

Co-Designing Indigenous Asset Management Structures

UWA Research Project

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RESEARCH PROJECT TEAM



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WHAT IS THE PROJECT ABOUT?



We've been speaking to stakeholders and reading to identify:

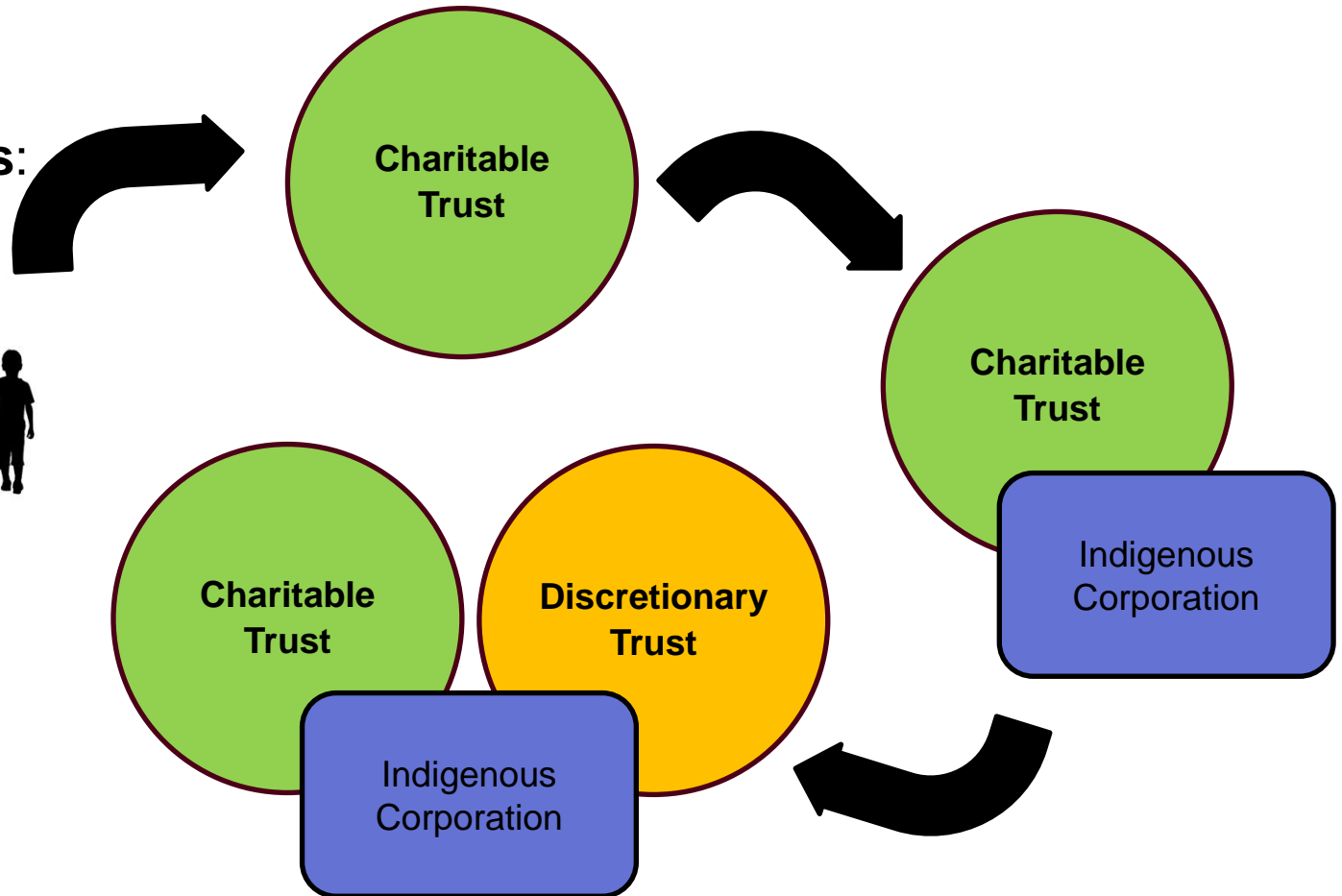
- relevant design considerations for the legal documents for an Indigenous Asset Management Structure (**IAMS**); and
- example approaches to key IAMS challenges.

