

# Joint management of protected areas in Australia: native title and other pathways towards a community of practice

## Workshop report

Alice Springs Desert Park, Alice Springs  
3–4 April 2012

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NTRU RESEARCH REPORT



**AIATSIS**

AUSTRALIAN INSTITUTE OF  
ABORIGINAL AND TORRES STRAIT  
ISLANDER STUDIES  
NATIVE TITLE RESEARCH UNIT



**Northern  
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## Acknowledgements

AIATSIS would like to acknowledge all workshop participants for their comments and valuable revisions.

## Executive summary

1. The Native Title Research Unit (NTRU) at the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) has been researching joint management agreements and investigating the concept of a 'community of practice' through a series of workshops.

2. On 3–4 April 2012, a workshop titled 'Joint Management of Protected Areas in Australia Workshop: Native Title and Other Pathways towards a Community of Practice' was held in the Desert Park in Alice Springs. The workshop was co-sponsored by the Northern Territory Department of Natural Resources, Environment, The Arts and Sport (NRETAS) and AIATSIS.

3. The workshop brought together government staff working in joint management to share information about their jurisdiction's approach to joint management and to identify practical issues that should be addressed in developing a community of practice. There were 21 participants from the relevant Commonwealth, state and territory agencies, with the exception of Tasmania and the Australian Capital Territory.

4. On Day 1, participants provided overviews of joint management approaches in their jurisdictions including their challenges and successes. Access to country and the right to care for country was identified as an increasingly common outcome sought by Traditional Owners. Matching the aspirations of joint management partners with the capacities, and resources of governments and Traditional Owners, was seen as a major challenge, as was stress and 'burn out' of both.

5. On Day 2, a range of issues impacting on joint management was discussed: the potential of Indigenous Protected Areas (IPAs) over multi-tenures, including national parks as whole-of-country planning tools and as alternative pathways to joint management; the emerging potential for joint management over marine areas or sea country and fresh water which has made limited progress to date; and the international context of managing protected areas.

6. On Day 2 participants also identified a number of elements of what might constitute a national community of joint management practice or learning portal, with the aim of providing cross-jurisdictional support for joint management practices. Suggestions included digital information sharing, a range of toolkits, web-based forums for discussion, research to benefit stakeholders, and email networks.

7. Participants identified an urgent need to promote the benefits of joint management to governments and the general public, particularly as a means of attracting resources. They also showed a strong commitment to sharing information about joint management models and successful case studies and rated the workshop of high value. Further workshops will be aimed at facilitating a strong dialogue with Traditional Owners and other joint management stakeholders.

## 1. Introduction

On 3 and 4 April 2012, the Northern Territory Department of Natural Resources, Environment, The Arts and Sport (NRETAS) and the [Native Title Research Unit \(NTRU\)](#) at the [Australian Institute of Aboriginal and Torres Strait Islander Studies \(AIATSIS\)](#) convened a workshop of state, territory and Commonwealth government staff working in joint management and native title at the Alice Springs Desert Park (see Attachment 1 for a list of participant names).<sup>1</sup> The workshop was titled 'Joint Management of Protected Areas in Australia: Native Title and Other Pathways towards a Community of Practice'.

The aims of the workshop were to:

- Examine the inequities in joint management across and within jurisdictions;
- Provide a forum for government staff to discuss challenges in joint management and ways of overcoming them;
- Discuss the potential of a national community of practice in joint management across jurisdictions;
- Confirm the information collated in jurisdictional overviews of joint management; and
- Inform future workshops for the joint management sector (see Attachment 2 for the agenda).

The workshop also sought to implement a recommendation from the Indigenous forum at the Australian Protected Areas Congress in 2008 (APAC08) that the Commonwealth Department of Environment (now the Department of Sustainability, Environment, Water, Population and Communities (SEWPAC)) meet with state and territory governments responsible for protected areas to 'explore ways of enabling national networking among co-managed parks, similar to the IPA managers' network, and linkages with the IPA Managers' network'.<sup>2</sup>

The workshop was part of an AIATSIS [NTRU research project on joint management](#) which will continue over the next three years (2012-2015) through funding from the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). It was informed by a number of previous workshops including: a national meeting of representatives of co-managed Indigenous Protected Areas (IPAs) which was convened by SEWPAC in Cairns in March 2012; a National Native Title Conference 2011 workshop stream in Brisbane convened by the NTRU around the broad theme of 'What helps and what harms joint management?'; and a dialogue forum, 'Running the Gauntlet: Joint Management and Native Title' at the National Native Title Conference in 2012 in Townsville. A number of other conference sessions dedicated to joint management were also part of the 2012 Native Title Conference program. Future workshops will involve, as a priority, native title holders and Traditional Owners and representatives of native title representative bodies (NTRBs) and other native title service providers (NTSPs).

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<sup>1</sup> All jurisdictions were invited but representatives from Tasmania and the Australian Capital Territory were unable to attend.

<sup>2</sup> Grant, C., H. Ross, C. Robinson, A. Izurieta, D. Smyth, P. Rist, L. Scherl, B. Rose, N. Hedgcock and J. Schmider, 2008. A Combined Report from the: Indigenous Forum (Satellite Event), Monday 24 November, Workshop on Co-Management and Indigenous Protected Areas: 30 years on, Wednesday 26 November APAC08, p.267 available from <http://www.derm.qld.gov.au/register/p03010aa.pdf>.

Prior to the Alice Springs workshop, the NTRU circulated draft jurisdictional overviews of joint management arrangements in each state and territory to the relevant participants for comment. A draft of this report, intended to provide an overview of issues and discussion, was also circulated to participants for comment and revision before being distributed publicly. In evaluation sheets completed at the end of the workshop, participants valued the workshop highly.

## **2. Day 1 – 3 April 2012: Facilitator and participant introductions**

The workshop began with introductions from the facilitator, Dr Dermot Smyth, and the conveners, Richard Ledger (Northern Territory Parks and Wildlife Service, NRETAS) and Toni Bauman (AIATSIS, NTRU).

Dr Smyth has a long involvement with Aboriginal and Torres Strait Islander peoples, Commonwealth, state and territory governments, regional natural resource management organisations, and conservation non-government organisations (NGOs). His work has involved the development of policies and programs that support the roles of Indigenous peoples as users and managers of national parks, Marine Parks, Indigenous Protected Areas, fisheries and other natural resources. He has attended previous NTRU joint management workshops as well as the SEWPAC co-managed IPAs workshop in March 2012.

Richard Ledger has been involved in natural resource management in northern Australia for 30 years. He is currently employed as the Joint Management Governance Coordinator responsible for developing the governance arrangements for the 27 Framework Parks over which the Northern Territory government has entered into long term partnership arrangements with the Traditional Owners.

Toni Bauman is an anthropologist, mediator, facilitator, trainer and Senior Research Fellow in the NTRU, AIATSIS. Ms Bauman has been involved in joint management and Indigenous land justice in a range of capacities for many years. She is responsible for the AIATSIS joint management research project in the NTRU.

Workshop participants introduced themselves, some noting that they knew little of what's happening about joint management in other jurisdictions. General expectations of the workshop were expressed in terms of the opportunity to learn from each other in informal conversations including about: how governments can work more effectively with Aboriginal land owners; the development of workable alternative models; how to meet challenges within current restraints; and how to account for generational change in joint management.

The significance of joint management as a key outcome in native title agreements was acknowledged, as were the inequities in joint management arrangements which can be noted both within and across jurisdictions.

### 3. State and Territory overviews

Participants from each jurisdiction had been asked to prepare a 10 minute presentation providing an overview of joint management in their jurisdiction, highlighting both significant achievements and challenges. Presentations were followed by questions and discussion. The presentations and discussions are summarised below. Where PowerPoints were used, information from them has been incorporated into the summaries. PowerPoints will also be made available on the AIATSIS website as part of the record of this workshop.

#### 3.1 New South Wales (NSW)

##### ***New South Wales National Parks & Wildlife Service (NPWS)***

##### ***Office of Environment and Heritage (OEH)***

##### ***Presenters***

Kevin Wale, A/Manager Aboriginal Co-management Unit, NSW National Parks & Wildlife Service (NPWS)

Claire Allen, Senior Policy Officer, Office of Environment and Heritage (OEH)

**PowerPoint:** Information from the PowerPoint titled 'Overview of joint management in NSW' has been incorporated into the text below.

##### ***Overview***

- One of the drivers for joint management in NSW was the Royal Commission into Aboriginal Deaths in Custody where the return of land to Traditional Owners is seen as important in reaffirming and strengthening identity. The objective of joint management has therefore been grounded in the wellbeing of Aboriginal people.
- Recommendation 315 of the Royal Commission (the Millstream Recommendation) was cited in the second reading speech when the New South Wales Parliament passed the National Parks and Wildlife Amendment (Aboriginal Ownership) Bill 1996. The Bill made amendments to the *National Parks and Wildlife Act 1974 (NSW)* (NPW Act) and the *Aboriginal Land Rights Act 1983 (NSW)* (ALR Act) and provided for the return and lease-back of parks to Aboriginal people under Part 4A of the NPW Act.
- Joint management is integrated in government policy and is recognised in the New South Wales Government's 2021 10-year plan.
- The NPWS has three types of agreements:
  - Part 4A lease-back arrangements – these are the only agreements that involve land ownership;
  - Indigenous Land Use Agreements (ILUAs) under the *Native Title Act 1993 (Cth)* which involve the recognition of non-exclusive native title rights; and
  - Memorandums of Understanding (MoU) which are not legally binding but are an agreement between NPWS and Traditional Owners.
- The NPWS now has 24 joint management agreements, involving 21% of the reserve system (1.5 million hectares). Some are only small areas, others are large areas and some arrangements may be simply an MoU.

- A NSW Aboriginal joint management network is supported through the Joint Management Custodians of NSW group, which meets regularly and provides recommendations to the Head of NPWS and where appropriate to the Minister for the Environment.
- NSW joint management administrative arrangements are primarily regionally based, allowing for the development of strong relationships between government staff on the ground and local Aboriginal communities. The role of the centralised Aboriginal Co-management Unit in the OEH is to support regional offices in entering agreements and set the parameters of those agreements and liaise with the local committees that represent the joint management agreements.
- One of the most common outcomes sought in joint management agreements is access to country and the right to care for country.

### ***Achievements***

- That joint management is happening, with the support of the OEH which is strongly committed.
- There is growing confidence in government staff and Aboriginal communities that the outcomes of joint management agreements are being delivered.
- Aboriginal people are back on country on more than 21 % of the reserve system.

### ***Challenges***

- Keeping the momentum going and ensuring ongoing support for joint management agreements.
- Continuing to build the capacity of Aboriginal communities and staff to enter joint management agreements.
- Matching growing aspirations from the community with what is achievable under joint management, particularly around freehold land ownership and employment.
- Natural resource management (NRM) and cultural heritage management (CHM) have historically constituted the main focus in park management, but this is now being added to by a focus on joint management which requires a different way of thinking.

### ***Discussion***

- Leaseback arrangements are for 30 years.
- Parks have differing values which influence the calculation of rent payments.
- The original joint management arrangements came out of Part 4A so they are the Minister's responsibility. Since the commencement of native title negotiations, the Aboriginal Co-management Unit has played the role of assisting and advising local staff.
- Joint management has momentum and is driven by the regional NPWS offices and Aboriginal communities, not by the centralised Aboriginal Co-management Unit.
- Some agreements receive rent (Part 4A parks) whilst other agreements don't, leading to perception of inequity between agreements.
- The change of the culture of the NPWS from natural resource management (NRM) processes to those of joint management is coming 'from the ground up' e.g. when a park manager wants to do a cultural heritage survey, his/her first port of call is the Indigenous community, creating opportunities for real engagement.
- 'Culture camps' are increasingly occurring, where people have access to country with the assistance of parks managers.
- Traditional Owners seem to prefer to use the term 'joint management' over co-management as terminology.



- Outcomes of Part 4A agreements include committed funding and employment.
- ILUAs give the right to practice native title on the parks, but there is no funding and limited employment.
- MoUs are far more prolific in terms of enabling people to be on country, but they don't automatically enable Traditional Owner access to funding or rights to country.

### **3.2 Queensland (QLD)**

#### **Queensland Parks and Wildlife Service (QPWS)**

#### **Department of Environment and Resource Management (DERM) (now the Department of National Parks Recreation Sport and Racing)<sup>3</sup>**

##### **Presenter**

Bruce Lawson, Principal Project Officer, Cape York Peninsula Tenure Resolution Branch, DERM, now within the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs).

##### **Overview**

- QLD has a range of formal and informal approaches to joint management with no single statutory framework covering all the national parks across the State.
- Regional legislation enables tenure based joint management in Cape York and Stradbroke Island.
- Other tools for partnerships include:
  - ILUAs which provide cooperative management where outcomes are usually linked with consent determinations of native title (e.g. Barron Gorge National Park ILUA with Djabugay people). ILUAs can also apply to tenure resolution dealings leading, for example, to the dedication of a new national park and a separate grant of Aboriginal freehold (eg. dedication of the Jack River National Park and gazettal of Kalpowar Land Trust lands). However, these ILUAs are not considered to be fully developed joint management arrangements as there is no underlying grant of title to the national park to underpin the agreement (although ILUAs supporting the specific Cape York Peninsula and Stradbroke grants and joint management arrangements are the exception);
  - MoUs which can include a range of non-tenure based management arrangements including shared decision-making, wildlife management, funding and employment;
  - statutory lease arrangements that can provide for on-park Traditional Owner living areas;
  - steering committees which provide advice for management planning activities or addressing other specific management issues;
  - Ministerial Advisory Committees which are statutory advisory committees providing advice to the Minister on how to manage specific issues or agreements (e.g. Waanyi Ministerial Advisory Committee for Boodjamulla National Park);

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<sup>3</sup> Since the workshop, and an election in Queensland, machinery of government changes have seen major departmental restructures resulting in DERM no longer existing and tenure resolution and joint management negotiations and implementation being shared across a number of departments according to specific tenure or management issues in question. These departments include the Department of Environment and Heritage Protection (EHP), the Department of Natural Resources and Mines (NRM), the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs (ATSIMA) and the Department of National Parks Recreation Sport and Racing (NPRSR). QPWS, within NPRSR, maintains primary responsibility for joint management implementation across the State of Queensland.

