

Boyer Lectures

Lecture 4: The conceit of wilderness ideology

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Part of [2012 Boyer Lectures](#)

In her fourth lecture, Professor Langton examines how some beliefs within the nature conservation movement in Australia have perpetuated the idea that Aboriginal people are the enemies of nature, and describes recent examples of Indigenous tractional land practices which combine western ecological knowledge to create sustainable and economically viable custodianship of country,

Transcript

I had been searching for the quintessential statement by a wilderness campaigner in opposition to Aboriginal interests to illustrate the problem that I have referred to in earlier lectures: the refusal among the romantics, leftists and worshippers of nature to admit that Aboriginal people, like other humans, have an economic life, are caught up in the transforming encounter with modernity, and have economic rights. A succinct and illuminating quote was not difficult to find. While writing this lecture, Tim Flannery's *Quarterly Essay 'After the Future, Australia's New Extinction Crisis'*, was published.

He writes in that essay:

'...mining often takes priority over nature protection. Even under Labor governments with a strong green bent, national parks are not always safe. In 2010, the Queensland Bligh government began the process of de-gazetting a large part of Mungkan Kaanju National Park on Cape York Peninsula, with a view to giving the land back to its traditional owners.'^[1]

What is wrong with Flannery's idea that the land is not 'safe' if it is owned by an Aboriginal person or entity? First, the inference is that such a title is less 'safe' from mining than if it remains a national park. Another inference is that any title owned by a non-Aboriginal person is 'safer' than one

owned by an Aboriginal person or entity. Neither is the case. Australian law is such that the Crown has the power to de-gazette national parks and compulsorily acquire any title for any purpose. Our Constitution requires that landowners are compensated for fair market value. As an aside, I note that, in relation to compulsory acquisition of native title, Australian governments have by and large ignored this constitutional responsibility in relation to native titleholders. Thus, it makes no difference at law if the title is a national park, freehold, pastoral lease or any other title. As well, it makes no difference if the titleholder is white or Aboriginal, or Chinese for that matter.

Only the Crown, or in this case, the Queensland government, gives approval for mining projects.

I reiterate: faced with a mining project, Aboriginal landowners in Australia are in the same position as all other landowners, apart from the very limited circumstances in the Northern Territory. *The Native Title Act* provides only a right to negotiate, but in Queensland, the Native Title Tribunal decisions have conspired to deny native title parties even effective use of those rights under a legal sleight of hand.

Another inference of Flannery's remark can be seen in the gazettal of large areas of Aboriginal-owned land in Cape York Peninsula by the Bligh government under the *Wild Rivers Act*. Aboriginal landowners had no say whatever, and the racist assumption in the Wild Rivers Act was that the rivers were unsafe from development while the banks and river basins were owned by Aboriginal people. What were they going to do in these rivers? Scare the fish? This is not a trivial remark. The idea of Aboriginal people as fundamentally polluting is an old racist idea, and explains why our ancestors were incarcerated in reserves and stripped of property and freedom.

If indigenous people in Australia had a full domestic legal right to the United Nations principle of free, prior and informed consent, the situation would be different in relation to mining. But this is not the case. As I have explained in previous lectures, Aboriginal groups have struggled with the injustice of mining for 50 years, and have had to carve out a niche for their own survival in the midst of careless, racist disregard for their wellbeing.

For 40 years, this racist assumption in the green movement about Aboriginal people being the enemies of the wilderness is a leitmotif of deals between conservation groups and state governments to deny Aboriginal people their rights as landowners and citizens of Australia. The *Wild Rivers Act*, now repealed by the Newman government, was one of many deals of this kind.

There is another issue to consider in this presumption that we Aboriginal people are the threat to nature. Most Australians, until recently, were spared the experience of living with mining projects. With the development of shale gas and fracking projects and their expansion into valuable farming land, farmers, rural and even suburban dwelling Australians have objected stridently, and begun to demand protections much as Aboriginal people did 50 years ago when large scale mining projects impacted on their world. Most mining projects are located in remote and rural Australia; 60 per cent of them are located near Aboriginal communities. It is Aboriginal people who have borne the brunt of the direct impacts of mining, and as I have explained in earlier lectures, tamed the industry with a range of campaigns and strategies during the last half-century.