Each group of stakeholders has different circumstances. The design considerations and examples are meant to provide options, rather than requiring one approach.

WHAT ARE IAMS?

IAMS receive, hold and distribute assets for Indigenous people and groups

Legal Entities:



WHAT ARE IAMS?



Decision-making:

3 rd party decision making combined with...	Indigenous group decision making
Independent trustee holds and makes decisions about IAMS assets.	Decisions on particular matters: <ul style="list-style-type: none"> • Indigenous group (fundamental decisions) • Representatives (strategic) • Further representatives (operational) Trustee veto for non-compliance.
Independent/stakeholder directors on Indigenous trustee / corporation or on certain decision-making committees.	Indigenous trustee / corporation.
Advisory trustee.	Indigenous trustee / corporation.

Asset protection:

- Custodian trustee
- Future fund

PUTTING IT ALL TOGETHER:

Local Indigenous Community
Broader Regional Groups

Native Title Group
Fundamental decisions on matters such as change
of trustee, winding up trust

Independent Professional Trustee (DT & CT)
Support governance and other administration, investment, asset protection

DISCRETIONARY TRUST

- ✓ Income distribution to beneficiaries (discretionary)
- ✓ Charitable trust (default income distribution)
- ✓ Indigenous Corporation
- ✓ NT Group members
- ✓ No non-Aboriginal beneficiaries (tax)
- ✓ Can support economic development

Council (DT & CT)

Medium sized group, representative of NT Group.
Strategic decisions: eg strategic plans, distribution/investment policies

Decision Making Committee (DT & CT)

Operational decisions on certain matters such as distributions (direction to Trustee) and some **strategic decisions** eg co-prepares strategic and annual plans

CHARITABLE TRUST

Community Projects Fund

- ✓ Benefit all Indigenous people in area, including NT Group
- ✓ Fund others to provide education, health & social housing
- ✓ Culture & heritage
- ✓ Land and environmental management
- ✓ Economic development?

Indigenous Corporation

May be funded to carry out DT & CT activities

Future Fund

High% of income accumulated until Target Capital Base reached

WHAT SHOULD AN IAMS ACHIEVE?

Don't expect IAMS to address all issues, but:

Traditional owners

- Support autonomy
- Improve the future

Indigenous corporation CEOs / professional advisers

- Self-determination and capability for the NT group
- Corporation and community become self-sustaining (economic, social, cultural)
- Open, transparent and robust system for NT group to manage and protect NT benefits
- Flexibility to take account of differences between and within groups

Professional trustees:

- Achieve social and financial goals of NT group, conceived primarily as providing specific payments
- Building capacity and autonomy, focussed on ability to interact with trustee

Resource companies:

- Receive compensation and role in relationship building
- Socio-economic benefits
- Achievement of autonomy and capacity building

