



Payment for Ecosystem Services Markets on Aboriginal Land in Cape York Peninsula

Potential and Constraints

Michael Winer, Helen Murphy
and Harold Ludwick



United Nations
Research Institute
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Occasional Paper Six

Social Dimensions of Green Economy and Sustainable Development

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Acronyms

AU\$	Australian dollar
CEO	Chief Executive Officer
CFI	Carbon Farming Initiative
CYPAL	Cape York Peninsula Aboriginal Land
DERM	Department of Environment and Resource Management
DOGIT	Deed of Grant in Trust
ILUA	Indigenous Land Use Agreement
LULUCF	Land use, land use change and forestry
NETT	National Emissions Trading Taskforce
NGO	Non-governmental organization
NRM	Natural resource management
NTA	Native Title Act
PES	Payment for Ecosystem Services
Qld	Queensland
REDD	Reducing emissions from deforestation and forest degradation

Summary

In the global arena, improving environmental outcomes at the same time as ensuring social equity outcomes for disadvantaged landholder groups has become increasingly important. This is especially true in regions with pressing environmental problems populated by low-income indigenous land stewards. The ability of Payment for Ecosystem Services (PES) schemes to lift poor people out of poverty and, in particular, the potential for PES schemes to improve social and welfare conditions in remote Australian indigenous communities is increasingly being recognized. Based on research in Cape York, Australia, this paper argues that a new approach to environmental management is needed to incorporate PES market participation by indigenous landowners. This is because the current framework for environmental management on Cape York is failing on two fronts: it is delivering suboptimal environmental outcomes and constraining the economic development aspirations of traditional owners. Current barriers to participation by indigenous communities in the Cape York Peninsula in PES markets—including legislative constraints and the existence of weak Aboriginal land and property rights—must be overcome.

This paper argues that insufficient government funding and lack of indigenous involvement in design and implementation of natural resource management (NRM) has resulted in increased environmental risk in the region and an NRM system characterized by insufficient, unreliable and short-term government funding. Such funding regimes result in communities becoming financially dependent, politically vulnerable and disempowered from decision making, discouraging entrepreneurship and career development opportunities. There has been an overall lack of formal recognition and at times active undermining of Aboriginal governance structures by the government and non-governmental organizations (NGOs) to achieve political outcomes, further weakening Aboriginal negotiation and governance capability and disempowering indigenous NRM on their lands.

PES market participation could enable indigenous people in Cape York to reap the rewards gained from market participation by taking responsibility for environmental stewardship on their lands. One of the barriers that currently constrain indigenous development in PES markets is the multiple layering of environmental legislation. The restrictions on indigenous land use imposed by the current complex regime of environmental legislation greatly devalues the potential for indigenous people to engage with the voluntary and potential mandatory market for carbon and ecosystem services without any significant improvements in NRM outcomes stemming from this regulatory overload. The system of legislation and regulation imposes a very heavy burden of environmental maintenance on communities with little capacity to bear the cost.

Another important contributing factor is the underlying existence of weak Aboriginal land and property rights. Where there is lack of security and certainty of indigenous landholding (through native title rights, as well as other rights and interests) it is difficult to achieve the levels of permanence required to demonstrate ecosystem service benefits. Restrictions imposed on indigenous land use by NRM laws and regulations have the effect of transferring property rights and environmental values to society with little or no consideration of or accountability for the actual NRM costs that are required. The opportunity costs of imposing poorly designed blanket restrictions over entire landscapes disproportionately impact on indigenous communities that have not developed their land or had the chance to consider future land use options.

A new approach to environmental regulation that genuinely recognizes the conditions and history of Cape York is needed. An approach such as PES would seek to reconcile the legitimate development aspirations of traditional owners with effective environmental protection mechanisms, instead of creating conflict. What should have become one of the biggest economic values and opportunities for the Aboriginal people of the region—ecosystem services—is now increasingly becoming a liability. While, in some cases, a higher perceived level of potential or

real threat to the environment can provide the impetus for implementation of ecosystem service schemes, in Cape York, many major perceived threats have now been legally removed from the region and are no longer tradable. For example, land clearance laws have halted land clearing so one cannot trade that right for carbon credits through avoided deforestation. While there are still some significant PES opportunities such as fire management for carbon credits and some broader ecosystem services such as feral animal and weed control, many major opportunities that are developing nationally, such as tree planting and land use changes related to agriculture, are not relevant to an undamaged landscape. The remaining PES opportunities come nowhere near compensating for the acquired carbon and environmental values.

