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Voicing First Nations Country, culture and community in urban policy

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Acknowledgement of Country

The research team would like to acknowledge the Traditional Custodians of Country around Australia, and particularly those situated within urban contexts. It is easy to overlook the deep and enduring connection of Traditional Custodians to Country that has been built over with physical structures and imposed notions of Western planning. However, when we scratch the surface it reveals hidden and precious layers of knowledge and deep ancient wisdom that is ready to be reawakened.

A special acknowledgement and deep gratitude is extended to the First Nations people who were involved in this research, Wurundjeri Woi-Wurrung and Dharug Traditional Custodians and First Nations practitioners from Australia and Aotearoa New Zealand. Your commitment to advocating for your sovereign rights to Country are commendable and this research hopes to help advocate for addressing your frustrations and also share and celebrate your achievements.

AHURI

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AHURI undertakes evidence-based policy development on a range of priority policy topics that are of interest to our audience groups, including housing and labour markets, urban growth and renewal, planning and infrastructure development, housing supply and affordability, homelessness, economic productivity, and social cohesion and wellbeing.

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Artist statement – cover illustration

Visual artist and designer; Jade Holland is a Wiradjuri and Gomeroi woman who grew up on Bundjalung Country and has been living on Wurundjeri Country in Melbourne for the last ten years. She is committed to developing her cultural knowledge to support First Nations communities through increased visual representation, empowering voices and creating better balance in the public domain.

Image depicts a common connection of water across both Wurundjeri and Dharug Country – the river, sands and waters. The footprints highlight the concept of walking together in partnership and genuine meaningful relationships. This artwork illustrates that 'Country is everywhere', including the urbanised environments that exist alongside the natural landscapes of Country.

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Acronyms and abbreviations used in this report

ACCO	Aboriginal Community Controlled Organisations
AHURI	Australian Housing and Urban Research Institute Limited
ALRA	*Aboriginal Land Rights Act 1983* (NSW)
ATSISJC	Aboriginal and Torres Strait Islander Social Justice Commissioner
CANZUS	Canada, Australia, New Zealand, United States of America
CAPO	Coalition of Aboriginal Peak Organisations
CAEPR	Centre for Aboriginal Economic Policy Research
CARE	Collective benefit, authority to control, responsibility and ethics
CAUL	Clean Air and Urban Landscapes Hub
CTG	Closing the Gap
DDP	Development Delivery Plan
DEECA	Department of Energy, Environment and Climate Action (Vic)
DELWP	Department of Environment, Land, Water and Planning (Vic)
DPIE	Department of Planning, Industry and Environment (NSW)
DPHI	Department of Planning, Housing and Infrastructure (NSW)
DTP	Department of Transport and Planning (Vic)
EP&A Act	*Environmental Planning and Assessment Act 1979* (NSW)
FAIR	Findable, accessible, interoperable and reusable
FVTOC	Federation of Victorian Traditional Owner Corporations
GANSW	Government Architect New South Wales
GCC	Greater Cities Commission
GIDA	Global Indigenous Data Alliance
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICIP	Indigenous Cultural and Intellectual Property
ILC	Indigenous Land Corporation
ILO	International Labour Organization
ILSC	Indigenous Land and Sea Corporation
LALC	Local Aboriginal Land Council
LDM	Local Decision Making
LEP	Local Environmental Plan
MFPF	Melbourne Future Planning Framework
NAC	National Aboriginal Conference
NACC	National Aboriginal Consultative Committee
NCAFP	National Congress of Australia's First Peoples
NIAA	National Indigenous Australians Agency
NILSS	National Indigenous Land and Sea Strategy
NSW	New South Wales

NTA	*Native Title Act 1993* (Cth)
OCHRE	Opportunity, Choice, Healing, Responsibility and Empowerment
OPOC	Our Place On Country
RAP	Registered Aboriginal Party
SEPP	State Environmental Planning Policy
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
WIPO	World Intellectual Property Organization

Glossary

A list of definitions for terms commonly used by AHURI is available on the AHURI website ahuri.edu.au/glossary.

Executive summary

Key points

- All urban areas in Australia are Country: the lands, waters and skies of First Nations peoples whose continuing connection and authority has never been ceded.
- Engaging with the complexity of urban policy is viewed by Traditional Custodians as an important practice of continuing connection, obligation and rights with Country. However, urban policy practices and processes are experienced as burdensome, misaligned with First Nations obligations and values, and often disrespectful or harmful.
- Relationship is at the foundation of more positive experiences of engagement and interaction with urban policy. Better understandings of appropriate cultural protocol and meaningful engagement would arise through government and industry developing trusted, long-term, agenda-free relationships with Traditional Custodians.
- Urban policy frameworks that seek to 'recognise' First Nations people are fractured and complex, and produce shallow forms of recognition. Urban policy professions, practices and institutions bear the responsibility to respond to these realities.
- Practitioners recognise their responsibility and the burden of engagement but are not equipped to address material power-sharing. This requires attention to redressing the construction of unequal power relations between First Nations people and urban policy through power-sharing models, resourcing and unlearning. Sustained resourcing is needed to redress the legacy of dispossession and to share power in meaningful ways.
- The project design was informed by First Nations philosophies and methods of knowledge-sharing and creation, centring principles of reciprocity and respect. The findings present extended quotations from Traditional Custodians and First Nations practitioners to honour and centre their voices.

Key findings

This project examines the relationship of First Nations peoples in Australia with urban policy. The project was designed to centre First Nations sovereignty, authority, knowledge, governance and agency as the starting point toward a more responsible relationship. The research pivoted around partnerships involving the methodology of yarning circles with two First Nations groups that are Traditional Custodians of urban areas, Wurundjeri Woi-Wurrung and Dharug, and their interactions with the policy jurisdictions that are imposed, uninvited, across their Country. The study takes a view of urban policy *from* their perspective. In this way, 'urban policy' means the plethora of overlapping policy frameworks, legislative requirements and regulations that govern the use and management of lands and waters on their Country.

The study built on both prior scholarship and discussions with Traditional Custodian participants to identify three aspects of this relationship:

- the experiences and expectations of First Nations peoples in engaging with urban policy domains in major Australian cities
- the capacity of non-Indigenous urban policy professions to partner with First Nations peoples as sovereign actors
- the pathways by which urban policy makers can respectfully learn, engage and embed First Nations' perspectives in policy formulation and practice.

The project highlights four main findings:

First, that First Nations—particularly Traditional Custodians whose Country is now a built-up urban area—see it as important to engage in urban policy and decision-making about development, planning, design and infrastructure provision. Even though their experience of urban policy processes is generally poor, Traditional Custodians remain engaged because it matters to care for Country and to use urban policy as a mechanism for helping to fulfil obligations to care for Country. Thus urban policy must understand its relationship with First Nations people through the concept of Country, and First Nations authority as sovereign peoples with responsibilities to Country, community and culture.

Second, that First Nations experience urban policy as practices, systems and processes that obstruct their obligations to culture and Country, frustrate their efforts and aspirations, undermine their rights, authority and voice, and poorly interpret their knowledges and perspectives. Traditional Custodians especially must navigate a dense web of institutional actors and agencies, policy texts, guidelines, government processes, legal regulations, policy norms and individual practices just to find a way to have some input. Frequently this input is characterised as engagement or consultation, and misrecognises First Nations peoples as stakeholders. The study demonstrates that a key step in addressing this is to build genuine, long-term, enduring relationships that are well supported with appropriate resources. This is the first step toward meaningful engagement.

Third, the research provides insights into urban policy contact zones: specific sites where the power relationships between First Nations peoples and imposed policy jurisdictions become clear. Where urban policy frameworks actually recognise First Nations rights and interests, this tends to be fractured, complex and produce shallow forms of recognition. Observing this through a comparative framework, the research shows some key differences in the policy contexts between Victoria and New South Wales. In Victoria, the presence of Treaty and an emphasis on the alignment of cultural protocol within policy frameworks pushes engagement conversations towards self-determination. In NSW, no Treaty conversation exists, and the statutory land rights system produces conflicts and tensions where cultural protocols are not routinely safeguarded.

Fourth, non-Indigenous urban practitioners in this study revealed an awareness of their responsibility, the burden of engagement and some of the challenges First Nations people experience. However, several important constraints on the capacity of non-Indigenous policy professionals to address these matters were revealed. Practitioners framed their role as relatively neutral intermediaries with a focus on unlearning and re-educating themselves. This is an important initial step. However, there is less capacity and readiness to join the dots between the harm resulting from the imposition of a colonial structure of governance with the contemporary realities of engagement fatigue, misaligned timeframes and the universal under-resourcing or non-resourcing endured by Traditional Custodians. Better understandings of appropriate cultural protocol should be developed. This would require developing trusted, long-term, agenda-free relationships with Traditional Custodians. Such relationships need to be structured around First Nations sovereignty, Traditional Custodian's rights and authority for Country and be effectively resourced in material and practical ways.

Policy development options

Before setting out policy development options, it is important to note that urban policy is produced, implemented, and policed by an imposed system of governance upon First Nations sovereignty and Country. Ultimately, many of the policy options available will involve practices that may fundamentally challenge or transform these structures and their legitimacy. This is likely to be politically challenging in many cases. Therefore, options range from small but consequential reforms through to more fundamental restructuring of decision-making toward power-sharing in recognition of First Nations continuing connection, rights and authority for Country.

As a starting point, Traditional Custodian's authority, knowledges and governance must be framed as central within urban policy decision-making. This requires learning with First Nations people and Country as well as unlearning—or coming to understand as partial—some of the assumptions and worldviews that shape policy and practice attention. However, urban policy making must move beyond 'consultative' norms and past unlearning as an end in itself. An immediate policy implication for all jurisdictions is to understand that Traditional Custodians are often under-resourced, stretched thin, and constantly suffering from consultation fatigue. This 'load on community' must be addressed in material and practical forms. This should involve:

- rethinking methods of engagement
- rethinking imposed timeframes to align better with First Nations expectations and realities
- becoming more sharply conscious of team personnel and providing continuity to relationship development.

The aim must be to create positive material structures to resource First Nations communities in ways that are sustained, that are de-linked from specific projects, and that centre self-determination principles and intergenerational thinking.

Progress in urban policy over recent years that acknowledges the need for First Nations engagement is not to be taken for granted. Improving ways in which First Nations peoples are included in urban policy formation is widely recognised as an important goal.

But all too often First Nations people are framed as 'stakeholders' to be consulted, rather than sovereign peoples with connections to and rights and responsibilities for Country under their law and custom. Without parallel pathways in urban policy that centre the principles of self-determination and the fact of unceded sovereignty, these interventions remain vulnerable to tokenism, guilt-avoidance, and the ongoing production of colonial harms. The role that Treaty plays as a mechanism for moving beyond simplistic engagement tools is very real. The learnings from Victoria and Aotearoa New Zealand offer significant insights into how this can help shift the framing and introduce a sharper understanding of political authority into the relationship.

However, whether in an explicit Treaty context or not, the relationship still exists. It is the responsibility of urban policy makers and practitioners to consider seriously what such a relationship entails, including constructing ways of working that share power, and materially move the relationship towards repair and away from the reproduction of harm.

Public service reform in the key urban directorates is an obvious policy challenge—and an opportunity. The complexity of siloed agencies, departments and authorities makes little sense from a First Nations perspective, and can actively undermine the ability to care properly for Country. It is the responsibility of the various non-Indigenous authorities to contribute to an interface that does not take this toll. In machinery of government discussions at the formation of new governments and cabinets, there are important moments where the personnel chosen to lead major agencies can be assessed for their understanding of First Nations perspectives. While agency formation is always contested, incoming governments might show leadership in partnering in the way they create these agencies. This, along with reducing staff turnover in key relationships, can help to:

- reduce the load on community
- build longer-term partnerships based on trust and respect
- embed a more fundamental understanding about how First Nations knowledges and governance can be reflected in public service composition.

The study

The project design was informed by First Nations philosophies and methods of knowledge-sharing and creation, centring principles of reciprocity and respect. It used Yarning Circles, which are an Indigenous methodology for respectful knowledge-sharing based on relational philosophies where Country is a participant. The findings include extended quotations from Traditional Custodians and practitioners to present the material in the voices of those who contributed.

The study focussed on two significant projects between First Nations and urban policy that were underway in Melbourne and Sydney at the time this study was commissioned. The decision to bid for the project was taken in partnership with both these First Nations groups through existing relationships with the research team. Through these discussions it was clear that these projects offered immediate insights for policy learning, and Traditional Custodians saw value in contributing.

In Melbourne, the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (Wurundjeri Corporation) had been engaged with the State of Victoria's Department of Environment Energy and Climate Action (DEECA; formerly Department of Environment, Land, Water and Planning [DELWP]) on the Melbourne Future Planning Framework (MFPF). This was a metropolitan-wide planning process to develop strategic plans for six distinct regions as part of the wider Plan Melbourne strategic direction of the Melbourne metropolitan area. The MFPF was auspiced and led by the state government with involvement from the 32 local governments within the metropolitan area. Five of the six regions under the MFPF intersect with Wurundjeri Woi-wurrung Country.

In Sydney, the Western Sydney Aerotropolis and Western Parkland City proposes transformation to Country, which is viewed as destruction of Country by Traditional Custodians. These are large regional strategic planning processes also led at the state level of NSW and involving multiple stakeholders, including local government and regional authorities. While Dharug Traditional Custodians do not have a legislated voice, a number of engagement efforts have sought to include Dharug perspectives in these processes.

These relationships that Wurundjeri Woi-Wurrung people and Dharug people were engaged in within their respective state policy interventions became the central focus of the study. To this extent, the study defines urban policy as settler-state interventions that seek to influence and shape the future and shape of human settlements.

We first held three yarning circles with First Nations urban practitioners based in NSW and Victoria who work in a range of policy domains including planning, design, community development and urban research. We then held a series of yarning circles with Dharug custodians and with Wurundjeri custodians about urban policy impacts on their respective Country. The first yarn established the grounding of the project on Wurundjeri and Dharug terms and co-created the main themes for further discussion. A second more substantive yarning circle was held for around four hours, and focussed on the areas of highest priority and concern agreed in the first yarn. Both yarning circles were held online at the request of participants, as scheduling difficulties made the original intention of in-person yarns impossible. An iterative process of transcribing, reviewing and workshopping of main themes and messages was undertaken with each of the Wurundjeri and Dharug participants all the way through to publication of this report.

At the same time, we collated and annotated the relevant urban policy texts to understand the precise nature of the statutes, regulations, policies, strategies, codes and guidelines that shape the relationship of urban policy professions with First Nations people. This involved a very extensive analysis of policy texts at the international, national and state levels of Victoria and NSW. The most relevant policy texts are presented in the main report with the full and detailed analysis contained in a separate policy synthesis paper prepared in conjunction with this report (Wensing and Kelly 2024).

Yarns with non-Indigenous urban practitioners were undertaken as a final stage in the data collection. These were heavily informed by the earlier yarns, ensuring that the main concerns of First Nations people framed the discussion. These practitioners had worked with First Nations people or engagement processes and were all also interested and personally motivated to improve urban policy responses and practices. As such they should not be seen as representative of the profession broadly, but should be seen to provide a strong example of an engaged and well-informed cohort of practitioners.

The yarning methodology was vitally important for this research, and is a key contribution from the study. Each yarn was both iterative and generative, developing a new level of understanding co-created among everyone involved in the yarn, which then informed the next yarn. This was especially important in the analysis we undertook of the yarn with non-Indigenous practitioners. When placed in relationship with the earlier yarns with Traditional Custodians and First Nations practitioners centred, we were able to bring to light aspects that may have remained obscured under a more linear approach to the analysis. While such practices cannot fully resolve the unequal power relations embedded in urban research as much as urban policy, we make these practices explicit to further contribute to the development of future research and policy practices in good relationship.

Finally, we acknowledge and highlight that this report is not an outcome sought (or indeed valued) by Wurundjeri Woi-Wurrung and Dharug partners in this research. It is an output required by the funder and expected as routine within academic and policy-related research activities. The project team continues to work with Dharug and Wurundjeri custodians after the publication of this report to bring about more relevant and useful community-focussed outcomes from the research.

1. Introduction

- **All urban areas in Australia are Country—the lands, waters and skies of First Nations peoples whose continuing connection and authority has never been ceded.**
  - This means understanding and recognising First Nations people as the first planners.
- **Urban policy and planning is imposed on Country and on the ability of First Nations peoples to practice their continuing connection, rights and authority.**
- **Perspectives, knowledges, rights and lore of First Nations people are of foundational importance to urban policy.**
- **First Nations communities, experts, practitioners and leaders have long been seeking greater space within urban policy processes.**
  - Yet limited research has been undertaken to centre their experiences and expectations.
- **Significant shifts in legislation and policy have created new possibilities for engagement and catalysed new practices.**
- **Non-Indigenous urban practitioners have an important role to play in addressing these challenges.**
  - Yet little is known about the capacity and readiness within the policy professions.
- **This research learns from the experiences and expectations of First Nations peoples in urban policy, examines the capacity and readiness of non-Indigenous practitioners to respond, and critically considers the responsibility of urban policy to First Nations Country, culture and community.**

1.1 Why this research was conducted

All urban areas in Australia are Country, the unceded lands, waters and skies of First Nations peoples. First Nations perspectives are therefore of foundational importance to urban policy. This research aims to inform resetting the relationship between First Nations and urban policy in Australia—a relationship grounded in the fact of First Nations sovereignty and authority for Country. It does so by presenting research that positions First Nations experiences and sovereign authority as the starting point for understanding the conditions that shape and mediate the current relationship, its possibilities and limitations.

First Nations communities, scholars and leaders have been talking for decades about the impact of urbanisation and urban policy making on Country, culture and community. These impacts arise from a wide variety of spatial policy domains, including large infrastructure development, mining, prison expansion, housing, strategic urban planning, and water management. Practices in urban policy settings also have significant impacts where the voices, rights and knowledges of First Nations people about Country are often marginalised, treated tokenistically or disrespectfully, included in ways that cause division—or overlooked entirely. Urban places—from large metropolitan areas to small towns in regional areas—are sites of intensive dispossession at the same time as dense networks of community and ongoing cultural practice and connection. Access to Country is of critical importance for connection and cultural continuity—yet is often made impossible due to the density of population settlement, private property, and the miasma of legislation, policy and regulation imposed on Country.

Recognition of this foundational importance of First Nations people and Country is largely missing in urban policy. In this research, we use the term 'urban policy' to refer to the full range of policy fields that impact on the management, use, and development of urban settlements and urban life. Where reference is made to Country and Traditional Custodians, this tends to present Indigeneity in a tokenistic form, or one constrained to certain proscribed areas of concern deemed legitimate to First Nations interests. Further, the vast majority of urban practice professionals in Australia—planners, designers, architects, developers, policy makers—are not Indigenous people. This means that the entire policy edifice is constructed within and exercised from a settler standpoint. Where policy settings that drive a need to engage with First Nations people do exist, these usually derive from either cultural heritage or land claims systems. Often, these are shallow and narrow in their framing of a recognition space and the outcomes that they enable.

Recent significant policy shifts offer opportunities to reset the relationship. Five Australian jurisdictions have signalled their intent to explore or to develop treaties, with Victoria the most advanced. Changes to Human Rights statutes in three jurisdictions have direct—though as yet untested—application to urban policy settings. The *2020 National Agreement on Closing the Gap* (Australian Government 2020) in Indigenous disadvantage mandates implementation plans to improve outcomes for First Nations peoples. Concepts such as *Designing with Country* (Government Architect NSW 2020) and Caring for Urban Country (Monash Sustainability Institute 2016) have gained visibility alongside strengthened internal government processes There is clear appetite for change, but there is often hesitancy due to lack of skills, capacities and knowledge.

However, despite significant shifts and a clearly signalled appetite for change, most urban policy processes and related urban research position *policy* as central. The viewpoint taken is of non-Indigenous practice and practitioners trying to work out difficult policy problems. Such an approach has already locked the relationship into, at best, one of non-Indigenous practitioners engaging with First Nations people and then solving or addressing policy problems from a position of non-Indigenous authority and policy domains. This further centres and perpetuates an impression of colonial urban governance as legitimate, and places First Nations people into an inappropriate 'stakeholder' category.

Rather, this research practises the centring of First Nations authority, knowledge, governance and agency as a starting point for shifting toward a more responsible relationship. To do so, the research conceptualises the problem from a First Nations perspective and practices a methodology of First Nations-led knowledge-sharing and building. Our intention is to both contribute new understanding and offer a practice and method. From this position, the research asks the following research questions:

1. What are the experiences and expectations of First Nations peoples engaging with urban policy domains in major Australian cities?
2. What is the capacity and readiness of the urban policy professions in Australia to partner with First Nations as sovereign people exercising co-existing governance?
3. How can urban policy appropriately and respectfully reflect, learn from, and embed First Nations perspectives and knowledges on Country, community and culture?

We use the term *Country* as offered by First Nations people to convey the holistic and interconnected understanding of a living world. As Janke, Cumpston et al. (2021: 14) observe, *'Country is so much more than the land, seas and waters. It encompasses all living things and all aspects of the environment, as well as the knowledge, cultural practices and responsibilities connected with this.'* In the words of Wurundjeri Woi-wurrung knowledge holder Mandy Nicholson, *'Country is family, incorporating its animals, plans, landforms, and features right down to the smallest of things like a grain of sand'* (Nicholson and Jones 2018: 379).

In this report we use the identifier First Nations as a general term increasingly used in public discussion. We acknowledge that all such identifiers are both insufficient in that they derive from the colonial relationship itself, and are contested as different groups and people have differing views on the appropriateness of specific terms. Where we refer to specific people of Country, we use the appropriate nation or language name as offered by that nation. We occasionally use the term Indigenous to identify a global context acknowledging the diversity of place-specific names and changing identifiers. The terms settler and colonial are used interchangeably throughout the report to identify the form of government, law and policy imposed upon First Nations Country and communities. Settler refers to the subject position of those who have arrived to make a life in Australia and thus occupy First Nations Country. Colonial is a more general term that identifies a mode of society and an orientation to structures of dominance asserted through racial hierarchies about land and belonging. We use the term Traditional Custodian when pointing specifically to the relationship of people to Country.

1.2 Centring Country and sovereignty as the conceptual frame of the research

Wurundjeri Woi-wurrung Elder Aunty Joy Murphy-Wandin teaches her law and authority in this way: *'We're born from this land. We belong to the land. And we take care of the land. We respect this land.'* (Murphy-Wandin, cited in Porter, Hurst et al. 2020: 221). This is an expression of sovereignty from one Country, that of the Wurundjeri Woi-wurrung people, the majority of which is now taken up by the city of Melbourne. There is not one singular 'Indigenous sovereignty' but many, as Indigenous nations are sovereign in their own Country.

These concepts of Country, of connection to Country and sovereign authority to belong to and speak for Country are something First Nations people have been attempting to educate non-Indigenous people in Australia about since invasion. It is not the place of this report to speak about such concepts as if they were definable in a handful of words. We respect the living vitality of these concepts and their proper activation in relationships of reciprocity and respect. As Kwaymullina (2020: 8) teaches:

> *Indigenous sovereignties*
> *are narrative sovereignties*
> *they began and continue in story*
> *the tales of the Ancestors*
> *which tell of a world that is alive*

We respect the philosophy of diverse First Nations of a world that is alive and thoroughly interconnected. Learning again with Kwaymullina's (2020: 8) words:

> *Indigenous kinship systems*
> *embrace all life in Country*
> *everything is connected*
> *related*
> *and has a part to play*
> *in holding up the world*

This system is one of law: *'It is law that holds the world together as it lives inside and outside of all things. The law of creation breathes life as we walk through all of its contours and valleys'* (Watson 2002: 255). We acknowledge the rich diversity of First Nations knowledge systems, kinship systems and laws across the continent now called Australia, and respect that the understanding of *'Country as living kin is an overarching foundational understanding'* (Janke, Cumpston et al. 2021: 14).

There are many places non-Indigenous people can go to learn from and with these concepts. For example, Traditional Custodians offer an invitation to learn with the concept of Country every time a 'welcome to Country' is conducted. First Nations researchers and scholars have invited greater understanding about the importance of Country and sovereign authority to virtually every policy domain in Australia and other settler-colonial contexts (see for example Graham 2008; Moreton-Robinson 2015; Watson 2015; Simpson 2017).

In this research, we place the concept of Country and sovereignty as the point of departure for understanding the relationship with urban policy. In this sense, we understand sovereignty as a matter of political *authority*—the authority to belong and be in relationship with Country and community, and the authority to speak for Country, community and culture (Hobbs, Whittaker et al. 2021: 47; Moreton-Robinson 2015: 130–131).

From this standpoint, urban policy comes more clearly into view as a colonial imposition in which First Nations people are now entangled. Australia, like similar nation-states New Zealand and Canada, has been described as a settler-colony, which is an *'ontologically distinct form of social, political and geographical domination'* (Hugill 2017: 1) as evidenced in a wide literature (Banivanua Mar 2012; Coulthard 2014; Veracini 2010; Wolfe 2006). A large body of research has also begun to lay out the particular geographical relationship of settler-colonialism, especially in regard to urban processes—which are often described as settler-colonial urbanism (Blomley 2004; Dorries 2022; Dorries, Hugill et al. 2019; Edmonds 2010; Hugill 2017; Porter 2013; Porter and Barry 2015; Porter, Jackson et al. 2019; Tomiak 2017; Yiftachel 1996, 1998, 2017). In a settler-colony, as Wolfe (2006) observes, settlers *'come to stay'* and this requires the occupation and taking up of land. Consequently, as Coulthard (2014) observes, the land relationship is the primary organising feature of settler-Indigenous relationships in a settler-colony.

This places processes of urbanisation—including development and governance—as central to the activities of creating and sustaining contemporary life in a nation-state such as Australia. Cities and urban places both express and make manifest the occupation and control of Country by an imposed authority, as an extensive global literature on the relationship between Empire and urbanisation has long shown (see Fanon 1967; King 1976). Cities, as Moreton-Robinson explains, *'signify with every building and every street that this land is now possessed by others; signs of white possession are embedded everywhere in the landscape'* (2015: xiii). As the land relationship is central, urbanisation is an especially important process through which the imposition of a new order on lands seized from others is achieved (see Edmonds 2010; Jackson, Porter et al. 2018; Jacobs 1996; Porter 2018; Porter and Yiftachel 2017).

However, the urbanisation processes that have turned Country into private property with glass and steel does not change the fact that these places are still Country (see Behrendt 2006; Fredericks 2013; Janke, Cumpston et al. 2021). First Nations people have not gone away, but continue to assert and exercise their ongoing connection and law. As Janke, Cumpston et al. (2021: 22) find in the 2021 State of the Environment report: *'every city in Australia has Traditional Owner groups that continue to speak for it and work to fulfil their cultural obligations to Country'.*

Thinking about the role and position of policy is therefore important. This research draws on extensive research and scholarship to consider policy as profoundly political, along with the supposedly technical and bureaucratic realms in which policy is formed and executed (O'Sullivan 2015). By this we recognise that policy, and the institutions and forums that create and sustain policy mechanisms, is '*the key space where the Australian state encounters Aboriginal and Torres Strait Islander polities and seeks to resolve colonial conflict in its favour'* (Strakosch 2019: 115). Policy in Australia assumes, through what Strakosch identifies as *'settler unilateralism'*, that the state is a legitimate authority and basis of law and, following from this, that First Nations people are *'legitimate subjects of state intervention and improvement'* (Strakosch 2019: 115). Moreover, our consideration of policy in this research is not solely attending to what Lea (2020: 117) calls the '*artifacts*' of black and white policy documents but the inheritances that *'shape conditions of possibility in the present and future'.*

Seen through this lens, urban policy becomes a key location where the intention of imposed governance comes into direct conflict with unceded First Nations sovereign authority.

This is because urban policy is orientated to the organisation of space and spatial relations through, for example, the arrangement of the built environment and the relations of people to each other via the system of property. What we mean by 'urban policy' is any state intervention oriented toward the use, coordination, ordering, management and development of urban settlements. Urban policy occurs in a wide variety of settings and at different levels of government. In Australia, urban policy settings are predominantly the jurisdiction of states and territories. Local government in Australia is a further important place where urban policy practices are occurring—particularly in the implementation of policy objectives through land-use planning. In this research, we focus primarily on urban policy interventions in NSW and Victoria at the metropolitan and regional scale being undertaken by state governments in these jurisdictions. The scope and scale of urban policy interventions are provided in a separate policy synthesis paper prepared by Wensing and Kelly (2024).

Urban policy immediately brings our attention to the land relationship. Drawing from Lea's work again, we can see contemporary urban policy as a field of action that has been designed toward:

> *draining of lifeworlds entirely legally without visible violence or notable theft, via contracts, grants, regulations, negotiations, standards, accountabilities, and enumeration, and the avoidance, thwarting, attenuation, noncounting, or perennial bastardization of all these mechanisms, which together constitute a settler colonial policy hauntology that Indigenous people continually weather. (2020: 117)*

This understanding of policy as political also serves as a vital reminder that it is also always contingent. Things could always be different. We acknowledge that policy is designed to avoid overturning the foundational conditions of injustice and indeed works to *'make it easier for people to slot themselves in to those conditions'* (Lea 2020: 22). Nonetheless, precisely because policy is a site of contest, this must mean it is not unchangeably colonising forever, but offers possibility (Strakosch 2019: 117). We will return to these points in Chapter 5. For now, we briefly map the contours of the urban policy domain as it exists today in relation to First Nations people, and draw out key observations made in previous research that explain how this urban policy relationship has come to be.

A significant body of research has been developed over the past 20 years identifying the particular relationship between urban planning and Indigenous peoples. A driving value in that research is to examine the ways in which:

> *planning has been specifically used by governments hostile to the principles of Indigenous self-determination and cultural identity as a strategic tool to render Indigenous interests out of place in the domains of planning practice. (Howitt and Lunkapis 2016: 113; see also Dorries 2022; Tomiak 2017)*

There is now a substantial body of evidence about Indigenous rights and title in relation to planning and land governance systems in Australia (Porter 2010; Porter and Barry 2016; Wensing 2012, 2014, 2016). Overall, the field of planning, within which we can locate the activities of urban policy making, has been found to be profoundly wanting with regard to responsibility to First Nations peoples, Country and cultural obligations (Porter 2017; Wensing 2023b; Wensing and Porter 2016).

Whether hostile, indifferent or otherwise, the interaction between urban planning and Indigenous people has been conceived as a type of *'contact zone'* (Barry and Porter 2012; Porter and Barry 2015) drawing from the work of Mary Louise Pratt (1991). Here, different *'modes of recognition'* are at work where planning, urban policy and regulatory tools make efforts to variously engage or deal with the rights and interests of Indigenous peoples (Barry and Porter 2012). In Australia, where urban planning and policy recognises a need to engage with First Nations people, this need is often catalysed by either cultural heritage legislation or land claim systems such as native title or statutory land rights schemes. Yet, as has been shown in previous research, native title provides little opportunity to First Nations people whose territory is now urbanised (Wensing and Porter 2016). Further, statutory land rights schemes, where they exist, have widely varying scope and outcomes in cities—if they can be applied at all (Porter and Barry 2016; Wensing 2016; Wensing 2018). In some jurisdictions, statutory land rights schemes cause and sustain division. Cultural heritage management regimes provide little protection, as Juukan Gorge demonstrates (Wensing 2021a), with significant weaknesses in relation to urban development (Porter and Barry 2016).