- resource agreements such as the Traditional Owner Marine Resource Agreement which involve the Great Barrier Reef Marine Park Authority (GBRMPA), Traditional Owners and the State; and
  - the Indigenous Protected Areas (IPAs) model which is gaining momentum and some successful agreements are already in place.
- In 1991, with changes to the *Aboriginal Land Act 1991* (Qld) and the *Nature Conservation Act 1992* (Qld), provisions were made for Aboriginal land grant and lease back in perpetuity, but no leases have occurred or led to dedication of new parks or joint management. This model was previously dubbed the 'Clayton's Joint Management Model'.
  - The 1991 approach was rejected by Traditional Owners for a number of reasons including:
    - it had an in perpetuity leaseback arrangement to which Traditional Owners had to agree before the land was handed back;
    - the Minister appointed the board;
    - a national park had to be regulated as claimable and heard before a land tribunal; and
    - a management plan needed to be prepared prior to the dedication as national park (Aboriginal land).
  - The 1991 legislation has been more or less superseded by the North Stradbroke and Cape York legislative approaches.
  - There are a number of drivers behind the new approach to joint management, particularly on the Cape York Peninsula where there are currently 12 joint management national parks. These include:
    - joint management is seen as unfinished business, particularly given the failure of the earlier statutory arrangements to provide for tangible outcomes;
    - a resolution of native title and other land disputes;
    - a number of unresolved planning and tenure issues on Cape York Peninsula;
    - DERM interest in securing further conservation outcomes including establishing more parks on Cape York Peninsula; and
    - the need to address a number of community issues for Aboriginal people in Cape York including welfare reform, capacity building, and creating economic development opportunities.
  - The current model of State land tenure resolution for the Cape York Peninsula means that approximately 50% of land will become unfettered (non-national park) Aboriginal Freehold and 50% joint management national park over Aboriginal Freehold. Nature Refuges may also be established by agreement over some of the non-national park Aboriginal freehold where significant conservation values exist. The 31 existing national parks on the Cape will also become jointly managed national parks with Aboriginal Freehold as the underlying tenure. There is no lease back requirement for these jointly managed national parks.
  - DERM has a contract with the Cape York Land Council (CYLC) and Balkanu to provide independent legal and technical advice for Cape York Peninsula traditional owners in joint management negotiations and agreements.
  - The North Stradbroke model in 2011 took a similar approach to Cape York – a tenure based model which also relies on formal binding agreements and considers a range of tenures in

addition to national park (including resources reserve, conservation park and dedicated recreation areas). It has two tiers of decision making groups (Senior and Operational Implementation Working Groups) over the management of the park.

- Cooperative management arrangements over marine park areas are beginning to be considered under consent determination ILUAs and through IPA models. The IPA models are not always well understood or fully utilised by the State at this point in time.

### **Challenges**

- Long-term sustainable national park joint management funding and resource allocation is critical to enable effective joint management arrangements to develop.
- Sufficient and ongoing resources are also required to assist Aboriginal and Torres Strait Islander people to become equitable partners. Land trusts and corporations need assistance with capacity development and governance arrangements.
- Funding for joint management on the Cape York Peninsula is currently until June 2012. A new funding package is currently under consideration.
- DERM faces the challenge of meeting existing operational funding requirements as well as meeting the new joint management requirements including Traditional Owner resource needs. The existing challenge of allocating limited funding among a number of existing projects is exacerbated by the need to also accommodate joint management implementation costs and Traditional Owner expectations for additional employment and management activities.
- Securing long term and sustainable economic opportunities for Traditional Owners is a challenge for the whole community. There are some park management funds for allocating monies for contracts and other employment initiatives which will be decided by the joint management committees. But there is a need to look outside of these structures for projects to be run by Traditional Owners, including in other business areas such as education and tourism and possibly carbon abatement.
- Personal costs, stress, and burn out of both Indigenous and non-Indigenous partners are a major challenge.
- There is a challenge in supporting QPWS rangers to meet the demands of the joint management partnerships as they often carry the weight of responsibility in delivering the agreements at the day to day level. QPWS rangers also need to be equipped to deal with the more subtle pressures of joint management, including managing conflict, understanding cultural differences, and juggling the additional multiple workplace pressures and demands.
- Joint management takes place sometimes on the back of a long history of intra-Indigenous conflict and is complicated by a history of Traditional Owner frustration and conflict with the government. Currently joint management arrangements require a heavy workload for DERM staff and it is a challenge for QPWS rangers to juggle all the challenges associated with incorporating joint management into core business, particularly given resource constraints.
- It is difficult to sell the complexities of joint management in a meaningful way to Traditional Owners who are sometimes 'meeting weary' because of long negotiation periods and are frustrated by a lack of results. Elders are passing away without seeing their land handed back. Both departmental officers and Traditional Owner representatives are under a lot of pressure to deliver outcomes, but aren't always able to meet all expectations.
- Existing national park boundaries and lands that have been acquired for conservation don't readily fit 'tribal' boundaries and this can complicate negotiations and elevate conflict between Indigenous groups.

- DERM is currently behind on current tenure resolution and joint management targets for Cape York as original timeframes did not anticipate the complexity of some of the dealings. It is often difficult to deliver outcomes within set timeframes in negotiations over joint management.
- There is a tension between needing to demonstrate cost and time efficiencies while ensuring negotiations arrive at fair and equitable outcomes for all parties. Blanket one-model-fits-all approaches are unlikely to be effective in the longer term.

### ***Discussion***

- There are difficulties faced in gaining the trust of Traditional Owners particularly convincing them that the government is serious in making joint management work.
- Where there are established relationships, there is an atmosphere of trust – winning the trust of people on the ground is essential.
- The past histories of opposition from the government to Aboriginal land ownership in QLD impacts on the relationships of Traditional Owners with government today.
- There is a need for a qualification in joint management, but resources are limited (NSW is about to provide training for joint management).
- Funding and delivery of equitable outcomes requires improving of efficiencies which are not always able to be met.
- The social setting for parks staff is unique. Managing the focus and expectations is difficult.

## **3.3 Victoria**

### ***Parks Victoria (PV) & the Native Title Unit***

#### ***Department of Sustainability and Environment (DSE)***

#### ***Presenters***

Tony English, Acting Manager, Cultural Heritage Directions Unit, PV

Sam Morely, Project Officer, Native Title Unit, DSE

**PowerPoint:** Information from the PowerPoint titled 'Victoria: Joint Management with Traditional Owners' has been incorporated into the text below.

#### ***Overview***

- DSE has overall responsibility for the management of Victoria's public land estate. DSE sets the strategic direction (e.g. for land management, fire, water) and appoints land managers to manage parks in a consistent way (e.g. through PV and regional DSE staff).
- The Forests and Parks Division of DSE sets strategic policy direction for the management of forests and parks, and also leads DSE involvement in the negotiation of native title claims and the implementation of joint management.
- Major stakeholders/partners in the implementation of joint management arrangements are: PV (operational land manager), DSE regional offices (operational land manager) and Traditional Owner groups.
- There are five existing agreements with joint or co-management arrangements:
  - Yorta Yorta Co-operative Management Agreement (2004)
  - Wotjabaluk (Wimmera) Co-operative Management Agreement (2005)
  - Gunditjmara Co-operative Management agreement (2007)
  - Yorta Yorta Traditional Owner Land Management Agreement (2010)

- Gunaikurnai Traditional Owner Land Management Agreement (2010)
- 3 co-operative (co-management) agreements arose out of native title claims and have advisory committees which meet regularly and give advice on areas of land to the Minister and Parks Victoria.
- Co-management has not involved return of lands. It has related to 'bundle of rights' native title determinations over parks but not involved any transfer of title. The committees also only have an advisory role.
- 2 joint management agreements arose out of the *Traditional Owners Settlement Act 2010 (Vic)* (TOSA) and emerge from agreements with the State and Traditional Owners to establish a Traditional Owner Land Management Board (TOLMB). These arrangements are elements of individual Recognition Settlement Agreements (RSA). RSAs also include provisions or components such as those relating to funding of Traditional Owner corporations, and the use of natural resources.
- No annual lease is payable to Traditional Owners. Rather, a financial package is negotiated in mediation that to date has resulted in a one off payment of an agreed amount to the Traditional Owner entity. Funding has also been negotiated to support establishment of the Traditional Owner organisation that will represent the native title holders. Some funding has also been provided to cover the costs of Traditional Owner positions that will deliver joint management on the ground.
- TOLMBs are a significant development in joint management as they set the strategic direction. Their primary delegated power is to develop joint management plans for jointly managed parks. They have a Traditional Owner majority and a Chair. Traditional Owners are nominated by the Traditional Owner entity that is the signatory to the settlement. Appointment of members is done collaboratively to enhance the management of the park and the outcomes for Traditional Owners.
- TOLMBs manage Aboriginal title land, which is transferred to Aboriginal corporations on the proviso that it is managed according to the previous level of conservation. All of the public land Acts that operated over parks and reserves prior to their vesting in Aboriginal title, continue to apply to these lands.
- Note that in the case of Barmah National Park in Yorta Yorta Country, a TOLMB is being established but the park itself has not been vested as Aboriginal title due to the findings of the Federal Court which were upheld by the High Court, that the native title rights of the Yorta Yorta have been extinguished.
- PV has useful experience through past co-management agreements. The emphasis in joint management for PV is to build on established relationships, develop and implement collaborative management systems and approaches and ensure that Traditional Owners and park staff develop effective working relationships. The joint management role is evolving but PV's focus will be on the operational delivery of these arrangements.
- PV therefore plays a critical role in supporting the delivery of State commitments under the TOSA and associated Recognition Settlement Agreements.

## ***Achievements***

- TOLMBs are being established, and significant work is being done to allow the State to support their operation effectively and efficiently.
- There is recognition for the resourcing that needs to go into TOLMBs, and therefore joint management.
- Co-management between the State and the Gunditjmara in South West Victoria has seen the development of strong and effective partnerships and collaborative planning.
- Flat structures in PV assist in collaboration with Traditional Owners.

## ***Challenges***

- The timelines for milestones may not always meet the capacity of groups and this puts pressure on parties associated with the agreements.
- All parties are working with new law and policy. This means we are all learning how to develop systems and processes that are required to support effective partnerships.
- Complex interagency relationships and roles can create challenges but these are being clarified as working arrangements are slowly established.
- Adapting government decision-making flows to support and reflect those of Traditional Owners can be difficult.
- The interplay of two statutory regimes - joint management and cultural heritage - needs to be skillfully managed and utilised in tandem while at the same time recognising the differing jurisdictions of TOLMBs and Traditional Owner entities.
- Land management agency restructuring may see a re-allocation or reduction in resources in some areas. This challenge will need to be managed.
- Tension between capacities versus expectations are apparent in both the agency and Indigenous community.
- There are significant challenges in meshing the corporate planning process of parks with TOLMBs. This is an area of focus of PV as it prepares to engage with TOLMBs. PV is not a member of any of the pending TOLMBs and hence will need to develop clear lines of reporting to these entities so that they can operate effectively.
- Communicating to parks staff that there is a new official form of Aboriginal land title and the implications of this for the business of PV can be challenging. To date the response of PV staff to this change has been positive.
- There is a need for broader community outcomes beyond the land focused outcomes of RSAs. As an example, joint management may not deliver many jobs or revenue for some Traditional Owners relative to other potential opportunities that they can explore.
- Adapting decision making flows in land management to mesh with Traditional Owner processes and expectations raises issues.
- Expanding the concept of connection to country and heritage across the culture/nature divide (e.g. in relation to fire management) is an area of opportunity for all parties to explore.

## Discussion

- Under TOSA, there is a one-off settlement payment to Traditional Owner groups. There is no leaseback or rental, but funding for the TOLMB is ongoing.
- TOLMB interests may differ from the interests of the Minister.
- DSE and PV both have responsibilities for joint management and there can be tension between them over jurisdictional issues if their roles in this setting are unclear.
- DSE positions on TOSA and joint management negotiations inform PV's work.
- Template ILUAs exist for joint management arrangements under the TOSA.
- The existing legal framework for conservation is not changed with the return of land – there is a condition for continuing the conservation of parks under TOSA.
- There is a need for investment in the capacity building of boards, Traditional Owners and PV staff from the commencement of agreement making processes.

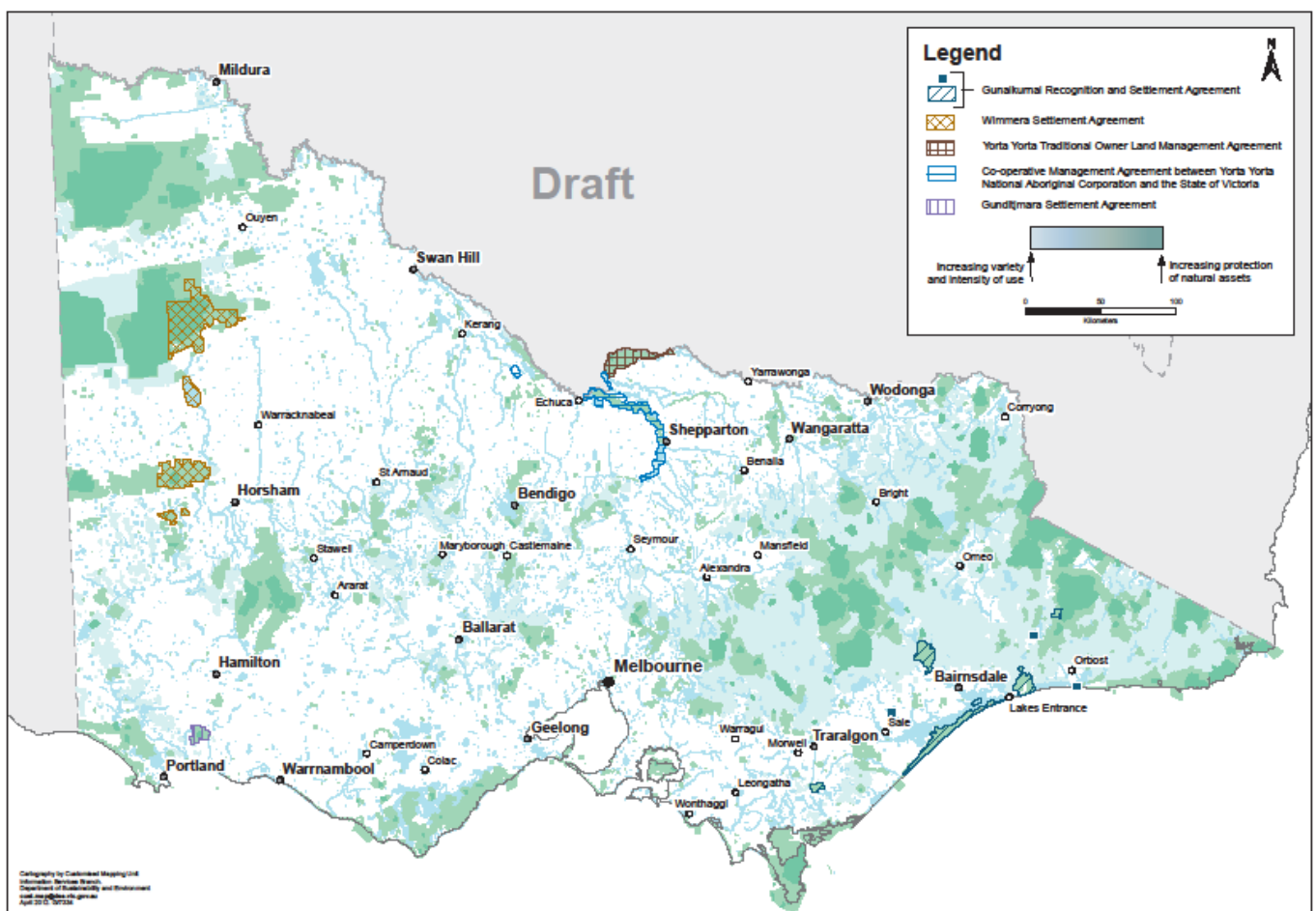


Figure 1: Areas of land in Victoria where management is shared with Traditional Owners. PowerPoint slide from 'Victoria: Joint Management with Traditional Owners', Department of Sustainability and Environment Victoria (T. English and S. Morely).

