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Worldwide knowledge and understanding of Australian Indigenous cultures, past and present

19 December 2008

Independent Review of the EPBC Act
GPO Box 787
Canberra ACT 2601
Australia

Dear Dr Hawke

The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) is internationally recognised as being the premier research institute in the fields of Indigenous health and wellbeing, land and water management, Native Title and Indigenous governance. AIATSIS is also the custodian of the world's largest collection of Australian Indigenous cultural heritage materials, which we manage in an innovative and culturally appropriate manner.

AIATSIS is committed to Indigenous people having control over their lives and having genuine input into the decision making process where they are affected by the outcomes of these decisions. AIATSIS welcomes the opportunity to provide input into the review of the *Environment Protection and Biodiversity Conservation Act 1999* (the Act).

AIATSIS has undertaken a significant amount of research in the areas of water and land management. The diversity of topics with which we have engaged simply illustrates the complexity of the issues involved. AIATSIS believes that the review process would benefit from consideration of the factors explored and the recommendation provided in a number of key research projects and publications produced by AIATSIS. We have attached one research paper to this submission. It was published in 2007 and is titled [Indigenous Partnerships in Protected Area Management in Australia: Three case studies](#).¹ This paper explores examples of successful Indigenous partnerships in the management of:

1. a jointly managed national park in northern Australia;
2. a jointly managed national park in southern Australia; and
3. an Indigenous Protected Area.

The recommendations of this report relate specifically to Indigenous Protected Areas. However, they do have broader relevance and application across the whole of the Act in terms of fostering positive and productive relationships between all levels of Government and Indigenous people in relation to joint management.

The complexity of the issues involved are such that we would encourage the review to consider the attached research paper as it provides a comprehensive and considered

¹ http://www.aiatsis.gov.au/__data/assets/pdf_file/8846/case_studies_report.pdf

response to these issues. A broader selection of AIATSIS published research is also accessible via the links below.

- [Native Title land and water](#)²
- [Native Title](#)³ – Dr Jessica Weir
- [Indigenous sustainability](#)⁴ – Mr Steve Kinnane
- [Indigenous health](#)⁵ – Ms Kerry Arabena

We look forward to engaging further with the review process in 2009.

Yours sincerely,

Caroline Carmody, on behalf of AIATSIS.



² http://ntru.aiatsis.gov.au/major_projects/nativetitle_land&water.html

³ http://ntru.aiatsis.gov.au/other/staff_profiles/jessicaw.htm

⁴ http://www.aiatsis.gov.au/research_program/contacts/steve_kinnane

⁵ http://www.aiatsis.gov.au/research_program/contacts/kerry_arabena

Indigenous Partnerships in Protected Area Management in Australia: Three case studies

**TONI BAUMAN
AND DERMOT SMYTH
2007**

THE AUSTRALIAN INSTITUTE OF
ABORIGINAL AND TORRES STRAIT
ISLANDER STUDIES

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ACKNOWLEDGMENTS

The authors wish to acknowledge and thank all the participants in each of the three case studies for their time, information, insights and hospitality. Traditional owners, board members, protected area managers and staff, and members of other partner organisations were generous in their assistance to this project. The high degree of interest and enthusiasm to participate in the case study interviews and provide other assistance is an indication of the importance placed on their roles by everyone involved in making joint management and other Indigenous protected area partnerships work.

It is clear that participants in these partnerships have given a great deal of thought to the journey they are all taking, and are keen to make whatever contributions they can to smoothing the path for other Indigenous protected area partnerships elsewhere in Australia. Participants in the case studies also made it clear, however, that their experiences in one location should not be transferred unquestioningly to other locations. There was wide recognition that traditional owners and other partners need to negotiate their own relationships and agreements to meet their own local needs.

ABBREVIATIONS

ALRA	Aboriginal Land Rights Act NT 1976
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
CCA	Community Conserved Area
CDEP	Community Development Employment Program
CNPPA	Commission on National Park and Protected Areas
DEW	Department of the Environment and Water Resources
DEH	Department of the Environment and Heritage
DEWR	Department of Workplace Employment and Training
KTRA	Katherine Regional Tourist Association
ILUA	Indigenous Land Use Agreement
IPA	Indigenous Protected Area
IUCN	World Conservation Union (International Union for the Conservation of Nature and Natural Resources)
MPA	Marine Protected Area
NLC	Northern Land Council
NSW	New South Wales
WCMC	World Conservation Monitoring Centre