1.3 Research methods

1.3.1 Indigenous-informed methodology and design

The project design is informed by First Nations philosophies and methods of knowledge-sharing and creation, centring principles of reciprocity and respect (Wilson 2008). This is an explicit research decision taken to redress the legacy of exploitative research practices (Kwaymullina 2016; Smith 1999).

The research approach used Yarning Circles, which are an Indigenous methodology for respectful knowledge-sharing based on relational philosophies (Bessarab and Ng'andu 2010; Brigden, Fricker et al. 2020). Yarning, as Shay writes, is *'much more than conversation; yarning can be formal or informal discussions that honour and recognise the importance of story in knowledge exchange'* (Shay 2021: 63). Encompassing and honouring story is also vital for considering the past, present and future implications of stories to be shared and considered, and is founded in the relationships between *'kin, Country and community'* (Shay 2021: 63). This methodology centres First Nations perspectives and authority in the research process itself, which is essential for destabilising the authority and power of colonial policy frameworks. The use of yarning circles created a culturally safe space for sharing knowledge and accommodating storytelling; it allowed this research to follow cultural protocols such as respecting Elders and prioritising Traditional Custodians. The writing process that produced this report, its structure and presentation follows the principles of this methodology of centring the perspective of First Nations knowledge holders, most especially Traditional Custodians.

The relational philosophy underpinning the research also required active attention to where the research team is located and the existence of important relationships with Traditional Custodians. In this sense, our philosophy was in keeping with the important principle of paying purposeful attention to where we are (Barker 2018). In keeping with this, the research activities were primarily focussed on the Country now taken up by the cities of Melbourne and Sydney, where members of the research team live and have longstanding, trusting relationships with Traditional Custodians.

In Melbourne, the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (Wurundjeri Corporation) had been engaged with the State of Victoria's Department of Environment Energy and Climate Action (DEECA; formerly DELWP) on the Melbourne Future Planning Framework (MFPF). This was a metropolitan-wide planning process to develop strategic plans for six distinct regions as part of the wider Plan Melbourne strategic direction for the Melbourne metropolitan area. The MFPF was auspiced and led by the state government with involvement from the 32 local governments within the metropolitan area. Five of the six regions under the MFPF intersect with Wurundjeri Woi-wurrung Country.

In Sydney, the Western Sydney Aerotropolis and Western Parkland City proposes transformation to Country, which is viewed as destruction of Country by Traditional Custodians. These are large regional strategic planning processes led at the NSW state level and involving multiple stakeholders, including local government and regional authorities. While Dharug custodians do not have a legislated voice, a number of engagement efforts have sought to include Dharug perspectives in these processes. Further details of the cascading scales of urban policy relevant to Wurundjeri Woi-wurrung and Dharug peoples and Country are provided in the policy synthesis paper by Wensing and Kelly (2024).

Work that members of the research team had been undertaking—specifically Elle Davidson with Dharug in western Sydney, and Libby Porter with Wurundjeri in Melbourne—suggested unique potential to offer immediate insights for policy learnings. These longstanding relationships enabled conversations with both Dharug and Wurundjeri custodians very early, prior to the development of an application for research funding. Custodians confirmed that they saw value in sharing their perspectives, experiences and knowledge in ways that might inform improved practice. It was from that basis and in conversation with custodians that the application for funding was developed that brought about this research project.

1.3.2 Research activities

The research activities were structured in stages around the principle of centring First Nations expertise and experience, and to address research question 1:

- What are the experiences and expectations of First Nations peoples engaging with urban policy domains in major Australian cities?

We held yarning circles with First Nations urban practitioners who work in a range of policy domains, including planning, design, community development and urban research. One yarning circle was held in each of NSW and Victoria as the two key policy jurisdictions within which the research is focussed. A third yarning circle was held with Māori practitioners in Aotearoa New Zealand to offer international comparative context. A total of eight practitioners participated. These yarns helped our understanding of the urban policy frameworks that tend to structure engagement with Traditional Custodians, and teased out some of the key tensions, contradictions, challenges and opportunities.

At the same time, we continued discussion with Dharug and Wurundjeri custodians. This developed into more formal discussions about how to proceed, including the use of a research agreement to govern the project, decisions about resourcing and financial compensation for expertise and processes for respecting and protecting Indigenous Cultural and Intellectual Property. A first yarning circle was held with each of Dharug and Wurundjeri custodians. This yarn was around two hours and designed to further build relationships and trust, ensure understanding of the research project, prepare the research agreements and co-design the second yarning circle.

A second more substantive yarning circle was then held with each of Wurundjeri and Dharug Traditional Custodians. This yarn was around four hours and focussed on the themes and priorities agreed in the first yarn. The initial intention was to conduct the second yarning circle in person. However, due to a series of scheduling constraints that precluded everyone being able to be available in person, both were eventually held online at participants' request. This enabled maximum participation of Traditional Custodian groups: Wurundjeri (10 people total) and Dharug (seven people total). These two yarning circles were recorded within the online meeting platform.

Each yarning circle was led by Elle Davidson, who began the yarn, supported participants to contribute to the yarn, paid attention to different areas of the yarn that needed more time or reflection and provided cultural safety in being First Nations-led. Two other members of the research team were also present in each yarn: Libby Porter and Ani Landau-Ward. Libby's role was to provide overall project context and provide additional facilitation support to Elle. Ani played a pivotal support role in recording, noting comments in chats, helping find documents when needed and helping keep time. Each member of the research team also actively contributed to the yarn and assisted with the development of the notes and edited transcripts.

After each yarn, a record and transcript was carefully edited and returned to the participants to discuss and review. The initial set of notes from the first yarn provided transparency about the research process, clarified agreement about what had transpired and confirmed the priorities for discussion in the main yarn. Then the transcript from the main yarn was provided in two versions. The first version was a full transcript with only light edits to aid readability. The second version was a much shorter synthesised document that placed the conversation into emerging themes. These transcripts were seen as important by all of the participants, particularly Wurundjeri and Dharug participants, as this was the primary method to ensure control of the content. However, the transcripts presented a challenge because such substantial recordings are inevitably very long and challenging to read. Presenting the transcript in these two versions—the lightly edited version and the synthesised thematic version—helped participants to understand the content that was being presented, and also offered an opportunity to communicate an initial set of emerging themes and ideas for how the stories shared could be presented in this report.

After verification of these transcripts, a draft report section from each yarn was developed by the research team and returned to participants for further discussion. This draft report organised the yarn and voices of participants into themes. Review of the reports was undertaken by email (in the case of Dharug participants) or by discussion in an online meeting (in the case of Wurundjeri participants) to confirm the themes, order flow and presentation of the yarn.

This process ensured that Traditional Custodians shaped the themes presented in this report and therefore the direction and orientation of the findings. It also provided space to discuss and confirm important details such as anonymity preferences, use of place names, and revision of quotes to ensure cultural safety and protect intellectual property and cultural knowledge. It was also a very time-consuming process, necessarily so, and sometimes challenging for the additional burden it also placed on participants. Striking a balance between ensuring full transparency of the project development and research ideas alongside imposition of burden is an ever-present problem in research of this nature. While there is no perfect arrangement, we found it vital to maintain open and transparent communication and be extremely patient when asked. Part of this work is to renegotiate project delivery deadlines with funding agencies and other stakeholders. Externally-imposed deadlines are often entirely incongruent with community timelines and capacities. A basic principle in our approach was to defend the space and time for participants, particularly Dharug and Wurundjeri participants, to have the time they needed to contribute and retain authority over the story on their own terms.

Intellectual and cultural property in the project was managed through research agreements and an agreed research governance process. Dharug and Wurundjeri participants retain ownership of the knowledge and perspectives they contributed to the project through the yarning circles. In practical terms, this means that Section 2.3 and Section 2.4 have been endorsed by and remain the intellectual property of Wurundjeri and Dharug participants respectively. That material was made available to the research team to develop the rest of this report, which has been authored by the research team. The digital recordings of yarns, transcripts and draft text are also the intellectual property of Wurundjeri and Dharug participants respectively, and at the close of this project were returned in digital form to their owners and the files deleted from the project team repository.

Alongside the yarning circle work, we began collating and annotating relevant urban policy frameworks—including statutes, regulations, policies, strategies, codes and guidelines. Working from the framework of Wurundjeri Country and Dharug Country as the viewpoint from which the project was conducted, we assembled policy that impacted these jurisdictions specifically, and then worked out from there in terms of settler jurisdictional scale to encompass state, national and international frameworks. Documents were assembled digitally in folders organised by settler jurisdiction and scale to encompass the categories in Table 1.

Table 1: Policy documents analysed

Jurisdiction	Related policy frameworks
International	Treaties and conventions including: UN Declaration on the Rights of Indigenous Peoples; International Labour Organization Convention No. 169; Universal Declaration of Human Rights; Indigenous data sovereignty and governance; Indigenous Cultural and Intellectual Property.
National	Native Title; Closing the Gap on Indigenous disadvantage; Cultural Heritage legislation and proposals for reform; Uluru Statement from the Heart and proposals for recognition and representation of First Nations peoples, including the constitutional referendum on the Voice to Parliament; protecting Indigenous Cultural and Intellectual Property rights.
NSW	Environmental protection and natural resource planning; urban planning and governance; statutory land rights provisions; public land management; Aboriginal Affairs; engagement frameworks on planning, transport and design; Indigenous Cultural and Intellectual Property.
Victoria	Environmental protection and natural resource planning; Aboriginal cultural heritage management; urban planning and governance; Traditional Owner settlement; local government legislation; human rights charter; public land management; water management; Aboriginal Affairs; Treaty framework; engagement on cultural safety, self-determination and land.

Source: compiled by authors

The collated policy documents were analysed to examine and compare the ways each jurisdiction framed and understood the relationship with First Nations—and particularly the role and voice of Traditional Custodians. A full analysis and presentation of this substantial corpus of policy documents is available in the policy synthesis paper by Wensing and Kelly (2024).

A final research activity addressed research question 2:

- What is the capacity and readiness of the urban policy professions in Australia to partner with First Nations as sovereign people exercising co-existing governance?

It was important that these non-Indigenous practitioner yarns were undertaken as a final stage so that they were directly informed by the previous yarns. Two yarning circles were held with a total of nine non-Indigenous urban practitioners and policy makers in each of Victoria and NSW. Yarns were recorded and went for approximately 1.5 hours each. Recruitment of participants occurred through the research team's existing networks and through an invitation made via the Planning Institute of Australia. Some participants were directly invited because they were known to members of the research team as being familiar with the jurisdictions and having relevant professional experience. Practitioners' professional experience ranged across a number of planning and urban policy domains, including development, planning and design practice, and included private consultancy as well as state and local government sectors.

All participants had reasonably extensive experience working on projects with First Nations people or with newly established frameworks for Indigenous engagement (see Chapter 3). They were all also interested and personally motivated to improve urban policy responses and engagement with First Nations people. As such, they should not be seen as representative of the profession broadly. Instead, they provide a perspective from an engaged and well-informed cohort of practitioners, and provide a strong indication of perspectives and experiences at the forefront of non-Indigenous reflections on engagement with First Nations communities.

A synthesis of learnings from all the yarns and the policy analysis informed research question 3:

- How can urban policy appropriately and respectfully reflect, learn from, and embed First Nations perspectives and knowledges on Country, community and culture?

Centring the yarns with Wurundjeri and Dharug Traditional Custodians, we worked analytically from there to look for divergences and resonances across the project findings and develop policy implications.

1.3.3 Analysis and writing approach

The analysis and writing process of this report was also seen as an important practice of being aligned with and informed by Indigenous philosophies of knowledge making and sharing. This is, of course, limited in the context of a policy-applied piece of funded research undertaken within the constraints of a contemporary university—itself a colonial institution imposed on First Nations Country. With this in view, we sought ways in the writing and presentation of the research material to honour the importance of First Nations experiences, voices and wisdom as central to how all other dimensions of the project should be understood. We paid particular attention to the matter of report structure. For example, instead of placing the 'policy context' first, as is standard in urban research in Australia, we moved it to Chapter 3, so that the reader engages first and centrally with the perspectives of First Nations people. In this sense, presentation of the material takes Wurundjeri Woi-Wurrung and Dharug jurisdiction as the proper framework for understanding the intersection with policy.

Related to this was the approach offered by the yarning methodology itself. It quickly became clear as the yarns and related conversations with custodians occurred that the way the yarns were developed across the project was a vital aspect of the analytical methodology. Each yarn was both iterative and generative, developing a new level of understanding co-created among everyone involved, which then informed the next yarn. This was especially important in the analysis of the yarn we undertook with non-Indigenous practitioners. When placed in relationship with the earlier yarns with Traditional Custodians and First Nations practitioners centred, we were able to bring to light aspects that may have remained obscured under a more linear approach to the analysis.

The writing process itself was practised as a form of yarning that honoured different team members' skills and interests. In some sections, we engaged in a back and forth dialogue, in a yarning style, inflections of which are presented in the report text. This report was written in a series of draft stages throughout, upon which yarn leader Elle Davidson placed commentary and reflection to help deepen the analysis from a First Nations perspective. The final policy implications chapter was developed through a series of team workshops, resonant with yarning circles (although not framed as such), to collectively reflect on and prepare the policy implications that arose.

Our purpose in making these practices explicit here is to help contribute to the development of practices within urban research and policy domains. This is not to say such practices can fully resolve the kinds of knowledge politics that persist (see also the discussion in Chapter 4 about the limitations of 'good practice' as a framing), but simply to carefully attend to such politics and enduring relations of power. We hope they make some further contribution to research and policy practices in the future.

Finally, we acknowledge and highlight that this report is not an outcome sought or indeed valued by Wurundjeri Woi-Wurrung and Dharug partners in this research. It is an output required by the funder and expected as routine within academic and policy-related research activities. The project team remains in relationship and is committed to continuing to work with Dharug and Wurundjeri custodians after the publication of this report to bring about more relevant and useful community-focussed outcomes from the research.

2. First Nations experiences and expectations of urban policy

- **Traditional Custodians view engaging with the complexity of urban policy as an important practice of continuing connection and obligation with Country.**
- **However, engagement with urban policy is experienced as skewed in favour of the dominant imposed system.**
- **Relationship is at the foundation of more positive experiences of meaningful engagement and interaction with urban policy.**
    - First Nations define relationship not as transactional consultation or engagement but as equal partnership.
    - This requires genuine power-sharing.
- **Recognition frameworks imposed by governments and policy domains often produce the conditions for lateral violence.**
- **Sustained attention to redressing ongoing material and structural disadvantage derived from the experience of colonialism is expected by First Nations practitioners and Traditional Custodians.**

This chapter provides the perspectives of First Nations practitioners and Traditional Custodians about their experiences in engaging with urban policy. The chapter begins with a discussion situating this stage of the project in the existing research about these themes. A substantive discussion is then provided, drawing from the yarning circles undertaken with First Nations practitioners in NSW, Victoria and Aotearoa New Zealand. These set the context for the yarns that were presented with Wurundjeri Woi-Wurrung and then Dharug participants.

2.1 Existing research on First Nations engagement with urban policy

Māori scholar and urban practitioner Hirini Matunga (2013: 5) teaches that: *'Indigenous planning has always existed. Indigenous communities pre-date colonialism and were planned according to their own traditions and sets of practices.'* This observation, shared by many Indigenous planning, architecture and design scholars around the world (see for example Jojola 2013; Kiddle, Stewart et al. 2018; Nicholson and Jones 2020; Patrick 2017; Stuart and Thompson-Fawcett 2010) echoes the research outlined in Chapter 1 concerning concepts of connection and relationship to specific Country, kin, obligation and political authority. The field of Indigenous planning in particular teaches that Indigenous interpretations of place and relationships to place are *'fundamentally different from Western conceptualisations'* (Thompson-Fawcett, cited in Stuart and Thompson-Fawcett 2010: 3) because they centre relational obligations to Country (in the terminology of First Nations people in Australia), ancestors and kin. Jojola (2013) conceptualises this as the seven generations model of planning, where responsibility and relationship exists threading three generations back and three generations forward from 'you', creating a worldview of interconnectedness and balance as well as rights and obligations. This process, states Jojola (2013: 458), is *'at the heart of sustainability'*.

By contrast, the worldview in which urban policy is steeped, as Māori scholar Keriata Stewart (cited in Stuart and Thompson-Fawcett 2010: 102) notes, comes from a *'development and growth paradigm in which the past is meaningless—only the future matters'.* Values of connectedness, care for Country and obligation to ancestors and future kin sit in stark contradiction to this paradigm. This is where the simplistic approach of 'inclusion' or engagement of First Nations perspectives begins to emerge as a clear problem. Values of seven generations thinking, of the vital obligation of caring for Country and ancestral connection, cannot be simply incorporated or included—as they fundamentally sit at odds with the presumptions of the paradigm that seeks their inclusion.

Further, these literatures carefully establish the importance of governance, authority, knowledge and cultural protocol to the historically fraught relationship between First Nations people and urban policy fields and practices. Anishinaabe scholar Heather Dorries has long argued that a decolonial urban policy practice must situate Indigenous political authority at the centre (Dorries 2012; 2024). These are some of the reasons why the *'flourishing of self-determination in terms of design and development'* observed by Thompson-Fawcett and Riddle (in Porter, Matunga et al. 2017: 661) is *'challenging orthodox urban planning'*.

This framing offered by Indigenous scholars of the necessary relationship with contemporary urban policy and planning stands in considerable contrast to the methods and practices that are widely in use within urban policy practices around the world today—and especially in Australia. Even with significant shifts (as identified in Chapter 3), research demonstrates that settler policy overwhelmingly frames its relationship with First Nations people through two intertwined logics:

- the deficit logic of Indigenous disadvantage
- as a problem framed by 'cultural difference'.

The deficit framing of Indigeneity has long shaped Indigenous affairs policy in Australia. Defining characteristics of dysfunction, absence and lack have been essential cornerstones of settler thinking about First Nations people in policy worlds—from blood quantum and missions to Closing the Gap. As Dodson (1994) observed three decades ago: *'since first contact with the colonisers of this country, Aboriginal and Torres Strait Islander peoples have been the object of a continual flow of commentary and classification'.* A very substantial body of evidence exists about how First Nations people have been categorised, classified and cast as policy objects (see for example Altman and Hinkson 2007; Lea 2020; Rademaker and Rowse 2020; Strakosch 2015).

While the existing research has principally been focussed on social policy domains, such as health and education, there has been growing interest in the urban policy domain—particularly land-use planning. Here, research has demonstrated the profound silence that has existed in urban policy about its relationship with First Nations people and Country (Jackson, Johnson et al. 2018; Porter 2013, 2017; Wensing 2023b). Where urban policy has explicitly attended to an intersection, this tends to classify First Nations people either as:

- being a problem population for a service delivery response—for example, in housing
- having a specific position of cultural 'otherness'—such as in relation to cultural heritage or environmental management.

Such intersections stem from stereotypes of cultural authenticity that have long framed Indigenous-settler relations in Australia. In particular, urbanisation is assumed by settler society to fatally disrupt First Nations cultural authenticity. This trope endures within policy thinking today, where First Nations interests are often narrowly defined, linked only to areas such as cultural heritage sensitivity or representation in place-making design and landscape features.

These presumptions have combined with the turn within urban policy and planning practice toward greater engagement and participation—particularly of populations marked as 'different'. The desire to include diverse perspectives in urban planning decision-making can entice practice within settler policy domains that places First Nations people in a category of culturally diverse stakeholder or 'ethnic diversity', a conflation with multiculturalism that is roundly rejected.

Indigenous people are not stakeholders, but rights holders and sovereign authorities. This has also been observed in other settler-colonial nations globally. For example, in Canada, Hardess and Fortier (2013: 141) write about the First Nations experience of encountering *'consultants who approach their work with Indigenous communities as they would any other client, with results that do not serve the Nation'.* In Aotearoa New Zealand, Livesey's research has examined the proliferation of abstract recognition statements in regional growth strategies and urban policy documents where there is no evidence that these can actually support self-determination because the aspirations of iwi (tribe) usually *'conflict with wider plans for development'* (Livesey, cited in Stuart and Thompson-Fawcett 2010: 48).

Much research has brought attention to what has been termed the *'politics of recognition'* (Coulthard 2014), which tends to frame inclusion and participation. Here, the form of recognition being advanced within settler policy domains can often be experienced as a new iteration of colonial rule. Communicative practices of inclusion, stakeholder engagement and 'dialogue' have enticed a range of what Jones and Jenkins (2008: 471) call *'discursive postures'* toward First Nations knowledges and perspectives. One particularly important posture that has been subject to significant examination is the assumption that communicative practices of inclusion and engagement can resolve and repair the structural relations of power that inhere within settler-colonial contexts (see Coombes, Johnson et al. 2014; Coulthard 2014; Moggridge, Betterridge et al. 2019; Moreton-Robinson 2007; Tuck and Yang 2012; Watson 2002). For example, by 'including' First Nations knowledge about land management helps resolve the inherent conflict within the Indigenous-settler relationship about rights and title in land (see Barry and Porter 2012; Porter 2010; Porter and Barry 2015).

Instead, as a significant body of evidence attests (see Matunga 2017; Moggridge, Betterridge et al. 2019; Porter and Barry 2016; Thompson-Fawcett and Riddle in Porter, Matunga et al. 2017), more positive policy practices will need to:

- be attentive to structural relations of power
- effectively examine historical and continuing complicity of policy systems in the maintenance of injustice experienced by First Nations people
- build new practices grounded in genuine partnership and recognition of co-existing authority.

2.2 Perspectives and experiences of First Nations urban practitioners

We talked with First Nations urban practitioners in NSW, Victoria and Aotearoa New Zealand about their experiences working within the fields of urban policy and development decision-making. The main focus of the yarns was the difficult work all of these practitioners are doing every day to:

- elevate the respect for the sovereign authority of Traditional Custodians
- improve understanding of cultural protocols
- increase the power and authority of Traditional Custodians within urban policy and related decisions.

One of the NSW practitioners confirmed the importance of reflecting on this work in helping to contextualise and make sense of *'why are we doing what we're doing … how do we understand the wins that we make but, more importantly, all of the hard work we still need to do in order to address it'* (Participant 3).

This section discusses the important reflections and perspectives offered through these yarns. Further, sharing examples that offer insights into practices that produce better outcomes for First Nations people are of urgent importance. As practitioners in our yarns urged:

> *The more you can leverage off positive work … it seems to me that others will want to follow … where there is positive movement and a sense of good things being done, then nobody wants to be left behind, and so I think that's how you perhaps could tackle the groups that are trying to pull it down. (Participant 3)*

2.2.1 Respecting cultural protocols

A significant focus of these yarns concerned the importance of respecting cultural protocols and, in Elle Davidson's words, how in practice to uphold the voices of Elders and Traditional Custodians. One of the participants from NSW stated that the most important priority in their work was *'respect Country and respect cultural protocols'* (Participant 2). This was described in the following practice approaches:

> *If people ask me to speak about Country that is not where I am from, I cannot, [as] this is not my Country, I can't speak for this place, I am not from here. I would direct the person to a Traditional Owner, and ask permission, or ask their advice. (Participant 2)*

For people working inside government, it has been very challenging work to *'flip the perception'* (Participant 2) often held within non-Indigenous corporate and policy circles that one can simply 'go to a Land Council' for engagement. Practitioners contributing to this research talked about how challenging it is to change this perception. This means that non-Indigenous policy makers and practitioners have a particular responsibility to share this work of changing perceptions, and undertake the necessary work within institutions to change their colleagues' understandings, as well as the processes and workflows that might perpetuate that perception.

Practitioners in Aotearoa New Zealand also spoke about this relationship, that between mana whenua and mātāwaka. Mana whenua is held by the hapu or iwi (clan or tribe / nation) who are the custodians of land. It refers to their sovereign obligations and often also treaty rights for lands, waters and other resources. Mātāwaka are Māori people who live somewhere over which they do not hold mana whenua. Similar challenges arise when policy practitioners are unaware or knowingly misrecognise the difference between the rights and obligations between people who hold mana whenua and people who are mātāwaka.

One Australian participant gave an example about the importance of listening to and actioning what Elders say to governments and developers:

> *There was an example of an engagement project done in the eastern part of the city, and one of the Elders asked for something that was very, very simple. The request was not followed up on and was not implemented. They did not do it. And it p***ed off the Elder, but also, by p***ing off Auntie, it p***ed off the community due to her community standing, and what the disrespect shown to her represented as a whole. It was not just about the disrespect shown to her, it was also about disrespecting cultural protocol and ultimately led to that Elder and her community not wanting to work with them again. That's the power of that cultural system that you need to show respect for. (Participant 2)*

This example demonstrates the harm that can be caused by not respecting cultural protocol—a harm that ripples out beyond an interaction with one person into the community. The outcomes, as this example attests, is that communities may simply refuse to work again with particular agencies, departments or people where there is a track record of disrespectful behaviour.

2.2.2 External pressures experienced by Traditional Custodians

First Nations practitioners observed that the Traditional Custodians they work with come under considerable pressures from a number of different places. As Participant 7 observed:

> *You're always constrained by something. Whether it's internally in the bureaucracy or it's externally in the political structure … or the wider public, you know, paying for billboards to say racist things. (Participant 7)*

This quote points to the wider social context in which racism and other forms of colonial violence become possible, or are made sayable. This can filter all the way through to the apparently mundane dimensions of policy making practice. In these yarning circles, the main focus of these pressures were lack of resources and how policy creates structural exclusion and unrealistic expectations.

Lack of resources for Custodians is a theme that reverberates through the existing literature and through all the yarns that were undertaken for this research. The expansion of government and corporate interest in engagement with Traditional Custodians has the effect of rapidly intensifying pressure on custodians. Often Traditional Custodian groups are small numbers of people, sometimes disparately located from each other, and universally poorly resourced. Where custodians have no recognised or established organisational body, everything is being done squeezed in between other commitments and everyday life. This immediately establishes a significant resource differential between organisations and Traditional Custodians. Organisations have all the capacities derived from large institutions, budget lines, salaried staff, equipment and infrastructure, whereas Traditional Custodians without formal organisations often have none of these things.

Even where recognised Traditional Custodian organisations exist, significant resource disparity remains in personnel, time, financial resources, equipment, technology and infrastructure. Further, the processes of engagement—particularly with government agencies—can involve paperwork and administration that are experienced as major distractions from the main priorities of protecting Country and caring for family and community. As Elle Davidson observes, there is a *'need to formalise a resource structure for Traditional Custodians'* to address the problems of becoming bogged down in paperwork and administration and enable caring for Country obligations to be pursued properly. This is especially important where First Nations organisations are operating on Country but not necessarily governed by Traditional Custodians of that Country. Disparities in resourcing in this sometimes tense relationship can further exacerbate those tensions. This could easily be addressed by *'sharing the resources a little fairer'* (Participant 1).

The recent shifts in policy making over the past decade or more have been significant in recognising the need to engage with custodians of Country. Often, however, policy mechanisms and processes can bake in exclusion of Traditional Custodians (Participant 4). For example, the OCHRE (opportunity, choice, healing, responsibility and empowerment) framework in NSW is an important policy intervention that aims to support full and active participation of First Nations communities in social, economic and cultural life (see Chapter 3). The OCHRE Plan has a local decision-making component based on the model of Aboriginal community governance. Yet even this is observed to lead to exclusion of custodians because of its focus on education, employment and some elements of community and culture. However, custodians are often unable to work more broadly within the Aboriginal community, as *'they are so busy trying to care for Country. It's not that they are not interested in community, they've just got all these other commitments and responsibilities'* (Participant 4).

In Victoria, recent changes in local government have seen initiatives to recognise Traditional Custodians as a 'municipal community' with whom local government has a legislative obligation to engage. However, this is not yet widely understood or enforced, and Custodians have very few resources to pursue it. Related to this is the Aboriginal Local Government Strategy, launched in 2022, which aims to enable greater partnerships. And yet, as observed by practitioners in Victoria, Traditional Custodians are not resourced with the necessary *'capacity to meet with local government and be able to come into those conversations in an informed way'* (Participant 6). One example is the way that local government councillors and senior managers were required, under these changes, to undertake cultural awareness training with Traditional Custodians whose Country is in their council area. This was mandated to occur within three months of the new legislation—yet there were initially no resources provided to Traditional Custodians to enable them to meet this obligation (Participant 6).

Even within the urban development statutory obligations that enable Registered Aboriginal Parties (RAPs) in Victoria to supervise development, RAPs often lack the capacity to supervise and oversee all of the impacts on their Country. Similarly, in Aotearoa New Zealand, practitioners reported that all levels of government as well as developers are *'pouncing on mana whenua*[1]*'* (Participant 7) because of the recognised need to engage.

Yet the capacities of iwi to respond is highly variable, particularly between iwi who achieved their Treaty settlement and those who have not. One practitioner reported that even when an iwi does have a Treaty settlement, there is an expectation from governments and developers that the iwi will provide input on development decisions or policy for free. What occurs is a practice that is also widespread in NSW and Victoria, where an agency or company will attempt to make contact with a Traditional Custodian organisation but receive no reply perhaps even after a few attempts. This creates a tension where government agencies or private companies *'feel like the only obligation on them is just to try once, to ring up someone or send an email and [then conclude], 'Oh well, we've washed our hands of it because we did our best'* (Participant 7). The alternative and much better practice is to *'build the relationship before you even ask for something' and then 'putting resources in so [Traditional Custodians] can build their own capacity'* (Participant 7).

Related to this pressure is the often unrealistic expectations imposed upon First Nations communities generally. For Traditional Custodians, this is experienced as being *'expected to be the experts on everything'* (Participant 6). This expectation is often experienced as particularly unjust and harmful in a context where custodians are trying to *'rebuild our nations and rebuild that cultural authority, that cultural knowledge that's been ripped out of our communities over the years—language as an example'* (Participant 6). Related to this is the expectation that in a particular planning or urban policy role, a practitioner who identifies as First Nations will be assumed to have a sole interest in an identified role and focus. As one Māori practitioner observed:

> *if you're Māori staff, you'll be in Māori role … and you'll know everything. Everything! Like, 'So do you know about the traditional medicinal uses of the kowhai flower?' And I'm, like, 'Yep, I'm an urban planner, I'm gonna know about the kowhai flower' [laughing]. (Participant 8)*

1 Māori concept meaning sovereign rights or customary authority

This is a form of 'double labour', whereby the practitioner is providing the labour of the work itself and the *'emotional labour of it, of feeling angry about it'* (Participant 8) as a second burden.

