

Joint management of national parks in Australia, by Dermoth Smyth

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Joint management of National Parks in Australia: an introduction

The concept of Aboriginal ownership and joint management of National Parks in Australia has emerged as a response to increasing legal recognition of Aboriginal rights to traditional lands, beginning with the passage of the *Aboriginal Land Rights Act (Northern Territory)* (Cwlth) in 1976. This Commonwealth legislation applies only to the Northern Territory; subsequent legislation in each State has provided alternative, though weaker, mechanisms for the return of traditional lands to Aboriginal people. The need for joint management arrangements arose when existing national parks or conservation reserves were claimed under these various laws.

The term 'joint management' in this context means the establishment of a legal partnership and management structure which reflects the rights, interests and obligations of the Aboriginal owners of the Park, as well as those of the relevant government, acting on behalf of the wider community. This chapter examines how these joint management arrangements have developed over the last 20 years in different jurisdictions and also what impact those arrangements have had on Aboriginal traditional owners, conservation agencies and park visitors.

In 1981 Gurig National Park, (the former Cobourg Wildlife Sanctuary on Cobourg Peninsula northeast of Darwin) became the first jointly managed National Park in Australia. Since then, joint management arrangements for other Northern Territory national parks have been developed, and variations on these arrangements have emerged elsewhere, notably Jervis Bay Territory, New South Wales and Queensland. Several 'models' for joint management are currently in operation. They differ according to provisions in the enabling legislation, the existence and provisions of a lease, provisions of the plan of management, levels of resourcing and particularities of on-ground management arrangements.

Joint management arrangements represent a trade-off between the rights and interests of traditional owners and the rights and interests of government conservation agencies and the wider Australian community. In the most sophisticated joint management arrangements the trade-off involves the transfer of ownership of the national park to Aboriginal people in exchange for continuity into the foreseeable future of the national park status over the land and shared responsibility for park management.

A key element in these arrangements is that the transfer of ownership back to Aboriginal people is conditional on their support (through leases or other legal mechanisms) for the continuation of the national park. It is therefore an arrangement of convenience or coercion, rather than a partnership freely entered into. This situation is contrasted later in the chapter with a more recent form of protected area established voluntarily on existing Aboriginal-owned land – Indigenous Protected Areas.

Existing Joint Management Arrangements in Australian National Parks

The extent of indigenous involvement in Australian national parks generally reflects the degree of legal recognition of indigenous ownership and other rights and responsibility relating to the park; the greater the statutory recognition of those rights, the greater the formal involvement in park management.

Northern Territory

Joint management of national parks began in the Northern Territory as a response to Aboriginal land claims over existing national parks under the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cwlth)*. Over twenty years later, by far the majority of Aboriginal-owned, jointly managed protected areas are in the Northern Territory. Those

administered by the Northern Territory Government include Gurig National Park (Cobourg Peninsula), Nitmiluk National Park (Katherine Gorge), Barranyi National Park (North Island) and Tnorala (Gosse Bluff Conservation Reserve). Formal joint management arrangements have also been established for the two national parks controlled by the Commonwealth Government in the Northern Territory – Kakadu and Uluru Kata-Tjuta.

Gurig National Park

For thousands of years, the Cobourg Peninsula and its surrounding sea formed the traditional lands of four Aboriginal clans. In 1924 the peninsula became north Australia's first flora and fauna reserve. During the 1950s, all the remaining Aboriginal Traditional owners were removed to a government settlement on nearby Croker Island. In 1981 the establishment of Gurig National Park was agreed to by the Northern Territory Government and the Aboriginal traditional owners to resolve a pending land claim under the *Aboriginal Land Rights Act (Northern Territory)* (Cwlth). Rather than proceed with the claim, the traditional owners consented to the establishment of the National Park in return to regaining title to their traditional lands.

The key features of the joint management of Gurig National Park are:

- Declaration of the park under its own legislation – The *Cobourg Peninsula Land and Sanctuary Act 1981* (NT).
- The vesting of the land in a Land Trust on behalf of the Traditional owners.
- The establishment of a Board of Management comprising 8 members, of whom 4 are Traditional owners and 4 are representatives of the Northern Territory Government; the Board is chaired by one of the Traditional Owner members who also has a casting vote.
- The payment of an annual fee by the Government to Traditional owners for use of their land as a National Park; the fee was set at \$20,000 in 1981 and increased annually by a percentage equal to the percentage increase in the average male wage in Darwin.
- The responsibility for day to day management rests with the Conservation Commission of the Northern Territory (now the Parks and Wildlife Commission).
- Recognition of the rights of Traditional owners to use and occupy the Park.