EXECUTIVE SUMMARY

CASE STUDIES BACKGROUND

This report presents the findings and recommendations of three case studies of Indigenous partnerships (joint management and other arrangements) in the management of protected areas in Australia. The three case studies were chosen because of their acknowledged success in achieving productive partnerships between Indigenous people, government conservation agencies and others utilising a variety of legislative and policy mechanisms. The case studies did not seek to formally evaluate the effectiveness of protected area management, but rather to describe and understand the governance and management factors that contribute to the acknowledged success of the selected protected areas. The case studies were selected to provide examples of successful Indigenous partnerships in the management of:

1. a jointly managed national park in northern Australia;
2. a jointly managed national park in southern Australia; and
3. an Indigenous Protected Area.

The case studies were commissioned by the Poola Foundation (Tom Kantor Fund) in response to a proposal by the Australian Collaboration and the Australian Conservation Foundation. They form part of a wider 'Success in Aboriginal Organisations' project undertaken by the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) for the Australian Collaboration in which an additional thirteen case studies of Aboriginal organisations were undertaken.

While a number of researchers have explored issues relating to the operation of jointly managed protected areas and Indigenous Protected Areas (IPAs), this is the first study to directly compare the operations of jointly management protected areas and an IPA.

The case studies which were carried out in 2006 are:

1. **Nitmiluk National Park (NNP)**, which is Aboriginal land located near Katherine in the Northern Territory, leased to the Northern Territory government and jointly managed by Jawoyn traditional owners and the Northern Territory Parks and Wildlife Service;
2. **Booderee National Park (BNP)**, which is Aboriginal land located in Jervis Bay Territory on the coast of south-eastern Australia, leased to the Australian

- government and jointly managed by the Wreck Bay Aboriginal Community Council and Parks Australia; and
3. **Dhimurru Indigenous Protected Area (IPA)**, which is Aboriginal land located adjacent to Nhulunbuy in north-eastern Arnhemland, declared as a protected area by Aboriginal traditional owners and managed by the Dhimurru Land Management Aboriginal Corporation with the support of both the Australian and Northern Territory governments.

POLICY CONTEXT

Since the mid 1970s, with the growing recognition of Aboriginal cultural and economic relationships with Australia's landscape, fauna and flora, various mechanisms involving Aboriginal people in the management of terrestrial and marine protected areas have developed. These mechanisms include a governance spectrum with Indigenous sole management at one end, joint management (or co-management) in the middle and government management with an Indigenous advisory role at the other end.

Arrangements vary across states and territories according to local histories and as a result of varying degrees of the legal recognition of Indigenous rights to lands in each jurisdiction. Variations include the transfer of ownership and key decision-making powers of some national parks to Aboriginal people in formal joint management arrangements, other co-management arrangements such as Memoranda of Understanding, Indigenous membership on Boards of Management, and policies and strategies to encourage Indigenous participation in the workforce and a number of Aboriginal initiatives such as Caring for Country units within land councils and ranger groups at the community level.

Since the mid 1990s, the Australian government has administered a program to support Indigenous landholders to declare, plan and manage their own IPAs as part of the National Reserve System and which are consistent with the World Conservation Union's (IUCN) 'Community Conserved Areas' (CCAs) protected area governance type.

These case studies were carried out at a time when the IPA Programme is about to receive a significant increase in funding, when policies and practices relating to joint management of protected areas continue to develop, and when the determination of native title claims is providing additional opportunities for Indigenous people to negotiate their involvement in the management of protected areas on land and sea.

The case studies are also carried out at a time when international initiatives and best practice relating to the recognition of Indigenous peoples' rights and interests in protected areas is developing rapidly, spurred on particularly by deliberations at, and recommendations from, the 5th World Protected Area Congress in Durban in 2003.

CASE STUDY COMPARISONS

The case studies show that environmental protection and biodiversity conservation outcomes by Indigenous people can be achieved whether in the context of mandated joint management arrangements (as occurs at Nitmiluk and Booderee) or in the voluntary partnerships developed to support the ‘sole management’ of IPAs (as occurs at Dhimurru).

The IPA Section 73 agreement under the *Territory Parks and Wildlife Conservation Act* between Dhimurru traditional owners, the Department of the Environment and Water Resources (DEWR), the Northern Territory Parks and Wildlife Service (NTPWS) and the Northern Land Council (NLC) demonstrates that day to day partnerships similar to those which have been negotiated in jointly managed parks can also be developed on IPAs.