### **3.4 South Australia (SA)**

#### **Department of Environment and Natural Resources (DENR)**

##### **Presenters**

Kym Nicolson, Director, Land Stewardship

Malcolm Anderson, Team Leader, Aboriginal Partnerships

Tony Magor, District Ranger, Arid Lands Region

**PowerPoint:** Information from the PowerPoint titled 'Cooperative Management of Parks in South Australia' has been incorporated into the text below.

##### **Overview**

- In SA, Division 6A of the *National Parks and Wildlife Act 1972 (SA)* provides for co-management.
- There are 2 parks which are Aboriginal owned with active co-management Boards:
  - Mamungari Conservation Park (2004)
  - Breakaways Conservation Park (also has an advisory function over one other park)
- There are 4 parks which are Crown-owned with active co-management Boards:
  - Vulkathunha-Gammon Ranges National Park (2005)
  - Witjira National Park (2007)
  - Flinders Range National Park (2011) (also has an advisory function over one other park)
  - Lake Gairdner National Park (2011) (also has an advisory function over one other park)
- There are 3 parks which are Crown-owned with Advisory Committees:
  - Ngaut Ngaut Conservation Park (2005)
  - Coongie National Park (2009)
  - Gawler Ranges National Park (2011)
- Co-management is an integral part of negotiations to resolve native title claims where the focus is on negotiation rather than litigation.
- In SA, the Attorney Generals Department (AGs) lead the negotiations, and DENR work closely with AGs to establish ILUAs and co-management agreements.
- The Regional Services Directorate within DENR implements agreements once they are finalised.
- Co-management is negotiated in tight native title timeframes set by the Federal Court and there is a tight linkage between ILUAs, co-management and the resolution of native title. There are whole of claim ILUAs as well as ILUAs over parks.
- ILUAs dictate process, set the context and area and can facilitate the hand back of Crown lands. This process has meant that there is a tiering of agreements and documents which are all interconnected.
- Where native title doesn't exist, co-management can occur through the recognition of 'traditional rights'. For parks with differing tenures, 'traditional rights' can be established across the park and land tenures can be resolved through negotiating agreements under the co-management arrangements described below.



- Co-management agreements which include the structure of boards and employment are guided by four criterion:
  - complexity of Park Management;
  - management capacity – Traditional Owners and DENR engage in co-management at both strategic and operation levels;
  - effective relationships – the relationship dynamic with DENR, Traditional Owners, and their representative bodies; and
  - adequate resources to negotiate and implement successful agreements.
- Co-management arrangements must be equitable and workable, reflecting and accommodating broader government and departmental requirements, and taking into account the views of the community and other stakeholders.
- Co-management is undertaken in accordance with a co-management agreement between the Minister and the traditional owners. A co-management agreement may establish a co-management board or committee depending on the endorsed policy position.
- Co-management agreements may also provide for an advisory role to be established over other parks and reserves without the need for individual co-management agreements over those parks and reserves.
- Co-management Boards are distinct from Registered Native Title Prescribed Bodies Corporate (RNTBCs, also known as ‘PBCs’), although RNTBCs have a say in who sits on the Boards.
- The RNTBC doesn’t control the boards but needs to negotiate the reporting and membership relationships between the RNTBC and the boards.

### ***Achievements***

- Negotiation through native title means a more formal and legal process and greater certainty.
- There is guaranteed ongoing funding through native title, including the operational costs of co-management.
- Each negotiation is for co-management of a single claim area as opposed to parks (some 220 parks in South Australia).

### ***Challenges***

- Overlapping claims within a park, e.g. at Lake Eyre, where Arabunna and Dieri both have claims over the park are challenging. The legislation currently allows for only a single agreement over a park.
- Outside of native title, DENR does not have the budget capacity to enter into new co-management agreements.
- There is a high turnover of staff and a need for linchpins who understand the details and history of co-management and ILUA arrangements. Relationships between the partners and field staff are very important.
- Agreements have to be consistent across claim areas or it becomes practically difficult. This involves strong collaboration with AGs.

## ***Discussion***

- There is tension in the legislative frameworks to deliver joint management between the native title negotiating framework and co-management agreements which can proceed without a connection to a native title claim.
- South Australia did not engage in joint management processes for individual claims at the commencement of the *Native Title Act 1993* (Cth) but was trying to establish a State wide negotiation process, including resolving part of a claim over parks. This has now changed as individual native title settlements are being considered as part of the resolution of a whole of claim process.

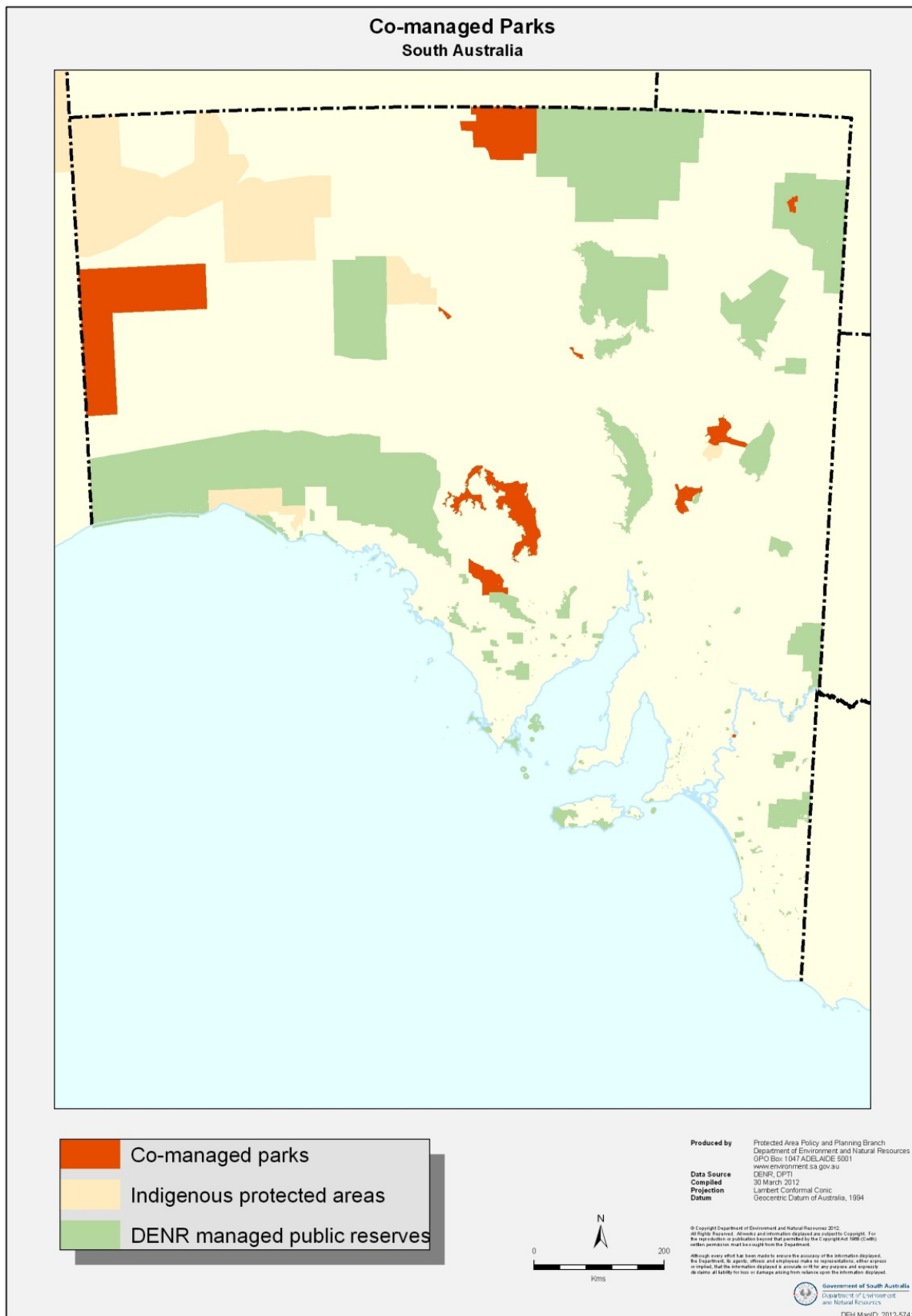


Figure 2: Co-managed Parks in South Australia, PowerPoint slide from 'Cooperative Management of Parks in South Australia', Department of Environment and Natural Resources, South Australia (K. Nicolson, M. Anderson and T. Magor).

### **3.5 Western Australia (WA)**

#### **Department of Environment and Conservation (DEC)**

##### **Presenters**

Simon Choo, Native Title and Heritage Coordinator, Parks and Visitor Services Division

Sharon Ferguson, Yawuru Program Leader

**PowerPoint:** Information from the PowerPoint titled 'Overview of joint management arrangements in WA' has been incorporated into the text below.

##### **Overview**

- Joint management priorities and outcomes are tied to current negotiations and other policy initiatives such as the Kimberley Science and Conservation Strategy and South West Native Title settlement process, which have a strong native title component and bring with them specific resources.
- Native title agreements have been reached to transfer areas to freehold, which could then be jointly managed.
- The recent amendments, in March 2012, to the *Conservation and Land Management Act 1984* (WA) (CALM Act) introduced a number of changes which:
  - enable joint management (effective March 2012);
  - establish a revised management objective to 'protect and conserve protect the value of the land to the culture and heritage of Aboriginal persons' (effective March 2012); and
  - enable customary activities (effective later in 2012, upon development of Regulations).
- The CALM Act enables joint management through:
  - conservation estate vested in the Conservation Commission of WA or the Marine Parks and Reserves Authority (Section 56A Agreements where management plans are developed prior to joint management agreements, i.e. the management plan specifies that joint management will take place and attaches the joint management agreement);
  - land held by or vested in other bodies, e.g. Aboriginal land, through Section 8A Agreements where joint management agreements are developed prior to the management plan – i.e. the joint management agreement establishes a joint management body which is responsible for preparing the management plan; and
  - Crown land which may be put under DEC CEO's management for specified functions (Section 8C order).
- The CALM Act gives broad parameters for joint management agreements to:
  - establish the joint management body;
  - identify the members of the body; and
  - establish the joint management body's procedures.

- Regulations are currently being developed in relation to the recognition of customary activities on the conservation estate, for example, in order to deal with issues of public safety, environmental risks etc. It is aimed that these will be prepared by August/September 2012, which will enable the relevant amendments of the CALM Act amendments to become operational. The recognition of customary activities is particularly important because native title rights have been extinguished over many of the national parks.
- Joint management exists now with the Yawuru and Mirriuwung Gajerrong native title holders. Under the Yawuru and Mirriuwung and Gajerrong ILUAs, the lands will be freehold and leased back to the State.
- Negotiations are currently occurring between DEC and Traditional Owners through the Kimberley Science and Conservation Strategy and the South West Native Title Settlement process. The Kimberley Science and Conservation Strategy includes ILUA negotiations for the creation of the conservation estate, and policy objectives providing for joint management and Aboriginal employment outcomes. The South West Native Title Settlement process is a comprehensive alternative settlement negotiation with Noongar people over the south-west of Western Australia, which includes, among other things a joint management component.
- The Yawuru people have an ILUA including a jointly managed 'conservation estate' which includes marine, intertidal and terrestrial areas. The intertidal zone is managed as a terrestrial park.
- The Yawuru ILUA identifies funding including employment of Yawuru People to manage Yawuru land. There is a succession plan for Yawuru to take over senior management. The Yawuru Park Council is comprised of 3 members from each of the Yawuru Board, DEC, and the Broome Shire. Its objective is the development and implementation of management plans including the monitoring and evaluation of the ILUA.
- There are 4 management plans being developed for different tenures guided by a Yawuru Cultural Management Plan which was developed through on-country meetings with Traditional Owners, initially as a guiding document. The plan includes Yawuru aspirations, cultural protocols, and guides management plans.
- There is an issue in engaging agencies and departments which are not signatories to ILUAs but need to be involved in the preparation of some management plans - e.g. Department of Fisheries which is separate to DEC - creating an added complexity from an agency point of view.

### ***Achievements***

- The amendments to the CALM Act enable joint management throughout WA.
- The revised management objective to 'protect and conserve the value of the land to the culture and heritage of Aboriginal persons' is a significant amendment to the CALM Act and will facilitate greater protection of Aboriginal cultural and heritage values.

### ***Challenges***

Agreements that cover more than just one claim are complex.

- Having an object of the CALM Act to conserve and protect the value of the land to the culture and heritage of Aboriginal persons that takes precedence over some other management objectives generates complexities and requires a number of shifts to be operational.