2.2.3 Tensions created by colonial recognition frameworks

A diverse range of recognition frameworks is in place across different jurisdictions in Australia and both within and between NSW and Victoria. These often establish what in Chapter 1 we described as the 'contact zone' between settler government apparatuses and Traditional Custodians or First Nations communities more generally. Virtually all of these recognition frameworks require that First Nations people organise themselves into bodies that are legible to and recognisable by settler governance, such as Trusts and Corporations. This results in a situation where *'western democratic or legislative tools'* dictate the forms of organisation and governance to First Nations and often don't allow for *'divergent opinions to sit nicely together, or even in tension with one another'* (Participant 7). Significant tension can result where these *'legislative tools'* have been developed without sharp recognition of the importance difference between Traditional Custodians, who can speak for Country, and other First Nations organisations and communities.

Some important differences exist in the contact zone frameworks in both Victoria and NSW. In Victoria, a significant program of reform was undertaken under the principle of 'right people for right Country'. This initiative was led by First Nations communities in response, at least in part, to the difficulties Victorian Traditional Custodians were experiencing in achieving native title recognition (see Chapter 3). It resulted in both the *Traditional Owner Settlement Act* and a complete reform of the system for cultural heritage management and protection. Prior to the *Aboriginal Heritage Act* in 2006, the previous cultural heritage management regime placed control and management of cultural heritage sites and objects as the remit of Aboriginal Cooperatives, which were often service delivery organisations that had no required management or governance from Traditional Custodians. The result was that often Traditional Custodians were structurally excluded from decisions about and protection and ownership of their own cultural heritage. The *Aboriginal Heritage Act* 2006 amended this by establishing a system for recognising Registered Aboriginal Parties who are required to demonstrate their Traditional Custodian connection and obligation. While this has its own consequences, in terms of the difficulties of achieving such recognition for some groups (see Chapter 1), it is nonetheless an important shift to ensure the people who speak for and control decisions about cultural heritage and Country are the Traditional Custodians (Participant 5 and Participant 6).

In NSW, the establishment of the Local Aboriginal Land Council system (LALCs) under the NSW *Aboriginal Land Rights Act 1983* (ALRA) has created a system of organisations without mandated requirement to include Traditional Custodians or governance approaches. This means that there is not necessarily an institutional relationship between a LALC and the Traditional Custodians of the LALC area—with consequences for complexities, and potential conflict about who can speak for Country and lore in particular places. Membership of LALCs is available to every First Nations adult residing in the LALC's jurisdictional area, or anyone who is an Aboriginal Owner in relation to land in the LALC area. In some parts of NSW, membership of LALCs is skewed towards residence, while in other areas it may be skewed towards traditional custodianship. First Nations people in NSW can be members of multiple LALCs, but can only exercise their voting rights in one LALC.

This has had consequences—which were identified as extremely challenging by all the people who participated in this research. First Nations practitioners in NSW offered perspectives about these challenges and complexities from their broad experience across NSW. The legislative strength provided to LALCs, as well as the economic strength that can come from being a landowner, is significant. LALCs without Traditional Custodian representation or membership are often engaged on decisions and actions that impact Country. All levels of government, as well as private entities, routinely seek engagement with LALCs as an assumed first—and often last—port of call. One practitioner shared an experience of being told by a local government council as part of a project brief to *'engage with particular people because that is who the LALC has approved. They are not the custodians, and this is known, but because of this legislative strength this can occur'* (Participant 1). Relating back to the importance of cultural protocols, this can be seen as a form of lateral violence to which First Nations practitioners themselves become vulnerable in attempting to support Traditional Custodians (Participants 1, 3 and 2). This is a very serious issue and has *'halted whole projects'* (Participant 1). This problem also arises in relation to cultural heritage management in NSW, as the appointment of Registered Aboriginal Parties (also RAPs, as in Victoria) does not entail a requirement to demonstrate connection to place and custodianship. This creates further cultural safety concerns and the result where *'often custodians get overruled by RAPS because it suits developers better than what custodians are saying'* (Participant 2).

There are also many First Nations people, including Traditional Custodians, who are not involved or represented by any organisation. The reasons are many, but quite often because people: *'do not want to be in organisations, they want to be Sovereign people. They shouldn't have to be part of an organisation to have a voice. However, not being part of one is meaning that often they are left out'* (Participant 1). These people are thus profoundly disenfranchised from any process, their interests are quite literally 'invisible' and they are unable to participate in any engagement mechanism because the settler-state has organised the contact zone around a recognition framework of organisations—which often do not take account of the Traditional Custodians connections to and responsibilities for Country.

Even where stronger recognition frameworks for Traditional Custodians exist—such as in Victoria for cultural heritage management—considerable tensions and challenges emerge. Practitioners in Victoria spoke about the statutory role that RAPs have, and yet have little actual power to veto particular developments or decisions that impact their Country. It is therefore widely understood among RAPs that the cultural heritage protection framework is actually *'just a license to damage cultural heritage, and Traditional Owners are often forced into causing damage to property to enable projects and pieces of work. That's a common conversation in and around Cultural Heritage Management Plans'* (Participant 6). Related to this is the tension caused within Traditional Custodian organisations that have RAP status. Such organisations are often engaged in a number of activities, such as cultural resurgence, nation building, language revival and ensuring transmission of cultural practices. Sometimes these activities create tensions or conflicts of interest with the statutory requirements for cultural heritage management and protection (Participant 6).

Similarities exist within the Aotearoa New Zealand context. One Māori practitioner observed that the contestation about who belongs where and the ongoing disputes about boundaries between and within hapū and iwi are derived from government processes that demand 'fixity'—whereas in First Nations communities *'that's just not the reality'* (Participant 8). Treaty is one further example. While the existence of Te Tiriti o Waitangi (The Treaty of Waitangi) is often held up as an example of much more mature settler–First Nations relationships, practitioners nonetheless observed the ways that settler governments can keep control of processes and produce new disparities. In Aotearoa New Zealand, it is felt that the Treaty process itself has been set up by government in terms of how it is designed (Participant 8).

Practitioners also observed ongoing disparities, particularly between levels of government. For example, there is no reference to Te Tiriti in relevant local government legislation, compared with central government legislation where the obligations to Te Tiriti are much more clearly and explicitly stated. The local government relationship with First Nations people in Aotearoa New Zealand is thus similar to Victoria and NSW, where there is no Treaty governing the relationship. This highlights the importance of clarity in legislation that filters through all levels and agencies of settler governments.

2.2.4 Conflicting philosophies between caring for Country and urban development priorities

The discussion in this report thus far has confirmed that the power in urban policy and urban development decision-making lies with governments and developers—not with First Nations communities and not with Traditional Custodians. Therefore, tension arise from the opposing priorities of caring for Country derived from the sovereign obligations of Traditional Custodians, and the pressures of urban development. These tensions arise from quite different cultural mindsets, frameworks and worldviews (see Chapter 1). First Nations practitioners spoke at length about these tensions, and the challenge of working with settler government agencies and stakeholders who *'can't see what is actually in front of them because they're reading that landscape from their own cultural framework'* (Participant 3). This means that the:

> *ingenuity and the innovation within Aboriginal culture, which is still alive and exists within these cultural landscapes, that's just literally not seen, like people cannot actually see it, or if you point it out, they can't even appreciate it. (Participant 3)*

This difference is deep and significant, impacting all of the structures and processes that operate in urban policy decision-making, which are usually accepted as 'normal'. Practitioners linked the challenges that are arising from existing frameworks right back to first contact and:

> *the way that those Frontier Wars played out, and continues to be played out and connects back into the current Statement from the Heart and the core for, you know, a voice within the highest levels of decision making within the Country. (Participant 3)*

A good example is boundaries, particularly property boundaries, about which much has been written in the literature examining the mechanisms through which settler-colonialism is secured and sustained (see Chapter 1). As Participant 3 observed, *'that's colonisation if you have hard boundaries, and you forget or don't think about anything beyond what you've got as your property'.* This is quite different from Traditional Custodian relations to Country, where *'the boundaries are soft, and things that are made from Country, belong to Country, and are connected to each other, through a cultural landscape'* (Participant 3). First Nations worldviews and philosophies of Country (see Chapter 1) are, as yarn facilitator Elle Davidson states, *'fundamentally holistic and about relationship of all things with each other'*. Intangible cultural heritage is another example of non-Indigenous assumptions and worldviews imposing an inappropriate set of presumptions on First Nations connection to place and heritage.

Each tension has profound impacts on how urban policy engages with Traditional Custodians, where the engagement is often organised into specific topics that are treated as if they are separate (Participant 8). In response, Traditional Custodians attempt to present a more holistic package back to urban policy makers and planners, which sees an interconnected set of relationships between people, environment and everybody's wellbeing. But then, as Participant 8 observes:

> *The planning system can't cope. It's designed to split everything down into sub-disciplinary parts and then bring in experts in relation to each of those sub-disciplinary parts.*

This effect of the difference between holistic and siloed thinking relates not only to topics or sectors, but also to time and to place. There are significant cumulative impacts that ripple across an *'integrated array of factors that will be affected by something taking place'* (Participant 8). Yet in the planning and policy systems governing these decisions, the cumulative impacts and the interconnected impacts that result cannot be seen, much less considered.

A further significant dynamic that transpires from this fundamental difference in worldview and philosophy is the dismissal of Traditional Custodians values, knowledge, perspective and rights from development decisions. First Nations practitioners spoke about the way that custodians' voices are ignored or misheard or watered down because industry *'just want to tick a box'* (Participant 3) and particularly just want to deal with one group or entity and *'expect us to feel the same about everything'* (Participant 7). Practitioners shared that:

> *Some of the things we have been hearing from custodians are around that, when they are working with developers, if they identify places that are important, the developers don't really have to budge because it's all about the financial side of the development. They will push back because it will cost them to do any sort of preservation or protection of places. (Participant 2)*

This has extremely harmful consequences:

> *I've talked to so many people where people have gotten burnt out and died in the process and, you know, and that process of even us getting to the point of being able to negotiate the settlement is just full-on, and then you have to negotiate the settlement and then there's all the fighting, because you are basically, you know, fighting over the scraps. And then government says, 'Ohh, why is everyone fighting? You know, you guys should get it together'. And it's like, 'Well, what would you do if you'd been colonised for 150 years? And then, you know, given the scraps to fight over?!' (Participant 7)*

Fighting over the scraps is a direct result of colonisation where, as Elle Davidson observes, '*trying to fit everyone into a colonial structure creates lateral violence*'.

One practitioner shared the example of a project in Western Sydney that involved scar trees. Cultural heritage protection legislation has long been criticised for a focus on discrete objects or sites and in so doing misrecognising the importance of a wider locale or landscape. As one practitioner reflected:

> *Scar trees are seen within the Heritage Act as an object, and it's recognised as a significant object. But the approach is to protect the object and not the landscape in which it sits within … planners actually ring-fenced the scar tree and protected the object but disconnected the scar tree from its family of trees and also from its significant connection to a creek line, because that's why the tree was there, [it] was used as a resource for canoes in this instance. [This one tree] was actually part of a family of other scar trees. The cultural knowledge holders shared that two or three other trees were actually practice trees and so the senior cutter's tree neatly shaped and the other trees were for the novices to practice on to develop their skills. That's an incredible documentation of the practice of cutting trees. What we argued was for all of the trees to be protected … [as] this is a significant cultural landscape that the community could look after and that the trees themselves could communicate with one another and look after each other. However this wasn't agreed to, we did protect the three or four scar trees in a slightly bigger pocket park, and they were linked to the creek. (Participant 3)*

This story demonstrates the significance of the knowledge often being shared in cultural heritage processes, in this case about the practice of cutting trees and their relationship with a wider landscape. Yet there remains a substantive inability to recognise, appreciate and respect this knowledge, which highlights how the decision about whether something counts as having value or not is skewed in favour of the dominant system.

2.2.5 Practices to achieve better outcomes

The abiding message about better outcomes is the centrality of genuine relationships. In the words of one participant: *'it's all relationship'* (Participant 1).

Many of the practitioners who participated in this research are often themselves brought in by government agencies or development organisations to support the relationship with Traditional Custodians and First Nations communities. A key area of better practice that these practitioners observed is where the agency *'has already started the relationship process before they have got anyone involved'* (Participant 3). This is an essential shift that must occur across governments and industry, the realisation that:

> *It can't be business as it used to be, that the relationships needs to be part of their business as usual, and that building those relationships is only going to enrich the process of not only one project, but all of them. (Participant 1)*

This further confirms the importance of, as Elle Davidson states, partnerships and relationships as essential to working together for better outcomes.

Practitioners from Aotearoa New Zealand shared the example of relationship-building work between the Southland Regional Council and the Ngāi Tahu by appointing Ngāi Tahu staff and leadership. The common practice of a regular *'cup of tea'* (Participant 8) offers an informal opportunity to share information, latest news, concerns and values. The *'power of a cup of tea'* (Elle Davidson) is a much-remarked upon approach to developing a sustained and genuine relationship that is not inhibited by a particular agenda or project. The essential features identified that make these kinds of practices work are that such meetings are informal, unstructured, regular and enable anything to be on the table for discussion (Elle Davidson, Participant 7, Participant 8).

First Nations practitioners themselves are often working over a long period to help develop stronger relationships with government departments to enable better outcomes. This is helping where things get challenging. If a relationship exists between the First Nations practitioner and the organisation, then a lot of challenging matters can be addressed, which means better outcomes for everyone. Particularly important for these First Nations urban practitioners is knowing that a particular government department or large organisation *'will have my back'* and will know that a course of action has been taken due to *'certain priorities that I have to hold to a higher order'* (Participant 1).

Relationships are an essential part of the understanding work that needs to be done to begin to bridge some of the differences observed earlier in this section, between philosophies of caring for Country and urban policy and development priorities. This includes the need, observed by First Nations practitioners, to educate non-Indigenous people about the concept of Country. This is because:

> *We always come back to what's the benefit of Country, so how can we support the health and wellbeing of Country, and that can tend to find the common ground that we are looking for. (Participant 3)*

Without this understanding of *'how to connect with Country as we understand it'* there is no basis for genuine relationship. This work undertaken by First Nations practitioners helps challenge assumptions within industry, particularly with developers, who often have the attitude of, *'Just tell us how to do it and we'll do it.'* Yet as participants observed:

> *The point is actually developing your cultural awareness and giving yourself over to it in such a way that you go from first principles of collaborating with the local Aboriginal community that is being impacted by the project you are proposing, getting an understanding from them what their definition of Country is, the cultural connections that they have with place, and working with them to understand how a design or a planning proposal might embed Country and community and culture within the work. (Participant 3)*

Development of longstanding, deep and genuine relationships deliver better outcomes. One example that a practitioner spoke about was an engagement on a development where early relationship building helped identify intangible values on a site, beyond what the normal cultural heritage survey work would have shown. The participant stated:

> *There was really super-early engagement with custodians and then they actually got an Aboriginal organisation to filter the RAPs [Registered Aboriginal Parties], so the RAPs had to apply through this Aboriginal organisation to be able to do the site survey stuff [and in doing so] state their connection specifically to Country in that space. And it wasn't like there was RAPs excluded, it was just the RAPs that they did end up signing up did have some sort of connection, whether it was from shared Country history, or family connected with the space, and the whole development had done better than previous ones. [This enabled] a lot more importance placed on the intangible stuff, on the estate, a lot more placed on things like sight lines and if there were trees, how those trees were connected with pathways through the estate. (Participant 4)*

This more positive approach had arisen out of the experience of a previous engagement attempt that was very poor, through which the organisation did some serious learning (Participant 4).

One important element of practitioners' work with Traditional Custodians to support their rights and aspirations is to push back against imposed timeframes. This would mean that *'mob had more time to really think through things, to engage properly, to be part of the process'* (Participant 1), and to *'not just be channelled into a way that suited other people'* (Participant 1). Yet such a practice is not easy, as it requires pushing against timeframes and being quite assertive about saying, *'It's not going to happen in that timeframe, and here's the timeline its gonna happen in'* (Participant 1). Such activity is exhausting work, producing a heavy cultural load.

However, the sustainability and longevity of good relationships is a major challenge. Staff changes—and especially political changes—have major impacts and can turn a good practice on its head very quickly (Participant 8). One example offered by a practitioner from Aotearoa New Zealand was a productive working relationship in the Otepoti (Dunedin) area. Significant work had been undertaken by mana whenua there to *'upskill the city council'* (Participant 8). This had resulted in a small but significant win to pedestrianise a part of the main street and incorporate what this contributor saw as *'highly innovative urban design, led very strongly by mana whenua groups, telling really particular stories to our space'* (Participant 8). But then local council elections saw a much more conservative incoming administration who *'think it's a waste of money to do all these changes that have been very significant in terms of demonstrating a Māori presence in the city, and are quite likely to not allow it to even finish'* (Participant 8). As Elle Davidson observes, understanding the political context that sits around good outcomes is essential. Part of this practice to achieve change is to embed positive change. As this participant observed:

> *If you want to be guaranteed that positive shifts can keep on happening, you do need to have structures and a governance system that sets you up to have that, no matter who changes in terms of your elected and officer personnel. (Participant 8)*

High turnover of staff has a similar effect:

> *You feel like you have just got a lot of traction with someone in their team, and then they'll end up leaving due to dissatisfaction with the organisation generally. And then you have to start from scratch again. You really do start all over right from the very beginning, because that's not built-in in any kind of organisational structural way. (Participant 8)*

This not only thwarts long-term relationship building, it undermines efforts to achieve more positive outcomes—as these are often so reliant on an internal champion or person who is willing to lead and influence within an organisation to effect greater change (Elle Davidson). Developing strong, genuine relationships that can be sustained is critical. However, to do so requires understanding the work necessary to begin to level what is a deeply unequal playing field from the perspective of First Nations people. This is where the stumbling block of 'engagement' emerges. First Nations are interested in partnerships, not engagement. Yet such partnership can only come from a position where there is co-leadership, power-sharing and forms of co-governance.

One example of how this can occur is the mirroring of a number of governance structures in the Aotearoa New Zealand context. Holding the two versions of Te Tiriti o Waitangi and the Treaty of Waitangi (the Māori and English versions[2]) in equal standing has been critical to enabling more effective co-governance to emerge. Practitioners from Aotearoa New Zealand offered the example also of the Three Waters Proposal, which is strongly based in co-governance, where the knowledge from iwi about water is held in equal standing as Western scientific knowledge (Participant 8). This model and principle could be extrapolated into other areas of planning and urban policy such as co-mayors, co-CEOs of key agencies, co-documentation of values and objectives for different places.

The Treaty context is very significant. In Aotearoa New Zealand, iwi have managed to achieve significant outcomes through Treaty settlements, even though these often have to be long-fought for. One practitioner spoke about the example of Ngāi Tahu, who achieved their Treaty settlements approximately 25 years ago. Since then, they have worked on further developing the resources that derived from the Treaty settlement to ensure that *'opportunities are spread throughout the region'* (Participant 8). As the practitioner observed:

> *They are still not perfect at all, and there's still scuffles between the different hapū and the central iwi body. But they're a long way down the track, and have got significant resources, and can now focus on a whole lot of other innovative and exciting things. (Participant 8)*

Examples from Victoria were also shared that demonstrate the effectiveness of approaches that embed co-governance and co-leadership as central principles. For example, the co-management of the Budj Bim Cultural Landscape on Gunditjmara Country, and the emergence of some co-governance forms on Dja Dja Wurrung Country in central Victoria to manage and protect Country. The Birrarung Council emerging from the *Yarra River (Wlip—gin Birrarung murron)* Act 2017 (Vic) (see Chapter 3) was also noted as an important approach that demonstrates the possibilities for better outcomes from placing Traditional Custodians knowledge, rights and authority as central.

2 There are two versions of Te Tiriti / the Treaty—an English language version and a Māori language version. They are not direct translations of each other; as such, there are different understandings of what was agreed. For a helpful explainer, see https://theconversation.com/explainer-the-significance-of-the-treaty-of-waitangi-110982

However, co-governance cannot resolve every concern, and practitioners from Aotearoa New Zealand also spoke about some of the conundrums in this space. Questions remain about the extent to which self-determination is undermined by becoming a *'co-governor'*:

> *Does that remove some of that potential to act for yourself … in terms of the goals that you want to really aspire to? So how do you facilitate co-governance in a way that is positive for achieving good partnership, but that isn't diminishing in terms of retaining some self-determination, or aspirations for some self-determination and the future. (Participant 8)*

To achieve these outcomes also requires substantial investment and resources into nation rebuilding by and for First Nations communities. One participant observed how central this is to all other aspects of more positive outcomes:

> *By rebuilding those nations, we rebuild that responsibility, that diversity of knowledge, the sharing of knowledge. There's so many other outcomes that can be achieved by rebuilding our nations and getting people back out on Country and connected to each other and to culture. (Participant 6)*

Further, it requires substantial reorganising of the order and priorities of urban policy and planning work, in a sense *'flipping the order of things'* (Participant 1) (see also Porter and Arabena 2018). This is a more systemic change to reflect a more appropriate placement of community and their planning and prioritisation first, followed by other planning processes:

> *Before we even start to plan anything for Country, enable the custodians to do their planning for Country. So that they can then inform the rest of us what the voice of that Country is … It's like they hear the voice of Country. So, what's that Country need? And then we go and plan into that. (Participant 1)*

This would acknowledge *'custodians as the first planners of Country'* (Elle Davidson) (see also Jojola 2008; Matunga 2013).

In Victoria, practitioners made direct links to the advancement of Treaty as critical to the restoration of Traditional Custodians *'authority and recognition on Country'* (Participant 6). Treaty was seen as holding a promise to Traditional Custodians *'to really take their rightful place and not be constantly faced with those barriers and those racist attitudes'* (Participant 6). This is because of the promise Treaty holds for the organisation of agreements between custodian organisations and settler-state entities that get closer toward recognising the sovereign authority of Traditional Custodians and their obligations to Country.

2.3 Wurundjeri Woi-Wurrung experiences and expectations

This section presents the perspectives offered by Wurundjeri Woi-Wurrung Traditional Custodians. All of the contributions presented here have been approved by the individual participants and through Wurundjeri Woi-Wurrung Cultural Heritage Aboriginal Corporation processes of consent, under the governance agreement made with the project team. We refer to the organisation throughout by the shortened title of Wurundjeri Corporation or 'the Corporation'. The Corporation has gained status as a Recognised Aboriginal Party (RAP) under the *Aboriginal Cultural Heritage Act 2006* (Vic), which provides voice and representative mechanisms in these and related policy areas. Wurundjeri Woi-Wurrung participants explicitly requested their names be used, and all other names are used with the express request of Elders.

2.3.1 'We're still here': why urban policy matters to Wurundjeri Woi-Wurrung Traditional Custodians

Wurundjeri Woi-Wurrung Traditional Custodians spoke about why so much effort is made to engage with urban policy. They spoke about how this was grounded in the assertion of their ongoing sovereignty.

Uncle Tony Garvey stated:

> *Obviously we're here for the rightness of our lands, we're here to fight for sovereignty, we're here to fight for land rights. I'm here because I've got a passion for my people … I do this because I believe in my people.*

For Aunty Alice Kolasa, who continued this yarn, this was also about sustaining a tradition by continuing '*how the ancestors looked after the Country*' and being ready to 'do what we can for the ones that we've loved and lost'. She further said that this means continuing to ensure non-Indigenous people have *'knowledge of who we are, that we're still here, we're still doing cultural practice, we're right here you know?'* This is an expression of self-determination:

> *The ancestors before us, the sisters before me, they've done some amazing work … we've all got different input how we want to go with self-determination. Our voices have to be heard. We're still here. (Aunty Alice Kolasa)*

Caring for Country is also at the heart of why Traditional Custodians choose to engage with policy and decision-makers, because it is well understood that the decisions being made in these domains have profound ecological and social impacts on Country. Aunty Alice stated this poignantly:

> *Is it up to the Traditional Owner to worry about the environment? Is it? Or is it up to everybody to worry about the environment for the future of this country?*
>
> *Country is very important … Country needs healing, just like its people … We're trying to hang on to what we've got left.*

Aunty Margaret Parisi also spoke about the importance of educating others, particularly those making decisions about Country. She stated: *'One of the things we wanna get across is just understanding what Country means to us.'* For Wurundjeri people who live off Country, such connection and involvement is particularly important. For Tammy Hunter, who lives off her Country, the ability to connect into decision-making about Country allows her to practice *'connecting to mob, connecting to Country'*.

This matters, because the Wurundjeri philosophy of Country is not widely understood—and often misunderstood.

> *Not everyone has our connection to Country … They don't understand why it's so important for us to preserve certain things or areas. (Aunty Margaret Parisi)*

Caring for Country is a core obligation that derives from Wurundjeri sovereignty and the responsibility handed down from ancestors for this role. Wurundjeri people expressed grave concern for the damage and harm that has been done to their Country since colonisation. Emma Mildenhall talked about it in this way:

> *Organisations [are] turning to traditional cultural practices and caring for Country practices as a way to restore Country. They talk about it being a way to battle climate change, restore soil, our waterways are a massive worry for us … so much toxic stuff going into the Yarra. There's these documents I've seen where we should be emitting this much carbon, or this much of that chemical, and we're way outside those quotas, which is really harmful to the planet. But there's this real education out there, and this need for traditional caring for Country.*

Water was of particular concern, and the way that the significant waterways, including the Birrarung (Yarra River), have been impacted by the harm of development arising from colonisation. Aunty Alice Kolasa spoke about these concerns regarding water:

> *The education is missing there … because they're polluting the water. It's not right. So the government should be looking strongly into that. The Yarra has been polluted for many many years. She's had a lot done to her.*
>
> *We're dealing with that with our waterways. The amount of rubbish that gets into the catchment areas and gets into the waterways. We don't just worry about our land, we worry about our waterways as well. A lot of the areas have stopped dead, they're just not flowing at all … They're billabongs that I've actually walked in bone dry. They were there when the ancestors were here.*

Aunty Margaret Parisi also spoke about changes that have been made to the waterways that have had significant impacts:

> *They've artificially changed the course of the waterways in a lot of cases. Like how they've put all those concrete channels to force water to go a particular way.*

However, the abiding experience of working with relevant government agencies on caring for Country, as stated by Aunty Alice, is: '*We give the answers, we give the input, but not everything's addressed.*'

Wurundjeri people have been engaged on a number of projects over many years to restore water quality and ecosystem health. Aunty Alice Kolasa spoke about a particular project that enabled Wurundjeri people to gain greater insight into some of the water pollution issues affecting the Birrarung:

> *I was delegated with my late sister, Aunty Winnie Bridges, to work on a construction site with Melbourne Water …*
>
> *When we did the confluence where the Merri meets the Yarra, meets the Birrarung, they had to slow the water down. It was amazing, and I could actually see the bottom of the water. I saw engines, I saw slabs of cement, all in the Yarra just sitting there. I said to one of the guys, 'Who's responsible to remove all this?' And he said, 'The local government in the area.' There were two or three who were there and none of them put their hands up to clean it up, because it's too costly.*
>
> *And that's when they fixed the fishery for the migration of the little fish to swim down and swim up. The current was keeping them down, they couldn't migrate. So that was a massive project … I learnt a lot from that project and I could not believe the state of our river … just down there at Dights Falls, where the Merri meets the Yarra. It was a great project, I learnt a lot from it. They're migrating now, the fish.*

2.3.2 Governance arrangements that support the voice of custodians

Wurundjeri Corporation has established a specific organisational structure—the DEECA (formerly DELWP) Subcommittee in response to the amount of planning and land development work that was being brought to the Corporation. The Subcommittee structure was a response to managing the very ad hoc and reactive approach that Wurundjeri Corporation was finding necessary as local councils and other land development stakeholders approached the Corporation for input on everything from rezoning decisions to tree removal. Jesse Pottage, a former non-Indigenous staff member at the Corporation (and, at the time of the yarn, the DEWLP/DEECA Subcommittee convenor), spoke about how challenging this mode of response was:

> *There might be a planning decision to build a car park and remove an important tree or something like that, and it gets news for a little while, but corporations have to really invest a lot of resources and energy to react to these things as they come up, and usually at the last minute.*

Gaining some small funds in the form of a grant, the Corporation invested this into establishing the Subcommittee, a first task of which was to review the Land Use Framework Plans developed by DELWP through 2022[3]. Jesse reflected that:

> *There was a realisation through that process that there was a lack of planning-specific expertise in the Corporation as well, and a need to engage expertise from external entities.*

At this point, an important choice was made: to set aside the land-use framework and all the *'planning jargon'*, as people described it, and instead start with Wurundjeri priorities. These were articulated in different themes: cultural, caring for Country, social and economic. The document that was developed through that process came to be an expression of Wurundjeri Corporation's priorities for these elements of self-determination against which the Land Use Framework Plans could then be analysed and assessed.

Out of that process, and the input provided to DELWP, a primary recommendation was to resource the Corporation to appoint a planner to support engagement on land-use planning decisions. Assessing the scale of the need, Wurundjeri Corporation reported that approximately 1,700 planning permits are generated on Wurundjeri Country each year through local planning scheme processes. The message from government has been that to engage in the decision-making, this would be the scale of decisions to review—yet at the time of writing, around two years on from that process, nothing has happened toward achieving that identified resource. From Wurundjeri Corporation's perspective, the skills gap and capacity gap remain.

Despite the lack of ongoing support and resourcing, the Subcommittee structure now provides an essential basis for Wurundjeri decision-making about urban planning and policy that impacts Wurundjeri Country and values. One aspect is the Subcommittee provides the mechanism to connect community members together on matters for input and decision. This capacity building role is highly valued, where newer members of the Subcommittee spoke about the importance of having a structured way to contribute, as well as learn. The Elders on the Subcommittee who have been involved longer also spoke about the importance of bringing young people on board, and the Subcommittee being a mechanism to share knowledge and build capacity.

3 Libby Porter was engaged on a consultancy basis by Wurundjeri Corporation to support the Subcommittee with understanding the technical aspects of the planning framework and to assist Subcommittee members to map their aspirations across the LUPF documents.

The Subcommittee was also spoken about as a vitally important honouring of Elders and ancestors who have passed, and who carried the vision and struggle of Wurundjeri people and the expression of their ongoing lore, and of their contemporary rights. Many of these people were honoured during the yarn by name, including Aunty Winnie Bridges, their presence held and acknowledged with great respect. The Subcommittee structure also brings together people from across the different parts of the Wurundjeri community, as Aunty Alice explained:

> *It's great being with our Elders from the Nevin family, and our Elders from the Wandin family, because we want to all bounce off each other, because we do have some older Elders than us, and you bounce from each other, it's just great. It really is.*

Uncle Tony explained how this is also about coming together to fight a common cause, and bring different community members' experience and skills to that cause, regardless of levels of experience on urban policy matters:

> *It's good we're all fighting for the same cause. Inexperienced or experienced, everyone's gotta start somewhere. Margaret, I'm sure in six months time we'll be talking to you and if you think this is what fits for you, I'm sure you'll be heavily involved by then. And … Tammy's working up all this experience and we need people like yourselves to handle everything we're not so experienced in. It's really good to have a little bit of a spread right across the board, of a little bit of experience everywhere. We're all fighting the same cause.*

Tammy also spoke about the importance of capacity building through training and mentoring with different members of the community:

> *There's potential for training and development, and not just send one person off, but send two people off so they get the message together, or they might get different messages and can share the knowledge back to the organisation or to community. So it's always better when you send two people, if not more, off to training sessions … and also having different levels of training, so people with literacy issues, and making sure you always have that support, and sort of a buddy system to go with it.*

However, it can be a challenge to get people involved in this kind of work, partly because everyone in the community is so stretched with many obligations. Another factor that prevents greater inclusion is the pay structure, which is often incommensurate with other sectors. This is a pronounced problem for young people especially, and overall contributes to a lack of resources to support more skills training and development and ultimately feeling *'spread too thinly'* (Aunty Margaret Parisi).