A key element of Dhimurru’s success has been the diversity of multiple bilateral and multilateral partnerships (research, management, advisory and financial, for example) developed to support IPA management. This contrasts with the core bilateral partnership between Indigenous land owners and a conservation agency that characterises jointly managed protected areas such as Nitmiluk and Booderee.

While joint management partnerships contain elements of mutual benefit and convenience, they may also be accompanied by tensions that stem from contested authority and from the limited options to Indigenous people during the formation of the partnerships. In particular, Indigenous people are typically granted ownership of national parks such as Nitmiluk and Booderee if they agree to the continuation of protected area status and management over their land.

Nevertheless, the level of financial support for training which is apparent at Booderee, where an integrated, high quality and diverse training strategy is in place, would be more difficult to achieve without the funding base provided by a formal government joint management partner.

Building on joint management arrangements, Booderee and Nitmiluk have been able to derive economic benefits in various ways including through Aboriginal-owned commercial enterprises undertaking a range of park service contracts (Booderee) and the delivery of commercial tourism services (Nitmiluk). At Nitmiluk, this has also allowed for Nitmiluk Tours Pty Ltd to make a significant investment in training.

The Nitmiluk case study demonstrates however, that despite the fact that Jawoyn traditional owners now own almost 100% of commercial activities in NNP, it is critical that commercial, environmental, social and cultural interests are balanced.

‘Joint management’ or other ‘two-ways’ management of protected areas pay the greatest dividends at the level of individual partnerships and day-to-day, on-ground working relationships during which the mentoring, skills transfer

and understandings which occur are at least as important as the more formal decision-making relationships that occur within boards of management or other governance structures.

The effectiveness, sustainability of and level of satisfaction with partnerships is more important than debates around the meanings of terms such as 'joint management', 'co-management' or 'sole management', whose meanings vary according to local contexts.

In Nitmiluk and Booderee, the term, 'joint management' is a short-hand for formal shared management and lease-back arrangements and the operation of boards with Aboriginal majorities. At Dhimurru, where traditional owners legally exercise 'sole management', the term, 'joint management' is used to reflect the array of partnerships that traditional owners have negotiated with government and non-government agencies. At Booderee, the explicit goal is to progress to 'sole management', a goal which has provided a catalyst to building Aboriginal capacity to play greater roles in management.

Both BNP and Dhimurru IPA include some sea country within the protected areas boundaries. In both cases, Aboriginal control over marine areas is less than it is on land, highlighting the emerging challenge around Australia of developing appropriate Indigenous governance arrangements for Marine Protected Areas (MPA).

All three protected areas have monitoring and evaluation procedures in place through the periodic review of plans of management, as well as through research and monitoring activities that take place year by year. These processes provide opportunities for reflection on the effectiveness of joint management and other partnerships; however there are currently no specific criteria or indicators in place aimed at tracking the effectiveness of these partnerships. Such procedures need to distinguish between the monitoring of the overall success of the management of protected areas and the success of the partnerships involved in jointly managing them. This requires a focus on the evaluation of processes of engagement, including decision-making processes and the nature and degree of Indigenous involvement. It also requires a focus on partnerships more broadly, including the relationships which are involved in partnerships at policy, operational and traditional owner levels, and the manner in which they influence each other.

CRITICAL SUCCESS FACTORS

Each of the three case study examples is understandably moulded by local histories, legal frameworks, environments, locations, resources and capacities, and provides examples of different kinds of successes. Taken together, the case studies highlight common elements or critical success factors that can assist further development in policy and practice in this area.

Critical success factors which are highlighted through the three case studies include:

