Chapter 8.
Just Add Water?
Taking Indigenous Protected Areas into Sea Country

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Abstract. *The concept of Indigenous Protected Areas (IPAs) was developed by the Australian Government in collaboration with Indigenous land-holders over ten years ago. Twenty-five IPAs have been declared on Indigenous-owned land in all Australian jurisdictions except the Australian Capital Territory. IPAs now contribute over twenty percent of the total terrestrial protected-area estate in Australia. IPAs are declared by Indigenous peoples, rather than by government conservation agencies, and are consistent with the International Union for the Conservation of Nature definition of a protected area. Coastal Indigenous groups are developing proposals for IPAs over their Sea Country (coastal land, sea and islands), a development of the IPA concept supported by a 2006 independent review of the Australian Government's IPA program. There are both challenges and opportunities in including marine areas in IPAs. These are discussed within the broader context of the development of IPAs from tenure-based to Country-based protected areas.*

8.1 Introduction

Indigenous Protected Areas in Australia are voluntarily declared as protected areas by the Indigenous Australian custodians and managers of the area. The first IPA was declared at Nantawarrina in South Australia in 1998. The now twenty-five declared IPAs comprise about twenty-two percent of the terrestrial protected-area estate (Figure 8.1). IPAs are established and managed in accordance with International Union for the Conservation of Nature (IUCN) guidelines, and are provided with funding and other support by the Australian Government's Department of the Environment, Water, Heritage and the Arts (DEWHA); in some instances, IPA management is also supported by State or Territory agencies.[1] In this chapter I explore how the IPA concept can be further developed to enable coastal Indigenous groups to manage all components of their Sea Country, including marine areas over which governments retain ownership and control.

8.2 The IPA Concept

The 1994 IUCN *Guidelines for Protected Area Categories* (CNPPA 1994) provided a mechanism for establishing Indigenous declared and managed protected areas that are consistent with international principles for protected areas, as required by Australia's National Reserve System. The 1994 IUCN definition of a protected area was:

> An area of land **and/or sea** especially dedicated to the protection and maintenance of biological diversity **and associated cultural resources**, and managed through legal **or other effective means.**

[1] Szabo and Smyth (2003), Smyth and Sutherland (1996), Thackway and others (1996) and Smyth (2006) have provided more detailed coverage of the development of IPAs, and Smyth (2001), Langton et al. (2005), Bauman and Smyth (2007) comparison of Indigenous Protected Areas and jointly managed national parks. Information on the status of IPAs and procedures for establishing IPAs (including funding) is available from Australian Government's IPA program (DEWHA n.d.).