2.3.3 Barriers and frustrations

Wurundjeri Corporation and the members of the Subcommittee experience many barriers to engagement, and significant frustration. Some of these barriers are built into the detail of contracts and regulatory requirements. For example, a current funding allocation to rebuild the cultural centre at Coranderrk (see Section 2.3.5), has some built-in barriers to the funding requirements. Aunty Margaret Parisi, who is involved in this project, talked about these:

> *The grant I'm talking about is quite a large one, but there's only 20 per cent of it I can spend on pre-building, pre-application type stuff. But all these things are thrown in your way, and they are pre-application, and they cost. It's not nothing, might be more than 20 per cent, but we've still gotta do it because the government dictates that. So where do we go to get help for very specific issues that we are experiencing? It's not always clear where we can get help, because you need help with the government enforcing particular boundaries, or particular brick walls on you. But you have to sometimes go to a government for help, and they're not going to help you necessarily, because it is themselves. We've had to reach out to the [local] council and say, 'You need to help us to get you to allow us.' It's a really strange, I feel like it's just a circle, it's really hard to break it.*

Funding and resourcing are key areas of concern that arose consistently throughout all the yarns. Emma Mildenhall reflected on the need for consistent and sustained lines of funding, making the link to stolen land and the bitter irony that despite all that colonial imposition and the theft of lands and resources, there is still no reparation for this loss.

The question of reparation for damage and harm also came up in relation to caring for Country. Just before the yarn, a spillage had occurred into Birrarung that had caused some concern. Aunty Margaret spoke about how companies and actors responsible for such harm should take their responsibility to Wurundjeri people seriously too:

> *Those companies, they should be paying Wurundjeri, and we could employ more people and go out there and clean them up. … and when people get fined, Wurundjeri should get a percentage of that. Now that we've started talking about renumeration, [its] gonna be in every sentence. But it should be. They're our lands and waterways and everything else. If the government are gonna fine them and expect payment because they haven't done the right thing, then we should get a portion of it.*

Of significant concern raised during the Yarning Circle were the timeframes when government departments engage with Wurundjeri Corporation. There is great frustration at the persistent way that governments come to Wurundjeri too late, with too much already decided:

> *We need to be implemented from the start, sometimes we're missed until nearly the end. We need to be spoken to at the start, there needs to be a budget for engagement and for the things that we want to see. (Emma Mildenhall)*

Emma spoke further about the way this is experienced:

> *Definitely in the planning space, to be engaged from the start. Not, 'We've done all this, it's pretty much complete, now what sort of acknowledgement or signage would you like?' If we get serious about Traditional Owner representation, it needs to be serious at a higher level … We might like to have a bit more say that's a bit more culturally flowing … That cultural input from the start, architecturally or whatever it may be. 'We want it to look like this or like that', instead of the afterthought of the tangible things. That sort of engagement, right from the start, and everyone who's working on it understands who to go to, and there's understanding around that and a budget there for engagement and for the things we want to see.*

Aunty Alice Kolasa also spoke about the importance of the engagement being at the start and all the way through a process:

> *You've gotta start from the start, and then you've gotta get out on Country and go and see what you're actually talking about. Whether that's a parkland, whether that's an area that's going to be for housing, or school, or whatever. From then on we have input into the naming of the streets, the naming of this, the naming of that. And then we have input into the flora and all this and that. I'm happy that those sort of things have happened with DEECA. I can't name them all, because I can't remember them all. When the document is in draft, we have a look through and it's gone through, that's when it's rewarding.*

Related to the timeframes is the level of respect and listening demonstrated during the process:

> *Sometimes there is things set, and then it's not filtered through about how then people go about that. There's a disconnect there. Sometimes when there's a tick-the-box approach, that's not so great, doesn't work out so well. But when Elders are speaking, it would be good to hear them listen too. We've been saying for years, I've heard it in my ancestor's songs, Yothu Yindi and things like that, about treaty. We've been asking for that for years and then we start that process and then the Voice comes up … is it another example of us not really being heard? (Emma Mildenhall)*

2.3.4 Treaty

Wurundjeri people spoke about the prospect that the current Treaty negotiations in Victoria may catalyse some new possibilities and begin to shift power. Treaty was perceived as potentially enabling Wurundjeri Corporation to have more control over processes and be able to say, *'Well, this is the way we operate. You come and work with us'* (Jesse Pottage).

Yet there was also concern that sometimes government departments are using Treaty as a way of avoiding engagement on matters of urgent importance for Wurundjeri people. Jesse reported on recent conversations with government actors:

> *They use Treaty as a way to get out of engaging in many ways. They say, 'Treaty's coming, that's a Treaty decision, we're not gonna engage with that at the moment.' It has created some certain circumstances where it's had a detrimental outcome in the ways that the department uses it to deflect. So [Aboriginal] corporations say, 'We wanna see this', and they've said, 'Aw no, it's a Treaty process, we're not talking about that.'*

2.3.5 The Nangenala project

Coranderrk is a vital place in the ancestral and living memories of Wurundjeri people and community. As Aunty Margaret said, it's *'one of our most significant sacred areas'* because *'it's the last site for us, my ancestors, where they lived before they were shipped off to Lake Tyers'*.

Coranderrk is on Wurundjeri land near Healesville in central Victoria. It was an Aboriginal Reserve from 1863 and became home to many Aboriginal people from across Victoria whose lands had been stolen from them. It had a turbulent history. While the First Nations people living on the Reserve showed a steely determination to manage their own affairs and be self-sufficient, there were constant attempts by governments and surrounding landowners to shut the reserve down. It was home to William Cooper for many years, who in 1937, presented Prime Minister Joseph Lyons with a petition to King George V calling for Aboriginal representation in the Australian Parliament (Attwood 2021: 148). According to the Coranderrk website (Wandoon Estate Aboriginal Corporation 2024):

> *Through its early vision to establish a self-sufficient and self-governing way of life and the later campaigns to retain what was built, Coranderrk demonstrates Aboriginal resistance to colonisation and the value of astute political activism, caring for Country and developing lasting friendships and partnerships.*

Aunty Margaret offered a long yarn about the process of trying to get this project off the ground:

> *It started life as Galeena Beek, a cultural centre out there at Healesville, and now we're trying to put some energy into it and bring it back up to what it was always intended to be, its original purpose: a cultural centre.*

Galeena Beek (sometimes written as Galina Beek) is an architecturally designed cultural centre built in the early 1990s, located opposite what is now a major tourist attraction, the Healesville Sanctuary. But Galeena Beek had closed down in 2000 and after 18 years of lobbying government by Wurundjeri Corporation, the land and building was returned to community ownership in 2018. Aunty Alice recalls the joy of the site being returned but with some concern, because the building had been left in a state of disrepair: '*We got it back in such a state, it looked like vandals had been in there, the spouts had holes in it … .*' From there the community needed to find funds to support the plans. Aunty Alice explains:

> *Then we had to try and find funding, and now we've got it to the stage where you're project managing it to get it back, so we can actually run self-sufficiently and start making some money.*

Yet, the community has come up against the regulatory constraints of the colonial planning system imposed on Wurundjeri Country. In Aunty Margaret's words this is a *'really classic example of how things happen that we have no control over'*. Nangenala, or the cultural centre, is proposed for an existing building that needs substantial refurbishment. When the community put in an application for a building permit to be able to renovate and refurbish the building, the reply from Yarra Ranges Council was:

> *'Aw, that site's not zoned for a cultural centre.' So now we are struggling to get a building permit. How dare they tell us we cannot have a cultural centre on our most sacred of sites? That has already got the building there, by the way. All we're trying to do is refresh it. We're not pulling the structure down, we're just refurbishing. That to me is completely ridiculous and I find that really really difficult to swallow. We're trying to navigate the waters of the planning department, and if they don't come to the party soon we're gonna take it to the Minister for Planning. There is no in-between in my eyes, the government can't not allow us to do this. So as much as you wanna know about success stories, sorry, this to me is the forefront. You're hitting your head on a brick wall almost. (Aunty Margaret Parisi)*

The members of the Subcommittee had an important discussion about the cultural centre, which is presented here in full:

> ***Margaret:*** *It's painful, and frustrating and it is upsetting because it's like we're still being told that, as much as that land actually belongs to us, we're still being told that you cannot do what you want to do there. And it's for the community, it's for the Wurundjeri. It doesn't matter what you say to the planners, they're just looking at a rule book saying, 'Nup, you can't do that, you can't have that, but if you wanted to mine for stones and whatever you could do that.'*
>
> ***Georgina:*** *Well, how did it operate before?*

Margaret: *Well, this is the thing. When the government took it back, my understanding is that it has been rezoned. So I said, 'Well, why can't you just rezone it back?' For me, that was a no-brainer, but obviously they've got their processes to follow. This comes back to they're colonialists, I guess, and they follow those rules. Their processes don't take into account the fact that you're telling us what we can and can't do on our own land. It's very frustrating.*

Georgina: *At this rate they'll be wanting it back*

Margaret: *They can't get it back, we wouldn't let that happen.*

Alice: *We've just gotta keep going, don't we Margaret.*

Margaret: *Keep going. Yeah, Aunty Al, yep. Keep going.*

Emma: *More good points for Treaty though, when land is handed back.*

These kinds of experiences are widespread. They constitute the norm of the way that Wurundjeri experience trying to achieve their priorities and objectives in a self-determining way. Aunty Alice and Aunty Margaret yarn further about it:

Alice: *It's like we've had a rope pulling us back. [It was] such a long time [before] they actually gave it back.*

Margaret: *Trying to go forward … We're trying, we wanna do things, the Aboriginal economic development aspect of this. We want to be able to do things for ourselves. The self-determination stuff. It's there, right there at this place, we just, you know, the shackle comes to mind. We just can't get out of the shackles. It's ridiculous.*

Margaret: *The sad thing about it is that we've got three grants, one of them is from federal government, they won't extend us allowing to spend the grant past the end of this year. We've tried twice to extend it. We might be able to change the scope, but we can't extend it. And if we can't start the building side of it soon, we've got no chance in hell of spending that money, then that's gonna damage our ability to go through another grant application cycle, and ask for money to do the exact same thing.*

Alice: *That's meant to be for our self-determination, and they're just pulling us back all the time.*

Margaret: *So these are the frustrations. And it's not the only project that gets into this sort of area. We've gotta spend the funding, you've got until the end of this month, quickly spend it all. We don't want to rush and do a slap-stick job. We should be able to say, 'You gave us money to do something, we've hit a few bumps in the road that's caused us to not be able to spend it by this date.' To us, dates are not important, it's the end product. We will have our cultural centre and it will be self-sufficient, we will be employing some Indigenous People. Frustrating.*

Emma: *In the tourism space, there is that much opportunity. It's great to have the opportunity to have cultural experiences in other organisations and whatnot, but I'm really excited and passionate about having [it] at Nangenala and having it with its people.*

Margaret: *Do you know what the saddest part of it is? It would be a key thing on the Yarra trail, it would be a key point of tourist attraction I should say, on the Yarra trail.*

Emma: *You'll get the support though Aunty Marg, I believe you will. Somehow.*

2.4 Dharug experiences and expectations of urban policy

This section provides the contribution from Dharug custodians who participated in this research, approved by each individual participant and by the group as to the appropriate framing of the yarns that were held. Some Dharug participants requested that their contribution be anonymised and some participants preferred to be named. This is reflected in the sections below.

2.4.1 Why urban policy matters to Dharug Traditional Custodians

Dharug custodians spoke about why so much effort is made to engage with urban policy. This is because of the vital importance of access to Dharug Ngurra (Country), both to leave space for Country to heal, and to ensure that Dharug mob can be back on Country. They spoke about how this was grounded in the assertion of their ongoing sovereignty, as Participant 9 stated, because: *'we've got our custodial role of looking after that Country'.* A significant part of that custodial role is as Participant 13 stated: to *'make sure the stories are being told about the area … so it's not forgotten'.*

Leaving space for Country to heal and ensuring access for Dharug mob can only come about through actual decision-making and power about developments that impact Dharug Ngurra. This includes *'working in the right ways with our community'* (Participant 9) and *'at the beginning, not at the end where you get stuck'* (Cassandra Butler). Some of the outcomes that Dharug people spoke about as meaningful included influence on actual development decision outcomes to improve those outcomes, as well as a strong *'visibility of Dharug presence and story in the landscape'* (Participant 10).

Such outcomes are achieved by looking at the connections with Dharug knowledges, cultural protocols and places:

> *Where are the layerings that our knowledge systems need to be brought into the operation of that thing? You can do the same process for an office building, you can do the same process for a swimming pool. It's looking at what it's connected to, every value layer of that and what the reasoning [is for] … putting that thing there. (Participant 9)*

This is important, and very different from how the planning system and approach to development usually works, which is highly fragmented and site-by-site. This sits in tension with Dharug knowledge and worldview because, as Participant 9 observed:

> *The interconnectedness of each portion of land being developed is often ignored. That's really frustrating for community, because we don't see it as one block, we see it as a whole cultural ecosystem.*

Indeed, being genuinely involved in good ways within urban decision-making represents an opportunity, as Brendan Thomas sees it, to *'come together … reconnect and overcome some of that fragmentation, share knowledge amongst each other as well and grow in strength as a community'*.

Following the appropriate cultural protocol and having the right people speaking for Country is of utmost importance. Also important is the next generation and how to create change:

> *I think my role is giving back to my community, and learning as much as I can learn, and learning how to open those doors for everyone else and enabling them to walk as well, through the door. (Participant 9)*

2.4.2 Barriers and frustrations

However, the Dharug experience of urban policy engagement falls well short of what participants expected good engagement to look like. A number of concerns arose during yarns with Dharug participants, including timescales, resources, practices and power.

The timescale in which the development industry and policy makers work was perceived as *'inappropriate for community engagement'* (Participant 9). There was a strong understanding of what drives the development industry—particularly efficiency and money. Yet these, as well as rushed government processes, sit at odds with the experience of community members who, above all, need time to understand the impacts on Dharug Ngurra, the proposed project, as well as find each other, come together and assess why community needs to be involved in the project and on what basis. A common experience is that some understanding of the importance of engagement with Traditional Custodians has percolated the industry, but this occurs as an afterthought. One participant described it like this:

> *And it's almost like the industry at the moment is like, 'Oh no, we have to do this, and we haven't done it, and we forgot and now we need to do it really quickly' [laughs]. (Participant 9)*

Related to the rushed and compressed timeframes of industry and policy worlds is the amount of time that custodians need to develop the necessary relationships and skills. Cassandra Butler spoke about the experience of engagement on large urban infrastructure projects:

> *[They] invite you to the table only to … when you ask them, 'OK, well what's the next? What's the lifespan of the project? And what happens after that?' … to have them sit there with crickets and not even know because they haven't thought about it. That's alarming.*

Often there are significant structural and procedural impositions that create significant barriers to engagement. Brendan Thomas spoke about the sense of *'hitting your head against a brick wall'* of things like procurement profiles, training requirements of working with government, and other procedural hoops that limit and constrain meaningful engagement. One standard practice used by different actors in the industry seeking to engage is that of '*being wheeled in for one hour at a time*'. Brendan spoke about this model and its problems:

> *When you're wheeled in for one hour at a time, if you translate that to the commercial world, it's just a bit of an idiotic concept. 'We'll wheel you in, pay by the hour, and then see if you can tell us one golden bit of input on a billion-dollar project, with zero overarching knowledge.' Translated to any other professional services engagement, it's not even comprehensible … The style of engagement with community at the moment, where it is bringing you in hour by hour … it makes absolutely no financial sense at all, from a business fundamentals [perspective]. I think it is one of those [cases] where it's falling into that gelling of the two worlds. Ultimately, lots of this engagement is a professional service, and it's arguably a more unique professional service than lots of your other ones, so why isn't it treated [that way]?*

This highly transactional approach to consultation produces poor results. Brendan Thomas spoke about an experience where an organisation had requested all Registered Aboriginal Parties (RAPs) to be present at a meeting: *'I think there was—no word of a lie—20 RAPs had turned up … they were there for three hours and not a single one of them said a word.'* A more relationship-based framework with good governance grounded in cultural protocol is more likely to get the 'right outcomes' than such an approach.

This can be seen in the type of philosophy and culture that a particular organisation or individual might bring to an attempt at engagement. Participant 9 identified two ways that this can occur:

1. A 'promotion focus', where the organisation is '*looking actively for opportunities and they're inspired by what the potentiality is of working with different perspectives in their whole development*'.

2. A 'prevention focus', which is more about *'we're only doing this because we have to'*. The experience is that most development projects are forced by something, such as unlocking more density or jumping through a procedural hoop (which Brendan Thomas identified as *'structurally forced'*).

Whatever philosophy and mindset is driving the project *'sets the tone of the engagement'* (Participant 9). A prevention focus 'puts you behind before you've even started on the intent of that engagement' (Brendan Thomas). For this reason, the promotion focus is the preference, as this '*makes the whole thing work'*.

Engagement that is structurally forced and driven by transactional approaches provides no space for reflection on practice and, most importantly, no space for custodians to be able to say: *'Actually, I don't like how you did that, that made me feel crap … Let's talk about how we do it differently next time'* (Cassandra Butler). The outcomes of such approaches are harmful—particularly when they are also heavily constrained by inappropriate timeframes. Cassandra Butler reflected on one project where the organisation responded with:

> *'We heard what you said, but we already engaged with these other people who told us something else. And so therefore, we're going with what they've said, even though we know that it's not right. And that there's a date, so we have to have it done by then.'. Like, that's gross. Yuck.*

Lack of understanding, awareness and education was identified by Dharug custodians as significant in shaping experiences of engagement:

> *When you're looking at positions of power, and people in these roles that hold perceived positions of power, decision-making, what you've got underneath often is someone who's terrified of culture because they're usually not Indigenous. And this country, we all know, doesn't have a clue. I hear it on a daily basis in my role in the education system—that teachers, especially the ones at the forefront of changing all of this in generations to come, are terrified of doing it wrong. Terrified because they don't understand. … It's a really long journey to understand culture and community. I mean, [we] wouldn't ever pretend to know what goes on in other people's mobs and clans. (Cassandra Butler)*

Cassandra shared a small example of a conversation with someone in charge of bookings at Parramatta Council:

> *I was booking a rotunda, or whatever you call it, for some Elders that were coming there, [and she said] that we couldn't do a smoking [ceremony] because the grass is heritage-listed [Everyone laughs.] So I always think about that [as an] example of someone who isn't culturally competent, for lack of a better word. But it's not her fault. It's a larger problem there, that the organisation and the general population in this country doesn't have a clue and is mildly terrified of culture and getting it wrong.*

This manifests in poor practice around resourcing, which is experienced as profoundly tokenistic. Participants spoke about some examples, such as a local council process that offered RAPs a gift voucher or $50 if they got involved. This was reported as deeply insulting.

The extent to which these experiences are the norm and widespread confirms what Participant 9 identified as a *'culture around development and development approvals'* that arises from the lack of education, understanding and a baked-in misrecognition about the importance of Country, cultural protocols and custodians rights and responsibilities. For this reason, Dharug people continually pointed to the importance of '*looking at the whole system rather than looking at just the legislation of the policy, or the approvals process'* (Participant 9).

2.4.3 Load on community

A considerable barrier spoken about was the load that community members experience, and how this load is both largely unacknowledged and unaccounted for within government or industry engagement practices, as well as what particular needs and requirements arise from that load.

At the simplest level, engagement on urban development and policy matters creates load for community members, or what Participant 9 described as *'community admin that needs to happen in the back end before we can even get on Country to have a look at how we might be influencing the design and development'*. This community admin includes:

- appropriate budgets and how they will be organised
- agreements and other contractual arrangements
- travel and other support requirements.

This is in addition to the work required to fully understand the systems, processes and people involved in any given engagement:

> *There's more work to do to look at who's on board, and how can we do it, and what does it look like, and is it worthwhile, and will it make change, and will it provide opportunity or not. And then having to do that behind the scenes with community, to look at whether it's worthwhile and what does it mean for our futures, and our future's futures. (Cassandra Butler)*

Yet this quite significant load is routinely unacknowledged and unrecognised in the approaches and practices to engagement. Cassandra described the impact where an organisation wants an engagement 'five minutes ago':

> *You don't have families, cultural commitments, jobs, real lives outside of what we need from you to get this thing over the line. The tokenistic nature of some of those processes … can be wildly infuriating at times, and actually causes harm to community. Whilst we want to be there, and we want to commit for genuine reasons, sometimes that gets really difficult to squeeze it all in … Because it's not just one project, there's millions of them.*

As a result, community members feel that they end up *'wearing a thousand different hats'* (Brendan Thomas). At the same time, custodians may not feel fully equipped with the appropriate skills and resources they feel they need to do these multiple roles. This can result in significant cultural, social, economic and financial harms that further burden interpersonal relationships and wellbeing.

Dharug community is strong and enduring, a particularly notable fact given that this community has survived more than 230 years of colonial violence. Yet even with this strength, poor engagement practices can have lasting and challenging impacts that are experienced at worst as more colonial harm and at best as *'counterproductive'* (Brendan Thomas). The importance of participating meaningfully in decisions about Country cannot be overstated, yet this sometimes becomes a negative outcome as a result of poor engagement approaches, misunderstanding and lack of education, bad processes, lack of funding and incorrect assumptions.

Dharug people have experienced trauma from colonisation, and continue to experience it. To redress that and the injustice of colonisation, Dharug community take on projects because they are so important—but this can often lead to burn out:

> *They'll take it on because it's community or its Country or whatever it is—but then you end up with just crash and burn. It's hard and it's people's families, and it's their lives that we're talking about here. So it's important to respect and acknowledge what other people are going through. (Cassandra Butler)*

In many respects the problem goes much deeper than poor processes, and is a systemic form of abuse known as *'paper abuse',* with significant parallels:

> *Between domestic violence and the violence that happens on Country around Voice. And there's a concept there called paper abuse, which I think needs to be called out here because that's really what the systemic abuse is that's happening here. It's all on paper: legislation, policies … (Participant 9)*

2.4.4 (Not) following cultural protocol

For Dharug people, the importance of following cultural protocol cannot be overstated. Like all First Nations communities, Dharug people adhere to cultural protocols, which can also be conceptualised and named as self-determination and law/lore. Cultural protocols are about who can speak about and on what Country, and are thus expressions and practices of sovereignty.

Yet engagement practices within urban policy and development industry very often fail to realise or recognise that cultural protocols exist. This most frequently manifests as having the wrong people speaking for Country, or asking one First Nations person to *'speak on behalf of'* entire communities or other Nations. This was characterised as a *'systemic abuse of culture'* (Participant 9):

> *It just seems a bit of a stupid process really, to have all these voices in the mix that don't have that custodial responsibility. Particularly for Dharug mob, I don't know any Dharug mob that wants to head off over the mountains into [another Nation name] Country and start dictating what happens up there. So, it's just really culturally obtuse to come down onto our Country [and do that]. (Participant 9)*

This is a widespread challenge for First Nations communities across the continent and elsewhere (see Chapter 1 and Section 2.2), and perhaps particularly through south-eastern Australia where this project is located. The NSW *Aboriginal Land Rights Act 1983* (ALRA) is also identified as having produced many of the challenges that Dharug people now have to grapple with. The ALRA established a system of Local Aboriginal Land Councils across most of the state with no necessary relationship between actual nation and clan governance and organisation across different Country (see Chapter 3). The result is a complex and diverse situation where some Land Councils have strong representation of custodians for the Country they operate on and hold land on, whereas others have a much looser connection with Traditional Custodians—or no connection. This was the case reported by Dharug custodians in this research. As Land Councils hold a position given authority by settler legislation—the ALRA—this sets up a hierarchy of engagement and consultation that frequently undermines the correct cultural protocol. Cassandra Butler described the system as having set up Land Councils as the *'perceived hierarchy of where you go … for feedback on this Ngurra [Country], or this clan area'.* This directly contravenes the correct cultural protocol of speaking to Traditional Custodians—in this case, Dharug people.

The ALRA can, from the perspective and experience of Dharug people, cause untold harm, such as the experience of *'having to actually sometimes knock on the door and say 'actually we do exist, we are here',* [that] can be really difficult too' (Cassandra Butler). The lack of clarity and misunderstanding that the ALRA can create regarding the appropriate cultural protocol for who can speak for Country also breeds poor engagement in other ways. As some modest understanding and recognition of the problem begins to seep into urban policy fields and development decision-making, some organisations attempt to seek Dharug input alongside that of relevant Land Councils. But as Participant 9 reflects, this creates a new challenge:

> *Customers or developers will be saying, 'Ohh, but we only get charged five grand to do this with the Land Council and you guys are charging more than that. Why? And why should we pay the extra to deal with different people?' I think that's a real challenge for community.*

Addressing these challenges also creates enormous cultural load. For Dharug people contributing to this study, the challenges are around empowering themselves and their own community members to '*stand up and actually have a voice*' (Cassandra Butler), even to simply correct inaccurate or misleading information being provided within a process by someone who is not a member of the Dharug community. It also involves a lot of '*working through what the appropriate governance is, who the right people are, what consultation genuinely looks like*' (Brendan Thomas). This poses a major challenge and at the current time there is little good governance around this.

There is a sense of a changing order, even in the face of these challenges, as organisations become increasingly concerned about reputational risk. Participant 9 discussed this:

> *A high risk factor of engaging someone that's not a custodian on Country is the political fallout and the brand risk to your business if you start being talked about in a non-complimentary way in the marketplace. No one wants to be that organisation that just ticks the box.*

This shifting awareness offers opportunities to leverage further change.

During the yarn, the question of power came up and the importance of defining what is meant by power. The concern and observation was that in talking about how legislation and other policy creates forms of authority and power—which is often vested in the wrong people or in the wrong processes or outcomes—that to speak of this as power is to, in Participant 9's words, *'inadvertently entrench, or further entrench power'*. It became important during the yarn to distinguish between 'perceived power, rather than actual power', particularly in relation to the position Land Councils hold. Here, Participant 9 was very clear on clarifying that the perceived power held by Land Councils derives from a structure like a piece of legislation and that this power is actually *'tenuous and quite vulnerable'.* Actual power, and genuine cultural authority, rests with custodians and this is a clear distinction from the manufactured power and authority some organisations are able to wield through the colonial system and its legislative tools. In this way, Dharug participants were clearly identifying Dharug sovereignty as a source of power and proper cultural authority.

2.4.5 Levers for change

Systemic change was at the forefront of discussions about what was needed to address *'the systems that disempower our people to have our own voices'* (Participant 9). There was a sense also that the conflict and lateral violence often arising from the ALRA structure can be a distraction from addressing the systemic and underlying structures that cause the oppression, marginalisation and dispossession of First Nations people. As Participant 9 went on:

> *I would rather spend my time deconstructing the systems that prevent our people from full participation on our Country than having yarns about who has more power in this situation. And you have to go to the source of power to change things.*

Indeed, the ALRA itself was seen as a potential lever for change, though as yet untapped, because understanding legislation and the tools it might provide is often a technical and quite resource-hungry task that imposes a further load on community. Participant 9 talked about this at length:

> *I have been through the [NSW ALR] Act a few times, and I think part of the challenge is that our mob don't understand where the levers of power are in the Act. We haven't coalesced around what the opportunities are to make changes in the Act, because legislation's whitefella stuff and it's quite boring for a lot of people, but if you're a policy nerd, then that's where you find the keys to the kingdom, I guess, in the Act. We do have a lot of levers that we can pull using the Act as it exists, and so I think maybe it's more about us coming together as mob and trying to drive change through those tools that are in the Act for us to be able to bring more power forward around development and land.*

Systemic change requires working across many different sectors, communities of practice and domains. Again, Participant 9 talked about her experience watching Elders engage with the system, only to be left burnt out:

> *I've seen so many mob, and our Elders, that have been having so much energy towards the system, and trying to change the system from within it, and being completely burnt out and exhausted that we have to find another way to tackle the abuse of power that's happening on our Country. And I believe that only can happen through systemic changes and us using all the vehicles that we have available to us. There's legislation, there's academia, there's industry, there's business, there's human rights. There's a whole bunch of avenues that we're tackling this issue on together and independently.*

As noted earlier, people talked about a sense of a shift in education and awareness within industry. This shift also offers opportunity for further leverage and systemic change, where non-Indigenous organisations and individuals have done their own reflective work to learn more about what Participant 9 described as the *'political context of where they operate',* which has increased the awareness more generally in the non-Indigenous community. This means that those people are more empowered with knowledge of the correct cultural protocols and know that if Dharug people are not present in engagement, then the right people are not talking for Country.

Yet legislation is also sometimes a barrier. Many of the people participating in this yarn are involved in different business sectors as a choice because, as Participant 9 observed:

> *There's no legislation in the Sydney basin, or in NSW, or in Australia that says that we can't assert our cultural authority through business … We don't have to intersect with Land Council through business. We don't have to be part of that narrative and get sucked into really emotionally and monetarily draining things. That allows us to focus our energy on getting runs on the board for community.*

Working with industry also means a greater capacity and freedom to choose who to work with, or as Participant 9 aptly put it: *'electing to work only with the people that want to row in the canoe with us and not drill holes in it'.* There are many ways of working with industry that Dharug people are pursuing, as they can provide real opportunities for genuine change. One idea was the financial model about engagement through a *'shared equity in the investment'* model (Participant 9) instead of a one-off engagement fee that provides relatively low return to community and fails to recognise the underlying sovereign interest that Dharug have in their own Country.

This further raises the question of wider legal structures to protect custodians' interests, rights and, in particular, knowledges. Participant 9 spoke about the importance of *'legislating for Australia collective IP [intellectual property]'.* Legislative protection of collective Indigenous Cultural and Intellectual Property (ICIP) was seen as a potential *'game changer'* (Participant 9) to recognise the collectively held nature of knowledge, and how cultural protocols and Dharug law/lore should inform settler legislative protection mechanisms.

There was a long yarn about the importance of understanding where to influence or speak up and press on matters of concern. The systems of oppression that have impacted the Dharug community are challenging to emerge from or, as Participant 9 observed, learning to become *'comfortable with harnessing our power'* which is vital to be used *'for Country and for culture in good ways'.* Finding spheres of influence outside of government policy circles is seen as useful. Corporate social responsibility efforts are enabling Dharug to see potential for influence on shareholders and the social conscience of some organisations. As Participant 9 observed:

> *There's a lot of the next generation of kids that we've raised are bloody strong … that are gonna be their customer base for housing and the products that they serve. I think they have an enormous amount of influence in the future.*

The flip side of that is when organisations who have not been 'on the journey' are required to engage with custodians due to legislative or policy requirements. This is perceived as being likely to create new tensions and challenges for Dharug community.