- Indigenous land ownership as the critical foundation on which to build protected area partnerships;
- the degree of commitment of all parties to the management process;
- the commitment of Indigenous people to utilise the opportunities presented by protected areas to care for their country, reinforce its associated cultural and natural values, and further community and individual development;
- a coherent and effective representative Indigenous party which has a big picture approach but which also addresses short term local issues;
- a bipartisan political approach in which political parties, traditional owners, and relevant government departments work together for the benefit of all;
- a diversity of partnerships in arriving at the mix of personnel, resources, expertise and commitment to achieve the goals of protected area management;
- productive day-to-day, on-ground working relationships and mutual respect between the individuals involved in protected area partnerships between and across all areas of management;
- achieving a balance between Indigenous holistic community development aspirations and approaches and the reality that joint management cannot be a panacea for all problems;
- approaching the management of protected areas as a matter of progressive and incremental improvement involving the serial capacity building of all involved across a range of areas;
- recognising the importance of effective partnerships with neighbouring land-owners and managers in biodiversity and other environmental initiatives, since protected areas cannot be managed successfully in isolation from surrounding environments;
- secure, annual core funding which permits robust work programmes and delivers minimum standards of management with which to leverage additional funding and support to further enhance conservation and community outcomes;
- developing sophisticated approaches to intercultural engagement and awareness and community education processes which provide local communities and traditional owners themselves with information about activities in the Park, Board decisions and biodiversity and environmental issues;
- clearly defined roles and responsibilities, and understandings of financial limitations and resources in establishing partnerships;
- clear understandings of Indigenous values and ideas of success, as well as those of other partners and their integration into evaluation and monitoring procedures.
- Competent and effective governance procedures on the part of all parties which involve:
 - a degree of flexibility;
 - consistently high level leadership skills;
 - traditional owners playing a central role in identifying strategic directions and joint operational planning, monitoring and evaluation procedures which are

- matched against the emotional, procedural and substantive rights, needs and interests of parties;
- allocating sufficient resources and planning to participatory community development approaches, including inclusive and transparent decision-making and dispute management processes and ‘on-country’ visits;
- accessing appropriate technical and other expert advice;
- clearly identifying and developing the capacity of all parties involved;
- integrating training activities across all the joint management partner organisations;
- placing an emphasis on Indigenous youth; and
- innovative pathways of employment, research partnerships and approaches to traditional owners undertaking contract work.

RECOMMENDATIONS

1. Recognise that IPAs are a viable alternative to achieving the same environmental protection and biodiversity conservation objectives inherent in the lease-back joint management arrangements.
2. Encourage all governments to develop and utilise statutory arrangements (such as provisions of Section 73 of the *Territory Parks and Wildlife Conservation Act*), as well as non-statutory mechanisms, to support the long term viability of IPAs.
3. Encourage governments and IPA owners/managers to explore legal and other effective means to ensure that IPAs are protected from developments that adversely impact on the values for which the IPAs have been declared.
4. Recognise that free, prior and informed consent of Indigenous traditional owners is a requirement for the development of mutually respectful, beneficial and productive protected area management partnerships (whatever form those partnerships take) and is consistent with Recommendation 24 from the 2003 IUCN World Parks Congress.
5. Recognise that the process of establishing the consent of Indigenous traditional owners for protected area management is complex and time consuming, encourage Federal, State and Territory governments to set a goal of negotiating consent agreements with the appropriate Indigenous groups for the management of all existing protected areas by 2013, the date of the next World Parks Congress, to ensure that Australia meets world best practice in protected area management.
6. Recognise that Indigenous peoples’ goal of exercising their traditional authority in the management of protected areas can be a catalyst for increasing the diversity of partnerships between Indigenous people, government agencies and others, and hence strengthen multi-stakeholder support for the ongoing management of the protected area.

7. Support the use of alternative mechanisms for Indigenous management of protected areas, such as through contracted services, in place of or complementing Indigenous employment within protected area management agencies.
8. Recognise the social, cultural, employment and economic benefits that can flow from appropriately negotiated and supported Indigenous partnerships in protected area management, including through local Indigenous monopolies in delivering contracting services and tourism enterprises.
9. Support the development of junior ranger programmes or other mechanisms to involve and build capacity among young people (Indigenous and non-Indigenous) in understanding and managing their local protected areas.
10. Support dedicated development/training positions within protected area management structures as one of the mechanisms to achieve Indigenous training and employment goals.
11. Recognise that Indigenous rights and interests in protected area management are not restricted to remote, northern Australia; encourage governments to develop equitable arrangements that provide similar opportunities for Indigenous people with rights and interests associated with protected areas throughout Australia.
12. Recognise the benefits of on-country, practical partnerships between Indigenous and non-Indigenous environmental managers (both government and non-government), encourage/support conservation agencies to strengthen on-ground partnerships and secondment arrangements to enable government conservation and natural resource management staff to develop long term on-country working relationships with traditional owners, promoting mentoring, skills transfer and cross-cultural understanding.
13. Recognise that there are particular challenges for Indigenous people to develop equitable partnerships in the management of their sea country within MPAs comparable to the partnerships that have developed in the management of terrestrial protected areas over the last decade; hence support Indigenous people, government agencies, NGOs and industry to explore innovative governance arrangements and other approaches to the recognition of Indigenous peoples rights and interests in MPAs, including the establishment of IPAs over sea country.
14. Support the establishment of a national protected area clearing house for Indigenous people to:
 - co-ordinate a national email network of Indigenous people involved in protected area management;
 - share knowledge of best practice, including innovative ideas for visitor engagement with Indigenous people;
 - develop an alternative national curriculum for Indigenous rangers, including junior ranger programs with an ‘on country emphasis’;