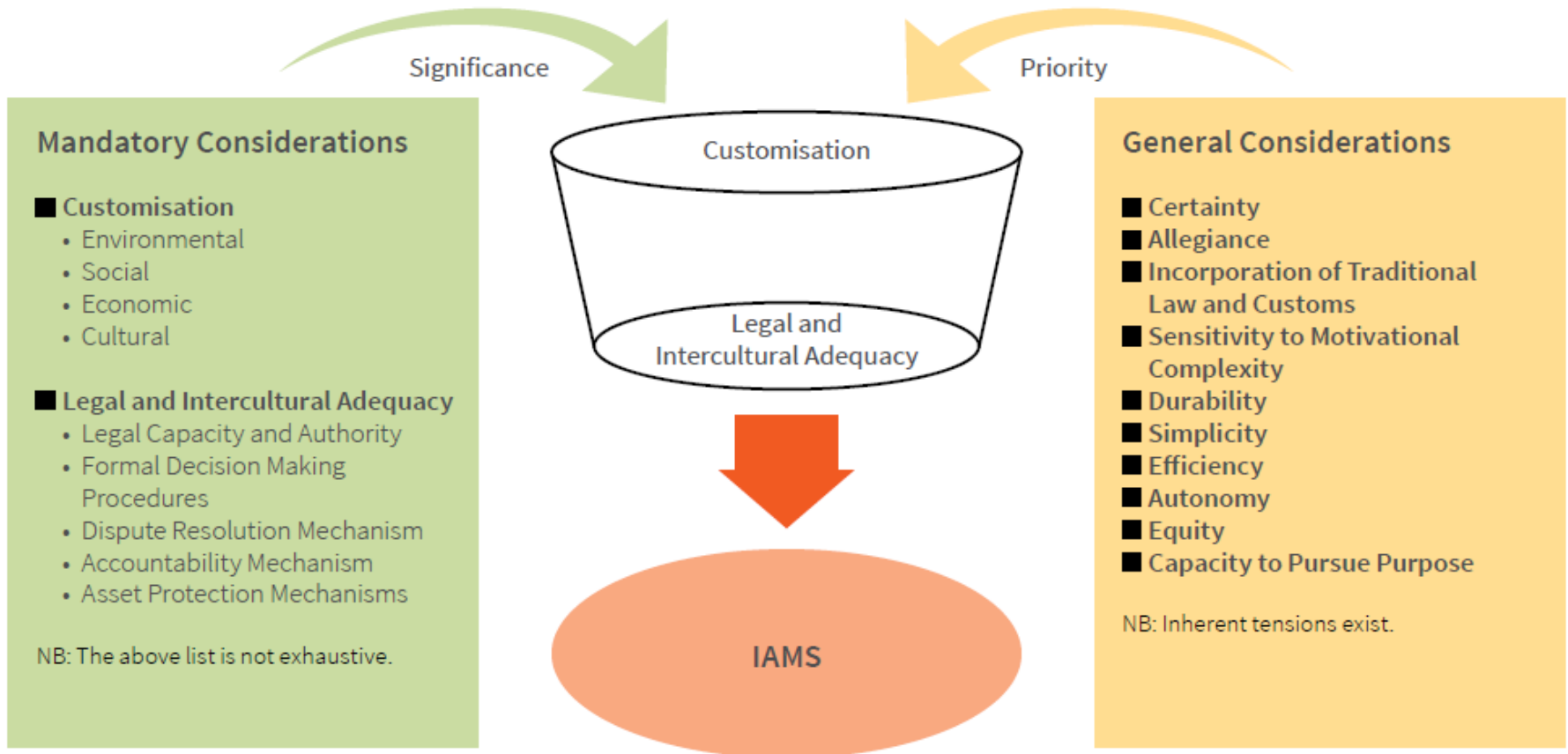
KEY ISSUES FOR IAMS



- 1) Supporting autonomy**
- 2) Every community/family/individual is different**
- 3) Incorporating traditional laws and customs**
- 4) Need for capacity building – especially due to complexity**
- 5) Governance**
- 6) Communication and participation**
- 7) Overlapping decision-making bodies**
- 8) Succession planning**

- 9) Scale of compliance activities**
- 10) Equity**
- 11) Economic development**
- 12) Strategic planning**
- 13) Change**
- 14) Implementation versus structure?**
- 15) Sharing**

Design Considerations



NEXT STEPS



Near term:

- ❑ Reality testing research findings with
 - TOs and IAMS beneficiaries
 - Trustees
 - Resource companies
- ❑ Publicly available research monograph and factsheets (UWA Centre for Mining, Energy and Natural Resources Law website)

Longer term:

- ❑ Follow-on review of a larger number and more diverse group of IAMS in:
 - WA
 - Other Australian jurisdictions
 - Overseas

Please speak to us if interested