The *Cobourg Peninsula Land and Sanctuary Act 1981* (NT) sets out the respective functions of the Board and the Commission. In summary, the functions of the Board are:

- To prepare plans of management;
- To protect and enforce the rights of the Traditional Owner group to use and occupy the Park;
- To determine, in accordance with the plan of management, the rights of access to parts of the sanctuary of persons who are not members of the Traditional Owner group;
- To ensure adequate protection of sites in the Park of spiritual or other significance in Aboriginal Tradition;
- To make by-laws with respect to the management of the Park; and
- Other functions as imposed on the Board by the plan of management.

The functions of the Commission are to act on behalf of and subject to the direction of Board in:

- the preparation of plans of management; and
- the control and management of the Park.

The Act also states that where differences of opinion arise between the Board and the Commission with respect to the preparations of plans of management or the control and management of the Park, the matter shall be resolved by a resolution of the Board.

- The plan of management contains many practical details relating to the exercise of the rights and interests of Traditional owners on the Park, including:
- The location of Aboriginal residential areas;

- Recognition of traditional hunting and fishing;
- A commitment to train and employ Aboriginal people as rangers and in other capacities on the Park (subject to budgetary constraints).

In 1996, the *Cobourg Peninsula Land and Sanctuary Act 1981* (NT) was amended to extend the powers of the Board to include supervision of the management of the adjacent Cobourg Marine Park, which includes customary marine clan estates of the Traditional owners.

In summary, the joint management arrangements for Gurig National Park provide Aboriginal people with secure tenure over their traditional lands, as well as nominal control over policy and planning matters via their voting majority on the board. The Northern Territory Government, through its representation on the Board and through the operations of the Parks and Wildlife Commission, maintains a strong role in determining the management of the park. It is significant that these arrangements do not require Traditional owners to lease their lands back to the Government.

Nitmiluk (Katherine Gorge) National Park

This national park was established by the *Nitmiluk (Katherine Gorge) National Park Act (NT)* in 1989. In contrast to Gurig it came into being as the result of a successful claim by Traditional owners of the former Katherine Gorge National Park under the *Aboriginal Land Rights (Northern Territory) Act (1976)*.

The main features of joint management arrangements at Nitmiluk include;

- The vesting of the park in a Land Trust on behalf of the Aboriginal Traditional owners;
- The lease of the land to the Conservation Land Corporation, on behalf of the Northern Territory Government;
- The payment to Traditional owners of an annual rental of \$100,000 for the lease of the park; this amount is to be reviewed every three years;
- The establishment of a Board of Management comprising 13 members of whom 8 shall be Traditional owners, 4 shall be staff of the Commission and one shall be a local resident appointed by the Mayor of Katherine;
- The day to day management of the Park by the Parks and Wildlife Commission of the Northern Territory.

The functions of the Board, the Commission and the plan of management are essentially the same as for Gurig National Park. Many of the details of arrangements to recognise and protect the interests of Traditional owners are contained within a separate lease agreement. Matters addressed in the lease document include:

- The recognition of Traditional owners' rights to occupy and use the Park in accordance with Aboriginal tradition;
- The right to hunt, subject to directions or decisions of the Board;
- The term of the lease (99 years);
- An agreement to commence negotiation of the renewal of the lease at least five years before the end of the term;
- The amount of the annual rental and the process for reviewing it every three years, based on the consumer price index;
- The percentage (50%) of revenue (entry fees, camping fees etc) payable to traditional owners;
- A procedure to terminate the lease in the event that serious breaches of the lease provisions occur;
- The process of arbitration with respect to disputes about interpreting lease provisions;
- Requirements to protect Aboriginal cultural rights and interests;
- Aboriginal training and employment;
- Consultation and liaison with Traditional owners
- A commitment to review the provisions of the lease (except the term) every 5 years

- Research and documentation of sacred sites;
- The disposal of park equipment (offer of first refusal to Traditional owners).

Kakadu and Uluru - Kata Tjuta National Parks

The joint management arrangements in these Commonwealth administered parks are similar to those described above for Nitmiluk National Park, in that the land occupied by the park was simultaneously returned to Aboriginal ownership and leased back to a government conservation agency under the direction of an board of management with an Aboriginal majority. This general arrangement is sometimes referred to as the 'Uluru model' for joint management, because they were first developed for Uluru - Kata Tjuta National Park, following its return to Aboriginal ownership in 1985.