But this requires a tenacious ability and resources to hold organisations and policy makers to account, as well as speaking out when promises that have been made are undermined or quietly shelved. As well as the courage and knowledge to practise a further sphere of influence—and that is '*withdrawal*' (Participant 9), and a refusal to engage where processes and outcomes are not positive and self-determining for Dharug people.

2.5 Policy implications

The finding that genuine, long-term, agenda-free relationships are the most fundamental element of government or other industry practice with First Nations peoples is not new. This research adds to a large body of existing evidence to confirm the importance of this point. Thus the implication is that urban policy is not yet sufficiently heeding this call. First Nations practitioners and Traditional Custodians clearly report in this study that non-Indigenous policy and practice spaces are not paying effective attention to the importance of building such relationships.

Practices being advocated by First Nations people focus on starting early, long before a 'project' or specific process requires engagement. Trust must be built over time, unlinked to a particular agenda, output or key deliverable. Such practices will inevitably sit in tension—sometimes in direct conflict—with the pressures, timelines and expectations of urban policy worlds. The policy implication is that to attend to this most important of findings, new practices must be built from the ground up.

A strong relationship can then form the basis for materially changing practice, process and policy itself to reduce and remove the barriers that Traditional Custodians experience fulfilling their obligations and authority for Country. Removing barriers will challenge long-held assumptions, worldviews and practices and so this will inevitably require difficult work in policy spaces. It will require building models for urban governance that shift the locus of power toward a meaningful understanding of self-determination.

Building and sustaining relationships, and creating new processes and models must be supported with resources for First Nations—and especially for Traditional Custodians. This research has offered insights into where those resources are most needed and what formats work best. Dedicated resource structures that are secure, ongoing and transcend piecemeal project-by-project funding are essential. Different models exist, and more work could be done to discern what works in other jurisdictions and how learnings must respond to particular circumstances and contexts that different Traditional Custodian groups face.

The research raises significant policy implications for the challenging context where Traditional Custodians do not have an official entity, representative body or legislated voice. The harm caused when Traditional Custodian voices are not central to decision-making and input about matters that impact their Country should be of serious concern to urban policy. Working with First Nations urban practitioners can assist here. Those people need to be fully supported by government institutions, agencies and corporations in full recognition that their work must align with the objectives and timeframes of communities. Measures and practices that support cultural safety are paramount.

The burden of urban policy engagement on Traditional Custodians and First Nations communities generally is real and of immediate concern. People report being marginalised and overwhelmed simultaneously. This apparent paradox is a reality that urban policy must recognise and respect. Addressing this burden will require strong relationships and attending to the structural and material shifts required in policy and process, as outlined earlier.

There are several practical areas for immediate attention:

- Building stronger, more intentional governance around relationships that can survive the churn of staff movements and departmental restructures will help sustain relationships and ameliorate the experience of constantly needing to deal with someone new.
- Coordinating with other agencies and institutions on timeframes, projects and budgets will help lift the burden of policy engagement from the shoulders of Traditional Custodians and use existing institutional resources to build better links.
- Ensuring that the input provided by Traditional Custodians is actually implemented will begin to help relieve frustration and marginalisation.

Each of these areas is the responsibility of urban policy professions and institutions.

3. Settler policy impacting First Nations Country, culture and community

- **Australia is failing to comply with the United Nations Declaration on the Rights of Indigenous Peoples, particularly in relation to self-determination and free, prior and informed consent.**
- **Recognition of First Nations people that does exist in Australian land policy provides no sharing of power, and is generally constrained to limited forms of 'voice' and 'engagement'.**
- **Urban policy frameworks that seek to 'recognise' First Nations people are fractured, complex and produce shallow forms of recognition.**
- **There is inadequate recognition and protection, particularly in urban policy contexts of Indigenous cultural and intellectual property.**
- **Where Treaty and self-determination are embedded in policy frameworks these can change the landscape of possibility in policy practice.**
    - In Victoria, the Pathway to Treaty has positioned self-determination more strongly within and across policy and legislation—but does not as yet address critical elements of power-sharing.

This chapter provides a synthesis of the vast and complex array of law and policy documents that affect how First Nations peoples engage with urban policy nationally, and in relation to Wurundjeri Woi-Wurrung and Dharug Country in Victoria and NSW, respectively. The legislation and policy documents included in analysis for this research include international declarations, federal and state statutes, regulations, and Ministerial directions, and a wide range of policies, plans, guidelines, reports, and discussion papers. A selection of the most relevant documents is presented here; a full and detailed account is provided in the policy synthesis paper by Wensing and Kelly (2024).

3.1 Existing research on the impact of policy on First Nations Country, community and culture

There is an enormous body of existing research about the relationship between settler-state policy and First Nations peoples in Australia. For this research, we have focussed on understanding what policy is doing (see Chapter 1) as a set of textual artefacts that *'shape conditions of possibility in the present and future'* (Lea 2020: 117). Of particular importance from this literature is the observation in policy studies of *'settler unilateralism'* (Strakosch 2019). In a settler-colonial context, the state perpetually reinforces the presumption that it is the legitimate authority and basis of law. This is required to shore up the legitimacy of an illegitimately imposed state architecture, because First Nations people have not ceded their political authority over their own lands and waters. As O'Sullivan (2020: 109) has argued, self-determination by definition *'presumes that the state cannot exercise singular or unilateral authority'.* As we will see in this chapter, the question of power and authority is fundamental to understanding the urban policy architecture that impacts First Nations Country.

This links to certain principles that have become of great significance for Indigenous peoples globally. Self-determination and free, prior and informed consent are frequently positioned in existing research as essential to ensuring the rights of First Nations peoples are upheld. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) enshrines these critically important and inextricably intertwined human rights principles (Nosek 2017: 125). As Anaya (2009: 186) notes, self-determination '*is a right that inheres in human beings themselves'* and which '*derives from common conceptions about the essential nature of human beings … individually and as groups'.* According to Dodson (1994b: 10):

> *By any reasonable definition, Indigenous peoples are unambiguously 'peoples'. We are united by common territories, cultures, traditions, histories, languages, institutions and beliefs. We share a kinship and identity, a consciousness as distinct peoples and a political will to exist as distinct peoples.*

However, even where self-determination is mentioned in state policy architectures, these generally fail to concede any meaningful power to First Nations peoples. As Hather (2021) found, in relation to new planning policies attending to First Nations perspectives in NSW, this results in *'a limited and compromised form of self-determination'.* In Chapter 1, we discussed the existing research that has demonstrated that where inclusion and participation models stand in for genuine power-sharing and actual self-determination in urban policy and planning, the results are a very tokenistic form of recognition.

There is also a substantial international evidence-base about one of the primary policy architectures that impacts First Nations Country and political authority: property regimes. Although analysis of the functions and architecture of property law and policy were not in the scope of this research, it is important to recognise how profoundly this shapes both the urban policy domain and the space for First Nations people to assert and exercise their rights and obligations for Country. Property has been the subject of sustained critical analysis in its relationship to colonialism—and to settler-colonialism in particular (Watson 2015). This analysis has observed the ethos of possession that underpins property regimes globally and demonstrated how the norms of possessiveness powerfully shape social and spatial relations (see Moreton-Robinson 2015).

As we will show, one especially significant way that the existence of property regimes impacts First Nations peoples and their Country is by limiting the extent of claims for restitution of lands and waters, whether through statutory land rights regimes or the native title system.

This is so even within policy and legislative frameworks attending to First Nations rights. In this research, we examine native title and statutory land rights legislation as two germane policy areas. The existing research about native title is considerable, examining:

- the High Court's decision and development of legislative frameworks (French and Lane 2002; Rowse 1993; Strelein 2005; Tehan 2003)
- the coloniality inherent in native title as a settler legal construct (Attwood 2020; Foley 2007)
- the social impacts of native title (Smith and Morphy 2007), especially on First Nations peoples self-determination (Ritter 2020; Yu 1996).

Research has defined native title as an act of 'statecraft' (Scott 1998: 77) because First Nations peoples *'don't belong anywhere unless they can prove their title according to criteria established by the state'* (Moreton-Robinson 2015: 16), and their rights and interests are always subject to extinguishment by the state (O'Sullivan 2021: 36, 40; Wensing 2019: 80). A significant body of research has also examined the relationship between native title and land use (Tehan 1998). Other domains of land policy particularly focussed on land and nature conservation (Lane, Brown et al. 1997; Myers 1995; Smith 1998; Weir 2012), and the extent to which native title can be leveraged for other forms of land-based economic development (Wensing 2019; Wensing and Taylor 2012).

Urbanisation creates a particular geography of property relations that profoundly shapes how urban planning systems function, and the role of urban policy. The existence of urban settlements means that it is extremely difficult for First Nations to reassert their voices and presence inside the cadastral grid of dispossession (Byrne 2003: 177) that came with the development of cities and regional centres. Urban areas, particularly large metropolitan conurbations, are structurally difficult geographies for achieving recognition of native title (Wensing and Porter 2016) or other land rights restitution due to the density of private freehold extinguishment. A small but important body of evidence has drawn attention to the relationship between native title, land rights and urban policy domains (Jackson 2018; Johnson, Porter et al. 2018; Sheehan 2009; Wensing 2018, 2023b). This research has demonstrated the importance of thinking beyond the limiting confines of native title, especially in relation to understanding ongoing First Nations obligations and rights to lands and waters—regardless of whether a formal land claim exists or has succeeded does not change the underlying connection and authority of First Nations people to their Country.

3.2 Policy recognition of First Nations rights and self-determination

This section examines the policy responses to First Nations calls and political action to assert their unceded sovereignty and rights. We begin with the international sphere, where significant frameworks exist for understanding settler-state relationships with Indigenous peoples, before examining the policy contexts in Australia nationally and in Victoria and NSW specifically. A full account of the policy analysis undertaken for this research is provided in the policy synthesis paper by Wensing and Kelly (2024), which should be read as an accompanying explanatory document for the selections provided in this chapter.

3.2.1 International instruments for recognition

There are two international human rights instruments that focus explicitly on the rights and interests of Indigenous peoples. These are the:

- International Labour Organization (ILO) *Convention No. 169 Indigenous and Tribal Peoples Convention* (ILO 1989)
- United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) (United Nations 2007).

First Nations peoples are increasingly demanding the application of such international human rights instruments to matters that affect their lives, including in urban policy contexts. However, the capacity of these two instruments to elevate First Nations human rights is curtailed for two reasons:

1. Australia is not a signatory to the ILO Convention No. 169
2. UNDRIP *'creates no binding legal obligations in domestic legal systems'* (Lino 2010: 848).

UNDRIP was developed by Indigenous peoples around the world, and adopted by an overwhelming majority of member states on 13 September 2007 (143 states adopted, 11 abstained, four opposed). Four states voted against UNDRIP: Canada, Australia, New Zealand and the United States (CANZUS states). All four CANZUS countries have since reversed their positions and endorsed UNDRIP. Indeed, Canada and New Zealand are moving toward incorporating UNDRIP into domestic law (Wensing 2021b).

UNDRIP carries substantial normative weight and legitimacy, as it was produced in consultation with, and with the support of, Indigenous peoples worldwide, and was adopted by the UN General Assembly (Lino 2010; Wensing 2021b). However, UNDRIP is not a covenant that binds nation-states to international law. Instead, it is a declaration that sets out the minimum standards to which nation-states should adhere and be measured against.

These standards enshrine minimum standards about survival, dignity and the wellbeing of Indigenous peoples around the world. UNDRIP draws on existing rights from other international laws and conventions, such as the *Universal Declaration of Human Rights*, and explains how these apply to Indigenous peoples. Indeed, UNDRIP is an extension of the standards found in many other human rights treaties that have been ratified by and are binding on Member States, including the *International Covenant on Civil and Political Rights* (ICCPR), the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), and the *International Convention on the Elimination of All Forms of Racial Discrimination* (UN 2013: 17).

One of the most important principles in UNDRIP is the right of Indigenous peoples to self-determination. The principle of self-determination is enshrined in the UN Charter of 1945. It is a collective right that can only be asserted by groups that are identified as peoples (Weller 2018: 119). Since that time, the concept of self-determination has evolved into Common Article 1 in the ICCPR and the ICESCR, both adopted in 1966 (UN 1966a, 1966b) with identical language:

> *All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*

UNDRIP declares an explicit right to self-determination (Articles 3, 4, 5, 18 and 23 include references of express provisions), and procedural rights such as the right to 'free, prior and informed consent' (Articles 10, 11, 19, 28 and 29). Lino (2010) highlights that UNDRIP details what the right of self-determination means in practice, explaining how rights of self-determination not only comprise notions of *'autonomy, self-governance, and political participation'*, but also extend to *'rights in relation to lands, territories and resources, numerous economic, social and cultural rights'* (Lino 2010: 849).

However, there are firm limits on UNDRIP's ability to decolonise settler-colonial contexts. Article 46 of UNDRIP preserves the territorial integrity of states, excluding the possibility of secession. As Engle highlights, *'the Declaration seals the deal: external forms of self-determination are off the table'* (Engle 2011: 147). This speaks to the limitations of a rights-based approach such as UNDRIP in fully reckoning with the fact that settler-state formations are imposed forcefully upon Indigenous societies and polities (see Fourmile 1999; Watson 2015).

However, UNDRIP is pertinent to the recognition of First Nations peoples' rights and interests in urban contexts throughout Australia. In becoming a signatory to UNDRIP, Australian governments (federal, state/territory and local) can no longer make decisions that affect First Nations peoples' rights and interests by imposition. Rather, they have a duty to consult on the basis of free, prior, and informed consent, especially when First Nations peoples' rights and interests will be affected.

Yet, at the time of writing, there are no references to UNDRIP in planning legislation in either NSW or Victoria, and relatively few references in other policy documents. There are more references to UNDRIP in urban policy in Victoria than in NSW, which reflects the broader picture that human rights generally are not comprehensively protected in NSW. In contrast, Victoria has a Charter of Human Rights and Responsibilities, legislated under the Victorian *Charter of Human Rights and Responsibilities Act 2006*. Queensland and the Australian Capital Territory (ACT) also have human rights Acts. The extent to which the relevant provisions in the Human Rights Acts in Victoria, Queensland and the ACT could be used in an urban policy or planning context remains to be tested. However, it is a significant failing on Australia's part that almost 15 years after Australia endorsed UNDRIP, no effort has been made to implement UNDRIP and integrate it into Australian law, as so many other nations around the world have done or are doing (Hohmann and Weller 2018: 2; Wensing 2021b). Australia is failing to adhere to the principles and minimum standards of UNDRIP.

3.2.2 Recognition in Australia

Australia has seen almost a century of debate over how to best recognise First Nations political authority, knowledges and rights, and how First Nations voices should be involved in policy decision-making (Haughton and Kohen 2022).

In the 1920s and 1930s, there were many calls for representation in national government. For example, in 1937 Yorta Yorta man William Cooper gathered 1,814 signatures for a petition to King George V, calling for Aboriginal representation in the Australian Parliament (Attwood 2021: 169). By the 1960s, oppression from discriminatory and paternalistic state laws drove a successful campaign to change the Constitution, culminating in the 1967 referendum. This removed the exception to the Commonwealth's race power in Section 51(xxvi) and repealed Section 127, which precluded First Nations people from being included in *'reckoning the numbers of people of the Commonwealth'* (Lino 2018: 133).

Since 1972 there have been several government-supported representative bodies to advise government (see Table 2), all of which have been abolished or abandoned at the whims of government.

Table 2: Historic timeline of national-level Indigenous advisory bodies 1970s to 2020s

National-level advisory body	Representative or appointed by government	Year established	Year abolished	Years active
National Aboriginal Consultative Committee (NACC)	Representative	1973	1977	5
National Aboriginal Conference (NAC)	Representative	1977	1985	8
Aboriginal and Torres Strait Islander Commission (ATSIC)	Representative	1989	2005	16
National Indigenous Council	Appointed	2004	2007	3
National Congress of Australia's First Peoples (NCAFP)	Representative	2010	2019	9
Prime Minister's Indigenous Advisory Council	Appointed	2013	2017	4
Prime Minister's Indigenous Advisory Council	Appointed	2017	2021	4

Source: National Indigenous Australians Agency ([NIAA] 2020: 119).

The Council for Aboriginal Reconciliation, in its final report in 2000, recommended that the Australian Constitution be amended to recognise First Nations as the First Peoples of Australia, and to enshrine a constitutional protection against racial discrimination. This report kickstarted a public debate about constitutional recognition. In more recent years, First Nations people have emphasised the need for more substantive change, rather than symbolic change.

Since 2010, there have been several public processes, including two parliamentary committee inquiries, a Referendum Council, and more than 10 public reports on the topic of recognition (Davis 2023: 2), oversighted by no less than five prime ministers and five leaders of the opposition. They include the:

- *Expert Panel on Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution* (2012), which proposed recognition, reform of the constitutional 'race' power (subsection 51(xxvi)), a constitutional prohibition on racial discrimination and constitutional recognition of Aboriginal and Torres Strait Islander languages (Expert Panel 2012).
- *Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples* (2013–15), which recommended similar proposals to the 2012 Expert Panel (Joint Select Committee on Constitutional Recognition 2015).
- *Kirribilli Statement* (2015), which warned that 'minimalist' recognition was unacceptable and called for a national process to inform and consult Aboriginal and Torres Strait Islander people (statement presented by Aboriginal and Torres Strait Islander attendees at Kirribilli 2015).
- *Uluru Statement from the Heart* (2017, reaffirmed in 2022 by the Yarrabah Affirmation), which called for an enshrined First Nations Voice to Parliament and a Makarrata Commission (Referendum Council 2017a).
- *Referendum Council* (2017), which endorsed the Uluru Statement from the Heart, and suggested that the Voice should specifically monitor the Commonwealth's use of the 'race' and 'territories' constitutional heads of power (Referendum Council 2017b).
- *Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples* (2018) which called for a detailed design process to encompass both a national Voice and local and regional 'voices' (Joint Select Committee relating to Constitutional Recognition 2018).
- *Indigenous Voice Co-Design Process* (2019–2021), the Terms of Reference for which stated that recommendations on constitutional recognition were out of scope, produced a Final Report suggesting designs and implementation plans for local and regional voices feeding up to a national Voice, and that the Voice should particularly be consulted on laws specific to, or which significantly or distinctly impact on, Aboriginal and Torres Strait Islander people (NIAA 2021: 160).

All of these reports have given momentum to the push for recognition of First Nations peoples at the national level. Of particular importance is the Uluru Statement from the Heart (Uluru Statement), a powerful and historic consensus document on constitutional recognition, developed by First Nations peoples and released to the Australian public on 26 May 2017. The Uluru Statement is the culmination of a long, drawn-out debate about the need for Constitutional recognition and reform. It is significant because it:

- sets out the grievances of First Nations peoples
- includes mechanisms for addressing those grievances
- addresses the Australian people.

Similar to UNDRIP in the international arena, the Uluru Statement challenges colonial conventions and provides a mechanism to change the way legislative and policy decisions affecting First Nations peoples are made—including in relation to urban policy.

The Uluru Statement is an invitation and challenge to every Australian citizen to reflect deeply on the history of the nation, the injustice and inequality that colonialism has wrought on the First Peoples of Australia, and to instigate structural reforms that extend beyond the tokenism of previous initiatives to effect change. The three key elements in the Uluru Statement include Voice, Treaty and Truth. They reflect the outcomes of the Regional Dialogues that were held in the lead-up to the National Indigenous Constitutional Convention that was held at Uluru in May 2017. The implementation of each of these elements in this order is pertinent to self-determination by First Nations Peoples of Australia (Davis and Williams 2021: 151). All three key elements are very relevant to the Voicing of First Nations' rights and interests in urban policy. They have the potential to provide opportunities for embedding the voices of First Peoples into contemporary urban policy processes and planning systems.

In October 2023, Australian voters were asked to vote on a proposal to enshrine a body called the Aboriginal and Torres Strait Islander Voice to Parliament in the Constitution. An advisory body was proposed as a way of overcoming the rolling abolition of national advisory bodies that have been wound up at the whim of governments over the last 50 years (see Table 2). After a particularly bruising campaign for First Nations people, the referendum failed, with less than 40 per cent of legal votes in favour of the change and no majority in any of the six Australian states as required to change the Constitution (for an analysis of the results, see Baum and Mitchell 2024; Biddle, Gray et al. 2023.

This defeat has had a negative impact on the federal government's commitment to implement the other two elements of the *Uluru Statement from the Heart*. Following the release of the Productivity Commission's (2024) review of the implementation of the National Agreement on Closing the Gap and the Commonwealth's 2023 Annual Report on Closing the Gap and its third Implementation Plan (Commonwealth of Australia 2024), the Australian Government made several funding announcements about a range of specific initiatives, but remained silent on making any further announcements about treaty and truth-telling at the national level (NIAA 2024).

3.2.3 Victoria: Advancement of Treaty

In 2016, following a meeting with over 400 First Nations people in Victoria, the then Andrews Labor Government made a commitment to advancing self-determination through a Treaty process. A Treaty Interim Working Group was established to develop a pathway toward Treaty. This was ambitious, as a treaty has long been called for by First Nations people, but with no effective response from settler governments. The Victorian Government appeared to take a surprisingly bold approach by agreeing to apply self-determination as a whole-of-government principle to working with First Nations people in Victoria.

The Pathway to Treaty that Victoria has embarked on has involved the passage of legislation to enable key elements of the process to have the authority and legitimacy of the Victorian Parliament. Significant institutions have been established through these legislative mechanisms to build toward Treaty negotiations, including the First Peoples' Assembly of Victoria, the Yoorrook Commission and the Treaty Authority. These institutions, processes and mechanisms are unique in Australia, with no other government in Australia having taken any similar steps toward reconciling past grievances and placing self-determination at the heart of policy and legislative dealings with First Nations peoples.

3.2.4 NSW: OCHRE and local decision-making

In NSW, the overarching framework representing a recognition space of First Nations people is the OCHRE Plan. OCHRE is an acronym for opportunity, choice, healing, responsibility and empowerment, and responds to First Nations communities' deep connection with Country. The stated aim is *'to support strong Aboriginal communities in which Aboriginal people actively influence and participate fully in social, economic and cultural life'* (Aboriginal Affairs NSW 2013: 5). The Plan is implemented through major initiatives that include:

- linking education and employment
- language and culture
- local decision-making
- accountability (Aboriginal Affairs NSW 2013).

Spatially, the focus of the OCHRE initiatives are primarily in the regional and rural areas of NSW, and not so much in the larger urban centres of NSW. The NSW Ombudsman (2019: 18) has critically described the OCHRE initiative as *'an umbrella plan housing a number of discrete initiatives that have mostly operated separately from one another'* (see also Audit Office NSW 2011; NSW Ombudsman 2011).

While some elements of the OCHRE Plan are consistent with the principle of self-determination and have crept into other policy areas, there has been little attempt to position the principle of self-determination across the breadth of NSW Government legislative and policy actions. This suggests a quiet denial or resistance to extending self-determination into other policy areas in NSW, other than within the Closing the Gap agenda.

The first stage evaluations of OCHRE Plan were undertaken at the five-year mark. Now that the OCHRE Plan has been in place for more than 10 years, the second-stage evaluations are underway (see Howard-Wagner and Markham 2023; O'Bryan and Markham 2023; O'Bryan, Markham et al. 2022). The preliminary evaluation of the Local Decision Making (LDM) component of OCHRE has found that there have been some successes. However, progress in relation to LDM has been ad hoc, and it is not being implemented well across the board. There have not been systematic transformations of relationships between First Nations communities and the NSW Government under LDM (Howard-Wagner and Markham 2023).

A review of the other evaluation reports shows that most of the activity under the OCHRE Plan is in regional and rural NSW, not in the urban areas of Greater Sydney or around Newcastle or Wollongong. This suggests a geography of policy and practice responsiveness to the OCHRE plan and its elements where policy making in the urban context remains stubbornly shaped by presumptions about the relationship between urban places and the unceded sovereignty of First Nations peoples. Policy elements that are weak in providing tangible mechanisms for self-determination or where principles and practices of power-sharing are not embedded, will inevitably fail to facilitate meaningful self-determination.

3.3 Settler policy and recognition of the land relationship

As demonstrated in Chapter 1, the land relationship is central to First Nations contest with the imposition of colonial rule in Australia. Thus, how governments have responded to First Nations ongoing unceded sovereign authority over their lands and waters is a matter of significance. This section examines the policy frameworks that create a contact zone (see Chapter 1) of recognition about First Nations relationships with Country at the national level, and at state levels in Victoria and NSW. The focus here is on the primary legislative frameworks that recognise First Nations connection to Country, or repair legacies of dispossession. These are the national native title system and state-based systems of land rights and native title settlement.

3.3.1 Native Title

In *Mabo v the State of Queensland (No. 2) (Mabo (No. 2))* the High Court of Australia recognised the pre-existing land rights and interests of the Aboriginal and Torres Strait Islander peoples of Australia under their system of law and custom, which the High Court termed 'native title'. This was the first time in Australia's colonial history, since 1788, that the legal rights of First Nations peoples were recognised. In order to manage the consequences of the High Court's decision, the Commonwealth Government enacted the *Native Title Act 1993* (Cth) to provide a system for working with native title rights and interests. The native title system is incredibly complex, as it attempts to deal with 230 years of neglecting native title rights and interests, in addition to creating a system for working with native title rights and interests into the future.

The *Native Title Act 1993* (Cth) (NTA) provides recognition in Australian law that First Nations people have a system of law and custom relating to land that existed prior to the colonisation of Australia by the British, identified as native title. The NTA provides for the recognition and protection of that native title. Native title rights and interests are inalienable—meaning that they cannot be transferred to new ownership—and typically include the right to access land, hunt, gather, take resources for bush medicine, and other traditional uses. While the law recognises that native title can exist, the requirements for proof are significant and the NTA extinguishes native title where freehold title has been conferred. This means that land over which native title rights and interests can be claimed under the NTA is limited.

Land tenure composition, coupled with the early and intensive colonial impacts in major urban centres such as Sydney, makes the NTA largely ineffective for First Nations peoples whose Country is now urban seeking recognition of their rights and interests. Traditional Custodians face very significant hurdles in preparing and pursuing native title claims over urban areas. The record of claims over our major capital cities and regional centres shows that the *'recognition of traditional rights in country is often hard won, euphoric and highly symbolic'* (Bauman, Strelein et al. 2013), especially in terms of positive outcomes (Wensing and Porter 2016). Related to this is the understanding of native title as an act of misrecognition, sometimes described as a regime of extinguishment, in the sense that the *'requirement that a native title claim can be made only over territory with which there is an unbroken connection is a profound Act of misrecognition' as the test belies the 'state aggression in alienating land in the first instance'* (O'Sullivan 2021:40).

Part of the Commonwealth's response to *Mabo (No. 2)* was to establish the Indigenous Land Corporation (ILC) to provide for the contemporary and future land needs of Indigenous Australians—particularly those unlikely to benefit from Native Title under the *Native Title Act 1993* (Cth) or the statutory land rights schemes run by the states. The ILC's remit was extended in 2019 to include salt and fresh water-related interests, and it was renamed as the Indigenous Land and Sea Corporation (ILSC). This enabled the ILSC to also acquire water interests.

The ILSC is not funded from the Australian Government's annual budget. Each year, it receives funding from the Aboriginal and Torres Strait Islander Land and Sea Future Fund (the Fund) to run its operations and provide funding to Indigenous people.

Every five years, the ILSC develops a *National Indigenous Land and Sea Strategy* (NILSS) as its key policy framework for guiding how it spends the money it receives from the trust fund. The NILSS is underpinned by three guiding principles: caring for Country, self-determination and partnership (ILSC 2023a). The ILSC's national funding program, *'Our Country. Our Future'* has five broad focus areas to support opportunities for Indigenous Australians to enjoy the benefits that the return of Country and its management brings. One of the focus areas is Urban Investment.

An examination of the ILSC's activities in the Urban Investment element of its *'Our Country. Our Future'* program (ILSC n.d.) shows that they are principally focussed in regional centres, rather than major capital cities. The land purchases and other management support activities are strategically aimed at facilitating or enhancing the ability of Aboriginal and Torres Strait Islander organisations to acquire land in urban areas, which then enables them to achieve other worthy objectives and outcomes for their people and communities. Important as they are, these activities are a very small but important drop in the urban policy and planning context for restoring First Nations presence in our urban centres (ILSC 2022, 2023b).

The monopoly power of the Crown over the extinguishment of native title rights and interests, and the inalienability of native title, means that native title holders are unable to use their property rights in ways that are available to holders of other forms of land title (Wensing 2019: 79, 85, 110, 249), and which continue to deny First Nations peoples the equality they have repeatedly declared they want (Wensing 2019: 100). First Nations peoples' persistent desire is that the two systems of law and custom relating to land be accorded an equal and non-discriminatory status (Dodson 1997). This is not historical or symbolic posturing, but fundamental self-determination to use their property rights to engage in the economy 'on their terms' (Cornell and Kant 1992: 13) and at their choosing (Wensing, 2019: 6). This position is supported by various international human rights instruments (Wensing 2019: 2).

The question of the formal recognition of Aboriginal and Torres Strait Islander peoples' ongoing connections to and responsibilities for Country in urban areas is therefore a vexed question:

> *At one level, planning professionals must be cognisant of the complexities of native title and other regimes of recognition that Aboriginal and Torres Strait Islander people are pursuing. Yet at a much deeper level, planning must begin to take very seriously its own responsibilities beyond the limitations and shallowness of the current regimes of recognition and extinguishment. (Wensing and Porter 2016: 98)*

The challenge for urban policy and planning is to:

> *look at the presence of the peoples, laws and cultures that co-exist in the very places of our practice, look carefully at the concomitant failure of the formal systems of recognition and think about how to respond in a meaningful, imaginative way. (Wensing and Porter 2016: 98)*

3.3.2 Statutory Land Rights v Native Title in NSW

In NSW, a state-based statutory system of land rights operates alongside the Commonwealth's native title system. This is the *Aboriginal Land Rights Act 1983 (NSW)* (ALRA), which pre-dates the High Court's decision in Mabo and the enactment of the NTA by a decade. The ALRA is predicated on the idea of compensation for historic losses and a very loose form of restitution for having dispossessed people of their lands without their consent or proper compensation (Reynolds 2021:135).

The ALRA established a scheme for land claims over limited areas of 'claimable crown lands' (c.36 ALRA) which, if granted, are transferred as freehold title, or as perpetual lease if granted in the Western Division of NSW. To hold these lands, the ALRA establishes a system of 120 Local Aboriginal Land Councils (LALCs), as well as a statewide Aboriginal Land Council (NSWALC). LALCs exist across most of NSW and are elected by members every four years. Membership of LALCs is available to Aboriginal adults residing in the LALC's jurisdictional area or a person who is an Aboriginal Owner in relation to land in the LALC area. Establishing traditional connection is not required to become a member of a LALC in NSW.