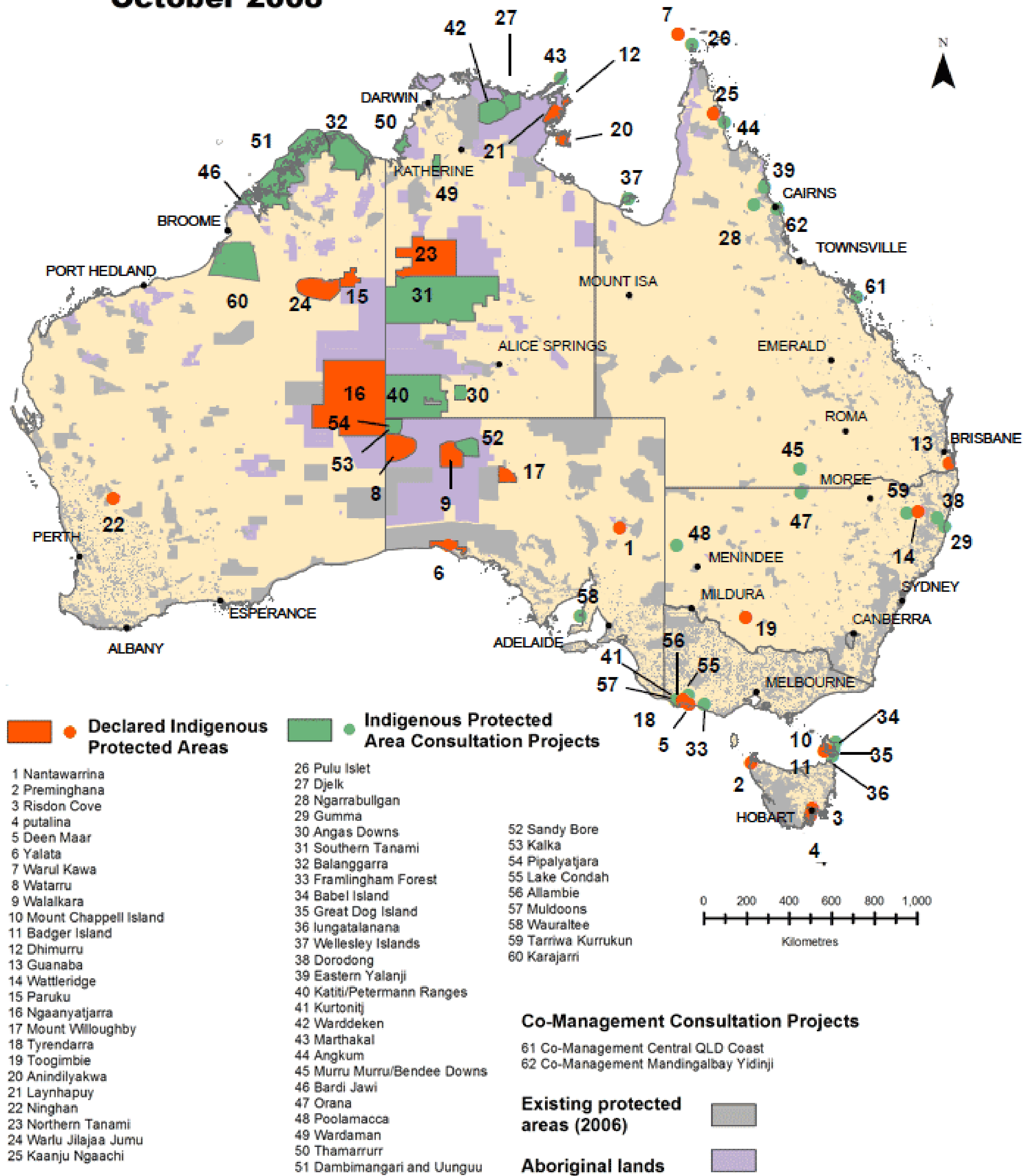

Figure 8.1: Location of Indigenous Protected Areas in Australia (source: DEWHA. n.d.)

The reference to **‘land and/or sea’** recognises that a protected area can comprise an area of land only, or an area of sea only, or an area that includes both land and sea. The reference to **‘cultural resources’** recognises the importance of Indigenous cultural values associated with land, sea and biodiversity. The reference to **‘other effective means’** provides the opportunity to declare and manage protected areas outside the normal legislative arrangements under which government-managed protected areas are established.

These concepts have been maintained in the 2008 IUCN definition of a protected area (Dudley 2008):

> A clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve long-term conservation of nature with associated ecosystem services and cultural values.

The concept of the declaration and management of protected areas by Indigenous people was further supported by successive IUCN policies and guidelines that recognise the legitimacy of a spectrum of protected area governance arrangements, including government management, co-management, Indigenous and local community management and private management (e.g. CNPPA 1994; Borrini-Feyerabend et al. 2004; Dudley 2008). The following definition of an IPA was developed by Indigenous delegates at a national workshop (Environment Australia 1997):

> An Indigenous Protected Area is governed by the continuing responsibilities of Aboriginal and Torres Strait Islander peoples to care for and protect lands and waters for present and future generations.
>
> Indigenous Protected Areas may include areas of land and waters over which Aboriginal and Torres Strait Islanders are custodians, and which shall be managed for cultural biodiversity and conservation, permitting customary sustainable resource use and sharing of benefit.
>
> This definition includes land that is within the existing conservation estate, that is or has the ability to be cooperatively managed by the current management agency and the traditional owners.

This definition envisages an IPA as a contemporary arrangement for Indigenous Australians to exercise their customary authority to protect and manage their traditional country (land and waters), without reference to current tenure arrangements. The definition also envisages the possibility that IPAs can include existing protected areas managed by government agencies. The Australian Government’s IPA Program uses a simpler definition that refers to Indigenous ownership of the area and an agreement with the Australian Government (DEWHA 2007):

> An Indigenous Protected Area (IPA) is 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.

8.3 IPAs on Land and Sea

Despite the reference to both land and sea in the two IPA definitions above, the formal declaration of IPAs over the last twelve years has focussed almost exclusively on Indigenous-owned land. This is because the exercise of exclusive management authority over Indigenous owned land is more straightforward and less contested than on traditional Indigenous Country now held under a variety of non-Indigenous tenures. The inclusion of marine areas in IPAs has been viewed as problematic due to the lack of Indigenous tenure and exclusive authority in the sea.

The one exception is Dhimurru IPA in northeastern Arnhem Land, which includes both coastal land (92 000 ha) and marine areas (9000 ha) (Figure 8.2). The marine area contains many marine sacred sites registered by the Northern Territory Aboriginal Areas Protection Authority under the *Northern Territory Aboriginal Sacred Sites Act 1989 (NT)*. This formal recognition of the cultural significance of the marine estate was sufficient for it to be included in the IPA, even though Traditional Owners' management authority over marine sacred sites is not as strong as over Aboriginal-owned land (Smyth 2007).