Moreover, Aboriginal land is targeted both by mining companies and conservation campaigners precisely because it is Aboriginal land. These vast areas owned by Aboriginal people are the repository of Australia's megadiversity of fauna, flora and ecosystems because of the ancient Aboriginal system of management, and because, Aboriginal people fought to protect their territories from white incursion. They are not wilderness areas. They are Aboriginal homelands, shaped over millennia by Aboriginal people. The presumption by conservationists that these areas need to be rescued from Aboriginal people – as made clear by Tim Flannery and in the Wild Rivers saga in Queensland – is a strange twist on the racist fiction of *terra nullius* overturned by the Mabo case. Our customary and traditional governance systems exist, and continue as rational systems of laws in the lives of thousands of Aboriginal people. While it is a miracle that they have survived colonisation and white settlement, the real wonder is the capacity for innovation and ingenuity that Aboriginal tradition allows. It goes entirely unnoticed among the conservation campaigners and, as we have seen, even amongst the intellectuals of the movement like Tim Flannery.

Some conservationists and conservation groups have been complicit in political chicanery, racism and further expropriation of our homelands, and for 30 years have been to Aboriginal advancement. The examples are numerous, but time permits discussion of only one, the events leading up to the High Court case, *Koowarta v. Bjelke-Petersen*, 30 years ago.

Queensland state governments, from the early 1970s to the 1990s, used environmental conservation legislation and instruments to prevent Aboriginal groups from acquiring and using land.^[ii] The most notorious of such actions was that taken against the late John Koowarta of the Winychanam group of Cape York. He was sometimes resident at Aurukun and also at settlements further inland following his attempted purchase, with the assistance of the Aboriginal Land Fund

Commission, of the Archer River Pastoral Holding, located on his traditional territory in central Cape York. In February 1976, Koowarta and the Aboriginal Land Commission entered into a written contract with the lessees for the purchase of the lease and cattle and horses on the lease. The sale and transfer of the lease was subject to the approval or permission of the Minister for Lands of the State of Queensland, and on 23 March 1976, the Commission sought the consent of the Queensland Minister for Lands to the transfer of the lease to the Commission. The minister refused to grant consent or permission to the transfer of the said lease. Queensland Government policy explicitly opposed 'proposals to acquire large areas of additional freehold land or leasehold land for development by Aborigines or Aboriginal groups in isolation'.^[iii] The Government gazetted a number of national parks over the pastoral properties that Aboriginal peoples had expressed interest in buying, to prevent them from people legally purchasing the land.

On or about 8 December 1976, the Minister for Lands stated the reason for refusing to grant approval or permission to such transfer. He added to the earlier statement, explaining that it was a cabinet decision of September 1972. In the light of this policy, the recent development whereby the Aboriginal Land Fund commission sought to acquire by transfer Archer River Pastoral Holding was reported in detail to state cabinet, whereupon cabinet said, in June 1976:

(1) That Cabinet's policy regarding Aboriginal reserve lands ... remain unchanged. (2) That in accordance with such policy and as it is considered that sufficient land in Queensland is already reserved and available for use and benefit of Aborigines, no consent be given to the transfer of Archer River Pastoral Holding ... to the Aboriginal Land Fund Commission.'^[iv]

Koowarta's appeal to the High Court was successful. In 1982, the High Court overruled the Queensland government's action. Koowarta's case concerned the validity of certain sections of the *Racial Discrimination Act*. The validity of the *Racial Discrimination Act* had been challenged by the Queensland government. It was alleged that the Queensland government had breached the act by refusing to grant a lease to the Aboriginal Land Fund Commission. The Court held that the legislation was valid as an exercise by the Commonwealth of the external affairs power.^[v]

However, Koowarta and the Winychanam group were never able at that time to acquire title to their beloved country. The Queensland government had gazetted the lease area as the Archer Bend National Park.

This national park is the same one that became the Mungkan Kaanju National Park, about which Flannery lamented its transfer to its traditional Aboriginal owners. I should note that its proper name is Oyala Thumotan and the traditional owners have changed the name of the national park accordingly. How fitting that Flannery should insult the traditional owners and the memory of Koowarta, on behalf of the conservation movement this year, on the thirtieth anniversary of the Koowarta case and twentieth anniversary of the Mabo case.

Although he was unable to acquire land because of the racist intransigence of Bjelke-Petersen's government, Koowarta nevertheless scored a key victory in opposing racial discrimination. The case also confirmed the role of the Commonwealth Government in Aboriginal land rights legislation.^[vi] The *Koowarta* case is the first example of the Commonwealth using the external affairs power as the basis for legislation to limit the actions of state governments.

Even given this history of chicanery, such as the Koowarta case and the conservationist deals with governments to colonise Aboriginal land under the Green flag, the plain fact is that, far more than any other group of citizens in Australia, Aboriginal people have dedicated their land to environmental and biodiversity conservation. The facts prove Flannery and his colleagues in the so-called wilderness movement wrong.