Membership of LALCs in some parts of the state is skewed towards residence, while in other areas it may be skewed towards Traditional Custodianship. This means that LALCs are not necessarily representative of the wishes and perspectives of Traditional Custodians. This is the case for Dharug community (as shown in Chapter 2). First Nations people in NSW can be members of multiple LALCs, but can only exercise their voting rights in one LALC. LALCs can only make claims to Crown land that is not required for an essential public purpose and that is not subject to a native title determination application (see also s.22I to s.22L of the Native Title Act 1993 (Cth)). Land can also be purchased by a LALC subject to certain preconditions under the ALRA (s.38) for the purpose of satisfying the Act's objectives (s.39).

The ALRA is based on a complex claim system without any reference to the claimants' traditional connections to Country, land can only be granted if the state has no other purpose for the land, and the ALRA will never be able to adequately compensate the Aboriginal people of NSW for the land they have lost due to colonisation.

However, the ALRA appears to be no longer 'fit for purpose' in its current form, given:

- the limitations on what land can be claimed
- the slow processing of claims (Hunt and Elsmore 2016: 87)
- the very low proportion of land that has been transferred under the ALRA over the 40 years of its operation
- the huge backlog of claims awaiting consideration (Ronalds 2020: 66)
- the failure to recognise intrinsic and inherent connections to and responsibilities for Country under First Nations law and custom.

The extent to which the ALRA is effective in delivering land justice is therefore highly constrained.

In contrast, native title rights and interests are not something that governments create and grant, as these rights already exist under specific First Nations law and custom. Both the ALRA and the NTA were created at different times and reflect divergent approaches to the land question in the Australian settler-colonial context. The tensions between the two systems frequently come to the surface in NSW, but are rarely addressed constructively because they give rise to some particularly difficult questions as to the just accommodation of Traditional Custodians rights and connections within the ALRA framework. These tensions produce further risks and complications in urban policy practice—particularly where insufficient attention is paid to historical legacies and the contemporary constitution of particular LALC entities (see Chapter2).

3.3.3 Victoria's Traditional Owner Settlement Act

Traditional Custodians in Victoria had long been advocating for an alternative approach to resolving native title claims in Victoria, particularly in response to the damaging outcome of the Yorta Yorta people's native title claim. A more flexible and negotiated approach was desired as an alternative approach for resolving native title claims. In 2008, a steering committee was formed to undertake the 'Development of a Victorian Native Title Settlement Framework'. It consisted of Victorian Traditional Owners and representatives of the Victorian Government. The Victorian Traditional Owner Land Justice Group was an active participant on the Steering Committee (Federation of Victorian Traditional Owner Corporations [FVTOC] 2021: 22).

The Steering Committee's report set out the parameters of a Victorian Native Title Settlement Framework to allow Traditional Owner groups to settle native title claims directly with the state outside the Federal Court process (Steering Committee 2008). A key objective in developing the Framework was to ensure a streamlined and expedited approach to settling native title claims through interest-based negotiations which sought equity in outcomes, and would meet the aspirations of both Traditional Custodians and the state. The Framework proposed that the state would have its own formal recognition of Victorian Traditional Owner groups alongside a raft of benefits to Traditional Owners in return for their agreement to withdraw their native title claim and/or agree not to lodge a claim into the future. Benefits for Traditional Owner groups would be tailored to local circumstances and range from access to land and natural resources through to measures for the recognition and strengthening of culture.

In February 2009, members of the Victorian Traditional Owner Land Justice Group unanimously endorsed the recommendations in the Steering Committee's report, and the *Traditional Owner Settlement Act* (2010) (Vic) (TOSA) was developed. Designed *'to advance reconciliation and promote good relations'* between the state and Indigenous Australians, the TOSA allows the Victorian Government to recognise traditional owners and certain rights in Crown land and provides for negotiated settlement of claims. In return for entering into a settlement, Traditional Custodians must agree to withdraw any native title claim pursuant to the *Native Title Act 1993* (Cth) and not make any future native title claims.

Settlement packages can include:

- recognition of rights over Crown land
- a variety of land agreements including enabling Traditional Owners to comment on or consent to certain activities on public land, as well as the management of natural resources
- grants of land in freehold title for cultural or economic purposes
- joint management in partnership between Traditional Owners and the state
- funding to enable Traditional Owner bodies to manage their obligations.

Under the Act, the state government decides whether to enter into a settlement with a particular group, which must meet the definition of 'traditional owner group' under the Act. To date five settlements have been achieved or commenced under the TOSA:

- Gunaikurnai Recognition and Settlement Agreement (2010)
- Dja Dja Wurrung Recognition and Settlement Agreement (2013)
- Taungurung Recognition and Settlement Agreement (2020)
- The Wotjobaluk, Jaadwa, Jadwadjali, Wergaia and Jupagulk People of the Wotjobaluk Nations Recognition and Settlement Agreement (2022)
- Proposed Eastern Maar Recognition and Settlement Agreement (negotiations commenced 2017).

3.4 Urban policy contact zones

In addition to the contact zones of recognition relating to self-determination (S3.2) and land (S3.3) there are a wide range of urban land use, planning and management policies and legislative frameworks that Traditional Custodians have to interact with when seeking to pursue their rights and obligations. As in all settler societies, the presumption is that land-use control and regulation rests with the settler-state. Lands belong to the Crown, unless they have been alienated through private property mechanisms such as freehold title. The regulation of land use, development and conservation is the jurisdiction of state governments and local municipal governments through allocation of powers to them through state government statutes. The control and regulation of land use is achieved through planning systems, zoning controls and regulatory ordinances. Therefore, Traditional Custodians must interact with these policy frameworks in order to exercise their obligations.

This section examines the urban policies impacting Wurundjeri Woi-Wurrung people in Melbourne, Victoria, and those impacting Dharug people in Sydney, NSW.

3.4.1 Urban policy impacting Wurundjeri Woi-Wurrung Country in Victoria

The urban policy environment in Victoria comprises a complex array of statutes, policies, plans and frameworks that present several challenges for Traditional Custodians in Victoria to exercise their rights and responsibilities for Country under their law and custom. Each of these has a complex interplay with the contact zones about self-determination and land (as outlined earlier in this chapter), including native title rights and interests.

The statutory framework that impacts Wurundjeri Woi-Wurrung Country in Melbourne, Victoria, includes the following statutes (listed in chronological order of first enactment):

- *National Parks Act 1975* (Vic) and *Parks Victoria Act 2018* (Vic)
- *Aboriginal Heritage Act 2006* (Vic) and *Aboriginal Heritage Amendment Act 2016* (Vic)
- *Planning and Environment Act 1987* (Vic)
- *Local Government Act 1989* (Vic) and *Local Government Act 2020* (Vic)
- *Charter of Human Rights Act 2006* (Vic)
- *Traditional Owner Settlement Act 2010* (Vic)
- *Yarra River (Wlip-gin Birraraung murron) Act 2017* (Vic)
- *Advancing the Treaty Process with Aboriginal Victorians 2018* (Vic) and *Treaty Authority and Other Treaty Elements Act 2022* (Vic).

The legislative basis of the land-use planning system in Victoria is the *Planning and Environment Act 1987* (Vic), which provides a framework for decision-making about how land in different places can be used. The purpose of the *Planning and Environment Act 1987* (Vic) is to establish a framework for planning the use, development and protection of land in Victoria. It sets out procedures for preparing and amending the Victoria Planning Provisions (VPPs) and planning schemes. It also sets out the process for obtaining permits under schemes, settling disputes, enforcing compliance with planning schemes and permits, and other administrative procedures.

Like almost all other planning statutes around Australia, the *Planning and Environment Act 1987* (Vic) is relatively silent on direct engagement with First Nations rights and interests in land (Wensing 2023b). The only direct relation is where Crown land is subject to a Traditional Owner Recognition and Settlement Agreement under the *Traditional Owner Settlement Act 2010* (Vic). That trigger exists because the definition of 'owner' in the planning statute had to be amended to include the traditional owner group entity. Where the state has struck an agreement with a Traditional Owner group entity, their rights and interests in the agreement will be triggered under the planning statute if they will be affected by a Development Application (DA).

However, there are specific measures in the *Planning and Environment Act 1987* (Vic) that provide a relatively robust framework for ensuring Aboriginal cultural heritage is considered in the planning assessment process. This is not a recognition or engagement with rights in land, but instead provides an avenue for Traditional Custodians to have a role in some land-use planning decisions that may impact their heritage. This was a very significant change in the planning system in Victoria, and the first time in an Australian planning statute that recognised the significance of Aboriginal cultural heritage to the development approvals and land-use management system (see Porter 2017; Porter and Barry 2015: Chapter 5). The provisions require proponents whose development proposals trigger the requirements of the Aboriginal Heritage Act to engage with Traditional Custodians through a system of Registered Aboriginal Parties (RAPs). These engagements aim to mitigate the risk of damaging cultural heritage and provide a range of penalties for such damage (see also Pfeffer and Boulet 2019).

Many different state government agencies are charged with implementing responsibilities under the Act, principally the Department of Transport and Planning (DTP; formerly DELWP). Another key agency is the Department of Energy, Environment and Climate Action (DEECA). There are a number of statutory authorities involved in implementing planning including: Victorian Planning Authority, Parks Victoria, Melbourne Water and Infrastructure Victoria. The system of land-use planning in Victoria is prescribed by statewide policy through the Victorian Planning Provisions (VPPs), with local planning schemes articulating locally specific requirements. Responsibilities for local planning and other land matters are created under the *Local Government Act 2020 (Vic)*. Strategic urban planning for the metropolitan area is undertaken through the DTP and the Victorian Planning Authority.

There are also numerous policy documents in both the urban policy and wider Aboriginal affairs policy domain that seek to engage First Nations peoples. These, among other policy documents, direct government agencies and authorities in Victoria toward engagement with First Nations people. Those documents pertinent to the scope of this research include:

- The Pathway to Treaty in Victoria
- Recognition and engagement with Traditional Owner voices across Victoria
- Munganin—Gadhaba 'Achieve Together' DELWP [now DEECA] Aboriginal Inclusion Plan 2016–2020 (2016)
- Pupangarli Marnmarnepu 'Owning Our Future' Aboriginal Self-Determination Reform Strategy 2020–2025 (2019) DELWP [now DEECA]
- Traditional Owner and Aboriginal Community Engagement Framework (2019), DELWP [now DEECA]
- Aboriginal Cultural Safety Framework (2019), DELWP [now DEECA].

These documents respond to the principle of self-determination as central to all Victorian Government policies and processes, and can be interpreted in part as a response to the Pathway to Treaty. However, machinery of government changes in Victoria have complicated the translation and operationalisation of these policy positions. These changes moved the planning functions from DELWP into the Department of Transport and Planning (DTP) and the environment functions to the Department of Energy, Environment and Climate Action (DEECA). The policy positions listed above appear to have been linked formally to DEECA only, rather than both new departments—a missed opportunity for ensuring cross-departmental and meaningful integration of First Nations voices and perspectives.

The Munganin-Gadhaba 'Achieve Together' Aboriginal Inclusion Plan (DELWP 2015) was developed to increase understanding and recognition of First Nations culture toward caring for Country. The plan aims to help policy makers and practitioners gain a better understanding of the spiritual, cultural and economic importance of land to First Nations communities, and identify opportunities for partnership in all aspects of land use and water planning and governance.

Further responding to the 2018 Victorian Government Aboriginal Affairs Framework and Self-Determination Reform Framework, a specific self-determination reform strategy was developed by DEECA (formerly DELWP) called *Pupangarli Marnmarnepu 'Owning Our Future' Aboriginal Self-Determination Reform Strategy 2020–2025* (DELWP 2019a). It was developed to complement the work toward advancing Treaty in Victoria and is founded on cultural authority as the principle of self-determination. The document forms the basis of ongoing dialogue and partnership, and directly informs state authority practices for metropolitan planning initiatives, including Melbourne's Future Planning Framework. The aim, as stated on the DTP website, is to *'provide the foundation for further discussions with Traditional Owners on achieving self-determination through the planning system into the future'.*

Linked to this is the *Traditional Owner and Aboriginal Engagement Framework* (DELWP 2019b), which commits DEECA to developing better practice in engagement with First Nations people. Again, the framework centres self-determination, stating that a first principle of engagement must be *'about listening and taking the time to find out how people want to be treated, instead of assuming you know'* (Victoria State Government 2019b: 5). The Framework aids coordination of activities with First Nations and Traditional Custodian communities, and creates the necessary mechanisms, opportunities and protocols for collaboration. This includes attention to the importance of cultural safety, which is also articulated through the DEECA Aboriginal Cultural Safety Framework (DELWP 2019c). The Framework document acknowledges the significant role that cultural safety plays in the social, emotional, physical and mental health of First Nations communities. This was a First Nations-led and evaluated initiative.

Of particular note is the *Yarra River Protection (Wilip-gin Birrarung murron) Act 2017 (Vic)*, which is the first legislation in Australia to be co-titled in a Traditional Owner language. 'Wilip-gin Birrarung murron' translates as 'keep the Birrarung alive' in Woi-Wurrung, the language of the Wurundjeri Woi-Wurrung people, recognising Traditional Custodianship of the river and unique connection to the lands through which the river flows. It is also a Victorian and Australian first, in legally identifying a large river and its corridor, which transverses many boundaries, as a single living and integrated natural entity for protection.

The objectives of the Act are given effect through a long-term Community Vision and a Yarra Strategic Plan. The Yarra Strategic Plan sets the direction for coordinated future protection and management of the river, and includes frameworks for future land use and decision-making and a list of priority projects. The Community Vision forms the cornerstone of the Yarra Strategic Plan, providing overarching direction for the river, focussing on issues relating to its long-term health and amenity, and outlining guidelines for land use and development.

The Act also prescribes the establishment of a new statutory body, the Birrarung Council, as the first independent voice of the Yarra River, recognising the river as a living entity. The Birrarung Council has requisite positions for Traditional Custodians and Indigenous representation. It speaks for the Yarra as 'one integrated natural entity' and provides independent advice to the Victorian Government. There are currently three Wurundjeri Woi-Wurrung Elders on the Council.

3.4.2 Urban policy impacting Dharug Country in NSW

The urban policy environment in NSW comprises a complex array of statutes, policies, plans and frameworks, which present several challenges for Traditional Custodians wanting to exercise their inherent rights and responsibilities for Country under their law and custom. Each of these has a complex interplay with the contact zones about self-determination and land, as outlined earlier in this chapter, including native title and the NSW ALRA.

The statutory framework that impacts Dharug Country in Sydney, NSW, includes the following statutes (listed in chronological order of first enactment):

- *National Parks and Wildlife Act 1974* (NSW)
- *Environmental Planning and Assessment Act 1979* (NSW)
- *Aboriginal Land Rights Act 1983* (NSW)
- *Native Title Act 1993* (Cth)
- *Crown Land Management Act 2016* (NSW).

Land-use planning and development in NSW is principally governed by the *Environmental Planning and Assessment Act 1979* (NSW) (NSW EP&A Act). It sets out matters such as planning administration, planning instruments, development assessments, building certification, infrastructure finance, appeals and enforcement.

The Act establishes a tiered system of planning instruments, including:

- State Environmental Planning Policies (SEPPs)—which set out statewide policy controls
- Local Environmental Plans (LEPs)—which provide for local provisions
- Development Control Plans —which offer more detailed design and planning requirements.

The statute is silent on First Nations rights and cultural authority. The NSW EP&A Act was created in advance of both the *Aboriginal Land Rights Act 1983* (NSW) (ALRA) and the *Native Title Act 1993* (Cth) (NTA) and no structural changes have been made to accommodate or integrate the rights and interests of First Nations peoples as enshrined in these two statutes. In recent years, concerns have surfaced about how the NSW EP&A Act affects the ability of Local Aboriginal Land Councils (LALCs) to make economic use of their land. Challenges arise from a combination of factors, including:

- adversarial local governments and communities
- restrictive qualities of Crown land parcels that have been granted
- LALCs' limited resources to engage with the planning system.

Many different state agencies are charged with implementing land-use planning responsibilities, principally the Department of Planning, Housing and Infrastructure (DPHI). Another key department is the Department of Climate Change, Energy, the Environment and Water (not to be confused with the federal department with an almost identical name). Statutory authorities involved in implementing planning include Western Parkland Authority and the Office of the Independent Planning Commission. The system of land-use planning in NSW is prescribed by statewide policy through the SEPPs, with LEPs providing locally specific requirements. Strategic urban planning for the metropolitan area is undertaken through the DPHI.

The need for special planning measures to support the economic self-determination of First Nations communities has been under discussion since the Keane Report (Keane 1980). It has also been the subject of two NSW Parliamentary Inquiries: the *Inquiry into Economic Development in Aboriginal Communities* (Standing Committee on State Development 2016) and the *Inquiry into Regional Planning Processes* (Standing Committee on State Development 2015). Responding to the findings of the 2015 and 2016 enquiries, the then Department of Planning and Environment initiated a statewide training program for LALCs on the NSW planning system. This training coincided with a funded research project (Miers 2018) that detailed the extent of the problems faced by LALCs in realising the economic opportunities of their land grants under the ALRA.

Emerging from these inquiries is a suite of measures designed to better align the NSW planning system with the NSW statutory land rights system, and to secure suitable uses for LALC landholdings to address the contemporary needs of their communities. These measures are included as part of the Aboriginal Land Planning Framework and comprise the Aboriginal Land SEPP of 2019 (now Chapter 3 in *State Environmental Planning Policy (Planning Systems) 2021* (NSW) (Planning Systems SEPP)), Ministerial Direction (Development of Aboriginal Land Council Land) and Planning Circular PS19-003. The catalyst for the development of the SEPP were the acute challenges faced by Darkinjung LALC in seeking the rezoning and development of their land in the Central Coast region of NSW. While the SEPP applies to all LALCs, it does not take effect until a Development Delivery Plan (DDP) is prepared.

The impact of these measures that constitute the Aboriginal Planning Framework will be observed in the short to medium term, following the state government's approval of the Darkinjung DDP on 16 December 2022. The DDP does not approve development on the sites, but examines the constraints and opportunities associated with future development via planning proposals or development applications. In addition to DDPs, provisions under the SEPP contain a lower threshold requirement for regionally significant development. Under the SEPP, LALC development is declared regionally significant if it:

- has a capital investment value of $5 million (typically over $30 million for private development)
- has received more than 50 submissions during public exhibition
- has not been determined within 60 days of lodgement.

The consent authority for regionally significant development is the relevant independent Sydney District or Regional Planning Panel—not the local council. This has the potential to circumvent some identified council-related issues (see Miers 2018; Standing Committee on State Development 2015, 2016). While these changes to the SEPPs are welcome, recent research concluded that *'through the SEPP, the state fails to concede power and recognise Aboriginal people as a coexisting planning authority, thus empowering only a limited and compromised form of self-determination'* (Hather 2021).

There are also numerous policy documents in both the urban policy and wider Aboriginal affairs policy domain that seek to engage First Nations peoples. These, among other policy documents, direct government agencies and authorities in NSW toward engagement with First Nations peoples. Those documents pertinent to the scope of this research include:

- OCHRE: Opportunity, Choice, Healing, Responsibility and Empowerment plan (see Section 3.2.4)
- Closing the Gap Implementation Plans, 2021 and 2022.
- Our Place on Country (OPOC), 2020, NSW Department of Planning, Industry and Environment
- Designing with Country, 2020, Government Architect NSW
- Draft Connecting with Country, 2020, Government Architect NSW
- Recognise Country Guidelines for Development in the Aerotropolis, 2021, Department of Planning, Industry and Environment
- Recognise Country, 2021, NSW Government
- Six Cities Region Discussion Paper, 2022, and What We Heard, 2023, Greater Cities Commission
- Connecting with Country Framework, 2023, Government Architect of NSW
- Indigenous Cultural and Intellectual Property protocol (ICIP), 2023, Department of Planning, Industry and Environment.

As discussed earlier in this chapter, the OCHRE plan sets out broad principles and framework for First Nations outcomes in NSW. The then Department of Planning, Industry and the Environment (DPIE) responded with the Our Place On Country (OPOC)—Aboriginal Outcomes Strategy in 2020. The purpose of this strategy is to facilitate better links between the DPIE and First Nations communities through improved partnerships, employment opportunities and better services.

The NSW Government Architect has developed a series of documents to embed First Nations Country and culture in the design and planning of the built environment in NSW. The *Designing with Country Discussion Paper* (Government Architect New South Wales [GANSW] 2020) set out the parameters of this work, including the importance of designing with Country and three essential elements of nature, people and design. From this discussion paper, the Connecting with Country Framework was published in July 2023, an *'evolving framework'* that provides *'good practice guidance on how to respond to Country in planning, design and delivery of built environment projects in NSW'* (GANSW 2023: 3).

The Framework is informed by a wider context of international, national and state-level First Nations rights that includes:

- the United Nations Sustainable Development Goals
- the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
- the Uluru Statement from the Heart
- the *Native Title Act 1993* (Cth)
- the National Agreement on Closing the Gap
- objects of the EP&A Act 1979, the ALRA 1983, and the OCHRE policy.

The Framework describes practical ways for responding to *'new directions in planning policy'*, particularly those related to First Nations culture and heritage. A series of case studies are provided to provide further detail and practical steps. The planned mandating of this Framework into statute was suddenly abandoned in April 2022, when the draft *State Environmental Planning Policy (Design & Place) 2021* was discarded by the previous Coalition NSW Government. Arguably, this action by the NSW Government asserts the continuation and remaking of colonial impacts in NSW.

Two other documents have regionally specific relevance to this research. The *Six Cities Region Discussion Paper* (GCC 2022) prepared by the Greater Cities Commission (GCC) contains reference to a First Nations Voice to be embedded into the strategic planning for the Six Cities Region. The notion of a Voice parallels the Uluru Statement from the Heart. The first mechanism proposed by the GCC under the proposal is the establishment of a First Nations Advisory Panel to advise on regional strategic planning, operating as a voice to the GCC. In contrast to other planning frameworks and guidelines, the report explicitly references the *Uluru Statement from the Hear*t. The GCC's *What We Heard Report* (GCC 2023) summarises consultations on the Discussion paper, confirming strong support for embedding the voice of First Nations peoples in planning. Industry stakeholders and local government also expressed support for establishing a First Nations Advisory Panel. However, the Commission was abolished on 1 January 2024 and its functions were absorbed into the DPHI.

The *Recognise Country Guidelines for Development in the Aerotropolis* (DPIE 2021) was authored by Elle Davidson and Jahni Glasby, along with Tanya Koeneman, Dillon Kombumerri, Michael Mossman and Daniele Hromek advising. The guidelines direct landowners, developers and consent authorities to support Country-centred planning and design principles in alignment with the Connecting with Country Framework. In so doing, the Guidelines provide practical tools to facilitate culturally safe practices in design, planning and delivery of major development while elevating the voices of Traditional Custodians.

Types of development required to adhere to the Guidelines include:

- state significant development (SSD)
- state significant infrastructure (SSI)
- master plans as per the Aerotropolis State Environmental Planning Policy (SEPP)
- development applications (including concept applications) on sites 20 hectares or more in size, or with a capital investment of $20 million or more.

Other developments can opt in to the Guidelines remit.

In NSW, there has also been sustained attention to the need to respect First Nations knowledges. In April 2023, DPIE released the Indigenous Cultural and Intellectual Property Protocol (DPIE 2023) (the ICIP Protocol). Its purpose is to inform staff toward implementing ICIP principles into practice. The Protocol is guided by the True Tracks Principles for ethical engagement with First Nations people (developed by Dr Terri Janke) and the principle of free, prior, and informed consent as set out in UNDRIP.

3.5 Policy attention to First Nations knowledges and cultural heritage

Significant attention is being paid in the international and national contexts to the importance of respecting and protecting First Nations knowledges through Indigenous cultural and intellectual property and data sovereignty and governance. This section sets out some of the key policy advancements in these areas.

3.5.1 Protecting Indigenous intellectual and cultural property

Indigenous knowledge and Indigenous cultural and intellectual property (ICIP) are recognised globally as distinct bodies of knowledge that require specific protections and governance. ICIP is a form of recognition of protection of cultural heritage, and refers to First Nations peoples' rights to their heritage based in the fundamental right to self-determination. It can cover everything from knowledge and knowledge systems, arts and creative practice, language, cultural and environmental resources, sites and stories.

The World Intellectual Property Organization (WIPO) has been working since 2001 to develop a global system to protect Indigenous knowledge. WIPO's Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) is working toward submitting to the UN General Assembly in 2025 the results of its work on the protection of genetic resources, traditional knowledge and traditional cultural expressions, with the objective of finalising an agreement on an international legal instrument(s). Australia is contributing to this work, and will be expected to sign up to the instrument(s) once they are finalised by the UN General Assembly.

The Diplomatic Conference to conclude an international legal instrument relating to intellectual property, genetic resources and traditional knowledge associated with genetic resources was held in May 2024, which endorsed the text of a new treaty.

The new Treaty on intellectual property, genetic resources and associated traditional knowledge relates to the use of genetic resources and associated traditional knowledge in the patents system, and creates a new international standard about what information patent applicants must disclose when seeking protection for new inventions that use genetic resources and associated traditional knowledge. Australia is participating in these proceedings, and has committed to becoming a signatory to the instruments. The Treaty, once it enters into force with 15 contracting parties, will establish in international law a new disclosure requirement for patent applicants whose inventions are based on genetic resources or associated traditional knowledge (WIPO 2024).

In Australia, there is inadequate protection of ICIP under existing intellectual property and moral rights legislation. This means that First Nations knowledges, heritage and intellectual property can be open to exploitation. IP Australia is currently working with First Nations peoples to develop standalone legislation to recognise and protect First Nations traditional knowledge and cultural expressions to fill the gaps where existing intellectual property protections don't apply (IP Australia 2022).

3.5.2 Indigenous data sovereignty and governance

Indigenous data sovereignty and governance is a prerequisite for effective delivery of the social, political and economic promises of UNDRIP (Rose, Langton et al. 2023). The issues are multifaceted and concern:

- legal and ethical dimensions around data storage
- ownership, access and consent to intellectual property rights
- practical considerations around the use of data in research, policy and practice (see Walter, Kukutai et al. 2022).

It is also linked to Indigenous peoples' right to maintain, control, protect and develop their culture, heritage, traditional knowledge and traditional cultural expressions, and to their rights to maintain, control, protect and develop their intellectual property over these matters (Tauli-Corpuz 2016: xxii).

The impetus for the formation of the Global Indigenous Data Alliance (GIDA) began with a forum in Canberra in July 2015, sponsored by the Academy of the Social Sciences (ASSA) and the Centre for Aboriginal Economic Policy Research (CAEPR) at ANU. The forum was attended by an international group of scholars, representatives of Indigenous organisations and government personnel from the CANZUS group of Anglo-settler democracies—Canada, Australia, New Zealand and the United States of America.

The purpose of the forum was to identify and develop an Indigenous data sovereignty agenda regarding the generation of demographic, wellbeing and community information and data on Indigenous peoples, and what this might mean for Indigenous peoples' sovereignty over data about their territories, resources and ways of life (Kukutai and Taylor 2016: 1–2).

In order to better protect Indigenous data sovereignty, GIDA has developed the CARE Principles for Indigenous Data Governance, reflecting the crucial role of data in advancing Indigenous innovation and self-determination. 'CARE' is an acronym for Collective benefit, Authority to control, Responsibility and Ethics. These principles complement the existing FAIR principles encouraging open and other data movements to consider both people and purpose in their advocacy and pursuits. 'FAIR' stands for Findable, Accessible, Interoperable and Reusable. GIDA has also developed a set of rights around both data for governance, and governance of data (GIDA n.d. a, b).

3.6 Urban policy and First Nations disadvantage

3.6.1 Closing the Gap: national

The original *National Agreement on Closing the Gap* ([CTG] 2008) was a social justice campaign launched by the Rudd Government in 2007. It was in response to the Aboriginal and Torres Strait Islander Social Justice Commissioner's (ATSISJC) 2005 report that sought to compel Australian Governments to achieve parity in health and life expectancy outcomes for First Nations people within 25 years (ATSISJC 2005). In response, the Council of Australian Governments agreed to a partnership between all levels of government to work with Indigenous communities to achieve the target of 'closing the gap'. As the then Commissioner, Tom Calma, highlighted, this agreement was historic: it was the first time Australian Governments had agreed to being accountable to a goal within a fixed timeframe (ATSISJC 2008).

The original CTG framework failed to deliver on the hopes and expectation it created. This was largely because it was not developed or implemented in partnership with First Nations peoples and organisations—nor did it adequately resource First Nations communities as the drivers of change. Annual assessment reports produced since 2007 have demonstrated mixed results in terms of the life outcomes for Aboriginal and Torres Strait Islander peoples (Productivity Commission 2022). Furthermore, Lino (2010: 840) and O'Sullivan (2021: 139) argue that the CTG Agreement displaced self-determination as the primary goal, perpetuating a deficit approach by focussing on service provision rather than structural reform that would centre First Nations cultural authority.

In response, the 2020 National Agreement on Closing the Gap was developed in partnership between the Coalition of Peaks (a coalition of around 80 Aboriginal and Torres Strait Islander community-controlled peak and member organisations across Australia) and all Australian governments. The 2020 National Agreement includes four priority reforms and 17 socioeconomic targets and is supported by the 2021 Closing the Gap Implementation Plan (Commonwealth of Australia 2021a). It requires the Productivity Commission to undertake a comprehensive review of progress every three years.

The Productivity Commission's first review in 2024 makes some pertinent observations about the Agreement. In particular:

> *The four Priority Reforms in the Agreement rely on a bedrock of trust, but trust is lacking and will only grow when decisions about Aboriginal and Torres Strait Islander communities are shared with communities.*

Further, the report confirms:

> *The gap is not a natural phenomenon. It is a direct result of the ways in which governments have used their power over many decades. In particular, it stems from a disregard for Aboriginal and Torres Strait Islander people's knowledges and solutions. (Productivity Commission 2024: iii)*

A key recommendation for meaningful progress is for governments to share power, recognising the central importance of self-determination. The Productivity Commission's review refers to UNDRIP and finds that *'the Agreement's Priority Reforms contain many of the principles of self-determination, but governments are not adequately putting them into practice'* (Productivity Commission 2024).

3.6.2 Closing the Gap: NSW

The 2022 Closing the Gap Implementation Plan signals, for the first time, a plan of action for addressing the tensions between the ALRA and the NTA in NSW. This is addressed in the context of Socio-Economic Outcome 15 in the 2020 National Agreement, which commits all governments to ensuring First Nations people can maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters. The target in the Agreement is to increase the extent of Australia's landmass that is subject to First Nations legal rights or interests by 15 per cent by 2030.

In so doing, the NSW Government has acknowledged for the first time an awareness of the tensions between the ALRA and the NTA, as it has been told that the current state of affairs is *'not productive or sustainable'* (NSW Government and NSW Coalition of Aboriginal Peak Organisations [CAPO] 2022: 115). The NSW Government has also committed to increasing the return of land to First Nations communities. However, the extent to which the land-related targets can be achieved in urban areas around Greater Sydney remains problematic because of the restrictions of both the land rights scheme and the national native title system in urban areas where there is very little claimable Crown land.