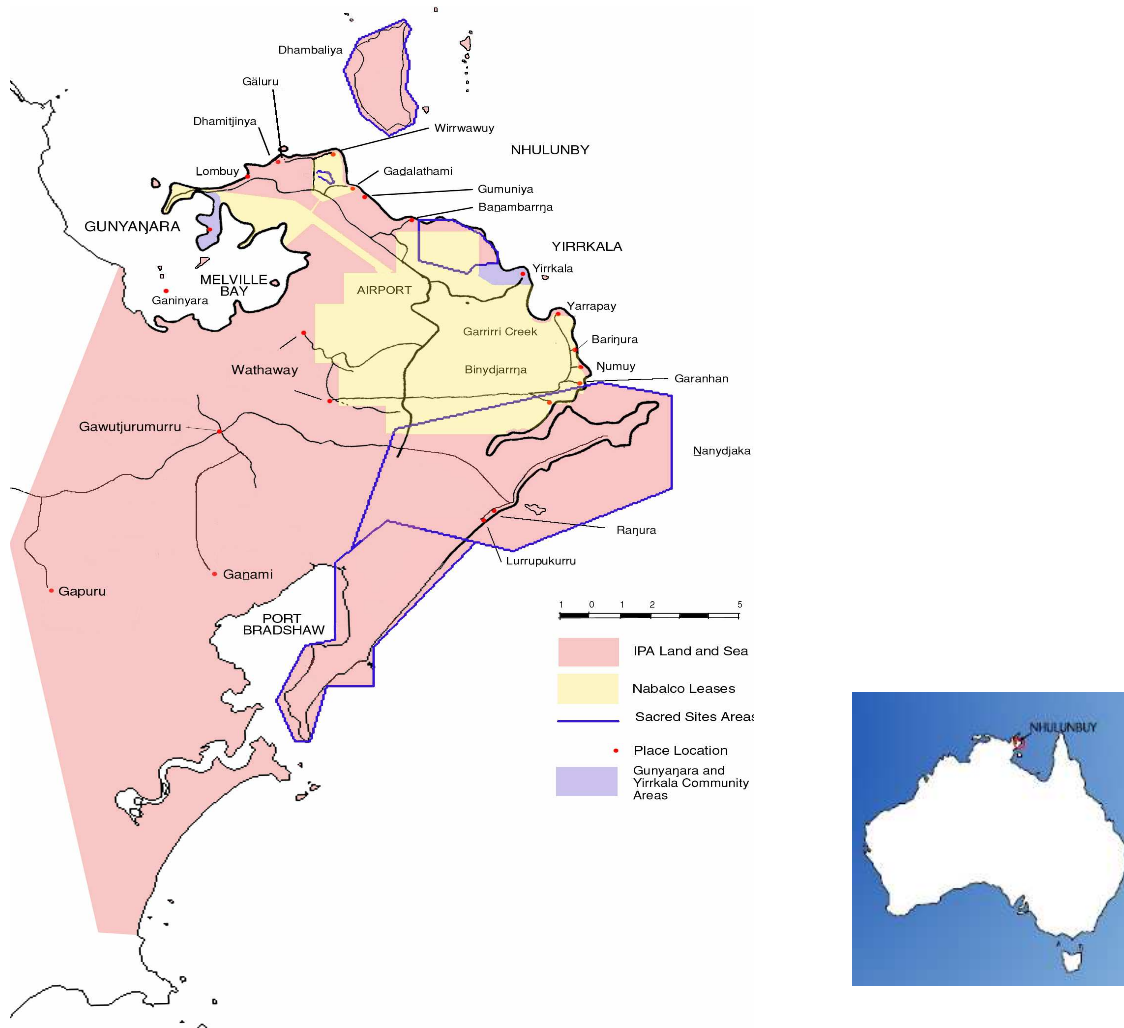

Figure 8.2: Map of Dhimurru IPA (courtesy of Dhimurru Aboriginal Corporation). Note that areas of coastal waters are included in the IPA

Although many coastal IPAs do not formally include adjacent marine areas, significant management activities undertaken by IPA managers and rangers occur in the sea. This includes dugong and marine turtle monitoring, removal of ghost nets,[2] fisheries and biosecurity surveillance and other marine-based projects undertaken in

[2] Ghost nets are abandoned commercial fishing nets. They accumulate in coastal waters and beaches across northern Australia and are a major hazard to marine turtles and other marine life. Indigenous groups around the Gulf of Carpentaria are involved in a major management program to remove and dispose of these nets (Anon. n.d.).

partnership with government agencies, research institutions and non-government conservation organisations. Despite the reluctance over the last ten years to support the inclusion of marine areas in IPAs, promotional material and IPA management plans have routinely included marine images and issues. An image showing both land and sea associated with the Anindilyakwa IPA currently appears on the main web page of the IPA Program (Figure 8.3); the Anindilyakwa IPA Management Plan refers to many marine management issues and actions, yet the formal declaration of the Anindilyakwa IPA currently includes only the terrestrial (island) components of the Groote Island archipelago.

