relationships with Aboriginal and Torres Strait Islander communities*

Title	Year	Author(s)
Guidelines for ethical research in Australian Indigenous studies	2012	Australian Institute of Aboriginal and Torres Strait Islander Studies
Place-based initiatives and Indigenous justice	2012	Gilbert R
Ten principles relevant to health research among Indigenous Australian populations	2012	Jamieson LM, Paradies YC, Eades S, Chong A, Maple Brown L, Morris P, Bailie R, Cass A, Roberts Thomson K, Brown A
Groote Eylandt and Bickerton Island Regional Partnership Agreement: progress evaluation	2012	Tempo Strategies
Fixing the hole in Australia's heartland: how government needs to work in remote Australia	2011	Walker BW, Porter DJ & Marsh I

Table A2 contains a list of Closing the Gap Clearinghouse issues papers and resource sheets related to this resource sheet.

To view the publications, visit <http://www.aihw.gov.au/closingthegap/publications/>.

Table A2: Related Clearinghouse resource sheets and issues papers

Title	Year	Author(s)
Effective practices for service delivery coordination in Indigenous communities	2011	Stewart J, Lohoar S & Higgins D
Improving Indigenous community governance through strengthening Indigenous and government organisational capacity	2012	Tsey K, McCalman J, Bainbridge R & Brown C
Engagement with Indigenous communities in key sectors	2013	Hunt J

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Appendix B

Indigenous engagement principles for the Murray–Darling Basin Authority

The Murray–Darling Basin Authority will take a principle-based approach that ensures consistent and grounded involvement of Indigenous/Aboriginal people in natural resource management decision making.

This approach will be in accordance with both the spirit and intent of the United Nations Declaration on the Rights of Indigenous Peoples.

These principles focus on achieving inclusive, meaningful and effective outcomes for Indigenous/Aboriginal people in the Basin.

Principles

In carrying out its day-to-day activities, the Murray–Darling Basin Authority will:

1. recognise that the authority and responsibility with respect to Indigenous/Aboriginal culture rests with Traditional Owners

2. involve Indigenous/Aboriginal people effectively, through a process of free prior informed consent, which means Indigenous/Aboriginal people have adequate knowledge and understanding of relevant government programs to ensure they are aware of the consequences and outcomes which may result from their contribution and any consent with regards to cultural knowledge, values and perspectives

3. work towards improving the capacity of Indigenous/Aboriginal people in relation to effective involvement in natural resource management

4. recognise that natural resource management programs have a role in delivering cultural, social, economic and environmental outcomes that are equitable and appropriate to all Indigenous/Aboriginal people

5. ensure that partnerships between Indigenous/Aboriginal people and the Murray–Darling Basin Authority are based on respect, honesty, and capacity to participate equally, with shared responsibility and clearly defined accountability and authority.

These principles were endorsed by the joint gathering of Murray Lower Darling Rivers Indigenous Nations and the Northern Murray–Darling Basin Aboriginal Nations in Canberra on 16 June 2011 (MDBA 2011:37).

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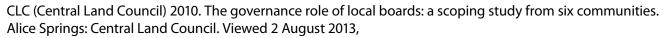
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Acknowledgments

Abbreviations

COAG   Council of Australian Governments

EAs   environmental agreements

EIA   environmental impact assessment

GBM   Government Business Managers

ICC   Indigenous Coordination Centre

MDBA   Murray-Darling Basin Authority

NTER   Northern Territory Emergency Response

UN   United Nations

Terminology

Indigenous: 'Aboriginal and Torres Strait Islander' and 'Indigenous' are used interchangeably to refer to Australian Aboriginal and/or Torres Strait Islander people. The Closing the Gap Clearinghouse uses the term 'Indigenous Australians' to refer to Australia's first people.

Funding

Suggested citation

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