If Cape York is to realize the larger opportunities—the opportunities that could potentially fund the real costs and effective management of this vast and ecologically rich region—then significant policy changes will need to be made by governments at the state and federal level. These include:

- strengthening indigenous land tenure and property rights;
- enacting long-term, integrated NRM goals and programmes with greater indigenous participation;
- legally requiring Indigenous Land Use Agreements (ILUAs)¹ as part of any consent process for land use change on Aboriginal land such as new conservation regimes or industrial development;
- the further exploration of PES approaches as complements to existing conservation tools; and
- the establishment of a supportive legislative and policy environment to enable indigenous participation in PES markets.

Michael Winer is Project Manager and Principle Researcher for Environmental Management and Land Use at the Cape York Institute for Policy and Leadership. In 1992, he founded the North Queensland branch of the Wilderness Society, which led to major land acquisition programmes in Cape York. He is also the founder and CEO of Jawun, Australia's largest corporate coalition supporting indigenous communities.

Helen Murphy is a PhD student at the School of Earth and Environmental Sciences, James Cook University. Her research has focused on issues related to international development in South-East Asia and she is currently writing her dissertation on Australian indigenous social enterprise development in remote regions. She is also involved in research projects at the Cape York Institute focusing on indigenous participation in Payment for Ecosystem Services markets.

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¹ “The Indigenous Land Use Agreement (ILUA) is a voluntary agreement between a native title group and others about the use and management of land and waters.” Source: Agreements, Treaties and Negotiated Settlements database, www.atns.net.au/subcategory.asp?subcategoryid=121, accessed on 3 February 2012.

Introduction

In the global arena, there has been an increased understanding and focus on the challenges of improving environmental outcomes at the same time as ensuring social equity outcomes for disadvantaged land-holding groups. This is especially true in regions with high environmental values and pressing environmental problems populated by indigenous land stewards with very low levels of income and limited economic opportunities, such as the Peruvian Amazon, Coron Island in the Philippines and the Borana ethnic territory in Ethiopia. In Australia, the potential for Payment for Ecosystem Services (PES) schemes to improve social and welfare conditions in remote Australian indigenous communities is increasingly being recognized (Zander and Garnett 2011; Garnett et al. 2009). This paper argues that a new approach to environmental management in Cape York is needed, built around strengthened indigenous land tenure and property rights; longer-term natural resource management (NRM) goals and programmes with greater indigenous participation; and the incorporation of PES markets characterized by broad private investment and enabled by a supportive legislative and policy environment. This is because the current framework for environmental management on Cape York is failing on two fronts: it is delivering suboptimal environmental outcomes and is constraining the economic development aspirations of traditional owners. However, current barriers to participation by indigenous communities in the Cape York Peninsula in PES markets—including environmental legislative constraints and the existence of weak Aboriginal land and property rights—must first be overcome.

The remoteness and limited economic options in Cape York means that payments for land management are crucial for improving social outcomes for indigenous communities. Income derived from land management enables indigenous people to fulfil cultural responsibilities by caring for country and maintaining the health of country through “the physical presence of its traditional owners” (Zander and Garnett 2011:1). However, insufficient government funding and lack of indigenous involvement in design and implementation of natural resource management (NRM) has resulted in increased environmental risk in the region. It has also led to an NRM system characterized by insufficient, unreliable and short-term government funding. Such funding regimes result in communities becoming financially dependent, politically vulnerable and disempowered from decision making, discouraging entrepreneurship and career development opportunities. Disturbingly, there has been an overall lack of formal recognition, and at times active undermining, of Aboriginal governance structures by the government and non-governmental organization (NGOs) to achieve political outcomes, further weakening Aboriginal negotiation and governance capability, and disempowering indigenous NRM on their lands.

PES market participation could enable indigenous people in Cape York to reap the rewards gained from market participation by taking responsibility for environmental stewardship on their lands. One of the barriers that currently constrains indigenous development in PES markets is the multiple layering of environmental legislation. The restrictions on indigenous

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