Figure 8.3: A view of Anindiliakwa IPA appearing on the IPA Program website (DEWHA n.d.2)

The capacity to include marine areas within a declared IPA is a significant issue for Indigenous groups whose traditional country includes coastal, island and marine environments all around Australia. Despite many cultural differences between coastal Indigenous groups, they all incorporate land and sea as integral and inseparable components of their traditional estates. The terms 'Sea Country' or 'Saltwater Country' refer to coastal, island and marine environments that together make up the traditional estates of maritime Indigenous groups in Australia (Smyth 1997):

> The ocean, or saltwater country, is not additional to a clan estate on land, it is inseparable from it. As on land, saltwater country contains evidence of the Dreamtime events by which all geographic features, animals, plants and people were created. It contains sacred sites, often related to these creation events, and it contains tracks, or Songlines along which mythological beings travelled during the Dreamtime or creation period. The sea, like the land, is integral to the identity of each clan, and clan members have a kin relationship to the important marine animals, plants, tides and currents.

Several recent Sea Country Plans (DEWHA n.d.2), developed as part of the Australian Government's Marine Bioregional Planning Program for Australia's ocean environments, have documented Traditional Owners' aspirations to establish IPAs over their Sea Country, including both terrestrial and marine environments. The *Thuwathu / Bujimulla Sea Country Plan*, for example, which outlines Aboriginal management aspirations and strategies over the Wellesley Islands, surrounding waters and adjacent mainland coastal areas, includes a proposal to develop an IPA incorporating the sea as well as island and coastal environments impacted by the sea; this will include the seasonally inundated coastal saltpans that can extended up to thirty kilometres inland (Figure 8.4). Several other IPA proposals being developed across northern Australia also include consideration of the inclusion of marine areas (e.g. IPA projects 26, 32, 43, 46, 51 and 62 shown in Figure 8.1).

All of these proposals are pursuing a 'Country-based', rather than a 'tenure-based' approach to the IPA concept. They use the IPA concept as a management framework to achieve the goals of conservation and sustainable use of Sea Country, rather than limiting the IPA boundaries to those areas over which Indigenous peoples currently

have exclusive control. Some of these IPA proposals also include existing government-declared protected areas, as envisaged by the original definition of IPAs developed by Indigenous representatives in 1997. In these instances, the co-management arrangements already established or under negotiation will become one of the management tools for the proposed Sea Country IPA.