Table 1 summarises the features of joint management arrangements in Kakadu and Uluru Kata-Tjuta National Parks, as well as Booderee National Park in Jervis Bay Territory in south-eastern Australia, which is also administered by the Commonwealth Government.

Table 1: Features of joint management at Uluru, Kakadu and Booderee

Elements of joint management	Uluru - Kata Tjuta National Park	Kakadu National Park	Booderee National Park
Land claim process	A grant of land by amendment of the Aboriginal Land Rights (Northern Territory) Act (Cwlth)	Several parcels of land within the Park successfully claimed under the <i>Aboriginal Land Rights (Northern Territory) Act</i> (Cwlth)	A grant of land by amendment to the <i>Aboriginal Land Grant (Jervis Bay Territory) Act 1994</i> (Cwlth)
Tenure	Inalienable freehold title held by a Land Trust on behalf of Traditional owners	Inalienable freehold title held by a Land Trust on behalf of Traditional owners, plus Commonwealth land vested in the Director of NPWS	Inalienable freehold title held by a Land Trust on behalf of the Wreck Bay Community Traditional owners
Board structure numbers nominated by:	Traditional owners 6 Director of NPWS 1 Fed Tourism Min. 1 Fed Environ. Min. 1 Arid Zone Ecologist 1 TOTAL: 10	Traditional owners 10 Director of NPWS 1 Parks Australia 1 Conservation expert 1 Tourism expert 1 TOTAL 14	Traditional owners Wreck Bay Community Council 6 Director of NPWS 1 Exec Dir. Territories 1 Conservation expert 1 Tourism expert 1 TOTAL 10
Lease term	99 years	99 years	99 years
Arbitration process with respect to compliance with provisions of the lease	Arbitration undertaken by an agreed lawyer of at least 10 years standing or by an arbitrator nominated by the Chief Justice of the Federal Court or the President of the Law Council of Australia	Arbitration undertaken by an agreed lawyer of at least 10 years standing or by an arbitrator nominated by the Chief Justice of the Federal Court or the President of the Law Council of Australia	Mediation in accordance with the Mediation Rules of the Law Society of New South Wales, followed if necessary by Arbitration undertaken by an agreed lawyer of at least 10 years standing or by an arbitrator nominated by the Chief Justice of the Federal Court or the President of the Law Council of Australia
Plan of management approval process	Disputes between the Director and the Board with respect to provisions of the plan of management are resolved by direction of the Minister on	Disputes between the Director and the Board with respect to provisions of the plan of management are resolved by direction of the	Disputes between the Director and the Board with respect to provisions of the plan of management are resolved by direction of the Minister

	recommendations of an arbitrator appointed by the Minister. Both houses of Federal Parliament approve plans of Managements.	Minister on recommendations of an arbitrator appointed by the Minister. Both houses of Federal Parliament approve plans of Managements.	on recommendations of an arbitrator appointed by the Minister. Both houses of Federal Parliament approve plans of Managements.
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Note that Aboriginal interests in Booderee National Park are recognised through the Wreck Bay Aboriginal Community Council, rather than by representation of traditional owners. See Chapter X for discussion on the implications of this distinction.

Joint management of National Parks in other States

New South Wales

After many years of negotiation, the New South Wales Parliament passed the *NSW National Parks and Wildlife Amendment (Aboriginal Ownership) Act* in 1996. The Act amended the existing *NSW National Parks and Wildlife Act* to provide for the ownership of six specified national parks and reserves throughout New South Wales. These are:

- Mount Yarrowick Nature Reserve near Armidale;
- Mount Grenfell Historic Site to Cobar;
- Mungo National Park near Mildura;
- Mootwingee National Park and Historic Site, and Coturaundee Nature Reserve near Broken Hill; and
- NSW Jervis Bay National Park near Nowra

Of these protected areas, only Mootwingee National Park (and the nearby Historic Site and Nature Reserve) have so far been returned to Aboriginal ownership. The hand-back took place in September 1988 and three protected areas have been collectively renamed ‘Mutawintji National Park’, now managed by a Board of Management on which Aboriginal Traditional owners have a majority. Under the joint management agreement, the park has been leased to the New South Wales Minister for an initial period of 30 years under conditions similar to the Uluru model described above. Other national parks and reserves that meet criteria set down in the Act may be nominated from time to time.