EXECUTIVE SUMMARY

- build on existing initiatives in developing flexible innovative vocational pathways for Indigenous employment in protected areas;
 - build a national network of skilled, trained and nationally accredited Indigenous and non-Indigenous natural resource management facilitators, negotiators, mediators and participatory community developers network, building on the DEWR's Indigenous facilitators' network;
 - develop community education programs which provide local communities and traditional owners themselves with information about activities in the Park, Board decisions and biodiversity and environmental issues;
 - develop a generic protected areas national cultural awareness and engagement curriculum into which local components may be incorporated;
15. Support the development of digital archives for protected area cultural materials and for dedicated positions for developing intercultural awareness training and education.

1. INTRODUCTION

This report describes Indigenous partnerships in the management of three protected areas in Australia:

1. **Nitmiluk National Park**, which is Aboriginal land located near Katherine in the Northern Territory, leased to the Northern Territory government and jointly managed by Jawoyn traditional owners and the Northern Territory Parks and Wildlife Service;
2. **Booderee National Park**, which is Aboriginal land located in Jervis Bay Territory on the coast of south-eastern Australia, leased to the Australian government and jointly managed by the Wreck Bay Aboriginal Community Council and Parks Australia; and
3. **Dhimurru Indigenous Protected Area**, which is Aboriginal land located adjacent to Nhulunbuy in north-eastern Arnhem Land, declared as a protected area by Aboriginal traditional owners and managed by the Dhimurru Land Management Aboriginal Corporation with the support of both the Australian and Northern Territory governments.

The project was funded by the Poola Foundation (Tom Kantor Fund) in response to a proposal by the Australian Collaboration and the Australian Conservation Foundation.¹ It is part of a wider 'Success in Aboriginal Organisations' project, funding for which has been provided to the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) by the Australian Collaboration.² Case study material from both projects has been used in the production of a handbook of successful strategies in Indigenous organisations.³

The three case studies were chosen because of their acknowledged success in achieving productive partnerships between Indigenous people, government conservation agencies and others utilising a variety of legislative and policy

1. The Poola Foundation supports positive and practical projects in the fields of environment and social justice that lead to a more sustainable, just and peaceful world. The Australian Collaboration involves a partnership between the Australian Conservation Foundation, Australian Council of Social Service, Australian Consumers Association, Australian Council for International Development, Federation of Ethnic Communities' Councils of Australia, National Council of Churches in Australia, and Trust for Young Australians.

2. See Finlayson, J. 2004a and 2004b.

3. Finlayson, J. 2007.

mechanisms.⁴ The case studies did not seek to formally evaluate the effectiveness of protected area management, but rather to describe and understand the governance and management factors that contribute to the acknowledged success of the selected protected areas.⁵ Nevertheless, the success factors described in this report can contribute to the development of management effectiveness frameworks specifically aimed at evaluating Indigenous partnerships in protected areas. The case studies were selected to provide examples of successful Indigenous partnerships in the management of:

- a jointly managed national park in northern Australia;
- a jointly managed national park in southern Australia; and
- an Indigenous Protected Area.

The case studies were carried out independently by two researchers with different professional backgrounds and with different previous associations with the case study communities and organisations. Toni Bauman, who undertook the Nitmiluk case study, is an anthropologist with over twenty five years of professional and personal association with Jawoyn people involved in the management of NNP including having worked on the Jawoyn (Katherine Area) Land Claim which included the NNP. Dermot Smyth, who undertook the Booderee and Dhimurru case studies, is a cultural ecologist with a long interest in Indigenous involvement in protected area management across Australia. He had some previous involvement with Dhimurru, but no previous association with Booderee. The emphasis, style and format of the case study reports (sections 3, 4 and 5) reflect these differing backgrounds.