So far, under the Indigenous Protected Area scheme and other arrangements, Aboriginal people have dedicated more than 30 million hectares of their own land to environmental and biodiversity conservation. This represents more than 25 per cent, or a quarter, of the National Reserve System, while Aboriginal people represent less than three per cent of the population.

Like indigenous peoples elsewhere, Aboriginal and Torres Strait Islander peoples of Australia are concerned to promote and maintain their active involvement in the pursuit of environmental security and sustainable economic livelihoods on their ancestral lands.

There are various legal and practical reasons for the Australian government to incorporate indigenous customary interests into the broader Australian project of land, sea and resource conservation. Land and water subject to indigenous ownership and governance constitutes a significant and substantial proportion – more than 20 per cent – of the Australian continent.^[vii] Since the High Court's finding in the Mabo^[viii] judgment and the codification of the *Native Title Act 1993*, native title rights to land, sea and resources are now recognised in Australia's legislative landscape.^[ix] In 1999 some customary rights in fauna were also found to exist as a form of native

title by the High Court of Australia.^[x] Furthermore, indigenous ownership and input to management of land will increase.^[xi]

Despite the influence of the North American model on the development of its national parks, Australia has, taken a lead role in the development of joint management agreements with indigenous groups in a few national parks. Nevertheless, in jointly managed parks where indigenous people maintain ownership and varied degrees of control over their estates, tensions still arise between western and indigenous ways of practising land management. This is the case in the Kakadu and Uluru-Kata Tjuta national parks that are jointly managed by lease agreements between traditional Aboriginal landowners and the federal government.^[xii]

The federal government's Indigenous Protected Area program was established in 1996 as a part of its intention to establish a National Reserve System, and under pressure from indigenous people to ensure that their wishes in relation to conservation were recognised. The aim of the National Reserve System was to 'establish and manage a comprehensive, adequate and representative system of protected areas covering Australia's biological diversity.'^[xiii]

It aimed to address gaps in the kinds of ecosystems under protected area management and divided the continent into 85 regions under a process called the Interim Biogeographic Regionalisation of Australia, based on factors associated with climate, lithology, geology, landforms and vegetation. This scheme provides the bioregional planning framework for developing the National Reserve System and is used to inform future land acquisitions. The usual method of adding to the nation's conservation estate is through the government purchase of land for dedication as parks and reserves.

However, as this planning framework was drawn up, government officials noticed that in some instances, Aboriginal people owned whole bioregions. Moreover the new native title law, claims and the future act regime in the *Native Title Act* were new and challenging issues that would impinge upon the government's appropriation of land for the national reserve system. As well, the Indigenous Land Corporation, a statutory body set up met the needs of indigenous groups unlikely to achieve success with native title claims, increased the size of the indigenous estate through sizeable land purchases.

At the same time there were increasing initiatives by indigenous landholders to re-establish their land management traditions and cooperate with government conservation agencies to achieve their aspirations.^[xiv]

These initiatives were complemented at the international level by a new system of protected area categories declared by the International Union for Conservation of Nature, which substantially recognised the rights, and interests of indigenous people to own, manage and sustainably use areas of land and sea of high conservation value.^[xv]

These new categories allowed for the establishment of protected areas that linked land and associated cultural values managed through legal or other effective means. This created possibilities to enable indigenous landowners to manage protected areas on parity with the mainstream protected area estate. These combined initiatives resulted in the federal conservation agency conducting a consultation process with indigenous organisations and state conservation agencies to discuss the establishment of what would become the Indigenous Protected Area (IPA) program.^[xvi] However, when indigenous groups and their representative bodies came together at two national workshops and expressed interest in the IPA idea, this interest was subject to a number of conditions:

- There would be no loss of control over land by indigenous people. There was concern that government would try to take over the management of IPA land.
- That landowners make the decisions and the plan of management on their own terms.
- That the role of government would remain one of a 'good neighbour' providing advice and technical support on a needs basis on matters relating to issues such as weeds, feral animal management, and tourism infrastructure.
- That the commitment by government for the IPA program would be long term.
- That the government address, as an issue of equity, Aboriginal involvement in protected area management for those groups who have no land base as a result of dispossession^[xvii]

Following these negotiations the federal government proceeded with the establishment of the program with two components: first, the development and declaration of Indigenous Protected Areas on indigenous-owned land where land owners manage the land as independent bodies, and

second, a program to assist and support indigenous people to negotiate a land management role in existing government owned national parks and reserves with state agencies through some type of co-management arrangement.