The main features of the New South Wales legislation are to:

- Return national parks and reserves of Aboriginal cultural significance to Aboriginal peoples;
- Transfer ownership of land to Aboriginal Land Councils on behalf of Aboriginal traditional owners;
- Lease back Aboriginal owned national parks and reserves to the National Parks and Wildlife Service under mutually agreed conditions;
- Establish boards of management (comprising 11 – 13 members) of majority Aboriginal control with representatives of stakeholder and other interest groups to manage the lands as national parks and reserves; and
- To return ownership of Aboriginal relics, including ancestral remains, to the Aboriginal owners.

Queensland

In 1991 the Queensland Parliament passed the *Aboriginal Land Act*, which provides a process for the claim of categories of Crown land by Aboriginal people with traditional and or historic associations with the land. In 1992 the *Nature Conservation Act (Qld)* was passed which established a new category of national park referred to as ‘National Park (Aboriginal Land)’ to apply to parks which had been successfully claimed under the *Aboriginal Land Act*.

A significant constraint on the claim process is that parks first have to be gazetted by the Governor-in-Council (on the recommendation of the Cabinet) as being available for claim before a claim can be lodged by an Aboriginal group. Thirteen Queensland national parks have been gazetted for claim, all in remote areas in the north and west of the State. Several of these have been recommended for granting by the Aboriginal Land Tribunal, but none have yet passed through the stages of finalising plans of management and lease agreements.

Aboriginal groups have also been uncertain as to whether to accept the joint management provisions offered under these Acts. It is clear that the degree of Aboriginal control offered by these arrangements is considerably less than in the 'Uluru model'; there is also the possibility that claims under the *Native Title Act 1993* (Cwlth) may deliver greater recognition of Aboriginal rights and interests in the management of successfully claimed national parks. The Queensland Government is currently reviewing legislation and policies relating to Aboriginal ownership and joint management of national parks in Queensland. The outcomes of that review process are expected to be announced during 2000.

South Australia

By the late 1980s the South Australian National Parks and Wildlife Service (now part of Department of Environment, Heritage and Aboriginal Affairs) had developed policies and processes which promoted Aboriginal involvement in park management. These policies and processes have been developed to the greatest extent with respect to Witjira National Park in the far north of the South Australia. At Witjira joint management is based on a lease agreement which establishes a joint decision making process, recognises the cultural, social and economic aspirations of Aboriginal people traditionally associated with the Park, and which recognises the authority of the Minister for Environment to make binding decisions with respect to the Park.

- A Witjira Board of Management has been established with the following membership:
- Four Aboriginal people traditionally associated with the land (one of whom is Chairman)
- A senior middle-management officer from the Department of Environment and Natural resources;
- A member of the regional consultative committee established to advise the Minister on the management of parks within the region;
- A representative of the Department of State Aboriginal Affairs.

An agreement on joint management principles and processes was signed by Government and the Aboriginal group associated with the park in 1995 and the board has been established. The Department of Environment, Heritage and Aboriginal Affairs has been funded through the Commonwealth Government's Natural Heritage Trust to undertake a review of the plan of management to reflect the new arrangements. The Department also envisages the long term involvement, through funding and other support, of the Commonwealth Government to sustain effective joint management arrangement.

Western Australia

There is a long history, going back to the 1970s of attempts to negotiate comprehensive joint management arrangements for national parks in Western Australia. These attempts were driven in part by the optimism created by the establishment of The Aboriginal Land Inquiry in 1983. This initiative by the then Western Australian Government sought to develop a process by which Aboriginal rights to land could be recognised throughout Western Australia.

The subsequent (and current) difficulties in achieving joint management are also in part due to the failure of subsequent Western Australian Governments to implement the recommendations of the Aboriginal Land Inquiry. Other than through the *Native Title Act 1993* (Cwlth), there is no legislative mechanism by which Aboriginal people can claim or be granted ownership of their traditional lands, whether or not they include national parks.

Negotiations with respect to the future management of Purnululu (Bungle Bungle) National Park and Karijini (Hamersley Ranges) National Park led to the extensive

development of proposals for joint management arrangements, and draft plans of management which reflected the continuing associations and aspirations of Aboriginal Traditional owners. To date Aboriginal ownership of the parks has not been regarded favourably by the West Australian Government, but draft agreements had been reached on the establishment of Park Councils, comprising representatives of park management staff and traditional owners, as an advisory body to the Minister and with a formal role in developing policies and plans of management.