## Discussion

- Agreements involve departments outside of those specifically related to native title, e.g. local government and other agencies need to develop partnerships.
- Native title has driven opportunities for joint management, as groups are in a stronger negotiation position where they can leverage native title.
- There is a need to communicate what joint management is and its benefits to the broader community.

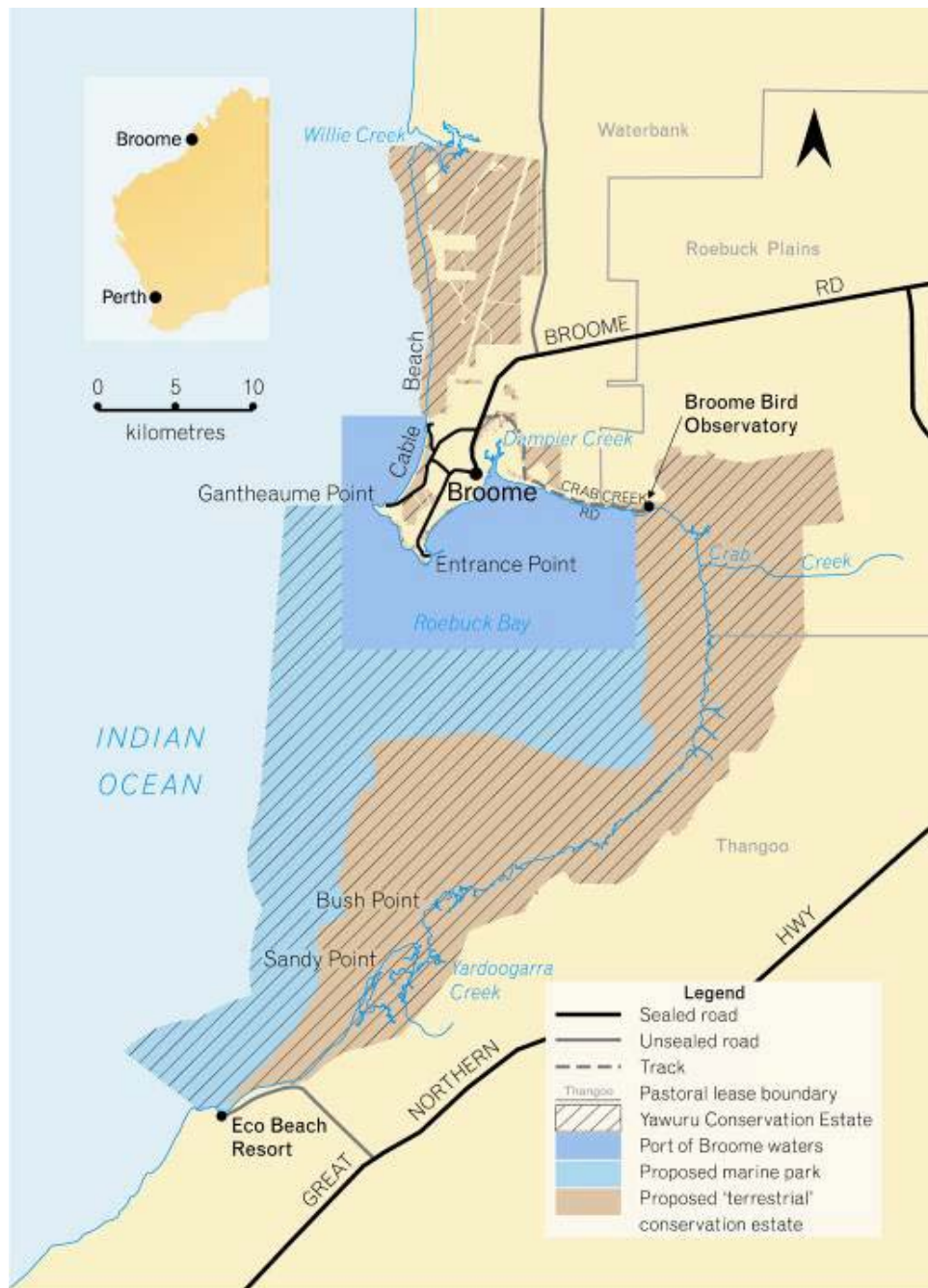


Figure 3: Yawuru conservation estate, Department of Environment and Conservation and Shire of Broome, Western Australia. PowerPoint slide from 'Overview of joint management arrangements in WA' (S. Choo and S. Ferguson).

### **3.6 Northern Territory (NT)**

#### ***Parks and Wildlife Service (PWS), Department of Natural Resources, Environment, the Arts and Sport (NRETAS)***

##### ***Presenters***

Graham Phelps, Executive Director

Richard Ledger, Joint Management Governance Coordinator

Mac Moyses, Director, Planning and Partnerships

**PowerPoint:** Information from the PowerPoint titled 'Joint Management in the Northern Territory' has been incorporated into the text below.

##### ***Overview***

- The Northern Territory has a strong precedent, long history and strong political mandate in joint management going back to the 1970s including Garig Gunak Barlu (Cobourg) National Park which engaged in joint management in the early 1980s.
- There are 89 Northern Territory government protected areas – 32 are in some form of joint management arrangements.
- Five parks were in joint management under their own legislation and statutory arrangements, prior to 2004.
- The *Framework for the Future Act 2003-04* (NT) which arose out of native title increased the number of jointly managed parks by another 27. It also boosted the PWS budget by \$3 million to enable implementation of 'new' joint management
- NRETAS:
  - employed joint management planners (10 Plans are finalised and 10 are in the pipeline);
  - is working towards direct employment of Traditional Owners in parks, particularly employing rangers in flexible employment programs; and
  - is assisting in the development of effective governance systems.
- There are currently 27 'framework parks'.
- Negotiations are under way for four more parks to enter into joint management .
- Amendments to the *Territory Parks and Wildlife Conservation Act 2005* (NT) defined joint management parties, objectives, and principles but significantly did not prescribe governance structures.
- The Northern and Central Land Councils play a significant role in joint management agreements prescribed in the Parks legislation.

##### ***Achievements***

- Strong legal mandate.
- Well-defined principles – e.g. equitable partnerships to achieve certain things.
- The Planning and Partnerships Branch has 5 planners with 2 committed planners in joint management.
- Relationships between branch staff and field staff are sound.
- Relationships between government and Traditional Owners and native title holders have been patchy, but forgiving when things go onto the backburner.
- There is a developing base of policy procedures to support implementation of governance frameworks, e.g. tools, procedures, guidelines for field staff, and culture competency training.

- Parks was the only Division in the department to receive increased resources in the most recent budget, specifically to increase Indigenous employment.
- Indigenous employment officers will support Indigenous staff and apprenticeships in progression to higher levels in the organisation.
- Indirect employment - Flexible employment programs and contracting are an important aspect of economic and operational participation of traditional owners in joint management.

### **Challenges**

- Creating an organisational culture of joint management and normalising joint management into park operations are significant challenges.
- Joint management needs to be outward looking and embraced by the wider community. Processes may delay decision-making and put future investment in parks at risk.
- Joint management adds a layer of administration and investment in relationships that requires more people – and more of people / staff.
- In the Northern Territory political context, joint management is related to Closing the Gap initiatives.

### **Discussion**

- There can be a silo mentality around joint management in government, but park management implicates other areas, e.g. Indigenous education.
- Indigenous Ranger Groups can be contracted to work in national parks, e.g. to conduct fire management.
- The benefits of joint management and its value to the wider community have to be promoted.
- Joint management has a social and political dimension. There is a need to collaborate and develop relationships so that park management and protected area management are considered together.
- Joint management seems to be reversing the trend of moving off country by providing opportunities to reconnect with country.
- Monitoring and evaluation processes are instructive for joint management, and Charles Darwin University has been working with PWS to produce a monitoring and evaluation framework.

## **3.7 Kakadu & Uluru**

### **Director of National Parks and Parks Australia**

#### **Presenters**

Sarah Kerin, Park Manager, Kakadu National Park

Christine Burke, Park Manager, Uluru-Kata Tjuta National Park

#### **Overview**

- Under the Commonwealth there are three jointly managed parks: Kakadu, Uluru and Booderee.
- All 3 parks have a complex web of stakeholders.
- Two have world heritage status: Uluru-Kata Tjuta and Kakadu.
- The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) is the enabling legislation for management of the parks, including management plans.
- 48% of the land in Kakadu is Aboriginal land but the park is treated as if it's all Aboriginal owned. Uluru and Booderee are 100% Aboriginal owned.



- All parks have leases to the Director of National Parks. Lease terms and conditions are largely the same.
- Lease tenures for the parks are 99 years with provisions for 5 year reviews.
- Leases provide for payment of annual rent and a proportion of revenue derived from activities in the park (entry fees, camping fees, and income from commercial operations).
- Indigenous culture across the three reserves is quite different and this has an impact on decision-making. Indigenous cultures and customary law even within the parks can vary considerably.
- Each of the three parks has a Board of Management, required by the EPBC Act, whose role is to prepare management plans for the parks and then make decisions under the plans. The Board can also advise the Minister on future development of the park.
- Boards of Management must have a majority of members who are Aboriginals nominated by the traditional owners. They also include industry nominees to provide a business perspective, as well as government nominees.
- Management plans include employment, training and natural and cultural conservation priorities.
- There is an Uluru joint management partnership team which works closely with the Board of Management, the broader community and with traditional owners.
- Booderee Traditional Owners aspire to sole management; whereas Uluru and Kakadu Traditional Owners aspire to employment and further training within the park.
- Key performance indicators include Board meeting decision making procedures and outcomes.
- The Board plays an intimate role in developing plan of management. It took 4 years to develop the current management plan for Uluru.

### ***Achievements***

- The legal framework for joint management works.
- Relationships with the Traditional Owners are those of trust which have been formed over a long period.

### ***Challenges***

- There is a complex spectrum of stakeholders including amongst the Aboriginal community itself including language barriers, intergenerational issues and cultural issues.
- There are challenges in communicating objectives across generations.
- Good governance is a constant learning process.
- Relationships between the park and the traditional owners require constant maintenance.
- Capacity restraints around resourcing and management are problematic.

### ***Discussion***

- Monitoring and evaluation should be more about what benefits and outcomes are coming out of joint management including its impact on Indigenous wellbeing.
- There is a significant difference between management and joint management.
- Policy vacuums can allow you to be more creative and enable inventive opportunities and solutions.
- Decision making and dispute resolution processes are critical and there is a need for paying more attention to these and developing alternative dispute resolution procedures managed by skilled Indigenous practitioners.
- There are dispute resolution processes (e.g. approaching the Chief Justice) that are available but haven't yet been activated.

## 4. Small group discussion of challenges

For the second half of Day 1, participants broke into small groups for focused discussions on key issues arising from the morning's presentations. The facilitator grouped the challenges that arose from the jurisdictional overviews into themes and issues, as follows. Each small group chose three or more themes to discuss and report back to the workshop.

### 1. Capacity

- Governance
- Decision-making
- Meeting aspirations
- Conflict resolution
- Qualifications in joint management
- Cultural complexity
- Flexibility
- Investment in boards
- Intergenerational issues

### 2. Managing People

- Burnout/personal load
- Wearing two hats
- Maintaining momentum

### 3. Drivers and Outcomes

- Monitoring and evaluation
- Wellbeing/benefits
- Economic development
- Equitable across Australia
- Communication to wider society
- Maintain political support
- Traditional Owners reconnecting with country

### 4. Resources

- Decreased funding for park management
- Money for governance
- Contracting Indigenous rangers
- Reduced resources
- Criteria for negotiation

### 5. Agreements

- Statutory, ILUA, MoU, new title
- Multiple claims over one park
- Capacity of legislation
- Conditions of new title
- Templates?
- Leaseback or not?
- Definitions of joint/co-management
- Cross-tenure management
- Local government and other partnerships
- Policy vacuum

#### 4.1 Small group discussion report back

The small groups reported back in a plenary session. Their comments are collated and summarised below.

##### 1. Communication

- Effective communication of joint management arrangements within agencies is critical, but also with the broader public.
- There is a need to continue to work with state and territory governments and PBCs, engaging Traditional Owners in the joint management process within their jurisdiction.
- Members of boards, steering committees and other Indigenous representative organisations often do not have the capacity and resources to report back to their communities.

- A political bipartisan approach supported through community education should:
  - communicate the tangible outcomes of joint management; and
  - recognise the symbolic importance of joint management.
- There is a need for specialised communication skills including:
  - community education and promotions informing constituents and partners;
  - negotiation, mediation and conflict resolution skills; and
  - skills in developing accessible forms of communication, i.e. pictorial, diagrams, etc.
- Comprehensive management planning can be a vehicle for engaging the community.
- In the development of management plans, there is a need to educate the public on what the plans are and how they work including by:
  - posters;
  - limiting the size of the plan and keeping it concise; and
  - using pictures and photographs.
- Context-specific:
  - in Victoria post-Black Saturday the public perception of joint management was within the context of fire management.
  - Yawuru people see it as important to communicate values of the conservation estate beyond environmental conservation to incorporate cultural conservation.
  - a focus on current use and occupancy in communications is critical, e.g. the turtle and dugong debate.
  - Djabugay have had communication issues with the Queensland government and have not been able to reach a joint management agreement.

## **2. The objective of joint management**

- There is a critical need to promote the benefits of joint management to the wider community and to governments.
- Negotiations and agreement-making can involve coercion. How can joint management outcomes be agreed to in a less coercive environment?
- There is a need to facilitate cultural change and for a paradigm shift within some state departments and agencies.
- The implications of joint management should be considered as a component of native title claims, e.g. South Australia. Considerations include:
  - whether joint management under the native title regime is achieving outcomes;
  - the relationships between resolving native title claims and joint management; and
  - whether native title automatically locates joint management in adversarial process.
- Long-term investment in joint management should be seen as core business.
- Joint management processes need to remain fluid and flexible.
- What is the best way to communicate joint management externally when it is not yet clear to government agencies?

- Joint management occurs at the intersection of two sets of cultural values and two approaches to managing country in an intercultural space of reconciliation. It:
  - may involve mediating conflicting interest and values; and
  - can also be an exercise in relationship building.
- There is a question of how to best understand the scale of stakeholder interests.