The program began in 1996 with an undertaking to develop twelve pilot projects in diverse locations including high density settled areas and remote areas.

The first declared IPA was Nantawarrina near the Flinders Ranges in South Australia in August 1998.

In 2005 a further 18 Indigenous Protected Areas had been declared, 11 others had been funded to pursue co-management arrangements in government-owned protected areas, and 14 more groups received interim funding to investigate the possibility of establishing more such areas.

Since then, the scheme has expanded considerably. There are now 51 declared Indigenous Protected Areas in Australia covering, as I said, 30 million hectares of indigenous owned land and making up 25 per cent of the National Reserve System.

In addition, there are 40 consultation projects across Australia and there are plans to expand the scheme by 40 per cent over the next five years.[\[xviii\]](#)

Each Indigenous Protected Area has a plan of management, is declared under one or more international categories, and undergoes a process of public declaration, and is entirely managed by indigenous landowners. Such areas as Nantawarrina and Deen Maar in southern Australia, once denuded farm and pastoral lands, are now significantly regenerated, prompting the return of a diversity of native species of flora and fauna.[\[xix\]](#)

Indigenous protected area agreements are voluntary and are made between the Policy and Coordination section of the federal Department, and indigenous communities, land councils and other indigenous bodies. The security and viability of the scheme lies in the establishment of long-term land use agreements offering financial support from the government.

With training and assistance, the Indigenous Protected Area programs have had the effect of empowering communities and providing significant environmental, economic, social and cultural benefits. Land management activities range from tourism management and visitor interpretative services to weed and feral animal management and land rehabilitation.

Indigenous land owners participating in the program have also begun entering into agreements with state conservation agencies, which provide them with additional technical advice, training capacity and access to powers relating to permits and law enforcement on their land. They are also building relationships with other state natural resource management agencies and non government organisations, establishing partnerships and participating in joint projects and other activities which both attract additional funding and expand the capacities of land owners to pursue their land management objectives. In some cases indigenous groups are creating arrangements where other bodies such mining and tourism companies with interests in the region contribute funds to enable the management of Indigenous Protected Areas and surrounding indigenous lands.

There are several extraordinary developments in Aboriginal participation in the 'green economy' that have resulted from the innovative thinking in the Aboriginal world about sustainable development and preserving the environments in which Aboriginal society has flourished for more than fifty thousand years. Carbon farming, in particular, is popular with Aboriginal people. The Kapawanamyu case, the first carbon farming initiative in the Aboriginal world, is an exemplar of these developments.

The Upper Cadell River in western Arnhem Land in the Northern Territory is one of the sites of an unbroken tradition of Aboriginal 'fire stick farming'. The Australian continent has been shaped by wildfires for millions of years. These fires were controlled by Aboriginal people using fire across vast landscapes in a mosaic pattern of burning that reduced the vegetation after each monsoonal wet season. These ancient practices had almost ceased in northern Australia as a result of assimilation policies which included bringing Aboriginal populations into small townships in the 1950s. The traditional Aboriginal owners of the upper Cadell River re-established their community at Kapawanamyu, and from this base, they worked with the Bawinanga rangers from the Maningrida township, scientists and researchers, to continue traditional control-burning their estates for biodiversity conservation purposes. The native cypress pine forests are endangered by spreading wildfires and remain only in the protected gorges of the high sandstone country. Here in these gorges, cypress communities have withstood the severe wildfires. Dead cypress stems indicate that there have been high-intensity fires. Small cool fires lit throughout the year by traditional owners protect these as well as other vegetation communities — woodlands, sandstone heath, and riparian rainforest — from the wildfires. No exotic weeds have been found in this area and Aboriginal people are able to continue their food gathering practices in this rich environment.

This traditional knowledge has been deployed again in solving modern problems. Led by the late artist and traditional owner, Wamut, researchers such as Peter Cooke and the Bawinanga Rangers, the west Arnhem Land Aboriginal community has become the partner in an innovative carbon abatement scheme. The West Arnhem Fire Management Agreement is a partnership between Aboriginal Traditional Owners, the Darwin Liquefied Natural Gas project, and indigenous representative organisations, to implement strategic fire management across 28,000 square kilometres of Western Arnhem Land to offset some of the greenhouse gas emissions from the gas plant near Darwin. This is the first such development in what promises to be an important niche for Aboriginal people in the 'green economy.'