3.6.3 Closing the Gap: Victoria

Victoria has adopted a partnership approach to implementing the Closing the Gap agenda by partnering with the Aboriginal Community Controlled Organisation (ACCO) sector, formally recognised Traditional Owner Groups and existing First Nations governance forums. This is being advanced through a Partnership Forum on Closing the Gap established by the Victorian Government in May 2022. Membership of the Partnership Forum comprises Ngaweeyan Maar-oo (representing the 13 elected ACCO representatives and Aboriginal Governance Forums) and senior executives of the Victorian Government. The partnership commits the parties to several actions, including policy partnerships, sector-strengthening, place-based partnerships and data projects. The Partnership Agreement places self-determination at the centre of its principles.

Acknowledging local government's critical role in contributing to Closing the Gap, the Victorian Government also appointed a State Ambassador for Closing the Gap. The ambassador's role is to actively engage with local councils to strengthen shared decision-making at the local level with First Nations communities. To support this, the Victorian Aboriginal and Local Government Strategy 2021–2026 was developed as a resource for local government, and to serve as a practical guide for local councils across Victoria to help embed the voices and priorities of First Nations communities at a local government level.

To support the release of the strategy, the Minister for Local Government also issued a *Ministerial Good Practice Guideline and General Guidance for Councils Engaging with Aboriginal Victorians under the Local Government Act 2020* (Vic). These resources, including the Maggolee website, were issued to help councils develop mutually beneficial relationships when engaging with Traditional Custodians, ACCOs and community.

The Maggolee website was also developed with input from the Municipal Association of Victoria, the Victorian Local Governance Association, local government professionals, the Koori Youth Council and with funding support from the Victorian Government. It is designed to be a 'one-stop shop' to promote cultural awareness, and includes information on policies, programs and protocols, latest news and events. It is intended to assist local councils to work more closely with Aboriginal communities and promote reconciliation.

However, similar to NSW, the extent to which the land-related targets can be achieved in urban areas around Greater Melbourne remain problematic because of the restrictive applicability of the *Traditional Owner Settlement Act 2010* (Vic) to Crown land and the national native title system in urban areas where there is very little claimable Crown land.

3.7 Policy implications

This analysis shows that some policy shifts have created greater opportunity for engagement with First Nations peoples in urban policy and planning. However, that progress tends to be a patchwork of inclusion and consultative processes, characterised by limited forms of involvement with little or no power-sharing. The substantive land-use planning system remains largely silent on First Nations Country, knowledges and authority, and completely silent on the principles of UNDRIP. It is only just beginning to take notice of the need to protect ICIP. There is relatively little recognition of the impacts of dispossession and alienation from Country and the role of urban policy and planning in redressing this legacy.

The pathway to Treaty in Victoria and the experience of Te Tiriti o Waitangi in Aotearoa New Zealand both offer important insights into the role of Treaty in placing self-determination more firmly at the centre of First Nations–state relations. Policy needs to become more closely aligned with the meaning and principle of being in a Treaty relationship. This would highlight the kinds of obligations that would need to be considered and fulfilled as a partner to Treaty. In relation to urban policy and planning, Treaty has very significant implications for the urban planning governance and authority and land-use decision-making, highlighting the need for genuinely shared decision-making values and forums.

The research has demonstrated that urban policy and planning frameworks remain locked into mechanisms of stakeholder engagement and selective inclusion at the whim of the dominant party. These misrecognise the authority and obligations First Nations people hold for Country, culture and community. Amending key urban planning and policy frameworks to directly address the principles of UNDRIP would be a good first step—particularly self-determination and free, prior and informed consent—as well as implementing the principles and practices of ICIP more directly. Doing so would begin to shift the conversation further toward power-sharing and closer to the meaning of self-determination of First Nations peoples.

Working collaboratively and in good relationship (see Chapter 2) would support greater understanding of where recognition of appropriate cultural protocol and governance needs to occur. Understanding these dimensions—and changing them—is the responsibility of urban policy and planning.

4. Capacity within urban policy domains and professions

- **The practices and attitudes of non-Indigenous policy professionals impact the relationship between policy and First Nations people.**
    - There is awareness within urban policy and practice professions of this impact, and the responsibility borne by non-Indigenous people.
- **Policy principles and framings influence and shape the sphere of possibility for practitioners.**
    - Practitioners in Victoria brought a greater focus on self-determination than practitioners in NSW, possibly shaped by differences in policy orientation.
- **Practitioners see their role as translator or intermediary, both between policy requirements and First Nations aspirations, and within practitioner networks.**
    - However, this view tends to position policy domains and processes as neutral and apolitical.
- **The primary orientation of practitioners' reflection is toward unlearning and re-education.**
- **Practitioners recognise the burden of engagement, but are not equipped to understand this as a burden of colonisation in order to address material power-sharing.**

In this chapter, we present the findings from yarns with non-Indigenous practitioners, along with reflections on their work and engagement with First Nations communities and Traditional Custodians. We examine the interrelated questions of capacity and responsibility within settler society with non-Indigenous urban and built environment practitioners.

This means considering the politics of capacity and responsible action of non-Indigenous practitioners in that relationship. First Nations people experience severe structural constraints concerning capacity and resources (see Chapter 2). However, when the capacity question is only framed in that direction, it becomes geared toward making First Nations people fit into the existing system—in other words, to make the system work better on its own terms. Moreover, where capacity deficits of this kind are recognised and some redress is occurring, this is routinely governed within the rules of the state, where power to allocate those resources derives from and is founded in continuing dispossession.

4.1 Existing research on capacity and the role of non-Indigenous practitioners

The capacity and readiness of non-Indigenous practitioners and professionals in spaces where engagement with First Nations takes place is an important area for investigation. As Howitt, Doohan et al. (2013: 313) observe:

> *It is often capacity deficits in government agencies, commercial interests and non-Indigenous institutions that most dramatically affect collaborative governance of intercultural environmental systems.*

These capacity deficits are less well understood, especially in relation to urban policy where relatively little work has been undertaken. At the same time, there is an observable shift toward 'engagement' with First Nations communities in all areas of public policy, and increasingly in urban development and built environment projects. While the expansion of social policy domains to include the perspectives of First Nations people can be seen as welcome, it comes at the cost of exhaustion and consultation fatigue. While the concept of engagement appears to shift away from a more simplistic practice of consultation, similar politics and challenges remain unresolved—particularly the tendency to simply co-opt people into predetermined activities and decisions (Carter 2010).

Capacity deficits have been identified as *'shortfalls in knowledge, skills, understanding and values'* that *'affect both intercultural communication and the operational effectiveness of even well intentioned arrangements'* (Howitt, Doohan et al. 2013: 127). We will return shortly to more critical understandings of the politics of defining capacity in this way.

Research comparing urban policy professions in Canada and Australia has identified a continuing silence (or lack of action) around the development of intercultural capacity supported by dedicated attention and resourcing (Porter and Barry 2016). Since that research was concluded, significant steps have been made in Australia. The Planning Institute of Australia has mandated Indigenous content through program accreditation policies, and established an active First Nations and allies Knowledge Circle. Nonetheless, recent research observed that urban professionals generally have a large gap between their intention and evidence of action to make that responsibility meaningful (see Mayfield and Porter 2020).

There is an emerging awareness that settler institutions bear considerable responsibility in addressing this. Yet how to do so remains challenging. Settler-colonial presumptions and attunements encourage non-Indigenous practitioners to turn toward self-education, unlearning and cultural competence as key actions. These competencies and orientations have been the subject of focus in a wide range of research in different fields informed by long and rich traditions of thinking about situated knowledges, ethical practices, ontological pluralism and listening for being-in-relationship (see for example: Bawaka Country, Wright et al. 2014; Coombes 2012; Hollinsworth 2013; Howitt 2020; Howitt and Suchet-Pearson 2003; Moreton-Robinson 2013; Nakata 2007; Popke 2010; Porter 2020).

Efforts to re-educate, reflect, unlearn and build cultural competence have been shown to be critical initial steps for non-Indigenous people in learning better allyship with First Nations people, and coming toward a more responsible relationship with First Nations sovereignties. In the disciplines relevant to urban policy, research has framed this process as *'unsettling the taken (for granted)'* (Howitt 2020) or *'learning to live lawfully on Country'* (Porter 2020), informed by understandings of responsibility and the demands of decolonial principles and ethics. Unlearning as a practice of critically acknowledging the complicities and affordances urban and environmental policy (Porter 2010) shares with colonialism is necessary and essential—although it is insufficient, as this is not where the task ends.

This serves as a vital reminder: unlearning is not reducible to a practice of self-actualisation. It must be attentive to the tendencies toward extracting Indigenous knowledges and experiences for non-Indigenous consumption. As Barkandji scholar Zena Cumpston (2020: 18) observes:

> *There is a heavy burden that First Peoples must carry when 'included' in mainstream systems. We are too often seen as a resource to plundered, added, sprinkled on top, showcased and used to illustrate, to prove everyone is doing the right thing.*

Research has also identified how easily the turn to inclusion and self-education can rest on simplistic assumptions that engagement or participation intentions and practices are apolitical or unaffected by relations of power. The International Association for Public Participation (IAP2) has developed a Spectrum for Public Participation, which visually depicts an increasing scale of impact on decision-making. It shows that at the empower stage of the spectrum, final decision-making lies in the hands of the public. When applied to working with First Nations communities, however, the majority of the opportunities are within the realm of inform, consult and involve. This means that First Nations communities rarely have final decision-making power in their hands.

This is a limitation similarly observed in efforts to build cultural competence. The principle of cultural competence is to acknowledge and understand the distinctiveness of Indigenous cultures, as well as the effects of colonisation, in order to bring about more culturally safe and appropriate exchanges between non-Indigenous and First Nations people. Building cultural competence is seen as positive in many studies and interventions (for example Australian Institute of Health and Welfare [AIHW] 2015; Fredericks and Bargallie 2020; Universities Australia 2011) and worthy of much greater attention. Researchers have shown that cultural competence tends to reproduce binaries and essentialised differences (see Carey 2015), rather than emphasise what is actually a much more complex intersectionality of experiences and positions.

Practitioners often conceive the work as 'translation' between cultural worlds. However, translation can reconstitute a hierarchy if it is not critically attended—especially as translation has been the process by which colonial power has articulated and sustained a view of difference constructed to serve its own domination (see Mignolo and Schiwy 2003). Such essentialised differences can also mobilise tropes of authenticity that are well known to be harmful—particularly where they sustain conditions that foster lateral violence (see Chapter 2) (see Gorringe, Ross et al. 2011). These are many of the tensions and contradictions fleshed out in Kowal's work (2015) explaining the ambivalences and anxieties of non-Indigenous practitioners who become *'trapped in the gap'* when attempting to achieve policy good under settler-colonial conditions (see also Lea 2020).

This is not to suggest that real difference does not exist, but to point to the function 'difference' plays within social and policy dynamics. Indigenous standpoint theory—as developed by First Nations scholars such as Martin Nakata and Aileen Moreton-Robinson—is helpful here, as it returns attention to situated knowledges and the grounding of First Nations sovereignty in *'embodied socio-cultural and historically situated subjects of knowledge'* (Moreton-Robinson 2013). When settler policy domains and practices approach a relationship with people who hold such emplaced and embodied sovereignty, they often do so presuming their own institutions, worldviews and knowledges are neutral and acultural. Such presumptions must be subject to scrutiny, to unpack the cultural norms and epistemic privileges deeply embedded but often obscured from view within urban planning and policy (see Porter 2010).

Attending to these tensions, contradictions and politics is neither easy nor straightforward. The literature is replete with qualifications about the need for 'radically contextual' (Howitt 2020) approaches that refuse standardisation and blueprints. Nonetheless, existing research does point to a range of practices and methods that are necessary, albeit insufficient, in the journey toward transforming non-Indigenous urban policy practice. Porter and Barry (2016) suggest intertwined practices of situated engagement, learning and thinking with Indigenous spatialities and governance and attending to the concrete practices of reorienting resources, expertise and funds. Howitt, Doohan et al. (2013) encourage *'embracing the commotion of co-motion'* and co-existence. More recently developed tools (see Clean Air and Urban Landscapes Hub n.d.) offer resources for personal and professional reflective practice.

4.2 Methods for centring First Nations experiences in the yarn with non-Indigenous practitioners

The purpose of this yarn (see Section 1.3.2) was to better understand the readiness and capacity of non-Indigenous urban policy professionals to engage with Traditional Custodians sovereignty and Country. To foreground First Nations sovereignty and centre Traditional Custodian perspectives and experiences, these yarns with non-Indigenous practitioners were undertaken as a final stage in the data collection, informed by learning in the earlier stages. This was achieved by structuring the sessions in three ways.

First, conversation prompts were designed from the research questions and gaps focussing on participants':

- perceived roles and responsibilities to First Nations people and Country (as urban practitioners)
- experiences with First Nations engagement and how they have approached this in terms of practices and tools
- views about opportunities and challenges related to capacity building.

Second, use of an interactive online brainstorming tool called a Miro board. Participants were able to freely input written responses and notes on the Miro board during the yarn. Contributions to the Miro boards were extensive and have been tabled and attached as Appendix 1. These contributions were then utilised by yarn facilitator Elle Davidson to drive deeper discussion.

Third, participants were invited to consider themes derived from yarns with the Traditional Custodians and First Nations urban practitioners in earlier stages of the research. These themes were as follows:

- Lack of understanding of the philosophy of Country and importance of caring for Country; the way planning 'chops up' sites and land is disconnected at the landscape scale; how damage to Country keeps continuing with no recourse to custodians.
- Tokenism in processes; coming 'too late' to talk; lack of time and proper resources available to First Nations custodians. The need to shift from 'engagement' to partnership and to work together on a more equal footing.
- Talking with the wrong people; the misrecognition of 'First Nations' generally and Traditional Custodians with particular rights and responsibilities for Country.

The analysis in this chapter presents material predominantly from the yarn itself; insights from the Miro board entries are used to reflect on more general themes and to aid comparison between jurisdictions.

4.3 Perceptions of role as an intermediary translator

Urban policy and planning practitioners in these yarning circles demonstrated significant goodwill, and a strong commitment to working with Traditional Custodians. Participants spoke of the benefits of engagement for planners and urban policy actors in general, and many genuinely believed that broadly better outcomes are being achieved. They also understood that there are cultural and epistemic differences that require practitioners to engage in self-reflection and be open to journeys of learning and unlearning. They demonstrated personal commitment and interest in this, and spoke openly about both how rewarding and challenging it can be. They sought to foreground Traditional Custodian voice, and position themselves as intermediaries who translate between the realms of professional expertise and interests and Traditional Custodian engagement.

Participants also reflected on the challenges faced by Traditional Custodians. They presented a strong consensus across the yarns that there is a need to work towards more substantive forms of relationship and engagement, which lead to material changes, and fulfil the aspirations of Traditional Custodians. For example, participants understood that:

- aspects of time and intergenerational concerns are of foremost importance to Traditional Custodians but are often sidelined or ignored
- Traditional Custodians are often under-resourced, stretched thin, and constantly suffering from consultation fatigue.

There were many parallels with other yarns across the project, and these participant responses reflected many of the frameworks and approaches across industry and policy arenas that might be considered instructive in seeking to foster better practices in these professions.

When asked to consider their roles and position in relation to First Nations people, responses demonstrated a predominant framing as translatory and interpretive—acting as an intermediary. For example, one practitioner in Victoria described their role as helping translate the expertise of Traditional Custodians into the planning system so that custodians' aspirations could be achieved:

> *I think that we have a responsibility in that First Peoples—and particularly Traditional Owners—are experts in what they want for their Country, and their people … but there [are] currently not very many … First Nations people working in urban planning with the kind of technical knowledge base of an urban planner. So, we have a responsibility as planners working in government to translate and support First Peoples and Traditional Owners to deliver what they want for Country and people through the mechanisms that we have available through the planning system. (Participant 21)*

Similarly, one NSW professional spoke about being a conduit, helping to connect the view of First Nations people through policy and legislative processes into development. Along the way they saw their role as helping educate other actors in the sector:

> *I see my role as being a conduit between our proponents and developers who we're working for, and First Nations peoples who are going to be involved in a process and helping to interpret the legislation and the policy frameworks. … it's a tricky and complex mosaic of representative people, and so we have to rely on the expertise of other skilled consultants to help us navigate that process. So, I see our role as being really an educative one. (Participant 15)*

This perception of role as being about translation of First Nations knowledge into planning and development language and the facilitation of both relationships and new information for other actors in the build environment emerged strongly from both yarns. Yet what this entailed, in practical terms, was articulated in notably different ways between the two jurisdictions.

Practitioners based in Victoria spoke about the requirements of self-determination as influencing the responsibilities of urban professionals. They often framed the translatory aspect of their role as one where they would leverage their own expertise to position First Nations aspirations and requirements more centrally:

> *A lot of times I find my role is advice … advising government agencies … then also with communities … letting them know that they can actually ask more of the client, of government agencies. (Participant 20)*

This is also about translation of practice to other actors within urban policy and planning processes:

> *Even trying to get government agencies to understand things in a different way, it's about ongoing conversations with them, but when you do that, and you get them to understand that the way that they see things is not necessarily—there are many other ways of understanding it. Then you see this, it's almost like this light bulb's gone off, and I thought, 'Great, OK, that's the seed planted, now keep going.' (Participant 20)*

This practice was also linked directly to translating the work of unlearning and supporting other stakeholders in urban development processes:

> *One of the things our clients are learning is not to be scared of completely new ideas. … They get their sites, they've done due diligence, opportunities, constraints analysis, all that sort of thing. They think they know the sites really well and then suddenly … completely new ideas are filtering through the process and completely new ways of orienting buildings, completely new ways of dealing with footpaths and connecting to the riparian corridors and things like that. So, the unlearning part is helping our clients just to be comfortable with that and to be open to new ideas. … I've seen a couple of occasions where the developers are just completely humbled by that experience. (Participant 15)*

By contrast, practitioners in NSW spoke predominantly about working out how to include First Nations perspectives. One practitioner commented on situations where Traditional Custodians are being asked to provide feedback on policy proposals:

> *It's not clear how Traditional Custodians would feel about what's been done with their comments. … I think we need to find a better way to strengthen that voice and ensure that it is actually having the right impact. (Participant 17)*

This question of having an *'impact'* on policy outcomes was further discussed in relation to the importance of meaningfully responding with policy change based on First Nations perspectives:

> *We also need to put our money where our mouth is and actually action. We can't have First Nations knowledge holders telling us something, and then we go, 'OK, thank you so much. We're just gonna do Plan A.' We can't do that. (Participant 18)*

How to have this more meaningful policy response, however, was framed through practices of listening and building trust:

> *But not just ticking the box, actually getting to the quality outcome requires more, and it requires a lot of trust and listening, which really requires having the right people in the room … and creating that environment where it is high trust, and there is that cultural safety feeling of sharing knowledge. (Participant 18)*

In this way, practitioners in NSW repeatedly spoke about coming up with the right kinds of processes and practices. In this sense, the question was framed through a 'best practice' lens that would help develop the profession:

> *In some ways it goes back to: What does it mean to plan? … What does best practice planning look like? How do we move the profession forward? How do we responsibly and ethically deal with what we've just heard from the [Traditional Custodians] and the information that we're seeing? And put that into practice. (Participant 14)*

When understood in relation to the literature on inclusion and recognition, this perception of inclusion and translation has scope to support First Nations sovereignty—but to also undermine it. Yarn facilitator Elle Davidson also spoke about her own practice as a translator:

> *Being able to sit down and have a yarn and unpack concepts, and support First Nations people to understand what the opportunities are through these projects and planning and platforms, and then actually trying to translate that into the technical side of planning.*

The translator role can substantively support First Nations perspectives, particularly where the translator's role is to refuse the expectation that Traditional Custodians have to show up to and engage in quite technical conversations and instead build 'two-way learning' (Elle Davidson).

This substantive purpose of the translation role was less developed in terms of participant responses. Instead, practitioners remained hooked more closely to inclusion-oriented practices that framed translation or communication as a somewhat neutral exercise undertaken to bridge a gap, rather than address the inequity inherent in that gap (see Chapter 1). Further, responsibility of relationship tended to be replaced here with a view of a neutral translator role.

4.4 Substantive and material changes in practice

Practitioners flagged a number of areas where they see need for substantive and often material change in urban policy practice. These included:

- the need to educate and unlearn
- the challenge of timeframes and a lack of attention to intergenerational concerns and aspirations
- problems with consultation fatigue
- barriers to supporting self-determination
- the important challenge of countering ongoing bias and fostering cultural change within professions.

These themes were also raised in earlier yarns with Traditional Custodians and First Nations urban practitioners (see Chapter 2)—however, with notably different emphases. Among non-Indigenous practitioners, there was little discussion about structural violences of racism, dispossession and coloniality, nor recognition of material ways to ameliorate major challenges. Instead, responses were often directed outward toward abstract policy and legislative frameworks rather than on the opportunities for material change in practice. This raises questions about constraints on the confidence and capacity of non-Indigenous practitioners to envision and practice responsibility differently. Again, there were differences between the jurisdictions, which suggests that the policy framings significantly shape the possibilities and imaginaries of urban professional practice.

4.4.1 Unlearning practices

As demonstrated above, practitioners immediately foregrounded their translatory role, then quickly moved to re-education and unlearning:

> *I think planners and non-planners have become more educated about the ongoing connection to Country, the way Aboriginal people connect to Country and how important it is. It's not just bits of the Country that are important, it's the interconnectedness of it. So I think it's a coalition of things coming together by the dawning of realisation in the planning profession, and more confidence in people stepping forward. (Participant 17)*

> *I have realised how much our appreciation of landscape is a European appreciation of landscape. And how when we go and look somewhere we go to a high point to look at the spectacular view that's laid out in front of us, and when a First Nations person goes to a high point, they might be looking for something completely different. (Participant 19)*

Part of this practice is about listening to the knowledge First Nations people may offer, with an emphasis on qualities of listening, learning and understanding:

> *I think for me, a lot of it's still about listening, very much so … especially like if we get the opportunities to walk out on Country with people, for me that's really important that that time's very open, and really about listening and trying to understand and not trying to jump to solutions. (Participant 19)*

There was understanding from NSW practitioners that unlearning involves some material changes to practices and processes:

> *It's important for us to unlearn, you know, we might wanna roll out a process a certain way and have certain check-in points, XYZ, and all of that. We kind of have to make it work so it's more comfortable for the experts, being the First Nations people, in how they wanna share knowledge. (Participant 18)*

Practitioners in Victoria also reflected on their journey of learning and unlearning:

> *I've had to grow my understanding of Country to being not just about land and water and the physical, tangible aspects of a place, but also being about people, and the layers of meaning that are applied to places and people and culture, and the connections between all of those things. (Participant 21)*

But in this yarn with practitioners in Victoria, there was immediate discussion of having to navigate *'level after level of bias'* (Participant 20). This was noted as an interpersonal practice within the profession and among colleagues:

> *We've got generations that … [have] absolutely no education about the impacts of colonisation on First Peoples. I've had to learn that I can't appeal to shared values when working in a space of bringing people to a position of having the skills and capabilities and knowledge they need to work effectively with Traditional Owners. And so, the barrier there is that people, on an emotional level, are threatened by having to reassess values and beliefs that have been held for a very long time. The challenge there is just that that is a barrier that needs to be bridged across the board, as we build capacity across the planning profession. (Participant 21)*

This was also identified as being embedded within institutional practices and structures:

> *I'd say one of the biggest learnings that I've had, and in hindsight it seems a bit straightforward, but just how artificially segmented or compartmentalised our planning system is without us really being aware of it. For example, when you look at a waterway, it'll be one agency that manages the water, and it'll be another agency that manages the land under the water, then there will be other people that own or manage the land on either side of the water, and other bits of legislation manage the wildlife that live on that Country. And when you think about it from that perspective, it just seems insane. (Participant 22)*

This was directly linked by practitioners in Victoria to the statutory frameworks within which planners and urban professionals are working:

> *We have a growing awareness of our moral responsibility to uphold First Nations rights and responsibilities, but the statutory requirements that we have to do so as planners are a long way behind what a lot of people in the profession would like to see happen. (Participant 22)*

For NSW practitioners, the focus was on the awareness of needing to unlearn and re-educate with First Nations custodians. This was framed as a practice of listening and learning and beginning to shift some practices to accommodate First Nations perspectives. From the NSW practitioners, there was a sense that many things seemed possible in this unlearning process because it was framed at the individual level where new learnings could be translated to others, translating to a sense of optimism:

> *I can't remember another phenomenon which has become as embraced so quickly as this … this has been a sea change and it's been embraced and not pushed back. So, I've never witnessed anything like this before in terms of a positive change for First Nations community. So, I think that's something just to reflect on, the fact that it's gone well so far, that there's a whole portfolio of good projects coming out the other end which we can point to where there's been genuine impact. (Participant 15)*

By contrast, Victorian practitioners' reflections on unlearning were framed in ways that immediately revealed its limits. Perhaps due to a stronger self-determination agenda embedded in policy frameworks in Victoria, authority is becoming more clearly defined and explicit, making it more obvious that First Nations self-determination is limited by state power. This also emerged in the yarn with Māori practitioners in Aotearoa New Zealand (see Chapter 2), where jurisdictional authority is even more defined. In NSW, that power relationship is more concealed, and the conversation there is framed as a question of inclusion and re-education rather than conflicting power and authority.

4.4.2 Materially supporting self-determination

Self-determination as a policy objective is more present in Victoria than in NSW (see Chapter 3), and this flowed through into differences in how practitioners in different jurisdictions conceived their role. Practitioners in Victoria framed their role with regard to translation within the context of uneven power relations between governments and Traditional Custodians. While they are aware that current systems impose substantively, this is not understood as using the language of power.

Statutory requirements were identified as a key limitation:

> *I think we've got a long way to go in terms of how we program our work to build in these discussions at the start of the project, but also with the statutory requirements to do so. And to actually produce plans and strategies that have some real grunt to them, that will actually require government to make change on the ground. (Participant 22)*

Another limitation and challenge identified was in the shift required through all levels of practice and professions to understand the critical difference of self-determination from the stakeholder inclusion mindset:

> *There's still a long way to go in terms of how most people … from very senior through to junior officer, in the planning space, how people understand self-determination and the true transfer of power and resources that that requires. I think a lot of people are still approaching the way that we work with Traditional Owners from this perspective of needing to deliver equality, and that we've got a stakeholder group that's being left out of the process, and making sure to include Traditional Owners as a stakeholder, as one of many stakeholders, who should have views considered in the decisions that we make. But really what we're looking at, and what the commitment is, is that we're gonna be working with Traditional Owners as partners. (Participant 21)*

Challenges were also identified in the structural short-termism built into political and policy cycles, as well as constant movements and change within institutions—and particularly within government departments:

> *I do feel a sense of frustration … about the short-sightedness that is embedded in political cycles, and political will, and budgets and timeframes. Even staff changes, you have a change in manager or director, and all the good work that you've done can be thrown away. So, we're constantly being subjected to these very short-sighted, short-term whims. (Participant 22)*

4.4.3 Intergenerational thinking

Among practitioners in Victoria, there was a pronounced understanding, at least in principle, of intergenerational responsibility as central to First Nations philosophies and perspectives. This was an area where the yarn with non-Indigenous practitioners more strongly reflected the yarns with Traditional Custodians and First Nations urban practitioners (as described in Chapter 2). One participant described it this way:

> *You hear communities, a lot of time, speak about the next generations, or in Victoria in particular, some of the communities think about seven generations … And I think a lot of times, we just focus on the here and now … we don't think about the next generations and what we're doing now means for them. I think that crosses every government agency, consultancies, clients. I think it crosses all boards. Nobody really considers the future generations, and how this is going to impact and influence them. (Participant 20)*

This observation raises important challenges that range from deep philosophical differences in conceptions of time, understandings of intergenerational relationships and obligations, to the more present question of short-term political and policy cycles. Yarn facilitator Elle Davidson also reflected on this from yarns with communities in other contexts:

> *I've only just this week had a couple of yarns with people about the frustrations of fitting that [seven generations thinking] into political cycles … And I think a lot of First Nations people that I work with are so frustrated by: why is everybody moving so quickly? Things haven't changed in such a long time, and now you want everything to happen so quickly! That pace, and the concept of time, and thinking about what these decisions mean are quite challenging to reconcile.*

While non-Indigenous practitioners were able to observe the challenge, there was less discussion about the kinds of practices that might address the specific barriers it presents.

One of these barriers is timeframes. Professionals expressed that they have a role in drawing attention to and holding space for more culturally and materially appropriate timeframes. Yet these were rarely linked to the wider processes of intergenerational transfer of knowledge and capacity.

The timing of policy and project processes was identified as a major difficulty here, as well as in other yarns (see Chapter 2):

> *I guess the other thing I do see, especially in these early phases, is really being a strong advocate for the timing. A really strong advocate for saying, 'We really shouldn't be doing this until this has happened.' And that works on both sides of procurement, whether I'm working with the private sector or government, they both have challenges around timing. (Participant 19)*

One NSW participant considered how engagement processes around timing could be improved, and suggested that extensive cultural landscape mapping should happen really early—before major project decisions are made. This would help avoid having urban professionals *'trying to retrofit [your] plans and projects around what feedback you're getting'* (Participant 16). This strongly resonated with the NSW Indigenous Urban practitioner yarn, in which the timing of engagement processes in developer's project timelines was also raised. It is also a clear theme in the literature, with late engagement known to be fraught with problems of tokenism.

4.4.4 Seeing and countering the burden of engagement

Non-Indigenous practitioners were quick to acknowledge that engagement is also a burden for First Nations people: *'You find that community members are invited to have a walk on Country … for a site, and they've just done the same thing next door, two weeks earlier'* (Participant 15).

Motivations to consult or engage are often linked to outcomes for urban policy actors, not Traditional Custodians:

> *For a lot of people, it's still about meeting the legislative obligations; managing the risk of not being seen to be doing what we're meant to be doing; and making sure that we tick the boxes and get the approvals that we want. (Participant 21)*

This comes with a broad understanding that the burden Traditional Custodians experience requires some shifts in approach, particularly an emerging acknowledgement that projects or processes bring community benefit:

> *We ask so much of Traditional Owners, we're always asking for them to share information, while it's actually, we need to be able to share knowledge and understanding as well. And how can that help their capacity or their role in community? How can they take that back to community and help community build communities as well? (Participant 20)*

Community benefit is linked to agency and control in the co-design of processes and in project parameters. One participant continued this line of thinking by describing their particular practice:

> *I don't ask anything of Community in the first project, it's just about briefing, coming together, building relationships. But you know, are they interested in the project? And how would they like to continue on the project? Would they? Or in what aspect would they like to? (Participant 20)*

Participants from Victoria raised more substantive challenges of resourcing these co-design processes, again possibly a reflection of the more explicit self-determination framing. In Victoria, there are a number of examples where government organisations are funding roles that sit within Traditional Custodian corporations to work on a particular project or area of government business. This appears to be more adequately reflecting a responsibility to address First Nations community capacity.