### **3. Staff burnout**

- Indigenous and non-Indigenous staff and Traditional Owners involved in joint management often suffer burn out. Joint management staff face unique challenges that other parks staff do not encounter.
- There is a need to identify the skills needed to help staff understand their roles and consider qualifications, skills, training, and individual personal approaches.
- Joint management is often outside the comfort zones of parks staff who need mentoring, cultural management training, and conflict resolution training.
- There is a need to develop a document or tool kit that charts the specific challenges for Indigenous and non-indigenous staff involved in joint management across various jurisdictions. Issues include:
  - managing joint management challenges on an individual level;
  - the balance between competing value systems between Traditional Owners, agencies, and conservation priorities;
  - conflicting accountabilities when senior parks person take disciplinary action or delegate tasks to subordinates, who have dual roles as staff members and Traditional Owner joint management board or committee members;
  - the greater attention which is sometimes given to the impact of joint management on Traditional Owners than on parks staff;
  - assumptions that park staff have more authority than Traditional Owners under joint management, when there is not always clarity as to the roles of either;
  - parks staff may not be equipped for changing roles when moving from management to joint management situations;
  - a need for mentoring and support that has not been realised;
    - conflicts of interest in board governance, the separation of powers and transparent governance protocols; and
    - a need to emphasise to field staff that joint management is only 'half-way' there.
- There is a need for the development of selection criteria for joint management personnel, e.g. traditional knowledge, noting the difficulties that Commonwealth parks have encountered in incorporating traditional knowledge into selection criteria.

### **4. Traditional Owner burnout**

- Traditional Owners suffer from burn out and uncertainty particularly when they are also staff members.
- Traditional Owners need governance training including in the first instance on how joint management works in their jurisdiction.

- Joint management for Traditional Owners means the right to care for country and therefore they have a lot at stake – connection to the land affects wellbeing.
- Traditional Owner concerns with joint management may be informed by longstanding land rights battles.
- Traditional Owners including staff are subject to considerable pressures and are not able to leave them behind at the end of the work day.
- Traditional Owners can wear two hats as parks staff and board member and there is a need to resolve tensions and conflicting accountabilities between these.
- There is a need for complex codes of conduct.

### **5. Capacity building**

- Capacity building in negotiation, facilitation, dispute resolution, and consensus building is required for all involved in joint management.
- Joint management governance:
  - should build on existing social capital through networks and partnerships;
  - capitalise on partner and multiple partner support; and
  - involve two-way learning, e.g. cultural competency should be a requirement of all involved in joint management – Indigenous and non-Indigenous.
- Leadership capacity building is required for all.

### **6. Relationship between joint management and park management**

- A focus on the process of joint management versus a focus on park management outcomes can be revealing.
- It may be problematic to isolate joint management from broader park management objectives.
- Park management is sometimes consumed by joint management groundswells and this needs to be taken into account in management plans.
- There is a tendency to focus on employment over land management priorities.
- There is limited opportunity for park planning where boards have strict timeframes.
- Timeframes for management plans are often established before joint management arrangements are secured. This has implications for incorporating what joint management means and how it will work into any plans.
- There is a danger in taking a parochial focus on joint management as an outcome, rather than as an ongoing process.
- In certain cases, joint management has helped to get management plans off the ground e.g. Yawuru and Miriuwung Gajerong where management plans did not exist until they were established through joint management arrangements.
- Conservation principles might be enshrined in joint management agreements, but this is a complex issue.
- There are significant complexities in allocating resources for environmental challenges including managing short-term funding cycles versus long-term environmental targets.

### ***Other general discussion***

- Remain mindful of what the broader Australian community cares about - access, tourism, permits - rather than who is managing the park so long as it is not to the detriment of managers.
- Some participants expressed concern that there may be a backlash from the broader community that Aboriginal communities are managing parks.
- Rather than looking for problems to fix, focus on success stories, e.g. 'Pathways to Joint Management'.
- There is a need for market research around what the broader community is looking for in parks and joint management and to promote the benefits of joint management.
- Previous research has shown that the public has a need to deal with 'collective guilt' and a desire to feel 'good' about Indigenous involvement in Australian society.
- The joint management system has been imposed on both park agencies and Traditional Owners and therefore both parties are at the table with their hands tied.
- Joint management is a vehicle for the recognition of native title.
- Traditional Owners are more comfortable with organic management processes than highly structured bureaucratic processes.

## 5. Day 2 – 4 April 2012: Introduction

The facilitator commenced Day 2 by recapping the discussion from the previous day and highlighting the significance of the workshop. Summaries of discussions from Day 1 were distributed and the facilitator drew out a number of key issues:

- Jurisdictional inequities
- Communication
- Supporting people involved in joint management
- Drivers and objectives of joint management
- Resources
- Diversity of pathways and tools
- Toolkit/ Community of Practice

The morning of Day 2 was focused on providing information about and discussing emerging issues in joint management and highlighting a number of evolving pathways, including Indigenous Protected Areas (IPAs), marine areas and research partnerships.

## 6. Evolving pathways to joint management

Dr Smyth introduced the developments and trends in joint management through considering the path that joint management has taken historically, as shown in extracts from his PowerPoint presentation below.

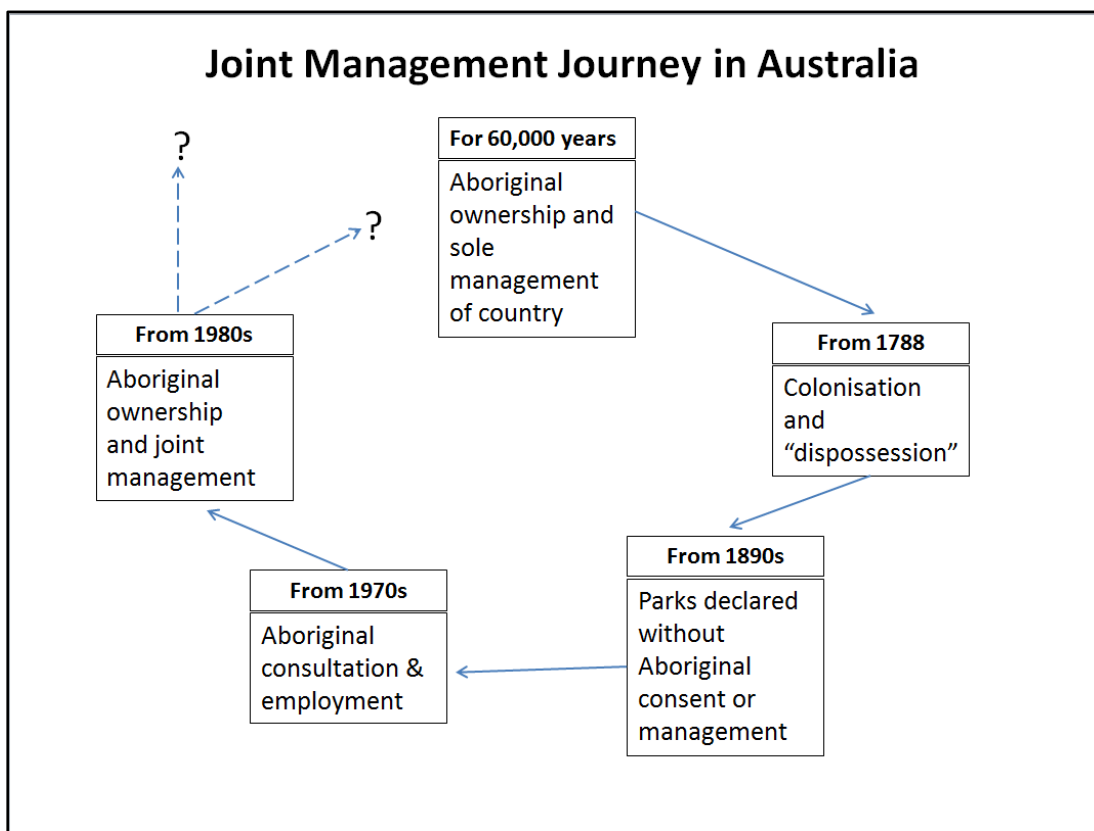


Figure 4: Joint management journey in Australia, PowerPoint slide, D. Smyth, Alice Springs, 2012.

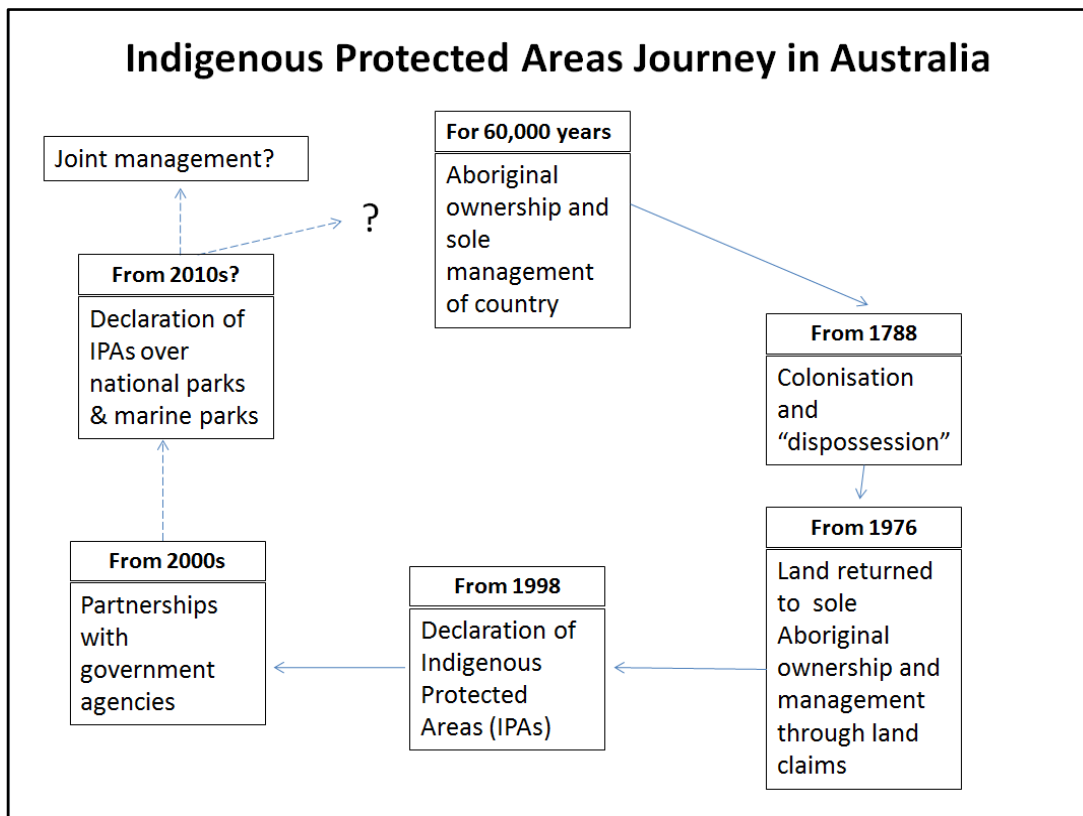


Figure 5: Indigenous Protected Areas journey in Australia, PowerPoint slide, D. Smyth, Alice Springs, 2012.

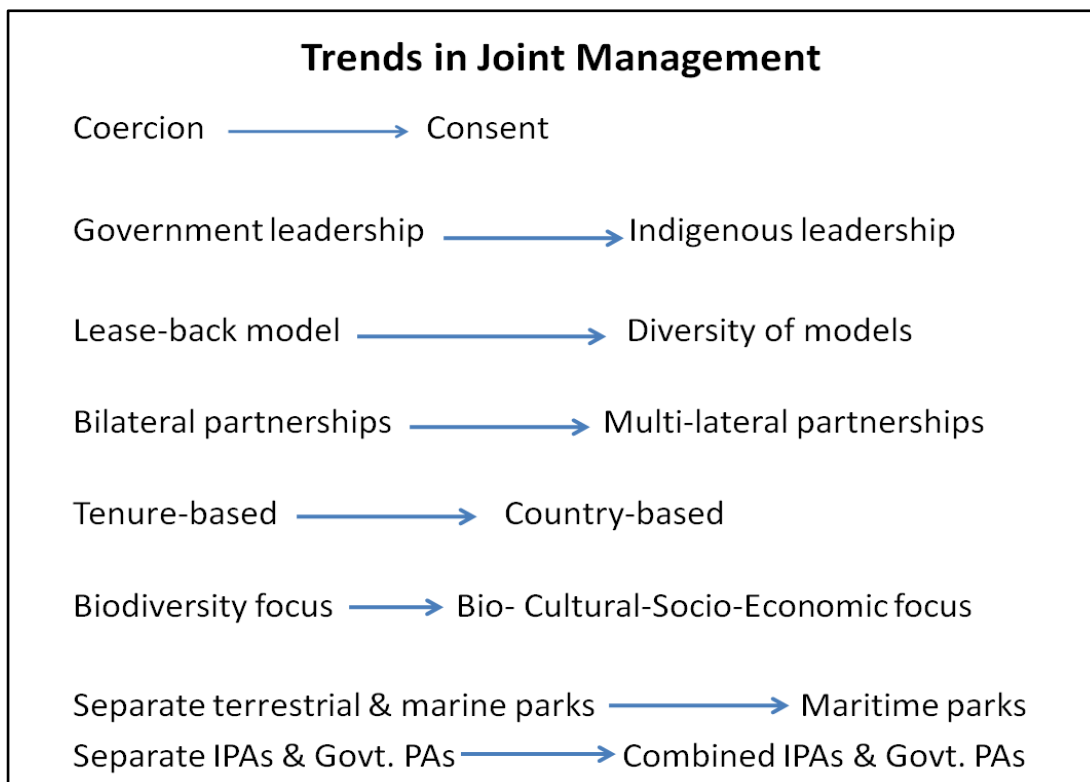


Figure 6: Trends in joint management, PowerPoint slide, D. Smyth, Alice Springs, 2012.



## **6.1 Indigenous Protected Areas (IPAs)**

### **Department of Sustainability, Environment, Water, Population and Communities (SEWPAC)**

#### **Presenters**

Bruce Rose, Director, Indigenous Protected Areas

Luke Ingram, Senior Project Officer, Indigenous Protected Areas

Dr Dermot Smyth also presented in this session.

**PowerPoint:** Information from the PowerPoint titled 'SEWPAC Indigenous Protected Areas' and from Dr Smyth's PowerPoint slides has been incorporated into the text below.