My history of these developments is necessarily a patchwork of selected events. There are many people to honour in this history: John Koowarta and Koiki Mabo, and as well, Wamut. There are also the non-Aboriginal researchers and scientists who learned from men and women like him, inducted from an early age in an ancient knowledge system that underpinned millennia of land and biodiversity management. Their love of nature was tempered with lessons from the Aboriginal world. Peter Cooke, whom I have mentioned, worked with Wamut, and through four decades of living in the Aboriginal world, was able to provide Western skills of research and science, and enable others like him to forge the partnerships that have enabled this first Aboriginal carbon farming scheme. There was the late Steve Szabo, a dedicated government officer who shepherded the Indigenous Protected Area scheme through the government corridors. These are the true conservationists who understand the complexity of our natural world, who are informed by science, be it Aboriginal traditional knowledge or Western science.

For consistency with other publications this transcript and audio have been edited.

[i] Tim Flannery, Quarterly Essay, p.33 or 34.

[ii] Rigsby 1981, 1996a; Guy 1996.

[iii] *Australian Constitutional Law: Materials and Commentary, (4th ed)*, PJHanks, Butterworths, Sydney, 1990, p 6.

[iv] ALFC (*Koowarta v. Bjelke-Petersen (1982) 153 CLR 168, 1982*, paragraph 2)

[v] See Parliament of Victoria, Federal-State Relations Committee, *Report on International Treaty Making And The Role Of The States* at URL:
<http://www.parliament.vic.gov.au/fsrc/report1/body/Chapter2.htm#ch2sub1>

[vi] Frank Brennan, *Land Rights Queensland Style*, 1992, p. ???

[vii] In Australia's Northern Territory, for example, Aboriginal people own over 50 percent of the land mass and over 80 percent of the coastline. The lands and waters that constitute most of this area are not subject to high density settlement, degradation of natural values by industries such as agriculture, forestry, fishing, pastoralism and tourism, and are high integrity areas both in terms of so called natural and cultural values. Much of the lands and waters within the indigenous domain remain subject to indigenous management systems (see M.Langton 2003). Indigenous people are also an increasing proportion of rural and remote communities, with a birth rate higher than the rest of the Australian population.

[viii] *Mabo and Others v. Queensland (No.2)* (1992) 175 CLR 1

[ix] Under Australian law, native title may be recognised in areas of unalienated Crown land where Indigenous people continue to follow their traditional laws and customs and have maintained a link with their traditional country. These criteria pose sever obstacles for those indigenous Australians who have in the past been forcibly removed from their lands (see M.Tehan 2003).

[x] In an appeal by Aboriginal activist Marandoo Yanner in relation to his charge under Queensland's Fauna Conservation Act 1974 for hunting crocodiles; see *Yanner v Eaton [1999] HCA 53*.

[xi] See (Hassall and Associates 2003: 100)

For example, ongoing commercial purchases by the indigenous Land Corporation and Aboriginal Land Councils. The Australian Indigenous Land Corporation (ILC) which operates under the *Native Title Act 1993* to fund land acquisition and land management activities, has produced the National Indigenous Land Strategy 2001-2006 in relation to indigenous land and sea management. In 'land management' the ILC's mandate is to assist indigenous people to 'manage their lands in a sustainable way providing them with cultural, social, environmental and economic benefits' (ILC 2003a:3). The ILC recognizes the centrality of the indigenous relationship to land as a defining principle in setting priorities in its land acquisition and management functions. The ILC may undertake land management activities on all indigenous-held land, including lands it has assisted indigenous peoples to acquire. For land to be classified as 'Indigenous-held land', it must be held by an 'Indigenous organization' as defined by the *Aboriginal and Torres Strait Islander Commission Act 1989*. Land ownership, and support for the management of that land, is thus legitimized by the administrative category of an 'Indigenous organization'. These benefits include the employment/training of indigenous people and indigenous business development (ILC 1997, 2003a, 2003b, NNTT 2003).

[xii] (see for example D. Lawrence 2000; L. Palmer 2004a, 2004b; T. Power 2003)

[xiii] Commonwealth of Australia 1996: 9.

[xiv] (D. Smyth and J. Sutherland 1996: 96-97).

[xv] (D. Smyth and J. Sutherland 1996: 96-97).

[xvi] (D. Smyth 1995).

[xvii] Pers. comm. The late S. Szabo 2002.

[xviii] Our analysis here relates only to the cases settled between 1996 and 2005, but we believe our analysis applies also to the additional Indigenous Protected Areas concluded since then.

See <http://www.environment.gov.au/indigenous/ipa/index.html> Accessed 12 September 2012.

[xix] (see for example, S. Muller 2003; S. Krishnapillai 2000).