Nevertheless, the researchers employed similar methodologies in that each location was visited, key personnel involved in the management of each of the protected areas and traditional owners were interviewed, and management plans, lease agreements and other relevant literature were reviewed. Further details of the methodologies employed are presented with each of the case study report.

These case studies have been carried out at a time when all jurisdictions in Australia are continuing to develop their policies and practices with respect to the involvement of Indigenous peoples in protected area management. IPAs under the sole management of Aboriginal land owners have been established in every state and in the NT. Formal joint management arrangements are in place for some national parks in the NT, South Australia (SA), New South Wales (NSW), Jervis Bay Territory and the Australian Capital Territory (ACT), whereas in other jurisdictions

4. Each of the case study protected areas has received prestigious awards for the effectiveness of their partnerships and management outcomes.

5. For a comprehensive framework for evaluating protected area management effectiveness see Hockings et al. (2006).

less comprehensive partnerships have been developed. Indigenous participation in protected area management in all states and territories continues to develop year by year. Furthermore, the continuing resolution of native title claims under the *Native Title Act 1993* across Australia provides new opportunities for recognition of Indigenous peoples' rights and interests in the management of protected areas.

The first extensive review of Indigenous involvement in protected area management, published in 1994, was funded by the Commonwealth Government in response to the Royal Commission into Aboriginal Deaths in Custody.⁶ Since that time researchers have explored issues relating to the operation of jointly managed protected area from the 1980s onwards and the emergence of IPAs since the late 1990s.⁷ The current project is the first to undertake case studies to directly compare the operations of jointly managed protected areas with an IPA.⁸

The case studies present just three examples of Indigenous participation and partnerships in protected area management, rather than a comprehensive overview of all Indigenous engagement mechanisms currently in operation in Australia's protected area system. Nevertheless, the particular examples selected provide an opportunity to explore the ingredients for success in Indigenous protected area management partnerships. In particular, the case studies allow comparisons to be drawn between partnerships mandated by legal instruments as a prerequisite to Aboriginal land ownership (NNP and BNP) and partnerships freely entered into subsequent to the transfer of land to Aboriginal ownership (Dhimurru IPA).

6. Woenne-Green et al., 1994.

7. Langton et al., 2005.

8. For a summary of key publications in the field of Indigenous involvement in protected areas see Smyth 2001; De Lacy and Lawson, 1997; Langton et al., 2005; and Collins 2001.

2. THE POLICY CONTEXT

2.1 HISTORY OF INDIGENOUS/GOVERNMENT PROTECTED AREA MANAGEMENT PARTNERSHIPS IN AUSTRALIA

For tens of thousands of years Indigenous use and management of Australian terrestrial and marine environments has included setting aside areas that would now be termed ‘protected areas’.⁹ These were (and are) areas of particular cultural or spiritual significance over which access or use restrictions applied under local Indigenous law. Some such places are referred to as ‘sacred sites’, which are typically the location of significant events that took place during the mythological creation time or Dreaming. Other culturally significant places are known as ‘increase centres’ where special ceremonies are conducted to ensure the wellbeing of particular species, while others are places of great danger, sometimes called ‘poison grounds’ or simply ‘danger places’, where it is believed that inappropriate actions (such as the killing of a forbidden species, or the arrival of a stranger) could cause severe storms, sickness or death.¹⁰ Whether or not these cultural protected areas were intentionally set aside for what is now referred to as nature conservation, it is clear that in local Indigenous law such places were part of an overall ethic of sustainable use of country; and many if not all sacred sites, increase centres and danger places are very likely to contribute to the conservation of habitats and species, and hence perform a similar function as contemporary protected areas.

The network of ancient culturally protected areas across the Australian landscape was not understood or recognised by the British colonists and subsequent colonial administrations. Rather, the first protected area in the colonial era was established at Tower Hill in Victoria in 1866, initially as a Public Park, and was followed by the establishment of the Royal National Park near Sydney in 1879. These early Australian national parks were similar in concept to Yellowstone National Park, the world’s first government-declared protected area established by the United States Congress in 1872. The Yellowstone protected area model — i.e. an area of land set aside for the protection of nature and the enjoyment of recreational visitors but without resident local populations — informed the establishment of national parks in Australia for the next 100 years.

