



TIME AND TERRITORY: PACING AND SPACING BENEFITS FOR INDIGENOUS PEOPLES FROM RESOURCE PROJECTS

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Time Thresholds

- The planning horizon for a resource project from exploration to operation
- The negotiations time horizon
- The speed with which revenues are collected and absorbed
- Closure planning and the timeframe for ecological restoration

Particular Perceptions of Time

“The Aboriginal view of time differs from the Judeo-Christian linear approach in a number of ways. For Aboriginal people, time is multidimensional and can be described: ‘as a pond you can swim through – up, down, around’.”

An Aboriginal saying: ‘It is not important when things happen, it is important that they happen.’

“The extraction of time from the environmental system as a whole is a foreign notion to most Aboriginal people, even to those who work and live within mainstream Australian society.”

Janca, Aleksandar, and Clothilde Bullen. “The Aboriginal Concept of Time and Its Mental Health Implications.” *Australasian Psychiatry* Vol 11 Supplement 2003

Discounting the Future

- Discount rates and accounting mechanisms. Does anyone ask indigenous people about what discounting is appropriate?
- Ecological economics metrics that could assist in more effective agreement negotiations with indigenous peoples

Net Present Value (NPV) calculations

“Community issues, local engagement activities, and the Agreements themselves soon were viewed as unproductive costs, and not a necessary cost of doing business. There was no NPV, so operators had difficulty understanding or appreciating the importance of strong agreements and corresponding long-term relationships.”

Diavik Diamond Mines – Agreement Making Panel – A Short Primer on Diavik’s Experiences, 2009

Transactional Time

“Indigenous people do not regard agreement making as a ***quick transactional way to protect assets or gain commercial advantage***.... Aboriginal people ***do not regard land as a commodity to be bargained away***. Accordingly mining companies need to appreciate the ***pace***, tone and content of ***negotiations can be slow*** and ***do not follow the pattern of offer, counter-offer and brinkmanship.***”

“There is a basic paradox underpinning the process of agreement making in that while both parties seek ***predictability***, miners tend to seek ***certainty in process and timing*** to ensure a predictable process while indigenous community interests want the sort of ***certainty that derives from a predictable and reliable relationship that has developed over time.***”

Queensland CSG Context

“A number of scholars (including Altman, 2009; Bartlett, 2004; Corbett & O’Faircheallaigh, 2006; Langton & Palmer, 2003; Ritter, 2002, 2010) have argued that this ***‘threat of arbitration’ after six months of negotiation places clear pressures on parties to reach an agreement, but that this impetus is significantly biased against native title parties*** as determinations via arbitration have overwhelmingly been in the favour of business. Langton and Palmer (2003) state that while businesses may see the ***arbitral procedure as the most expedient path to development, they also expose themselves to the risk of an ongoing poor relationship with native title parties*** due to the latter’s dissatisfaction with having to accept an involuntary agreement.”

Trigger, D., J. Keenan and K. K. de Rijke. *Coal Seam Gas Industry Impacts Aboriginal Engagement with the Resources Industry via Agreements*. University of Queensland Scoping Paper, June 2013.

Territorial Layers

“The use of term *lands* in Articles 15 and 16 shall include the concept of territories which covers the total environment of the areas which the peoples concerned occupy or otherwise use.”

ILO Convention 169

US and Canadian examples

- Bureau of Indian Affairs (BIA) – Since 1985 has maintained a Geographic Data Service Center – 50 of the ~550 tribes use this service – USGS and NASA assistance
- In Canada, the tribes have themselves formed GIS cooperatives – Six Nations Geo-systems of Ontario

“Native people are spatial reasoners” John Goes In Center (Ogalala Lakota) – GIS entrepreneur, Colorado

Ethical concerns around GIS usage in Australia

- Use by government / companies to identify cultural heritage sites without consent
- Participatory mechanisms for GIS usage have been missing
- Information capacity to process data appropriately

Turk, A. and Trees K. *Ethical issues concerning the use of GIS technology with indigenous communities.* International Conference of the Australian Institute of Computer Ethics. Melbourne 14-16 July 1999.

Article 25 of the UNDRIP

“Indigenous peoples have the right to maintain and strengthen their distinctive ***spiritual relationship*** with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to ***uphold their responsibilities to future generations*** in this regard”

Article 40 of UNDRIP

“Indigenous peoples have the right to access to and ***prompt decision*** through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to ***effective remedies*** for all infringements of their individual and collective rights. Such a decision shall give ***due consideration to the customs, traditions***, rules and legal systems of the indigenous peoples concerned and international human rights.”

Article 6 of ILO Convention 169

In applying the provisions of this Convention, governments shall:

(a) consult the peoples concerned, ***through appropriate procedures*** and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly;

(b) establish means by which these peoples ***can freely participate***, to at least the same extent as other sectors of the population, at all levels of decision-making in elective institutions and administrative and other bodies responsible for policies and programmes which concern them



Ross Park Primary School's Year 6 students (2009) *Our Voice, Our Time*
Central Australian Schools Art Competition Winners