An IPA has traditionally been an area of Indigenous-owned land or sea where Traditional Owners decide to enter into an agreement with the Australian Government to dedicate the area to promote biodiversity and cultural resource conservation. Recent developments have seen the emergence of multi-tenured IPAs which extend this definition (see below). There is often a need to work with three tiers of government (Commonwealth, state/territory, and local) to gain recognition for acts of dedication and in the development of a management package.

A distinction was made at the workshop between IPAs, which are the conservation estates themselves - geographic spaces managed for their natural and associated cultural values - and the IPA program, which directs funding towards establishing an IPA and is implemented by the Commonwealth government. Partnerships across a range of agencies are critical to the success of IPAs and IPA funding can be a catalyst to bring partners together. IPA consultation projects attract roughly \$100,000 per annum for activities such as meetings with communities, development of plans, establishment of partnerships, and engaging with government agencies (this process takes an average of 3 years). IPAs support Indigenous landowners to maintain country, generate jobs and create economic opportunities and provide an incentive to get back on country.

The key features of IPAs are that they are:

- Voluntary and negotiated
- Effectively contractual, independent of legislation
- Declared by Traditional Owners, based on Indigenous values and commitment
- Recognised as part of the National Reserve System, based on acknowledged management capacity
- Currently mainly tenure-based and
- Becoming increasingly country-based

Potentially IPAs can co-exist with government-declared protected areas and options for funding source are broadening.

#### **IPAs and co-management**

- The IPA program has a co-management stream which provides support for Indigenous parties to negotiate co-management of protected areas with the agencies which currently hold these management responsibilities e.g. state agencies.
- There are currently 7 IPA co-management projects in Australia including Yorta Yorta in Victoria.
- Commonwealth funding helps to level the playing field by giving the Indigenous interests a source of support to engage with the state agency partner.

- The co-management stream focuses on supporting the planning and negotiation by bringing the parties to the table.
- The co-management stream does not support significant on-ground activities in the existing protected areas as these are seen as the responsibility of the agency responsible for the area.
- Funding is provided by SEWPAC to:
  - assist Indigenous parties to negotiate cooperative management arrangements and develop governance arrangements with the state agency/protected area manager;
  - allow support for coordination and legal advice roles;
  - support community consultation and planning, identify/interpret Indigenous values,
  - visit other co-managed areas, obtain legal and other advice, and revise Plans of Management (but not for on-ground works); and is
  - usually for a limited term of 1-3 years.
- Coordination of protected area co-management occurs through a range of models depending on the situation. For example some co-managed areas have a multi-agency committee, chaired by Traditional Owner and regional delegates.
- Projects with a greater number of partnerships tend to be stronger – the system seems to create resilience in this complexity. With multiple partnerships, there is less risk involved when some partners are not as involved as others and there is not a reliance on one or two partners.
- Some partners in IPA co-management may already know what they want and could have developed partnerships prior to entering into formal co-management arrangements.
- If trust between key players is already established, this facilitates frank discussion about the common objectives that might be achieved through co-management.
- IPA arrangements can align well with the outcomes from resolving native title issues: in most instances, IPA partnerships have been established after native title has been determined (or in tandem with native title processes).
- When co-managed IPAs are established where there is an existing management plan, the consultation process provides space for Traditional Owners to comment on the old plan, or potentially to revise the plan to incorporate the co-management elements.
- IPA support for planning can enhance state or territory planning by fostering a partnership with Traditional Owners.
- Co-management IPA projects require the support of the relevant state/territory agency before they can be funded.
- State/territory agency support for the concept of co-management is critical to the success of IPA co-management projects.
- The recognition of IPA status over a co-managed protected area is like a form of cultural accreditation of the co-management arrangements.

### ***Challenges for co-managed IPAs***

- Developing and sustaining multiple partnerships and arriving at commitments to shared objectives (often a 3-4 year process is required to result in shared objectives).
- A significant coordination process is required to sustain partnerships.
- Two-way management is important so both parties can take on the views of the other.
- A greater number of partnerships may result in stronger outcomes, but multiple partnerships can also be difficult to manage and require additional resources for coordination.

- There are limited resources to initiate new IPA projects at the moment: The Working on Country (WOC) and IPA programs reached their capacity a few years ago and the existing funding is fully committed to the existing on-going projects.
- While many groups have accessed both WOC and IPA funding there is no formal link between the programs at the Commonwealth level. Both programs were managed through separate competitive application processes. It so happened that many of the IPAs were well prepared to apply for WOC funding as they had plans of management (a WOC requirement) and clear landowner approval based on the IPA funded consultation process.
- The Working on Country ranger program has been in place since 2008, but the program is fully subscribed with 700 fulltime ranger positions.
- IPA funding provides seeding for projects to become established but ultimately it becomes the responsibility of the landowners to ensure that their IPA activities are funded, often through developing partnerships. This leads to a psychological shift in that the IPA process is led by Traditional Owners. Traditional Owners move from being a 'victim of history' to a 'leader of country' and there is a paradigm shift of two 'cultures' coming together which requires a significant amount of groundwork.

### ***Multi-tenured IPAs***

Luke Ingram (SEWPAC) informed the workshop about recent developments in the IPA program, which have seen multi-tenured IPAs developed over different tenure conservation areas and including jointly managed protected areas. Where formal statutory joint management arrangements are not in place, a country-based IPA (i.e. an IPA covering multiple tenures within the traditional estates or country of an Indigenous group) can create an opportunity for Traditional Owner led joint management.

- When the IPA program began in the mid-1990s there were two streams: development of IPAs on Indigenous land and support for the co-management of existing protected areas within peoples traditional estate areas.
- As the IPA program develops these two streams are merging with different tenure arrangements being recognized. Today, an IPA can be declared on exclusive possession native title areas, areas where native title rights coexist with others (in certain circumstances) and other forms of title providing all of the interests that co-exist on any particular area agree to the land or sea being managed for conservation according to an IPA plan of management.
- Native title can help to clarify Indigenous interests and give Indigenous groups a seat at the table but there are many examples where native title is not the driver, but rather the desire to care for country which results in common objectives with the other protected area managers and land managers in the region.
- There is no legal foundation for multi-tenured IPAs; they are based on the recognition that all stakeholders are in partnership, are involved of their own volition, and are able to share resources in managing the protected area.
- In practice it is the underlying responsibilities of Indigenous Traditional Owners that seems to provide a mandate for them to 'pull' all of the partners/interests together.
- Declaring an IPA over different conservation tenures can assist in reasserting traditional cultural authority: rather than having the conservation area designation displacing Indigenous interests, with the right form of partnership they can become tools for empowerment.

- IPAs can be a cultural management planning tool for ‘whole-of-country’ approaches: the key is recognition of Indigenous values and then coordinating approaches and activities across different tenures in a more holistic approach to Traditional Owner’s country.
- Governments have conservation obligations for protected areas and relevant agencies can be assisted in meeting these obligations through the assistance an IPA provides in developing a management plan.
- The costs of developing management plans must be factored into implementation processes and there is a need to be clear about roles in implementation early on.
- Interagency coordination is a key issue.

### ***Extending the potential for multi-tenured IPAs***

- With the emergence of multi-tenured IPAs, there is a possibility, with the agreement of pastoralists for example, for an IPA to be declared on a pastoral lease where native title rights are coexisting and where there is an area of high conservation value that is not being used by the pastoralist for operations.
- However, to establish such an IPA, the purpose of the area may need to be changed on the lease from ‘pastoral’ to ‘conservation’ which requires the approval of any pastoral boards.
- IPAs may also be possible over other forms of freehold land where there is an existing conservation agreement, such as a World Heritage Area for example.

### ***Mandingalbay Yidinji IPA – a key achievement and example of a multi-tenured IPA***

- Mandingalbay Yidinji consent determination in 2006 found exclusive and non-exclusive native title rights.
- Mandingalbay Yidinji IPA was dedicated as a multi-tenured, co-managed IPA in November 2011.
- The IPA covers a number of tenures:
  - national park;
  - forest reserve;
  - environmental reserve;
  - freehold; and
  - marine park.
- Part of the marine park has exclusive native title.
- Multiple stakeholder engagement/partnerships are with: DERM, Wet Tropics Management Authority (WTMA), Terrain Natural Resource Management, Fisheries Queensland and Cairns Regional Council.
- The conservation agenda for the land and marine areas hasn’t changed; the difference is that there is now recognition of Indigenous values within the conservation areas.
- Mandingalbay Yidinji IPA ‘puts country back together’ in a more holistic approach.
- The Mandingalbay Yidinji IPA Management Plan was published as a visual poster which has been distributed among the community, promoting the idea that the plan is accessible.
- The Ghungalu IPA co-management plan for the Blackdown Tableland is a similar story for a multi-tenured IPA and is in the initial planning stages, and taking a regional approach.



## 6.2 Marine Protected Areas

### Presenter

Dr Dermot Smyth

### Overview

- Marine area management is usually seen as different from terrestrial management but there is a need to see them as integrated particularly since climate change is bringing the sea to the land.
- Indigenous interests are often seen as those of 'just another stakeholder' in marine area management rather than as the unique interests of Traditional Owners.
- Kakadu and Booderee National Parks which are jointly managed both include marine areas.
- Garig Gunak Barlu National Park in the Northern Territory, also under joint management, is an integrated park with plans of management for the terrestrial area and the marine area (the terrestrial area goes to the low tide mark). Within the Park, commercial and recreational fishing interests compete with conservation values.
- The Limmen Bight Marine Park on Maria Island in the Northern Territory has now been declared.
- IPAs can establish an integrated approach to land and sea protected areas and there is a need to investigate partnerships which go beyond the 3 nautical mile limit in establishing them.
- There are regulations around the Dhimurru IPA marine area concerning sacred sites, but the IPA does not extend to the sea.
- The zoning of marine parks often doesn't reflect their biodiversity; more often it is directed at recreational interests.
- Effective enforcement is critical as is good will at the table.

## Managing Sea Country Protected Areas

Management values	Government Marine Management	Sea Country IPA	Collaboration between IPA & Government
Indigenous cultural values	By negotiation	✓	✓
Indigenous resource use	By negotiation	✓	✓
Monitoring	✓	✓	✓
Research	✓	✓	✓
Liaison	✓	✓	✓
Recreational fishing	✓	By negotiation	✓
Commercial fishing	✓	By negotiation	✓
Enforcement	✓	By negotiation	✓

Figure 8: Managing Sea Country Protected Areas, PowerPoint slide, D. Smyth, Alice Springs, 2012.

Following Dr Smyth's presentation on marine protected areas, participants provided brief statements concerning approaches to the joint management of marine areas in their jurisdiction.

### ***Queensland***

- Queensland's focus around formal joint management is primarily on land based tenures. Legislation doesn't currently provide for formal joint management arrangements over marine areas.
- The Stradbroke agreement has an MoU for a partnership with native title holders in relation to marine park waters.
- MoUs also exist with some other groups around hunting and fishing. For example, there is a hunting agreement in the Gulf of Carpentaria regarding the management of marine resources.
- The Great Barrier Reef Marine Protection Authority (GBRMPA) uses Traditional Use of Marine Resources Agreements (TUMRAs) to engage with Traditional Owners in marine conservation. Queensland is a party to a number of these TUMRAs.
- An ILUA attached to a native title consent determination and pertaining to the exercise of non-exclusive native title rights in marine parks waters could provide a potential avenue to progress cooperative management arrangements.
- Under such a marine park ILUA framework, the Kuuku Ya'u people have been authorised as State marine park inspectors. They have been trained in compliance but also given certain powers of enforcement. The ILUA also provides for information exchange and wildlife protection measures. It is funded by GBMRPA, with in-kind support from the State.

### ***Western Australia***

- There are currently no jointly managed marine parks in Western Australia.
- Marine parks can extend to the high water mark.
- Section 56A of the CALM Act makes provision for joint management of marine parks. However, where land is held by another party and jointly managed under section 8A of the CALM Act, it cannot be managed as a marine park, marine management area or marine nature reserve, but can be managed as a terrestrial park.
- The Yawuru conservation estate has marine park, terrestrial park and inter-tidal zone areas in their agreement which will eventually result in a marine park.
- Negotiations are about to commence on the creation of three other marine parks in the Kimberley which will involve a joint management component.

### ***South Australia***

- Marine park legislation currently has no provision for joint management.
- Marine parks are being rolled out in South Australia but there have been some concerns about the level of consultation, leading to delays.
- The focus for co-management at this stage is terrestrial areas, and beyond that there is very little discussion around the joint management of marine parks.

## **Victoria**

- Currently there are no jointly managed marine parks, but this is an emerging area.
- In Victoria, resources have been directed historically to terrestrial rather than to marine management.
- Many of the protected areas in Victoria abut oceans.
- Parks Victoria has launched a new Marine Park Strategy.
- There is a facility in the TOSA for marine parks to be jointly managed.

## **New South Wales**

- There is no legislative basis for joint management of marine parks.
- Marine parks have been politically contentious and marine park zoning plans are debated.
- An independent scientific audit of marine parks is underway. <http://www.marineparksaudit.nsw.gov.au/>
- Research has proved to be supportive of marine parks for conservation values.
- Currently there is a range of initiatives on cultural resource use in the marine parks.
- The Marine Park Authority now sits with NSW Fisheries within the Department of Primary Industry.
- Cultural resource use agreements for marine parks have been under negotiation, for example, that negotiated by the Arakwal people.
- Some Aboriginal people want to police illegal fishing themselves.

## **Discussion**

- Competition between biodiversity and recreational and commercial interests are significant in relation to marine areas.
- Joint management of inland rivers should be considered, e.g. Mary River in the Northern Territory where the river goes through or alongside the park but isn't included in the park, and there is no management of recreational activities on the river.
- It is never clear who has jurisdiction over water.
- The Blue Mud Bay native title determination has confirmed exclusive rights to the intertidal zone under the *Aboriginal Land Rights Act 1976* (NT).
- SEWPAC is funding a consultation process over sea country for IPAs to arrive at a sea country management framework.
- Many IPA and Working on Country groups have boats and training, but no enforcement powers, and are already managing marine interests.
- In sea country IPAs, there are a number of values and issues to consider: management values, Indigenous culture; Indigenous resources; monitoring; research; liaison; recreational use; commercial use; and enforcement provisions. The government manages all these interests by negotiation excepting Indigenous interests. There is no authority or power of excluding or enforcing outside stakeholders use.
- Traditional Owners can't achieve all the needs of marine parks on their own, so they need other partners to come to the table.
- On Groote Eylandt Traditional Owners own the land, the island and the intertidal zone and want more control over the sea area. Their land ownership of the island means they control the fishing industry to some extent through the location of boat ramps, etc.