4.4.5 What practitioners didn't say

When situated in comparison with other yarns across the project, several silences and gaps became apparent. Non-Indigenous practitioners did not foreground or raise the violences of the encounter with state power, and were less likely, confident or able to connect the real concerns faced by Traditional Custodians with concrete changes, actions, or shifts in power or resources. Unlike the other yarns, issues raised such as the limitations of engagement practices, or consultation fatigue, were rarely connected to clear material suggestions for change—even when prompted in this direction by Elle's discussion of themes from yarns with Traditional Custodians. Few possibilities for specific changes to planning and policy processes, shifts in resource distribution, moves to power-sharing or co-governance arrangements were raised or suggested.

These important differences point to where non-Indigenous practitioners perhaps have less readiness to grasp key points that First Nations people were very clear about. Themes of racism, discrimination, disenfranchisement, incarceration and economic inequality derived from colonial dispossession came up frequently in the yarns with First Nations. Notably these were not discussed or raised by non-Indigenous practitioners at all. Instead, non-Indigenous practitioners remain focussed on their role as facilitating a conversation between First Nations people and an urban policy realm conceived as neutral.

Pointing to legislative change without also identifying the need to shift power may simply reinforce the idea that the state is the only appropriate actor in urban policy decision-making. By always deferring to engagement or consultation, urban policy making positions itself as a neutral and apolitical activity—thus obscuring its own cultural standpoint, worldviews and presumptions.

4.5 Policy implications

Situating the findings from this yarn alongside the learnings from the yarns with First Nations people and learnings from the literature yields a number of policy and practice implications. In contrast to earlier yarns, non-Indigenous practitioners' available strategies for addressing concrete issues involved either improved practices of listening and learning or raising the need for broad and non-specific legislative change. While 'listening and learning' is an attempt to foreground and centre First Nations aspirations and sovereignty, this can also act as a deferment back to a consultative approach. The 'need for legislative change', while an attempt to address what participants recognise as systemic issues, still situates the power and responsibility to address substantive change firmly within the capacity of the state and its systems.

Practitioners and urban policy domains need to pay greater attention to the material legacies of the disenfranchisement present in urban policy processes—and the systemic barriers this presents to Traditional Custodian sovereignty. While practitioners seemed deeply committed to principles of sovereignty, self-determination, empowerment and engagement with Traditional Custodians—and recognised that there are significant barriers to this—they also positioned the planning realm as politically neutral.

Seeing professional positionality as neutral is like viewing the realm of planning and policy as a technical exercise. While being an intermediary reflects a desire to genuinely centre First Nations knowledges and sovereignty, and build genuine relationships, this also deserves greater scrutiny. Such a framing might miss or obscure critical assumptions about what is being translated, to whom and for whose benefit. This points to a need to interrogate professional practice for its substantive contributions and to ask what responsibility entails beyond the act of engagement or consultation itself. Responsibility was something participants in the yarns were keenly aware of, but had little scope to contribute to substantively. Moving out of this role framed as intermediary may not be practical, or possible. However, practitioners could build the confidence and capacity to identify concrete harms and possibilities for material change that could be pursued through their professional roles.

There was a greater focus on a self-determination and power-sharing framing in the yarn with practitioners in Victoria, whereas in NSW the focus was on education and communicative process. This aligned with custodian yarning in each of these jurisdictions as well. While it is beyond the scope of this research to provide conclusive reasons for this—particularly as our participant sample sizes were small—it can certainly be observed as an alignment with the policy analysis, which revealed an explicit framing of self-determination in Victoria compared with a broader focus on consultation and engagement in NSW.

Perhaps more importantly, jurisdictional differences highlight that specific policy ecologies place constraints on imagining what realities and possibilities exist and what professional responsibilities entail. It means that the policy context powerfully shapes imaginations, understanding what the problem is and the possibilities for change. This indicates a pressing need to temper the urge to draw policy prescription from an existing policy ecology or set of practice norms. Instead, methods and modes of constructing knowledge that centre First Nations experiences and Traditional Custodians lore and authority is essential.

5. Policy implications

- **All Australian cities and towns are located on Country, and therefore are Country.**
    - The imposition of colonial built environments on Country causes harm, but this does not erase Country or First Nations continuing connection and obligation to care for Country.
    - First Nations people, especially Traditional Custodians, experience urban policy practices and processes as burdensome, misaligned with their obligations and values—and often disrespectful or harmful.
- **Urban policy professions, practices and institutions have a responsibility to respond to these realities.**
    - This requires attention to materially redressing the construction of unequal relations of power between First Nations people and urban policy through power-sharing models, meaningful engagement, resourcing and unlearning.

5.1 Contributions of this research

Australian cities and towns are located on *Country*, which means they are *Country*. The urban forms familiar to us today stand on places that have much longer stories of human habitation, place-making and belonging. The construction of cities can often cause great harm to Country and appear to erase the visibility of First Nations societies. Yet they do not erase Country, nor First Nations peoples' continuing connection and obligation, lore and governance, knowledge and care. First Nations people never ceded their sovereignty.

Since colonisation, First Nations lore, governance and power has been overwritten by the dominance of structures and worldviews imposed from Britain, and the maintenance of this imposed power through legislation and policy. This dominance includes institutions, processes and knowledge systems about place, land and city-making that now make up a dominant way of doing business in the urban policy and practice professions. Within that built environment industry, practitioners rarely have the chance or are enabled to step back and consider power and authority. Continuing to work unquestioningly within these imposed colonial structures constitutes an unconscious acceptance of them and a failure to acknowledge and reckon with the fact that sovereignty was never ceded by First Nations peoples.

First Nations people are continuously required to fit into colonial power structures and rarely provided genuine opportunities to be involved in decision-making—asked only to provide a thought or voice for consideration. For example, in the recent Constitutional referendum, Australians were asked if they agreed to 'a proposed law: to alter the Constitution to recognise the First Peoples of Australia by establishing an Aboriginal and Torres Strait Islander Voice. Do you approve this proposed alteration?'. While this was an important proposition, based on widespread consultation and collaboration with some First Nations communities, many were concerned that simply establishing a voice did not provide an appropriate pathway to dismantling colonial systems.

This research has examined these fundamental dynamics that persist within Australian society today. It has examined these through the specific context of urban policy making and built environment practice to ask about the experiences and expectations Traditional Custodians and First Nations urban practitioners have in relation to urban policy, specifically:

- What capacity exists within non-Indigenous built environment professional practices to engage?
- How the institutions and professions of urban policy need to change to better align with the political authority of First Nations peoples, their connections and obligations to Country.

5.1.1 What are the experiences and expectations of First Nations people regarding urban policy?

Notions of Western planning, imported here from Britain, have been used as a tool for colonisation. Private property, boundaries, fences, manipulating landscapes, segregation and limitations on access are just a few of the mechanisms implemented to enforce colonial power. The ongoing legacy of these tools, coupled with presumptions and practices deeply embedded in settler governance institutions and systems, continue to cause trauma and distress for First Nations peoples.

In this research, Wurundjeri Woi-Wurrung and Dharug Traditional Custodians shared their experiences and stories. These stories revealed their ongoing frustrations and pain from a system that has not only taken away their rights to land and ability to fulfil their cultural obligations to Country, but continues to perpetuate the cycle of being disenfranchised and exploited. This pain and frustration is experienced by other First Nations communities, in Australia and elsewhere, that have similar settler-colonial histories and legacies.

Wurundjeri custodians highlighted the burden of engaging with the planning system and the need to respond to over 1,500 applications per year and multiple requests to engage with new policy frameworks, development decisions and projects with a large number of different organisations. Dharug custodians spoke about the challenge and burden of just getting to the table due to the conflicts created by the statutory land rights system in NSW. Both Wurundjeri and Dharug people highlighted obligations to care for Country and attend to intergenerational justice and cultural continuity as of the highest importance—but often the hardest to make meaningful within urban policy decision frameworks and timelines. First Nations people expect policy professionals and institutions to take greater responsibility for these matters and do the work to change to meaningfully accommodate and respect First Nations rights and obligations.

Traditional Custodians are willing and ready to share their knowledge, where appropriate, but this must be done in relational and respectful ways—not as a form of knowledge extraction or transaction. An essential expectation is honouring that there are much wider philosophies and intellectual worldviews that surround First Nations knowledges and ways of being, knowing and doing. In this sense, First Nations communities, and Traditional Custodians in particular, can be acknowledged and respected as the first planners. This will require actual power-sharing and a commitment to intergenerational thinking.

Yet, the built environment industry has methods and expectations for the transfer of knowledge that do not align with First Nations knowledge transfer, and cause concern around Indigenous cultural intellectual property rights. Questioning whose knowledge is being prioritised is an important responsibility of non-Indigenous practitioners and industry. Traditional Custodians are often called on in simplistic ways to contribute their knowledge to solving problems colonialism has created. They experience their knowledge as sought to fix problems created by colonial mindsets and practices—especially in times of crisis. Examples include the focus on cultural burning after bushfire events, or dialogue around not building on low-lying areas after widespread flooding. Once the spotlight has been removed from these issues, policy reform rarely aligns with the required legislative reform to change planning practices and outcomes. Related to this is the rise in 'new' urbanism concepts that are really steeped in ancient knowledge and wisdom. Water-sensitive urban design, blue-green grid networks, sustainability, urban greening, regenerative design and circular economies are presented as Western knowledge advancements when they are sourced and inspired by Country and related knowledges held in communities. These dynamics are experienced with significant frustration by First Nations in this study.

There is a strong need to interrogate the power structures that govern urban policy decision-making, with an urgent need to shift the dial toward more First Nations power and authority. Some engagement programs, such as the work with the Dharug Traditional Custodians for the Western Sydney Aerotropolis project, created legislated pathways for power and authority for Traditional Custodians. This work required Traditional Custodians to work with proponents and acknowledge that their inputs had been accurately reflected in the final submission. Hence they created an avenue for accountability and transparency. These are first steps toward shifting that dial.

First Nations knowledge systems and cultural frameworks are based on intergenerational thinking, where considerations span three generations behind and three generations ahead. Decision-making is based on ancestors' knowledge and wisdom, learning from the past and understanding that has been transferred to inform a future that considers next generations. A much deeper responsibility is created through these frameworks in comparison to short-lived political cycles that are founded on power and shallow promises without accountability. Different concepts of time exist that need to be understood and used to challenge Western notions of time.

Cultural continuity and intergenerational responsibility is of vital concern for First Nations people. This is intrinsically tied to land and needs to be better understood by industry and those involved in policy processes. The volatility of the political system and how quickly it can change direction and position is of deep concern to First Nations people, who criticise the lack of foresight and long-term thinking that results. Political priorities, such as housing delivery, can put pressure on timeframes to 'fast-track' development and generally circumvent a robust process that involves First Nations partnership. These types of political positions and delivery commitments generally compromise cultural continuity and make quick decisions that detrimentally affect Country, causing irreversible damage.

5.1.2 What is the capacity and readiness of the urban policy professions in Australia to partner with First Nations as sovereign people exercising co-existing governance?

In this research, we worked with non-Indigenous practitioners already 'on the page' with the importance of unlearning their own assumptions, building better relationships, listening to and learning from First Nations people and bearing some responsibility for translation within their institutions and networks. Yet the experience of First Nations practitioners, and Traditional Custodians, reveals that where readiness exists in some places and capacity in even few places, this is patchy and not at all mainstream. More research is needed about how inconsistent readiness and capacity might be across the sector and what kinds of resources and interventions might be most transformative.

The research reveals that within non-Indigenous urban policy and planning circles, there is readiness among some practitioners to self-examine and to give professional energy and capacity toward doing particular kinds of work, such as translation, unlearning and developing cultural competency. A major shift recommended for further building cultural capacity is prioritising walking Country with Traditional Custodians. Currently, most policies are informed by desktop research and technical studies reliant on Western knowledge and science. A spiritual and emotional connection created while walking Country, and the accountability this practice develops in partnership with Traditional Custodians, brings the opportunity to create more informed outcomes that prioritise Country, community and culture.

It is the responsibility of non-Indigenous professionals within industry and government related to urban policy to invest in their own education, to approach learning with curiosity, and to not place the burden on First Nations people to always be in the role of the teacher. Through preparing for work with community via research, reading and seeking a better understanding about Country, community and culture in the local area, practitioners are showing respect for people's time and creating a culturally safe environment through being prepared. A core principle and practice of showing respect is showing up with a level of competence and not burdening First Nations people with the task of educating others.

Unlearning and education are necessary—but are insufficient for the task ahead. The stark reality that urban policy and built environment professionals must reckon with is that the colonial system has been used to subjugate First Nations peoples from the time of contact and that urban policy continues this legacy. This emerged strongly from the yarns with Wurundjeri Woi-Wurrung and Dharug custodians, and also with First Nations urban practitioners. It is now time to take responsibility for this truth and actively consider how planning can be used as a tool for healing and repair. This requires moving beyond a role conceived as a neutral translator.

Yet this was much more obscured as an area of understanding among non-Indigenous urban practitioners. There is less readiness among non-Indigenous society to foreground or connect the violences of encounters with state power and the very real and practical concerns raised by custodians in relation to urban policy processes. Policy frameworks and mandates help surface these to some extent, as observed in the difference between practitioner responses in Victoria and NSW, where Victoria has an explicit self-determination policy framing and NSW does not. As yet, however, there remains little attention to systemic violence, disenfranchisement and policy remains framed as a relatively neutral, apolitical activity with which First Nations can be 'engaged'.

Linked to this is the need to take more responsibility for redressing the legacies of harm from colonisation in material ways. Good faith commitments and high-level policy statements are one thing, but often these do not follow through into meaningful action or practical outcomes. Engagement that avoids or conceals where power should and could be shared, or carefully obfuscates with statements like 'this is the process' and things can't be contested or changed, must be understood as a form of complicity with sustaining colonial relations of power. Engagement can, as First Nations respondents described, be used to create new opportunities—but it begins with honest discussion about whether the process will lead to actual sharing of power.

Practitioners in policy and urban development processes have a responsibility to attend to the material shifts required toward actual partnership and power-sharing, and concomitant transformations in the distribution of resources and actual political authority toward First Nations self-determination. First Nations sovereignty is not merely a background or a high-level statement of recognition. It has a shape and form that demands a response from imposed policy frameworks and governance systems. Again, the responsibility is with the non-Indigenous urban policy and practice professions to grasp what it means to respect and partner with the continuing political authority of First Nations peoples to Country.

The yarns strongly suggest that greater attention to resourcing the relationship and materially supporting First Nations authority is essential. This is a crucial aspect of easing the burden of consultation and engagement for Traditional Custodians. Urban practitioners should have the capacity to come to the engagement table with something real to contribute. Traditional Custodians must have access to meaningful, real capacity to leverage materials, resources, workloads and money. The engagement relationship itself should be negotiated and resourced—but greater attention should also be paid to resourcing the outcomes of engagement. This research has shown, confirming existing evidence, that within models of engagement and even co-governance, the actual material capacity for Traditional Custodians to undertake their responsibilities to Country, community and culture is often overlooked or underestimated. Responsibility rests on urban policy frameworks, and therefore the actors and professionals within decision-making and design processes impacting Country, to identify and create opportunities, hold space for greater power-sharing and attend materially to redressing the stripping of resources from First Nations people throughout the history of colonisation in Australia.

Policy and planning cycles rarely align with Traditional Custodians rights and obligations to Country, community and culture. Crucial aspects of cultural continuity, intergenerational obligation, and caring for Country or culture are often disrupted or ignored. Listening here is more than acknowledging the disconnect. Systems and structures, of engagement, resourcing, and governance need to adjust. This entails by default recognising Traditional Custodians legitimate authority as sovereign people, acknowledging that the conceptualisations, and legal frameworks (such as election cycles, or development timelines) of the state, or other non-Indigenous interests, have nothing to do with influencing the First Nations cultural obligations, authority and lore. The policy implication is that when these come together, the responsibility is on the policy domain to understand this non-alignment and materially shift processes, practices, timelines and resources to respond.

Coming into a meaningful form of relationship building, and understanding, entails a responsibility to attend to the specific ways that First Nations authority has been materially and substantively denied within urban policy. This involves developing an understanding that the domain of policy and institutional processes for urban development is not neutral or apolitical, but part of an imposed structure upon First Nations Country, community and culture. Understanding the concrete and substantive burdens and harms that result, and building space for transformation within imposed state and corporate processes, is a responsibility of urban policy practice and professions.

5.1.3 How can urban policy appropriately and respectfully reflect, learn from, and embed First Nations perspectives and knowledges on Country, community and culture?

Acknowledging First Nations peoples as the first planners of Australia creates a strong foundation of respect and reframes the way industry might foster partnerships with communities. Understanding that an ancient knowledge that has always been here and deeply appreciates the intricate nature of Country, her cycles and seasons, can help to inform better decision-making for our collective future is a vital step that needs to be taken. Progressing in this way needs to be based on accepting a worldview, intellectual expertise and conceptual understanding that exists outside a Western knowledge framework. As Matunga (2013: 4) notes:

> *'Planning' as an activity isn't owned by the West, its theorists or practitioners. It just happens to be an English language descriptor for a universal human function with an abiding and justifiable concern for the future.*

This project has highlighted how policy decisions and choices are always contingent and contested. They are produced by our collective choices and could always be different. There is an important role for jurisdictions and communities of practice to share understanding and learn from ways that work. Policy powerfully shapes attention to what can count as a policy problem. This research has examined two very different state jurisdictions, NSW and Victoria, and their policy approaches to First Nations engagement in urban policy. The advancement of Treaty in Victoria and the placement of self-determination at least as a concept at the centre of government policy creates different kinds of practice spaces and possibilities for practitioners than in NSW, where policy is framed differently.

While the Treaty process in Victoria is far from perfect, it has also been supported by a maturation of understanding that Traditional Custodianship sits quite differently from an undifferentiated First Nations identity. Traditional Custodianship is a specific relationship with an obligation for Country bounded by cultural protocols and lore. Respecting and resourcing a voice for Traditional Custodians is essential to getting the alignment with cultural protocols right. In Victoria, there has been longstanding attention to the importance of supporting the voices of Traditional Custodians on decisions that impact Country, obligations to Country and cultural continuity in relation to Country. In NSW, by contrast, the statutory land rights system has created some powerful challenges and complexities. These differences manifested importantly in this study and raise significant implications for policy, including for urban policy and planning.

Much rests on how practices are developed and built—these are the responsibility of non-Indigenous professionals and communities of practice. Sustained, thoughtful and reflective listening to First Nations people and Traditional Custodians should pay particular attention to understanding worldviews, rather than focussing on immediate project problems or pressures from elsewhere within policy systems and institutions.

Yet not everything can be reduced to 'better practice'. Goodwill is important, but when hard policy questions hit the road, the attention to transformation falls away or becomes diluted and reduced to tokenistic gestures. Incremental changes might merely be ratcheting up rigidity in regulations and processes rather than attending to underlying questions of power-sharing to accommodate First Nations political authority. Processes that aim to simply meet minimum standards or, worse, ignore standards and expectations, are inappropriate.

Systemic change is expected and being demanded. Meaningful caring for Country requires structural attention to the imposition of colonial boundaries and rigidities upon First Nations political authority and obligations to Country, culture and community. This means systemic questions of ownership, authority, power, access and control should be at the heart of urban policy transformations. Institutionalising the principle of free, prior and informed consent is a first step toward this, but it will necessarily involve change beyond this that will intrinsically challenge and discomfit state governance systems and presumptions about the locus of control or power, and the knowledge systems brought to policy decision-making.

Redress for the harm caused by continuing colonisation is the responsibility of state governance and non-Indigenous society more generally. The material reality of what this means is discussed openly and generatively by First Nations people, yet poorly understood and practised in non-Indigenous policy practice circles. Taking First Nations authority and cultural continuity obligations seriously requires:

- resourcing in terms of access to Country
- having power and control over decision-making
- modes of governance that are respectfully aligned with First Nations approaches
- timeframes that respect intergenerational obligations and cultural loads.

Shifts in these directions are to the benefit of everyone in Australian society.

While this research highlights significant progress being made to increase First Nations input and voice into urban policy, it reveals the lack of meaningful shifting of power. Ultimate power still lies with executive teams, elected members, ministers and non-Indigenous policy worlds. While practitioners are encouraged to build relationships with First Nations communities to achieve mutually beneficial outcomes, those relationships are diluted by standardised practices and hierarchies within policy worlds that concentrate power in ways misaligned with First Nations governance. The research has confirmed that responsibility for this work rests with colonial governance. First Nations authority is not merely a backdrop or a brief statement of acknowledgement on the inside cover of a policy document. It is a material reality that is demanding a response from the colonial forms of governance now imposed.

This signals the need to shift from a culture of consultation and engagement in urban policy toward genuine partnership and power-sharing. Engagement, like consultation, can be tokenistic and shallow. Even within deeper engagement dialogues, it is vital to establish the level of power that participants hold in those conversations. When non-Indigenous policy processes get to own the agenda, control the forms of knowledge that will be utilised, and dictate the timeframe, then this should signal an urgent need to unpack the drivers of these practices and move toward relationship-based power-sharing.

Moving from 'stakeholder group' to 'sovereignty authority' is undoubtedly challenging, but the possibility for alternative practices is always present. A deeper exploration of a system geared towards reciprocity and two-way power-sharing with First Nations is required. Consideration should be given to co-governance models such as co-ministers and co-mayors, which have been successfully used in other contexts. These can be built to create genuine opportunities for power-sharing in decision-making.

5.2 Final remarks

This project has been undertaken grounded in principles and practices of relationship, reciprocity, respect and power-sharing. We have aimed to practise in the research the kinds of practices that First Nations people are demanding. The research practice in this project through iterative and generative yarning circles led by a First Nations expert practitioner was essential for enabling the project-wide findings to emerge. A key contribution of the project is to demonstrate a methodological approach that meets and respects First Nations sovereignty.

Reckoning with the reality that all urban areas in Australia are Country with continuing First Nations connection, obligation and authority is an immense challenge for urban policy and planning. It presents a profound provocation to dominant systems of thinking, relations of power and assumptions about knowledge. This research has highlighted the vital importance, for everyone in Australia, of resetting the relationship between First Nations people and urban policy and planning.

> *A new dawn is emerging, where the environmental challenges we face collectively call for new alliances to be forged, new ways of producing knowledge and a reckoning with extractive and insincere processes and structures that must be dismantled. We must enact this new landscape together because, as Wurundjeri Elder Aunty Di Kerr tells us, 'When we look after each other and we look after Country, Country looks after us.' (Cumpston 2020: 18)*

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Appendix 1: Miro board responses from non-Indigenous practitioners in NSW and Victoria

This table provides a summary of the responses entered onto the digital Miro board by non-Indigenous practitioners in Victoria and NSW during the yarning sessions. It supports and augments the findings presented in Chapter 4.

Table A1: Non-Indigenous practitioner Miro Board responses

Question/prompt	Non-Indigenous urban policy practitioners: NSW	Non-Indigenous urban policy practitioners: VIC
How do you see your role and position (also institution/ organisation) in relation to First Nations rights and responsibilities?	• Providing opportunities for ideas, two-way learning • Building relationships with Traditional Custodians to achieve mutually beneficial outcomes • Listening and advocating for better outcomes and opportunity for involvement in planning process • Listening and advocating for early engagement. Responding with opportunities to embed outcomes • Continuous learning and understanding what Country is and means • To look for opportunities to involve First Nations people in projects where not mandated by policy • To listen and strive for the best planning outcomes, which includes great outcomes for First Nations people • As conduit: education role with private developers. Working with community • Working with consultants and bringing the right people together • Working towards improving flexibility and responding to opportunities • Not only listening but responding appropriately, putting into action what we learn • Advocating and embedding process into our work. It is important to share and educate across teams and agencies to continually improve ways of working to achieve best practice and quality outcomes for everyone • To support and welcome First Nations people participating in planning.	• Informing culturally responsive processes • Translating and supporting to bridge the technical gap • Advocacy and shared learning experience • Delivering self-determined outcomes • Championing First Peoples interests internally to my organisation; this is a shared responsibility, and it is not fair to expect First Peoples to carry all the burden of advocacy for systems change • Flagging organisational responsibilities, meeting legislative obligations / managing reputational and project approval/delivery risks • Still long way to go in understanding need to partner (and share decision-making) with Traditional Owners, rather than simply including as one stakeholder in a process • A growing awareness of our moral responsibility to uphold First Nations rights and responsibilities; not many statutory requirements to do so as yet • Government has self-determination policies and obligations but it doesn't always feel like it's backed by real commitment: political cycles, budgets, timelines etc. get in the way too often.

Table A1 (continued): Non-Indigenous practitioner Miro Board responses

Question/prompt	Non-Indigenous urban policy practitioners: NSW	Non-Indigenous urban policy practitioners: VIC
In previous experiences, what has been the prompt for you to engage with First Nations on particular projects or processes? **When you do engage with First Nations custodians, what approaches, activities, practices do you work with?**	• Ideally at the inception of any project to understand the cultural landscape. But more often when trying to shape and collaborate in preparing / updating work. Approaches are usually yarning circles led by consultants • Need to think at a more precinct scale: beyond site-by-site • Engage a First Nations consultant to guide process • Need a regular forum to build a relationship over time and take integrated and related proposals to the circle • Planners becoming more aware of living cultural connection to Country • Historically, before the Connecting with Country approach, the engagement was around archaeological investigations. Now it is front of mind and at the beginning of a project. Practice has evolved quickly. The earlier the input the greater the possibility for impact • Walking Country: find the limited numbers of people available to be a challenge. Need more time for team on Country • Creating an environment of high trust so that knowledge can be shared • Very early in the process when thinking about what inputs are needed to shape a plan/project. We have used a mix of broader First Nations engagement and targeted engagement / small groups with Traditional Custodians and LALCs. Engagement is guided by consultants • Originally considered as part of a heritage technical study or one part of a consultation report, this has now changed. We need to think about it at project inception: when thinking about budgets, work plans, key stakeholder lists, etc. Also asking right at the start: what Country is this, who are the Traditional Custodians, and what are the cultural values? • Work with cultural values mapping, walking on Country, design jams, yarning circles, feedback sessions • Combination of identified as part of the procurement process, as required through the planning process, and also identifying opportunities where a site or project is being thought about • Current approach and prompt is thinking about things up front, embedding the thinking at the start of each project, no matter what scale • Coming into my role at first, the engagement process was already underway, the prompt being the planning process. What we did was understand what was done previously, the outcomes, and any reasons why certain decisions were made. It was clear to us that further engagement with more First Nations knowledge holders was required.	• Most people understand we should engage early, but often it still happens late in process; barriers include knowledge of how to engage, and desire to first develop content to engage on • Relevance/impact of a project to areas of interest to Traditional Owners; looking at Country plans and findings from previous engagement • Where I don't know—ask • Range of reasons: legislation, sense of obligation (box-checking) and strong sense of need/moral obligation • Good approaches beginning to be more broadly applied include having a relationship manager for each Traditional Owner group, funding roles within Traditional Owner corps, willingness to go out and meet on Country • Approach is usually an initial meeting and asking First Nations custodians if they are interested and how they would like to be involved.

Table A1 (continued): Non-Indigenous practitioner Miro Board responses

Question/prompt	Non-Indigenous urban policy practitioners: NSW	Non-Indigenous urban policy practitioners: VIC
What have you had to unlearn and relearn in relation to your practice through these experiences? **What have been some of the significant challenges, and what lessons have you drawn from those?**	• Who to engage with and who has the cultural authority to speak on and for Country • Thinking of missed opportunities • Not to be scared of new ideas • Have had to unlearn the static view of Country as an archaeology-only informed process • The differences and complexities between knowledge holders, Traditional Custodians, Land Council representatives • Let Country be the source of inspiration and place, and not try and replicate something from another place or introduce something new • How my previous appreciation of visual context and views was a European perspective and First Nations perspective … what they see was completely different • I've had to unlearn assumptions about what planners should do in this space and traditional/colonial-focussed approaches to land. I've had to learn about the deep connections to Country and how planning and our actions can be harmful. I've had to make time for training, listening, walking Country and needed to make a commitment to ongoing learning.	• Country is not just land management: also about people and connections between people and land, and part of individual and collective identity • Had to learn that it is okay to get things wrong, and that the important thing is being willing to learn. Biggest challenge/barrier is possibility of failure is scary, and challenging internal biases is uncomfortable • That emotions when beliefs grown up with are threatened get in the way of many (mostly older) planners' willingness to learn new ways of doing things. And this means I need to be very careful in how I approach these conversations to make things better and not more divisive; cannot lean on assumption of shared values • Preconceptions and layers of bias we all have, peeling back of our own layers and being open to a different way of understanding, through a different lens, one layer at a time • The huge disparity between the Western planning system, which is based around land tenure, and First Nations understanding of Country and all of its myriad elements and depth • So much: all the pragmatic things around timelines, budgets, resourcing; not to expect that First Nations people are interested or able to participate in our projects • A lot of cultural learning: Country, integration of different elements, holistic approach to managing Country. Planning is so artificially compartmentalised (e.g. environment, water, land, transport, air), yet is really all part of one Country.

Table A1 (continued): Non-Indigenous practitioner Miro Board responses

Question/prompt	Non-Indigenous urban policy practitioners: NSW	Non-Indigenous urban policy practitioners: VIC
What do you see are the biggest opportunities and challenges for industry to build capacity towards good relationships with First Nations custodians?	• Traditional Custodians to appoint consultants working on projects • Keep listening, learning and connecting with the Country/countries that we are working on. Being good planning custodians • Keep building rapport with Traditional Custodians and other First Nations stakeholders. Good relationships result in good, genuine outcomes • A challenge would be keeping it at front of agenda/priority list for our workplaces, departments, etc. Advocating for budget and resources to do this work and do it well • Consider the importance on continuity from strategic to local, especially at a time when capacity in the industry and First Nations community is still developing • Opportunities to be involved as early as possible in strategic plans where it is easiest to influence and embed consideration • A challenge is how government responds and a whole-of-government approach without creating greater consultation fatigue • Ongoing relationships with developers • Harnessing corporate commitments to reconciliation • More opportunities for Traditional Custodians and youth to work within the built environment space • Going beyond design outcomes to custodianship and ongoing caring and management of Country. • Opportunity to take the spatial recommendations beyond creek lines and vegetation • Capacity building written into procurement scope • Ongoing relationships that span across projects.	• Opportunity: involving First Peoples in high-level strategic decisions about what we do and work on, not just the First Peoples engagement as the minimum requirement or norm for projects, rather than something that occurs ad hoc or only if you get the right people working on the project • Supporting opportunities for Indigenous people to become urban planners • Building a sense of shared responsibility in the profession; that every single one of us has a role to play in decolonising the system • Sharing of cultural load that communities carry • Challenge: managing demand from government on First Nations time and resources • Adequate and secure funding: a basic concept that could make a huge difference • Improved cultural awareness

Source: This table is internal to the research outlined in this report; it was produced by the project team as part of the analysis.

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