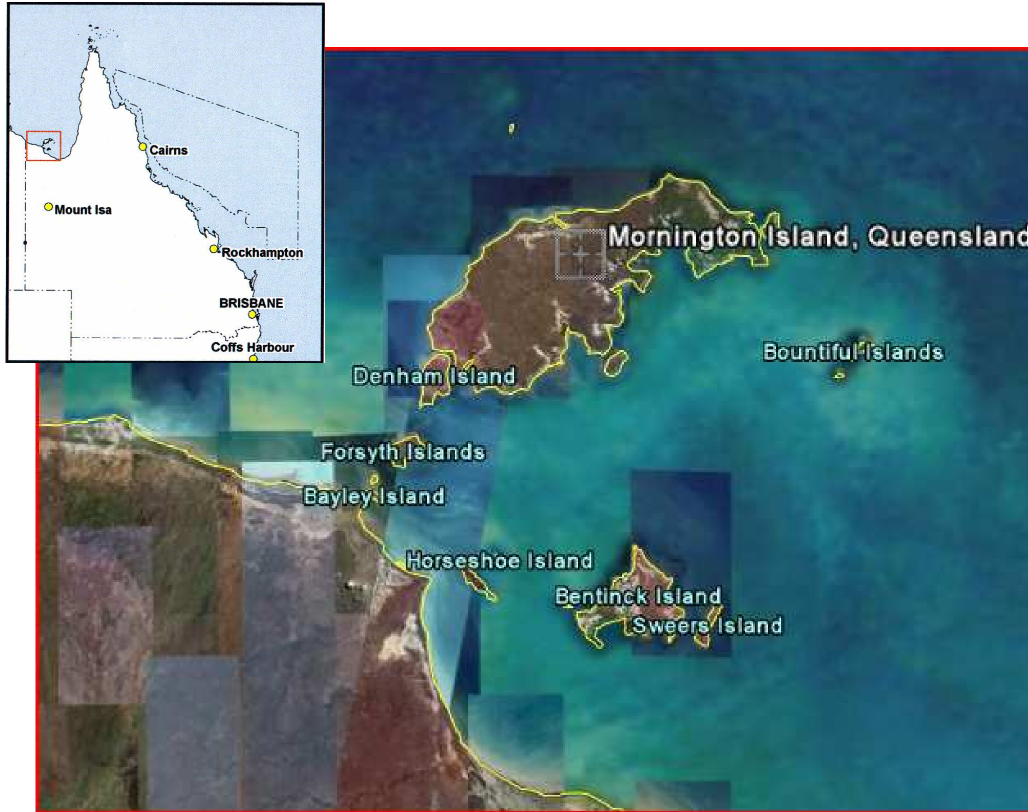

Figure 8.4: Satellite image of the Wellesley Islands; the proposed Wellesley Islands IPA will include all marine as well as coastal and island areas subject to saltwater inundation (Image provided by Google Earth)

8.4 Governance and management of IPAs

As all the existing IPAs are focussed on Indigenous-owned land, governance arrangements are adapted from decision-making processes in place prior to the declaration of the IPA. Governance arrangements typically include a combination of Traditional-Owner organisations, Indigenous land and sea management agencies and community councils, supported by regional Indigenous organisations and advised by relevant government and non-government organisations, some of whose representatives may sit on formal advisory committee for each IPA. The governance and management arrangements seek to respect traditional owners' authority to make decisions about Country while also establishing a day-to-day management capacity, usually involving a full time IPA manager, Indigenous rangers and other specialist staff.

Core funding for planning, managing and monitoring IPAs typically comes from the Australian Government's IPA Program, but an allocation of between $100 000 and $200 000 per year per IPA is rarely sufficient to cover all IPA governance and management expenses. It is usual for this core funding to be supplemented from a variety of

government and non-government sources; in some IPAs, funding from the IPA Program comprises only twenty percent or less towards the annual IPA budget. Other sources of funding for IPAs include:

- Community Development Employment Program (CDEP) – an Indigenous employment support program currently being wound back across Australia;
- Working On Country Program, an Australian Government program to fund the wages of Indigenous Rangers engaged in delivering conservation and environmental management services that meet government and Indigenous objectives;
- Other Australian and/or State/Territory government programs relating to cultural and natural heritage management;
- Mining companies and other corporate sponsors;
- Non-government conservation organisations (e.g. WWF and Australian Bush Heritage);
- Income from land-access permits.

Managing this diversity of funding sources is a complex and demanding task for IPA managers, but the diversity also provides a degree of resilience, enabling IPAs to continue in the event of the loss of funding from one or two sources. However, the reliable core funding from the Australian government's IPA Program is a key factor in the success of the IPA concept to date. The core funding enables the establishment of a stable management framework upon which to build capacity, including the capacity to attract supplementary funding. Expanding the IPA concept to include Sea Country potentially increases the complexity of management partnerships, bringing with it additional demands but also the potential for additional funding sources.

8.5 A Country-based approach to IPA management

A key rationale for the development of the IPA concept in the mid-1990s was the reference in the IUCN protected area definition to management 'by legal or other effective means'. Recognising the validity of IPAs even though they are not declared under legislation was seen as consistent with the 'other effective means' part of the definition. As noted, the original definition of an IPA reflected a non-legal, Country-based vision for IPAs.

However, as IPAs became established and supported through the IPA Program, the concept was limited to Indigenous-owned land precisely because an Indigenous people had legal authority over that land. The exceptional inclusion of a marine area within Dhimurru IPA was made on the basis of Traditional Owners' limited legal authority resulting from the registration of marine sacred sites. Hence, a concept that began as an example of protected-area management by 'other (non-legal) effective means' developed into a concept limited to areas where a community had legal authority.

An Indigenous people that has legal tenure over their entire traditional Country, such as those in parts of central and northern inland Australia, are not disadvantaged by limiting the IPA concept to Indigenous-owned land. But for coastal Indigenous peoples whose traditional Country includes both land and sea, and for other Indigenous groups whose traditional Country is now overlain by multiple tenures, including government-declared protected areas, viewing IPAs only through the narrow legal prism of exclusive Indigenous land tenure denies them the potential of establishing a protected area management framework over their Country should they wish to do so. While IPAs have undoubtedly flourished over the last decade, it is appropriate now to explore how the

IPA concept can be further developed over the next decade to meet the needs of saltwater Indigenous peoples, consistent with the original IPA vision.

8.6 How would management of a Sea Country IPA work?

Management of a Sea Country IPA would be achieved through the application of both legal and non-legal mechanisms. This mixture of management mechanisms is not dissimilar to the mixture of techniques used to achieve effective management of government-declared national parks, marine parks and world heritage areas. In these protected areas, the greatest management effort is directed towards non-legal mechanisms, such as education, monitoring, research, communication and interpretation, with less effort directed at strictly legal mechanisms such as enforcement.