To date none of these arrangements has been put in place. However, the Commonwealth Government, through its Indigenous Protected Area Program, is currently providing funding to develop joint management arrangements at several locations throughout Western Australia, including at D'Entrecasteaux and Shannon National Parks in the south of the State.

Tasmania

No formal joint management arrangements are in place for any national parks in Tasmania. However, Aboriginal people do participate on advisory councils for national parks, and have direct involvement in the recording and maintenance of cultural sites within national parks.

In 1995 the Tasmanian Parliament passed legislation transferring title to Aboriginal people over 12 parcels of land, totalling approximately 4,500 hectares. The land includes areas and places of cultural, spiritual or historically importance to Aboriginal people; some of the areas lie with existing protected areas, or comprise historic reserves such as Oyster Cove and Risdon Cove. Commonwealth funding has been provided to Aboriginal organisations in Tasmania to assist them to investigate the management of some of these lands as Indigenous Protected Areas.

Victoria

No formal joint management arrangements are in place for any national parks in Victoria. However, Aboriginal people are extensively involved in cultural site management throughout Victoria, including on national parks. For some national parks, Aboriginal people are represented on advisory committees and have responsibilities for the management of cultural centres (eg Brambuk Cultural Centre at Gariwerd National Park).

In the mid 1990s many Aboriginal people had hoped that the Yorta Yorta native title claim over a wide area of eastern Victoria, would have resulted in substantial recognition of their rights and interests in national parks, including ownership and management rights. However, the claim was unsuccessful and it appears that Aboriginal people in Victoria will not be able to utilise native title as a mechanism to increase their involvement in the management of the State's national parks.

Assessment of joint management 'models'

The above summary of structural Aboriginal involvement in the management of Australian national parks reveals four 'models' of joint management, as well as lesser forms of involvement, such as representation on advisory committees. The main features of the four models are summarised in Table 2:

Table 2: Main features of four joint management 'models'

Gurig model	Uluru model	Queensland model	Witjira model
Aboriginal ownership	Aboriginal ownership	Aboriginal ownership	Ownership of land remains with the government
Equal representation of traditional owners and government representative on board of management	Aboriginal majority on board of management	No guarantee of Aboriginal majority on board of management	Lease of the national park to traditional owners
			Aboriginal majority on board

No lease-back to government Agency	Lease-back to government agency for long period	Lease-back to government agency in perpetuity	of management
Annual fee to traditional owners	Annual fee to traditional owners, community council or board	No annual fee paid	
Example: Gurig National Park.	Examples: Uluru - Kata Tjuta, Kakadu, Nitmiluk, Booderee ⁱ and Mutawintji ⁱⁱ National Parks.	Examples: none finalised	Example: Witjira National Park.

Native Title and National Parks

To date, none of the existing joint management arrangements have been based on native title claims to national parks. All existing jointly managed parks were established as the result of claims made under statutory land rights legislation (eg the *Aboriginal Land Rights Northern Territory Act* (Cwlth)) or by a specific Act of Parliament (eg the *Nitmiluk (Katherine Gorge) Act* (NT)). Under this statutory process, governments grant land to Aboriginal people based on their traditional connection to it. A successful native title claim, however, does not result in a *grant* of land by a government; a successful native title claim results in the government *recognition* of prior and continuing ownership of traditional land by Aboriginal people.

The claim for recognition of native title on Mer (Murray Island) by Eddie Mabo and other Meriam people did not include a national park. Nevertheless, the Chief Justice of the High Court in his judgement on the *Mabo case* specifically referred to national parks as an example of a land tenure where he anticipated that Native Title would have survived:

Native title continues to exist where waste lands of the Crown have not been appropriated or used or where the appropriation and use is consistent with the continuing concurrent enjoyment of native title over the land (eg land set aside for national parks).

The prospect of coexistence of native title and other interests in the same area of land was reinforced by the High Court decision in 1996 in the *Wik* case. In this instance, the High Court confirmed that native title interests could coexist with the interests of the holders of pastoral leases, at least to the extent that these interests were compatible. The High Court also decided that wherever these interests were incompatible, the interests of the pastoralists would prevail. It is therefore highly likely that native title survives on areas of land over which national parks have been declared, at least to the extent that the exercise of native title rights and national park management can coexist.

This means that some Aboriginal people may have an additional avenue for securing their involvement in national park management, even in parts of Australia where governments have been reluctant to provide for such involvement through legislation. On the other hand, the 1998 amendments to the *Native Title Act* (Cwlth) permit government to take actions on national parks irrespective of native title, though in doing so may be liable for compensation.