## 6.3 *International developments*

### *Presenter*

Dr Smyth

Dermot Smyth gave a global overview of the recognition and support of protected areas and Indigenous and Community Conserved Areas, locating various models of joint management in Australia within the international context. The information provided below is extracted from his PowerPoint slides.

### *Protected Areas*

The International Union for Conservation of Nature (IUCN) defines a protected area as follows:

A protected area is a clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long term conservation of nature with associated ecosystem services and cultural values.<sup>4</sup>

IPAs are a class of protected area in the national arena, defined as: 'an area of Indigenous-owned land or sea where traditional Indigenous owners have entered into an agreement with the Australian Government to promote biodiversity and cultural resource conservation'.<sup>5</sup>

### *Indigenous and Community Conserved Areas*

An Indigenous and Community Conserved Area (ICCA) may or may not fall within the IUCN 'protected area' rubric. The defining characteristics of an ICCA are:

1. A community is closely connected to a well-defined ecosystem (or to a species and its habitat) culturally and/or because of survival and dependence for livelihood.
2. The community management decisions and efforts lead to the conservation of the ecosystem's habitats, species, ecological services and associated cultural values (even when the conscious objective of such management may be different than conservation per se, and be, for instance, related to material livelihood, water security, safeguarding of cultural and spiritual places, etc).
3. The community is the major player in decision-making (governance) and implementation regarding the management of the site, implying that community institutions have the capacity to enforce regulations; in many situations there may be other stakeholders in collaboration or partnership, but primary decision-making rests with the concerned community.<sup>6</sup>

The ICCA Consortium is an association independent from the IUCN to promote the appropriate recognition of ICCAs and to support the management of ICCAs, whether or not they are classified as protected areas. IPAs are a form of ICCAs recognised in Australia under the National Reserve System (NRS), provided they meet the IUCN IPA definition and the six standards of NRS.<sup>7</sup> Although state and territory legislation allows several mechanisms of joint management, it does not explicitly recognise ICCAs.

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<sup>4</sup> [http://www.iucn.org/about/work/programmes/pa/pa\\_what/](http://www.iucn.org/about/work/programmes/pa/pa_what/); Guidelines for applying protected area management categories, The new IUCN definition of a protected area, p. 8, <http://data.iucn.org/dbtw-wpd/edocs/PAPS-016.pdf>

<sup>5</sup> Australian Government IPA Program definition...

<sup>6</sup> <http://iccaforum.org/>

<sup>7</sup> Territories and Areas Conserved by Indigenous Peoples and Local Communities (ICCAs): How Far Do National Laws and Policies Recognize Them? A Rapid Assessment (A revised preliminary report, October 2010), Annex II: National Legal Recognition of ICCAs: Country-wise Summaries, p. 16

## ***Parks Forum***

Parks Forum - an industry partner for IPAs - is the industry body for park management organisations, with members across Australia, New Zealand, United Kingdom, Canada and the USA.<sup>8</sup> Parks Forum has state and local government membership, holds a biennial conference, conducts professional exchange programs, operates out of a full-time research office, offers independent peer reviews, and has an Indigenous working group that meets quarterly.

On 25 May 2012, three master classes were held following the Parks Forum Biennial Conference addressing the themes of Co-governance/Co-management, Health, and Landscape Scale Conservation. It was suggested that these would be an appropriate forum for advancing the conversation on joint management and reporting on this workshop. Dermot Smyth undertook to do this. Participants questioned whether this kind of international forum was an appropriate venue for reporting on joint management.

## ***Discussion***

The facilitator introduced the idea of engaging an industry partner for joint management, similar to the Parks Forum. Participants then discussed the value of this raising the following points:

- An industry partner could act as a potential repository of information.
- Engaging an industry partner could create a more neutral space to maintain conversation around joint management.
- Joint management would be nested in industry rather than 'floating in a research cloud'.
- An industry partner would be independent of government.
- There is the potential to engage multiple stakeholders.
- An industry partner could assist in resolving issues of how to get representation in the outside world, e.g. an IPA struggle has been that although the Commonwealth funds IPAs, it is not the appropriate home for IPAs.
- However, there is a danger of losing the critical focus on developing internal partnerships and linkages in focusing too broadly and internationally.

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<sup>8</sup> <http://www.parksforum.org/cms/>

## 7. Joint management research: CSIRO

### Presenter

Rosemary Hill, Officer-in-Charge of the Commonwealth Scientific and Industrial Research Organisation (CSIRO), Cairns

Dr Hill gave a presentation on CSIRO's involvement in joint management tools and innovations. The information below is informed by her PowerPoint titled 'Joint management of protected areas in Australia'.

Dr Hill identified the CSIRO's key areas of relevant social science:

- Indigenous co-management and biodiversity protection
- Indigenous co-benefits and carbon economies
- Indigenous water values and planning
- Sustainable livelihoods in remote regions
- Climate change adaptation planning

CSIRO and co-researchers recently developed a typology of Indigenous engagement in Australian environmental management, and considered implications for integration of Indigenous knowledge with science to enhance sustainability. The typology was based on analysis of 21 case studies across Australia (see Figure 9 below).

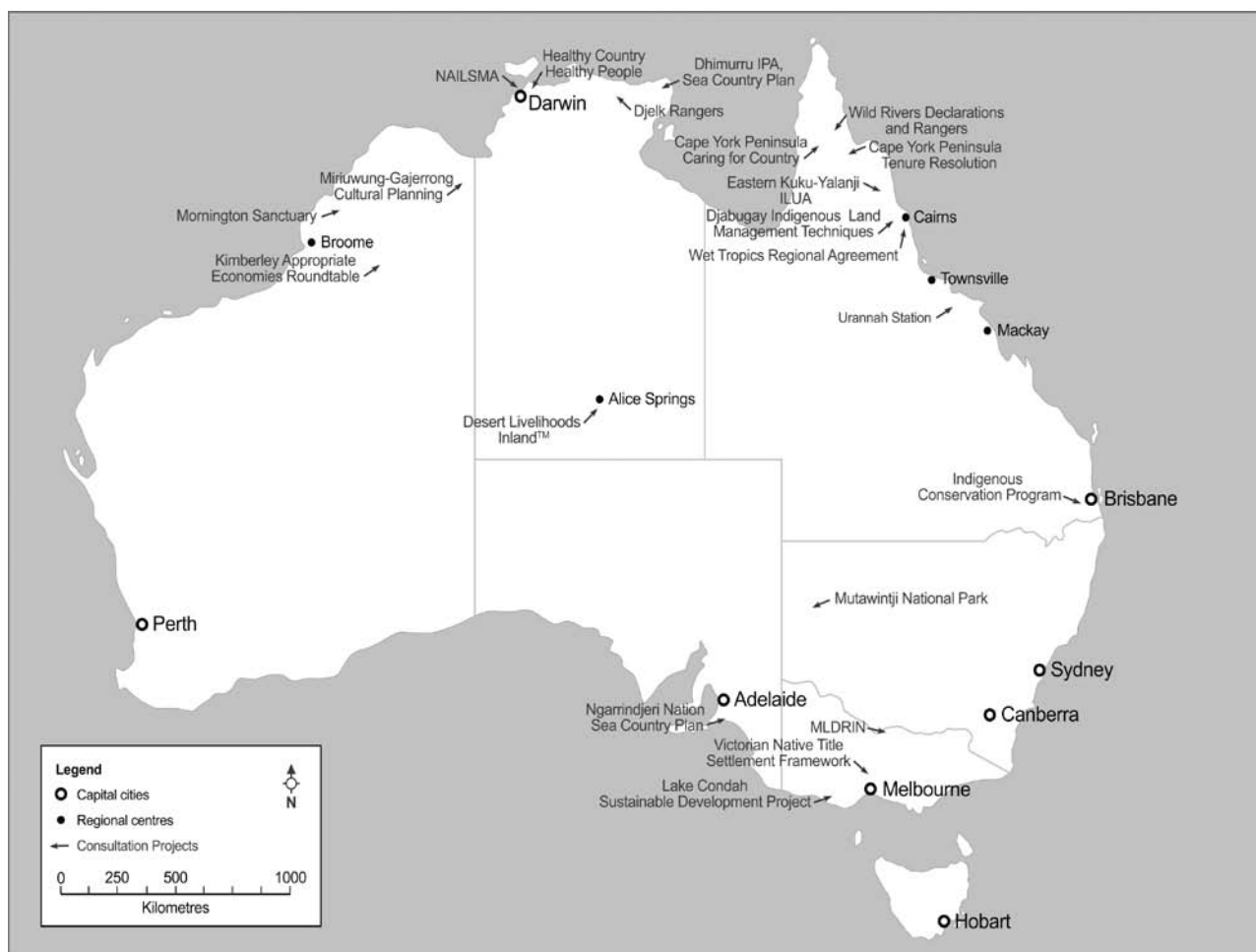


Figure 9: CSIRO's Indigenous Engagement case studies, PowerPoint slide, R. Hill, CSIRO, Alice Springs 2012.

The typology differentiates Indigenous engagement based on three major axes: power sharing, participation and intercultural purpose. Four types of engagement can be distinguished: Indigenous governed; Indigenous-driven co-governance; agency-driven co-governance and agency governance. The analysis showed that the Indigenous governed and co-governed engagements demonstrate better prospects for integration of Indigenous ecological knowledge and science in environmental management.

CSIRO recently worked with SEWPAC and Indigenous Protected Area managers to develop 'Our Country Our Way: Guidelines for Australian Indigenous Protected Area Management Plans'. These Guidelines explain the formulation and components of IPA Management Plans and how stakeholders can work with existing plans. The Guidelines also highlight the difference between IPA Management Plans and other park plans. Dr Hill discussed the merits of indigenous and government collaborations in ensuring that indigenous knowledge informs park management and mentioned a number of useful publications as listed below.

Hill, R., Grant, C., George, M., Robinson, C. J., Jackson, S. & N. Abel, 2012. A typology of Indigenous engagement in Australian environmental management: Implications for knowledge integration and social-ecological system sustainability. *Ecology and Society* 17: 23.

Hill, R., F. Walsh, J. Davies, and M. Sandford, 2011. Our Country Our Way: Guidelines for Australian Indigenous Protected Area Management Plans. Cairns: Australian Government, CSIRO Ecosystem Sciences and Department of Sustainability, Water, Environment, Population and Communities.

Hill, R. 2011. Towards equity in Indigenous co-management of protected areas: Cultural planning by Miriuwung-Gajerrong people in the Kimberley, Western Australia. *Geographical Research* 49 (1):72-85.

## **Discussion**

Participants questioned who drives CSIRO's Indigenous engagement agenda and whether external stakeholders can put forward ideas for research. Dr Hill indicated that CSIRO's research agenda is largely driven by their partnerships and opportunities and that it has taken time to incorporate Indigenous Caring for Country in a science agenda. The challenge is now to attract Indigenous employees and partnerships.

There was some discussion about the importance of empowering and resourcing Traditional Owners as a first step to drive the joint management agenda, and to give them the confidence in the management of their land. This should outstrip any other concerns and provide Traditional Owners with an 'economisation of mind' as one participant suggested. This would require asking them to put aside previous issues relating to land disputes and for them to have the freedom to think solely about how to manage country. It would also require building a base of Traditional Owner ideas and inviting other joint management partners to discuss them. The kinds of engagement processes which are used will be critical and should involve the specialised skills of participatory planning, for example.

## 8. Community of practice

Participants broke into two groups to discuss issues in relation to developing a community of joint management practice, referring to the following headings:

- Objectives - What is a 'community of practice'?
- Name and terminology
- Content
- Guidelines and principles
- Research themes and future directions
- Who coordinates?
- Information-sharing and partnerships

### 8.1 *Small group report back*

The small groups reported back in a plenary session. Their suggestions and ideas are summarised below.

#### 1. *Objectives - what is a community of practice?*

- A place to share information, resources, policy, toolkits, and best practice.
- The facilitation of free and open discussion on how to be mutually supportive.
- A means of:
  - requesting and/or offering joint management advice for the benefit of parks services, policy makers, planners, Traditional Owners, parks staff and others;
  - reducing duplication and inequities across jurisdictions and maximising efficiencies by identifying commonalities between jurisdictions;
  - supporting sub-communities and networks within a larger national 'community'; and
  - filling gaps in knowledge and answering common questions.
- There are tensions in aiming to be inclusive and broadening the scope of membership with the manageability of open access which could hinder discussion.
- Any community of practice should start 'small'; if it's too cumbersome, it will become difficult to get off the ground.
- There are three possible elements:
  - sharing existing resources and contacts
  - creating resources
  - sharing ideas.
- There is a need for the development of national training specifically tailored to joint management and curriculum development.

#### 2. *Name and terminology*

- The terminology of 'community of practice' is more appropriate and less provocative than referring to national standards and principles.
- The benefits of 'community of practice' terminology are that 'community' is a fluid concept and not a static entity and the term 'practice' is the commonality.

- Alternative suggestions included: ‘network’, ‘learning portal’ (e.g. water planning portal) ‘joint management community’ and ‘Indigenous collaborative network’.
- The descriptor ‘community of practice’ may not accurately capture the nature of the content and the audience.
- The descriptor ‘joint management’ may exclude activities such as cultural management and natural resource management.