Legal mechanisms

Indigenous ownership of the sea, though part of customary law all around Australia, is recognised in Australia to a far less extent than on land, and the extent of recognition differs from jurisdiction to jurisdiction. Where native title rights have been recognised in the sea, these rights must co-exist with, and yield to, the rights of marine stakeholders, such as commercial and recreational fishers and mariners.

Recognition of Indigenous sea rights is further developed in the Northern Territory than elsewhere in Australia. The *Northern Territory Aboriginal Land Rights Act 1976 (Clth)* (ALRA) provides for Aboriginal freehold ownership of intertidal land, and the *Aboriginal Land Act 1978 (NT*) enables marine areas out to two kilometres offshore adjacent to Aboriginal land to be declared 'closed seas' (Smyth 2004). A decision in 2007 by the Federal Court in the Blue Mud Bay case (confirmed by the High Court in 2008) has extended Aboriginal ownership of the intertidal zone to include the water and marine resources that lie above the intertidal land that has underlying ALRA title (French et al. 2007). Though the legal, economic and management implications are still being considered and negotiated by Indigenous, government, recreational and commercial interests, it is clear that the Blue Mud Bay decision will enable Traditional Owners of intertidal land within IPAs to exercise the same level of management control over intertidal land, water and biological resources that they currently exercise over terrestrial components of IPAs.

It appears likely that the full legal benefits of the Blue Mud Bay decision will only apply to the Northern Territory decision, as it was based on an interpretation of the *Aboriginal Land Rights Act (NT) 1976 (Clth)*. However, coastal Indigenous peoples elsewhere in Australia have a range of existing legal rights and interests that could contribute to the management of a Sea Country IPA. Examples of these legal mechanisms include:

- Customary ownership and other rights under customary law (for management of access and resource use rights within and between Indigenous groups);
- Native title rights and interests; even though marine native title rights are co-existing rights, they are legal rights under Australian law and do provide native title holders with at least a seat at the table when decisions are being made about marine areas;
- Indigenous Land Use Agreements (ILUAs) over marine areas and/or other components of IPAs where Indigenous people do not have exclusive title, to achieve management outcomes negotiated with government agencies and other stakeholders with legitimate interests in the area;
- Registration of sacred sites and other cultural areas under State and Territory heritage legislation;

- Indigenous fisheries rights and interests, now recognised to varying extent in all state and territory fisheries legislation;
- Formal agreements under State or Territory legislation (such as Section 73 Agreements under the *Territory Parks and Wildlife Act*, or Traditional Use of Marine Resources Agreements under the *Great Barrier Reef Marine Park Act 1976 (Clth)* and the *Marine Park Act 2004 (Qld)*) to support IPA management over Sea Country;
- Negotiation with governments to declare a marine park over marine components of Sea Country IPAs and arrangements that complement and support the authority of Traditional Owners to achieve agreed goals of both the IPA and the government-declared marine park;
- IPA governance arrangements to provide for, or contribute to, the governance of a government-declared marine park over the marine component of an IPA.

Other (non-legal) means

Sea-Country IPA Management Plans could specify a range of goals and actions, such as removal of environmental threats (e.g. ghost nets in the sea), coastal, fisheries and biosecurity surveillance, monitoring of Indigenous hunting and fishing, biodiversity surveys etc. which Indigenous people can undertake on their own or in partnership with others without government-sanctioned legal authority. Sea Country IPA Management Plans can also set out other management goals, such as the regulation of commercial or recreational fishing, which may lie beyond currently recognised Indigenous authority, but which may be achieved through collaboration and negotiation with other marine resource users and government agencies. In summary, non-legal Sea Country IPA management mechanisms can include:

- Planning
- Research
- Education
- Interpretation
- Negotiation with other stakeholders
- On-ground and on-water management actions (such as removal of ghost nets)
- Agreements within Indigenous groups on sustainable resource use.

Combining legal and other effective means

By combining a suite of legal and non-legal mechanisms, Sea Country IPAs can provide protected area management frameworks that deliver conservation and sustainable use of coastal land and marine environments and resources by **legal and other effective means** consistent with the IUCN definition of protected areas. Using this approach, Sea Country IPAs also have the capacity of integrating land and sea protected area management – something that is rarely achieved with government-declared protected areas that are typically managed separately as terrestrial national parks and marine parks (sometimes by different agencies).

Table 8.1 shows how the spectrum of cultural, biodiversity, social and economic values can be managed by Sea Country IPAs. The table indicates that Sea Country IPAs have the capacity to manage the full spectrum of values through a combination of internal agreement among Traditional Owners, application of recognised legal rights and authority, by engaging in strategies and actions that do not require legal authority and by negotiation and agreement with other agencies and resource users.