Native title rights claimed in Namadgi National Park

Namadgi National Park in the Australian Capital Territory is one of many national parks throughout Australia over which a claim for recognition of native title has been lodged.

Native title rights claimed over Namadgi National Park include:

- The right to live on and travel over the land;
- The right to hunt and fish;

- The right to take items such as timber, stone, resin and shells for traditional purposes;
- The right to conduct ceremonies;
- The right to prevent unauthorised entry or use of resources by others;

Negotiations are currently underway between the native title claimants and the Australian Capital Territory Government for a resolution of this claim and an agreement re ongoing Aboriginal involvement in the management of Namadgi National Park.

ISSUES IN JOINT MANAGEMENT

Aboriginal use of Park resources

In all jointly managed national parks discussed above, the rights of Aboriginal traditional owners to occupy and use the parks are recognised and protected in legislation, and/or leases agreements, and/or plans of management. On these Aboriginal lands, the rights of traditional owners to continue to hunt, fish and gather are regarded as essential to maintenance of culture and identity. Aboriginal people also generally regard the use of traditional resources as part of the practice of caring for their traditional country. However, several mechanisms exist in each Park to balance this right to use resources with the obligation to protect biodiversity and other natural resources. These include:

- The application of Aboriginal law and tradition, which imposes restrictions on who can hunt (and fish and gather), what species can be hunted, where hunting can occur, etc.;
- The restriction of the right to hunt, fish and gather to members of local Aboriginal people - there is no general right for all Aboriginal people to access, use and occupy the park;
- Obligations imposed on the board and the conservation agency by legislation, lease agreements and plans of management to protect biodiversity and other natural values of the park;
- Similar obligations to protect the cultural values of the park; those values include traditional hunting, fishing and gathering, which in turn must be sustainable in order to be protected;
- The power of boards to regulate Aboriginal hunting, fishing and gathering if required.

The following extract from the current Kakadu National Park Plan of Management addresses these issues:

In line with the lease agreements and the Act, Bining (Aboriginal people of Kakadu) will continue to be able to exercise their traditional rights to fish and hunt wildlife within the park. The impact of Bining resource use will be monitored with traditional owners and where necessary may be regulated in consultation with traditional owners.

Aboriginal use of resources is also addressed in plans of management through the use of zoning. Zoning areas for Aboriginal use has the combined effect of protecting the privacy of traditional owners, ensuring the safety of visitors and contributing towards biodiversity protection.

Community Development

A major issue in the planning and management of Aboriginal-owned national parks is the task of achieving a balance between the aspirations of Aboriginal people for community development and the aspirations of managers and park users (including Aboriginal people) for protecting the natural and cultural values of the park. This is a global issue brought into sharp focus on bounded areas of land for which there are high expectations from the general community to maintain them in pristine condition.

Aboriginal people are required to forego many economic development options in accepting national park status over their traditional lands. The challenge therefore is to provide economic rewards to Aboriginal people through the park management process itself. This can be achieved through rental payments, employment within the park administration and associated activities such as tourism, and through the establishment of various business ventures.

In Kakadu National Park Aboriginal people make up approximately 50% of full time and 60% of casual employees, and several major Aboriginal-owned tourism ventures have been established, including accommodation and boat tours. After 20 years of Aboriginal ownership of the Park, however, most Aboriginal employees remain at the lower employment levels (rangers and administrative assistants). Low literacy levels, limited educational opportunities and the restriction of public service employment conditions all contribute to maintaining the current situation.

Aboriginal employment levels are similar or lower on other Aboriginal-owned national parks, though attempts are being made to improve the situation through ranger training programs and other strategies aimed at improving literacy levels and encouraging Aboriginal movement into more senior park management and professional areas. Meanwhile, the major economic benefits, in terms of dollars earned, are flowing to non-indigenous park management staff and non-indigenous business enterprises associated with the parks.

Even if Aboriginal employment levels increase significantly with the park management structure, the majority of Aboriginal people associated with jointly managed parks are likely to remain unemployed and welfare dependent. Aboriginal ownership of national parks has not, and will not in the foreseeable future, fundamentally alter chronic levels of Aboriginal poverty, and associated social consequences such as poor health, housing and education.

Sharing Country

Aboriginal owners of national parks are obliged to share their traditional country with an increasing number of visitors. In Kakadu and Uluru Kata-Tjuta National Parks visitor numbers are currently in the order of 200,000 and 300,000 per year respectively. While bringing economic benefit to some Aboriginal people, large number of visitors also have social impacts on the local communities. These impacts include loss of privacy, damage to cultural sites, restrictions in hunting and gathering activities and a sense of responsibility for the welfare of guests in their country over whose activities Aboriginal people have little control.