### **3. Content**

- Initially there is a need to:
  - identify, locate and share existing resources, including template documents and IPA resources;
  - identify gaps in resources after collating existing resources;
  - compile an annotated bibliography or reading list of existing joint management resources; and
  - build on the embryonic joint management email networks that have arisen out of the last two AIATSIS Native Title Conferences.
- An online forum should be created for discussion of the constraints for joint management government partners and for information sharing including:
  - hyperlinks to websites/documents by theme: capacity, people, resources, agreements, drivers, outcomes, for example;
  - Question and Answer forums and Frequently Asked Questions;
  - visual tools;
  - best practice guidelines with cross-jurisdictional application;
  - an online forum for parks staff to discuss issues; and
  - good news stories
- Issues to consider in any online forum include:
  - restricted access and discreet membership (there could be a risk around information posted which reflects personal views but is understood to be fully endorsed by relevant agencies);
  - risk management around sensitive information, e.g. personnel management;
  - the management of in-confidence documents;
  - constraints to information sharing in the public service;
  - IT challenges; and
  - The need for a moderator and who this might be.
- There is a need for the collective and collaborative development of a toolkit or documents, not ‘owned’ or endorsed by governments, which provide key practical and operational advice. There could be various versions to account for a range of audiences including Traditional Owners, rangers, academics, policy makers, strategic advisers, and operational practitioners. Whilst such tools might have cross-jurisdictional application, they could also be adjusted to local needs. They should be particularly aimed at joint management staff and Traditional Owners and start ‘small’ and be built through collaboration. Such a toolkit or set of documents might address issues or include information such as:

- staff burnout;
- traditional owner burnout;
- mentoring processes;
- scenarios giving rise to difficulties in the work place and how they might be managed;
- how line managers might deal with a range of challenging situations involving Traditional Owners which possibly transgress park rules;
- the relationship between broader park management and joint management and how this impacts on staff;
- approaches to conflict management;
- 'pathways to working with government' for Traditional Owners;
- how to assess joint management progress;
- cultural protocols – e.g. no person speaks for another person's country; and
- joint management governance (Reconciliation Australia's 'Indigenous Governance Toolkit' might be informative including planning, training, evaluation, conflict management, and decision-making options).<sup>9</sup>

#### **4. Who coordinates and does the work?**

- Contacts from this workshop can be used to circulate resources until a central repository is located.
- Initially a SharePoint or Wiki can be used for information sharing.
- A small working group could be trialed to develop a specific resource on staff management to support management practitioners.

#### **5. Research themes and future directions**

Suggested research themes included:

- The interrelation of overlapping management plans and mechanisms for their integration;
- A broad framework to monitor and evaluate joint management from an Indigenous perspective to include a wide class of joint management partners;
- The many ways of 'doing' joint management;
- the evaluation of joint management in terms of legislative frameworks and alternatives which asks whether legislation is the better model for delivering joint management outcomes;
- Comparative studies on how joint management is implemented under a range of regimes: e.g. ILUAs within the native title regime, MoUs, and various state and territory legislation (a recent review of joint management arrangements by Parks Canada was noted);
- Identifying staff needs in joint management including:
  - the specific needs of types of staff;
  - training and skills required; and
  - capacity building and resourcing;
- Economic and other analyses on the benefits of joint management, its power and symbolic meaning and managing stakeholder perceptions;
- The pros and cons of sitting fees;
- IPAs as opportunities for whole-of-country approaches;

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<sup>9</sup> Available at <http://www.reconciliation.org.au/governance>

- The relationship between cultural management planning and mainstream management planning; and
- Co-management arrangements and shared governance models.

## **6. Information sharing and partnerships**

- The emphasis should be on Indigenous and government collaborations.
- Email networks can bring Traditional Owners into discussions about state and territory initiatives, e.g. the Right People For Country project in Victoria and its proposed network of Indigenous facilitators, the NSW staff and regional joint management networks, the QLD Indigenous staff network which is web based, South Australia's staff network etc.
- Papers and recent publications (including the recent *Our country Our Way: Guidelines for Australian Indigenous Protected Area Management* (Hill, Walsh et al) should be circulated.
- Parks staff can be conduits for information sharing.
- Suggestions for future AIATSIS workshops included (it was noted that state, territory and Commonwealth government might contribute to costs):
  - joint management streams or workshops if venues are appropriate at 2013 AIATSIS conference in Canberra and 2013 AIATSIS Native title Conference in Alice Springs;
  - state/territory or regionally based workshops aimed at more targeted discussions amongst Traditional Owners and between Traditional Owners and governments including traditional owners;
  - joint management as an add-on to workshops already in planning – e.g. Co-Management in the Wet Tropics of Queensland Workshop, proposed for October 2012;
  - small working groups around specific challenges; and
  - the next National Indigenous Land and Sea Management Conference probably in 2013 could provide a forum for engaging traditional owners on what they want from a Community of Practice.
- Existing networks and initiatives should be capitalised on and leveraged to support and champion joint management. For example:
  - ICUN - Commission on Environmental, Economic and Social Policy (CEESP) and its Australian committee;
  - IUCN World Commission on Protected Areas (WCPA);
  - IAC's National Caring for Country strategy;
  - Australian World Heritage Network;
  - AIATSIS;
  - CSIRO Indigenous Engagement program;
  - NAILSMA;
  - Parks Forum;
  - World Heritage networks; and
  - International Rangers Federation



## 9. Issues and actions register

A number of issues and actions arose out of the Community of Practice discussion. AIATSIS circulated the register of actions and a broad summary of the workshop to participants shortly after the workshop. Some of these actions have already been advanced.

**Joint management of Protected Areas in Australia:  
Native title and other pathways towards a community of practice  
Actions arising**

Issue	Action	Whom
Developing a community of practice for joint management practitioners through information sharing and resource development	To establish an online portal information point for holding resources and potentially developing new resources or exchanging ideas through online forums	CSIRO to investigate wiki spaces and share point models
	Commitment from workshop participants to upload documents and resource to the online portal	NSW / WA/ VIC / QLD / NT / SA
	Annotated bibliography	AIATSIS / CSIRO
	Searchable endnote database	CSIRO
Development of specific resources to support JM practitioners, that may not currently be available	Small working group to development a specific resource on staff management and circulate for comment and further development by participants	Richard Ledger (NT) and Tony English (VIC)
Reporting from the workshop	One page summary to be distributed within one week	AIATSIS
	Final report to include summaries of the jurisdictional overviews, content discussions, small group discussions, community of practice overview and jurisdictional overviews, with presentations attached	AIATSIS
	Send notes from Bruce Lawson's, Sarah Kerin's and Christine Burke's presentations for their finalisation	AIATSIS
	Send discussion notes to AIATSIS	CSIRO
Reporting the outcomes of this workshop to Traditional Owners and relevant stakeholders	Reporting through existing networks in each state or territory, e.g. Traditional Owner Networks	NSW / WA/ VIC / QLD / NT / SA / SEWPAC/AIATSIS/Dermot Smyth /Ro Hill
	Reporting to the Indigenous Advisory Committee (IAC)	AIATSIS / SEWPAC
	Reporting to the National Native Title Conference	AIATSIS
	Reporting to the Indigenous Protected Area Sub-committee of the IAC	Dermot Smyth
	Reporting to the Indigenous Sea Country Workshop	Dermot Smyth
	Reporting to the Parks Forum Conference	Dermot Smyth
	Reporting to the Wet Tropics workshop	CSIRO / AIATSIS
Creating overviews of joint	Develop a summary template table of key	AIATSIS

management in each jurisdiction throughout Australia	issues in joint management across jurisdictions	
	Provide information to feed into a summary table as above by 18 <sup>th</sup> April	NSW / WA / VIC / QLD / NT / SA / SEWPAC
	Complete edits and comments on the draft overviews provided by AIATSIS by 18 April 2012	NSW / WA / VIC / QLD / NT / SA / SEWPAC
Continue the discussion	Future workshops – Traditional Owners	
	Support from collective for organisers of the land and sea management conference	Keep updates through the network once the conference is further developed

## 10. Feedback and evaluations

To conclude, the participants were asked to complete an evaluation form on which they averaged the value of the workshop at a rating of 4.7/5. For more detailed comments on the usefulness of the workshop, see Attachment 3.

**Attachment 1: List of participants**  
***Joint management of protected areas in Australia: Native title and other  
pathways towards a community of practice***  
***3-4 April 2012, Alice Springs***

Ms	Sarah	Kerin	Park Manager	Cth	Kakadu National Park Parks Australia Department of Sustainability, Environment, Water, Population and Communities
Ms	Christine	Burke	Park Manager	Cth	Uluru-Kata Tjuta National Park Department of Sustainability, Environment, Water, Population and Communities
Dr	Kym	Nicolson	Director Land Stewardship	SA	Department of Environment and Natural Resources
Mr	Malcolm (Molly)	Anderson	Team Leader Aboriginal Partnerships	SA	Protected Area Policy and Planning, Department of Environment and Natural Resources
Mr	Tony	Magor	District Ranger, Arid Lands Region	SA	Department of Environment and Natural Resources
Mr	Simon	Choo	Native Title and Heritage Coordinator	WA	Parks and Visitor Services Division, Department of Environment and Conservation
Ms	Sharon	Ferguson	Yawuru Program Leader	WA	Department of Environment and Conservation
Mr	Tony	English	Acting Manager, Cultural Heritage Directions Unit	VIC	Parks Victoria, Department of Sustainability and Environment
Mr	Sam	Morley	Project Officer, Native Title Unit	VIC	Department of Sustainability and Environment
Mr	Kevin	Wale	A/Manager Aboriginal Co- management Unit	NSW	Parks & Wildlife Group, Office of Environment and Heritage
Ms	Claire	Allen	Senior Policy Officer	NSW	Parks & Wildlife Group, Office of Environment and Heritage
Mr	Bruce	Lawson	Principal Project Officer, Cape York Peninsula Tenure Resolution Branch	QLD	Department of Environment and Resource Management
Mr	Richard	Ledgar	Joint Management Governance Coordinator	NT	Parks and Wildlife Department of Natural Resources, Environment, The Arts and Sport
Mr	Mac	Moyses	Director, Planning and Partnerships	NT	Parks and Wildlife Department of Natural Resources, Environment, The Arts and Sport

Mr	Graham	Phelps	Executive Director	NT	Parks and Wildlife Department of Natural Resources, Environment, The Arts and Sport
Mr	Luke	Ingram	Senior Project Officer	Cth	Indigenous Protected Areas Department of Sustainability, Environment, Water, Population and Communities
Mr	Bruce	Rose	Director	Cth	Indigenous Protected Areas Department of Sustainability, Environment, Water, Population and Communities
Dr	Rosemary	Hill	Senior Research Scientist, Human Geography and Planning Group	Cth	CSIRO
Ms	Toni	Bauman	Research Fellow, Native Title Research Unit		AIATSIS
Ms	Claire	Stacey	PBC Project Officer, Native Title Research Unit		AIATSIS
Ms	Gabrielle	Lauder	Research Assistant, Native Title Research Unit		AIATSIS
Dr	Dermot	Smyth	Facilitator		Smyth and Bahrdr Consultants

**Attachment 2: Agenda**  
**Joint management of protected areas in Australia: Native title and other pathways towards a community of practice**  
**3-4 April 2012, Alice Springs**

**Day 1: Tuesday 3rd April**

- 09:00am Workshop Introduction
- Welcome to Country
  - Participant introductions
  - Background and purpose of workshop:
    - Toni Bauman, AIATSIS
    - Mac Moyses, NRETAS
  - Workshop agenda and processes
    - Dermot Smyth (facilitator)
- 10:00am Agency presentations (10 minutes + 5 minutes questions per agency):  
 Overview of joint management / key challenges / key lessons learnt
- New South Wales
  - Queensland
- 10:30am Morning tea
- 10:50am Agency presentations (continued)
- Victoria
  - South Australia
  - Western Australia
  - Northern Territory
  - Australian Government
- 12:30pm Lunch
- 1:30pm Group discussions
- Issues raised during the agency presentations
  - Issues raised by agencies prior to this workshop ⇒
  - Issues arising from previous workshops
- 3:00pm Afternoon tea
- 3:20pm Report back from group discussions
- Plenary discussion of key issues
  - Identification of issues requiring further discussion
- 4:30pm End of Day 1

- Monitoring and evaluation
  - Boards / Governance
  - Employment & capacity-building
  - Communicating joint management
  - Effective cross-cultural training
  - Planning for cultural & natural values
  - Native title and joint management
  - Operational acceptance
  - Flexibility and adaptability
  - Reconciling different perspectives

Summary to be provided at the workshop

## **Day 2 Wednesday 4th April**

- 8:30am      Recap on Day 1  
Discussion of emerging issues
- Evolving pathways to joint management
  - Indigenous Protected Areas
  - Marine Protected Areas
  - International developments
- 10:00am      Morning tea
- 10:20am      Group discussions on Day 1 issues and emerging issues
- 12:00pm      Lunch
- 1:00pm      Report back on key issues
- Strategies to address key issues
  - Developing a community of practice to support joint management
  - Broadening the discussion on joint management
- 3:00pm      Afternoon tea
- 3:20pm      Concluding discussion
- Maintaining the dialogue on joint management
  - Confirmation of workshop outcomes and ways forward
  - Reporting workshop outcomes
- 4:00pm      Workshop close

**Attachment 3: Feedback and evaluation**  
***Joint management of protected areas in Australia: Native title and other  
pathways towards a community of practice***

***3-4 April 2012, Alice Springs***

It was apparent from feedback discussion and completed evaluation forms that the participants highly valued the workshop and that a range of further workshops would be constructive. In terms of utility value, workshop participants gave the workshop an average rating of 4.7/5.

To conclude, the participants were asked to comment on what aspects of the workshop they found most useful. These are some of the key points to come out of that discussion:

- Forum for frank and transparent discussion
- Useful for joint management networking – an opportunity to engage with parks staff
- Value for research institutions in gaining an operational perspective
- To engage in conversation at a pragmatic as opposed to theoretic level
- Value in having a wealth of knowledge resources in one room
- Discussion regarding paradigm shift in IPAs enlightening
- Information-sharing on the spectrum of similarities between jurisdictions, shared complexities, intercultural interface was highly constructive for moving forward in a collaborative manner
- High utility value of jurisdictional overviews in contextualising issues within own jurisdiction
- The ability to compare progress against other jurisdictions can be used as leverage to move forward
- Realisation that despite different legislative frameworks and policy positions, there are the same core challenges
- Gratifying to witness progress in terms of engaging Indigenous people in land management
- Gratifying to witness proliferation of tangible and deliverable outcomes
- Felt enthused, invigorated and humbled to see the macro picture
- Refreshing to escape day to day minutiae that joint management can become weighed down in and to see the stamina of the people involved in it on the ground
- Lay foundations for future conversations, e.g. how marine parks develop in the future

Inspiring to see the intellect, goodwill and commitment to advancing issues, outcomes and conversations

The views expressed in this series are those of the author and do not necessarily reflect the official policy or position of the Australian Institute of Aboriginal and Torres Strait Islander Studies.

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