Table 8.1: Summary of mechanisms to manage cultural, biodiversity and economic values of Sea Country IPAs

Management values	Management mechanism
Indigenous cultural values	Customary law and practice
Indigenous resource use	Customary law, practice and agreement within and between Indigenous groups
Management of intertidal zone (particularly in NT)	Legal rights under Aboriginal Land Rights Act (NT) 1976 (Clth), Native Title Act 1993 (Clth) and ILUAs.
Monitoring	Undertaken by IPA Rangers independently or in collaboration with government agencies and/or others (e.g. conservation NGOs)
Research	Undertaken by IPA Rangers independently or in collaboration with research institutions
Education and Interpretation	Undertaken by IPA Rangers independently or in collaboration with government agencies and others (e.g. conservation NGOs)
Recreational fishing	By negotiation with recreational fishing organisations and government agencies
Commercial fishing	By negotiation with commercial fishing organisations and government agencies
Enforcement	By negotiation with government agencies

In Sea Country IPAs where negotiations over recreational fishing, commercial fishing or enforcement have not been undertaken or have not been concluded, achievement of key protected area management goals may still be achieved. This is because successful management of the other values of IPAs over Sea Country (i.e. cultural values, Indigenous resource use, monitoring, research, education and interpretation), which do not require the agreement of other resource users, could make significant contributions to area-focussed marine biodiversity conservation and/or cultural heritage management. Instances where this situation could occur may include:

- Areas where Indigenous hunting, fishing or other marine resource uses are significant biodiversity management issues;
- Areas where monitoring, liaison and reporting are particularly important tools for achieving biodiversity conservation;
- Areas where research is required to form the basis of biodiversity strategies and actions;
- Where the IPA Management Plan objectives with respect to commercial and recreational fishing are already met through management activities by government management agencies.

Government agencies also rely on a combination of legal and non-legal means to effectively manage marine areas, including marine protected areas. Table 8.2 shows that management of government-declared marine parks also requires a combination of legal and non-legal mechanisms to address the full suite of protected area values.

While management of Sea Country IPAs and government-declared Marine Parks both require a combination of legal and non-legal mechanisms, the mechanisms required to manage particular values differs between the two forms of protected area.

Table 8.2: Summary of mechanisms to manage cultural, biodiversity and economic values of Marine Parks

Management values	Management mechanisms
Indigenous cultural values	By negotiation with Traditional Owners
Indigenous resource use	By negotiation with Traditional Owners
Monitoring	By Marine Park rangers independently and/or in collaboration with others (e.g. Traditional Owners, conservation NGOs)
Research	By government or non-government researchers independently and/or in collaboration with others (e.g. Traditional Owners, conservation NGOs)
Education and Interpretation	By Marine Park rangers independently and/or in collaboration with others (e.g. Traditional Owners, conservation NGOs)
Recreational fishing	By regulation, in consultation with recreational fishing organisations
Commercial fishing	By regulation, in consultation with commercial fishing organisations
Enforcement	By marine parks rangers and other law enforcement officers

In government-declared Marine Parks, where negotiations over the management of Indigenous cultural values and Indigenous resource use have not been undertaken or have not been concluded, achievement of key protected area management goals may still be achieved. This is because successful management of the other Marine Park values (i.e. monitoring, research, education and interpretation and recreational and commercial fishing), which do not require the agreement of Traditional Owners, can make significant contributions to area-focussed marine biodiversity conservation.

The Great Barrier Reef Marine Park has been recognised as a world leader in marine protected area management since its declaration in 1975, yet it was only in 2005 that the first Traditional Use of Marine Resource Agreements was negotiated between the Great Barrier Reef Marine Park Authority and a traditional owner group (Robinson et al. 2006). In a similar way, Sea Country IPAs can achieve successful management of important protected area values while progressing negotiations regarding other values over which traditional owners do not have legal authority.

Since both Indigenous and government managers of marine areas require a combination of legal and other means to effect their respective management objectives, collaboration between Indigenous and government agencies can achieve optimal management outcomes. Sea Country IPAs provide a management framework option for that collaboration to occur. Government management and collaboration may occur in the context of a government-declared marine protected area (MPA), or independently of an MPA. Sea Country IPAs can therefore operate as stand-alone protected areas or in combination with government-declared MPAs. Table 8.3 summarises the management options for government and Indigenous managers of Sea Country.