At Uluru Kata-Tjuta National Park, most visitors arrive with the goal of climbing to the top of Uluru (Ayers Rock). On arrival, visitors are provided with information about the cultural significance of Uluru and are requested not to climb. In spite of this, most visitors do make the climb and some are injured or killed in the attempt. This lack of respect for the wishes of Aboriginal people causes them distress, as does the loss of life of visitors. The regular need to rescue visitors who get into difficulties during the arduous climb also places heavy demands on human and financial resources, which could be better deployed in other aspects of park management. Opportunities and constraints for Aboriginal people, conservation agencies and park visitors associated with sharing country are summarised in Table 3.

Table 3: Potential advantages and disadvantages of joint management

Stakeholder	Potential Advantages	Potential Disadvantages
Aboriginal owners	<p>Recognition of traditional ownership</p> <p>Participation in decision-making on the management of the national park</p> <p>Training and employment of Aboriginal people</p> <p>Resources for infrastructure and support</p>	<p>Requirement to share management of traditional land with Government agency</p> <p>Requirement to allow large numbers of people to visit traditional land</p> <p>Limited options for development and use of traditional land</p>

	<p>services</p> <p>Enhanced opportunities to protect cultural sites and heritage</p> <p>Enhanced opportunities to educate people about Aboriginal culture and contribute to reconciliation</p> <p>Income derived from lease payments and/or percentage of entrance fees, franchise fees etc.</p>	
Government conservation agency	<p>Enhanced opportunity to protect and interpret cultural values of the park</p> <p>Enhanced opportunity to access and apply Aboriginal knowledge in the management of the park</p> <p>Enhanced opportunity to contribute to reconciliation</p>	<p>More complex management structure</p> <p>Additional demands for financial and other resources to implement joint management arrangements</p> <p>Additional restrictions on access to areas of the park</p> <p>Additional demands to train and supervise staff</p>
Biodiversity Conservation	<p>Enhanced recognition of cultural values associated with the park's biodiversity</p> <p>Improved protection and management of biodiversity values through application of Aboriginal knowledge and practices</p>	<p>Increased pressures on biodiversity through reintroduction of Aboriginal hunting and gathering</p> <p>Increased pressure on biodiversity resulting from the establishment of Aboriginal living areas within the park</p>
Park visitors	<p>Enhanced opportunities to appreciate cultural values of the park</p> <p>Enhanced opportunities to communicate directly with Aboriginal owners and/or employees</p> <p>Enhanced opportunities to participate in the process of Reconciliation</p>	<p>Additional costs associated with park use, either via taxation or entrance fees</p> <p>Additional restrictions on destinations and/or activities within the park (due to cultural site protection)</p>

INDIGENOUS PROTECTED AREAS

While the concept of jointly managed national parks in Australia continues to evolve, a new form of protected area on Aboriginal land is emerging. Indigenous Protected Areas (IPAs) emerged as a result of several apparently unrelated developments in the early 1990s. These include:

- A commitment by the Australian Government in 1992 to establish a system of protected areas which is comprehensive, adequate and representative of the full range of ecosystems in Australia by the year 2000;
- The development of a national bioregional planning framework to assist planners to identify gaps in the National Reserve System (NRS) and set priorities for filling these gaps;
- The development by the World Conservation Union (IUCN) of new guidelines for the establishment of protected areas;
- Increasing interest from Aboriginal people to gain assistance and support in the management of their land, large areas of which had been returned to them, particularly in central and northern Australia through the land claim process of the 1970s and 1980s.

It quickly became apparent that a comprehensive system of protected areas could only be achieved with the inclusion of Aboriginal land, the owners of which would be unlikely to wish to return their land to government control as national parks. The new IUCN guidelines, however, provided acceptance of Indigenous ownership, use and management of land as being compatible with protected area status. The guidelines also recognised that conservation outcomes rather than statutory management arrangements were the key factor in determining whether protected area status should be recognised over a particular area of land.

Consultations with Aboriginal groups across Australia determined that at least some Aboriginal landholders would be prepared to declare their land to be a protected area and part of the NRS, in return for government funds and other assistance if required for the planning and ongoing management of their land. The first IPA was formally proclaimed in August 1998, over an Aboriginal owned property called Nantawarrina in the northern Flinders Ranges of South Australia, with several more proclaimed in other states during 1999.