8.7 The National Reserve System

One of the catalysts for the development of the IPA concept was the establishment in the early 1990s of the National Reserve System (NRS) of protected areas. From the beginning, IPA funding and formal recognition of IPAs by the Australian Government have been linked to the NRS, which is comprised of all the State, Territory and Australian terrestrial protected areas. Meanwhile, over the same time period, a separate National Reserve System of Marine Protected Areas (NRSMPA) was developed with

Table 8.3: Summary of government and Indigenous management of Sea Country
(✓ indicates capacity to manage by legal or other effective means)

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

no links with the IPA Program. The working group of State, Territory and Australian agencies that oversees the NRSMPA determined that a protected area must have secure status that can only be revoked by a parliamentary process for it to be included ANZECC (1988). This is a more stringent criterion than is required for the terrestrial NRS and goes beyond the IUCN definition of a protected area.

The separation of national protected area frameworks into terrestrial and marine systems, the stringent criteria for inclusion into the NRSMPA and the absence of Indigenous participation in the establishment and development of both the NRS and the NRSMPA provide significant barriers to the recognition and support for Sea Country IPAs. However, these are barriers that could be readily overcome through reform of, and collaboration between, the NRS and the NRSMPA, and the adequate engagement of Indigenous people in policy development and implementation of both protected area systems.

Another reason for reviewing the operations of both the NRS and the NRSMPA is that they were conceived prior to some significant developments in the recognition of Indigenous legal rights in Australia and prior to some protected area best-practice policy developments internationally. These developments include:

- The recognition of Indigenous native title on land and in the sea in Australia;
- The Blue Mud Bay decision, which recognises Aboriginal ownership of intertidal land, water and biological resources in the Northern Territory;
- The concept of Indigenous and Community Conserved Areas (ICCAs), of which IPAs are an excellent example, developed by the World Commission on Protected Areas to recognise and support protected areas declared and managed by Indigenous and other local communities independently of government legislation;
- Recommendations from the 2003 World Parks Congress and the 2004 and 2008 World Conservation Congresses which included strong support for ICCAs, the co-management of protected areas and the requirement for prior informed consent by Indigenous people before the declaration of any protected area over their traditional land or sea areas.

8.8 Discussion

Over a relatively short period, IPAs have substantially increased the protected area estate in Australia and have demonstrated beneficial outcomes not only for biodiversity conservation and cultural heritage protection, but have also yielded significant cultural, education, health, employment and other social benefits to Indigenous peoples (Gilligan

2006). However, by confining IPAs to Indigenous-owned land, saltwater Indigenous peoples, whose traditional Country includes coastal land, islands and the sea, are denied the opportunity to utilise fully the IPA concept for managing the totality of their Sea Country. Furthermore, the land-only focus of IPAs is contrary to the broad definition of IPAs developed by representatives of Indigenous groups and organisations in the mid-1990s, and it denies the broader Australian community the benefits of integrated land and sea protected area management that Sea Country IPAs could provide.

Recent planning initiatives by coastal Indigenous groups have indicated that they wish to explore how the IPA concept can be extended to include Sea Country. The Australian Government's IPA Program, while cautious about how Sea Country IPAs could be managed in practice, have supported this exploration process by funding several IPA proposals in northern Australia which seek to include both terrestrial and marine components of Sea Country. Australian Government support for this step towards establishing Sea Country IPAs is consistent with a recommendation of an independent review of the IPA Program undertaken in 2006 by a former Director of the New South Wales National Parks and Wildlife Service (Gilligan 2006:60):

> The Australian Government should further investigate the implications of community requests to declare IPAs over Sea Country.

As State and Territory governments currently are developing or enhancing the networks of marine protected areas in coastal waters there is some urgency for a shift in policies to enable IPAs to contribute to the marine protected area estates in all jurisdictions. The above suggestions of legal and non-legal mechanisms by which Sea Country IPAs can be managed aim to contribute to this policy shift. Another key requirement is to review the criteria used for the inclusion of marine protected areas in the NRSMPA and to establish links between the NRSMPA and the IPA Program.

The establishment of Aboriginal-owned, jointly management national parks in the late 1970s and the establishment of voluntary, Indigenous-declared, government-supported IPAs in the late 1990s were viewed with great interest by the international protected area community. In recent years, the World Commission on Protected Areas has followed Australia's lead by recommending that all governments negotiate and support the co-management of protected areas with their Indigenous communities and recognise and support the declaration and management of Indigenous and Community Conserved Areas by Indigenous and other local communities. A shift in policy to recognise Indigenous declaration and management of Sea Country IPAs would provide a significant contribution to the field of Indigenous governance and management of protected areas.

The challenges and opportunities for establishing IPAs over Sea Country were considered in the initial consultancy report that preceded the development of the IPA Program (Smyth 1997). Twelve years later, saltwater Indigenous people have indicated that they are willing to meet those challenges, and in doing so are inviting government protected area agencies and policy-makers to join them in taking up those opportunities.

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