IPAs can be established as formal conservation agreements under state or territory legislation, but the IUCN guidelines also provide for the possibility of protected areas to be managed under Indigenous law, without the protection of statutory law. In practice, Aboriginal land owners have a variety of legal mechanisms to control activities on their land, including local government by-laws and privacy laws.

The declaration of IPAs are the first occasion in Australia that Aboriginal land owners have voluntarily accepted protected area status over their land. Because the process is voluntarily, Aboriginal people can choose the level of government involvement, the level of visitor access (if any) and the extent of development to meet their needs. In return for government planning and management assistance, Aboriginal owners of IPAs are required to develop a plan of management and to make a commitment to management their land with the goal of conserving its biodiversity values.

Pilot studies are currently being undertaken in all states and territories to determine the extent to which the IPA concept can contribute to the development of the NRS, while also meeting Indigenous peoples' aspirations for self determination and sustainable development. At present all IPAs are on land, but one pilot project is investigating the possibility of establishing an IPA on an island and surrounding waters in Torres Strait.

IPAs are attractive to some Aboriginal land owners because they bring land management resources without the loss of autonomy associated with joint management. IPAs also provide public recognition of the natural and cultural values of Aboriginal land, and of the capacity of Indigenous people to protect and nurture those values. IPAs are attractive to government conservation agencies because they effectively add to the nation's conservation estate without the need to acquire the land, and without the cost of establishing all the infrastructure, staffing, housing etc of a national park.

Under the Commonwealth Government's IPA funding program, resources are also available to State and Territory conservation agencies and Aboriginal groups to facilitate enhanced Aboriginal involvement in the management of existing government-owned protected areas. This aspect of the IPA program was added at the insistence of Aboriginal groups who met

at national workshops to discuss the IPA concept in 1995 and 1997. Aboriginal people were keen to avoid endorsing a new government initiative that may provide additional benefits to Aboriginal groups who had successfully reclaimed their traditional lands, while doing nothing to support the position of those Aboriginal groups whose traditional lands lie within existing government owned protected areas.

While the Commonwealth does not have the authority to require State and Territory governments to develop comprehensive joint management arrangements with Aboriginal groups for all existing protected areas, this aspect of IPA funding research and negotiations within and between the government and Aboriginal sectors that may assist them achieve joint management by agreement.

To emphasize this goal, Aboriginal participants at the 1997 IPA workshop developed a definition of an Indigenous Protected Area that includes both Aboriginal-owned land voluntarily declared a protected area as well as existing protected areas that is or has the ability to be cooperatively managed by government conservation agencies and Aboriginal traditional custodians. Nevertheless, government agencies continue to use the term Indigenous Protected Area only to refer to Aboriginal owned land over which protected area status has been voluntarily declared.

In the coming years, Aboriginal groups and government agencies will be watching the development of IPAs to see whether this potential win-win outcome can be realised. If so, IPAs are likely to present a challenge to existing jointly managed national parks, which may be encouraged to move further towards the self-determination and devolved conservation management that IPAs represent.

Meanwhile, jointly managed national parks in Australia remain an uneasy compromise between sometimes coinciding but often conflicting interests. On the one hand, there are daily examples of cooperative working arrangements on jointly managed parks, positive working relationships between Aboriginal and non-Aboriginal staff and rewarding cross-cultural encounters experienced by park visitors. On the other hand, these scenarios are the result of negotiations entered into often reluctantly by both parties. Aboriginal owners were required to accept protected area status over their land as a condition of having ownership returned; some governments actively opposed the land claim process that resulted in the current joint management arrangements. Further more, all existing joint management arrangements were developed outside the framework of continuing native title.

In the coming decades the continuing legal evolution of the meaning of native title is likely to be an important additional catalyst to the negotiation of joint management arrangements in government-owned protected areas. In parallel with this process it can be anticipated that there will be a growing desire by Aboriginal owners of jointly managed protected areas to achieve more meaningful expression of their ownership through the joint management process, in some cases leading to self-management along the lines of Indigenous Protected Areas. If not before, these issues will certainly be revisited when the government leases over Aboriginal-owned national parks come up for renewal over the next century.

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ⁱ Booderee rent payments are not to Traditional Owners but to the Wreck Bay Community Council representing residents of Wreck Bay.

ⁱⁱ Mutawintji rent payments are not to Traditional Owners but to the Board and it must be spent in the park.