9. Worboys et al., 2001.

10. Smyth, 1994.

Until about 30 years ago, Australia's several hundred national parks and other protected areas were managed almost exclusively for their biodiversity and scenic values, with some recognition of archaeological values such as Aboriginal rock art and engravings. Aboriginal people themselves were excluded from living in and using traditional resources within protected areas and they played no part in managing these lands which had been in their care for tens of thousands of years. In this respect, protected areas were part of the broader colonial project which denied Aboriginal people ownership of, cultural relationship with and economic benefit from their traditional estates.

Since about 1975, there has been growing recognition within governments and the wider Australian community of the continuing cultural and economic relationship between Aboriginal people and Australia's landscape, fauna and flora. This in turn has led to the development of various mechanisms for the involvement of Aboriginal people in the management of protected areas, including the transfer of ownership of some national parks to Aboriginal people and the development of formal joint management arrangements. These developments have occurred at different rates and with different outcomes in different jurisdictions. As recently as 1981, at a time when the first jointly managed national park was established in the NT, the Queensland (QLD) government compulsorily acquired a pastoral station in Cape York Peninsula, declaring it a National Park as a mechanism to deny Aboriginal ownership.¹¹

Australia now has examples of terrestrial and marine protected areas that fall within the entire range of the governance spectrum described in the most recent IUCN guidelines on Indigenous people and protected areas.¹² While most Australian protected areas continue to be owned, declared and managed by government agencies with minimal involvement of Indigenous people, there is a growing number of jointly managed national and marine parks in which Indigenous people play a significant role in decision-making. The last ten years has also seen the establishment of IPAs, which are owned, declared and managed by Indigenous communities and organisations, with varying levels of government support.

2.2 APPROACHES TO JOINT MANAGEMENT

The various approaches to joint management in different states and territories reflect differing local histories and differing legal recognition of Indigenous peoples' rights to their traditional lands in each jurisdiction. Typically, where legal recognition of Aboriginal rights to traditional lands is strong, protected area joint management

11. Smyth, 1981.

arrangements provide for significant Aboriginal involvement in decision-making, accompanied by rights to live within and use resources of protected areas, albeit subject to provisions of plans of management. Where such legal recognition is weak or unresolved, Aboriginal input into decision-making tends to be advisory only, and rights to living areas and resource use are often constrained.

The term 'joint management' (often referred to as 'co-management' in the international literature) 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 government conservation agency, acting on behalf of the wider community. Joint management arrangements represent a trade-off between the rights and interests of Indigenous people and the rights and interests of government conservation agencies and the wider Australian community. Typically, but not always, joint management arrangements involve the transfer of ownership of a national park to Aboriginal people in exchange for continuity of national park status over the land in perpetuity 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 an arrangement that can be described variously as a mutually beneficial partnership, or as a partnership of convenience, or as a partnership based on coercion. While many Aboriginal traditional owners have benefited from and are proud of their involvement in joint management arrangements, they may not have been free to choose whether or not their land should become a protected area. Joint-management brings the benefits of recognition and involvement, but can be accompanied by the tensions that stem from contested authorities and cross-cultural partnerships not freely entered into.

Several approaches to joint management are currently in operation across Australia. 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. Examples of these approaches are summarised below.¹³

Garig Gunak Barlu approach

Garig Gunak Barlu National Park (formerly Gurig National Park), located 200 km northeast of Darwin in the NT, became Australia's first co-managed protected area in 1981. The key features of the joint management of Garig Gunak Barlu National Park are:

- declaration of the Park under its own legislation;
- Aboriginal ownership of the Park;

13. Adapted from Smyth, 2001b. For further discussion on the history and operation of joint management of Australian protected areas, see De Lacy et al., 1997; Lawrence, 2000; Woenne-Green et al., 1994; and Worboys et al., 2001.

- a Board of Management comprising eight members, of whom four are Aboriginal traditional owners, and four are representatives of the NT 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;
- day to day management by the NT Parks and Wildlife Service;
- recognition of the rights of traditional owners to use and occupy the Park.

The Uluru approach

Uluru Kata-Tjuta National Park, located in central Australia, became Australia's second co-managed protected area in the mid 1980s. The governance arrangements and benefits to the Aboriginal owners of the Park are similar to those of the Gurig approach, with the important distinction that the Park is leased to the Australian government for a period of 99 years. Recognition of Aboriginal rights to live in, use and jointly manage the Park are laid out in the lease document, rather than in separate legislation as in the Gurig approach. The Uluru or 'lease-back' approach was subsequently adopted in joint management arrangements in several other protected areas elsewhere in the NT, in Jervis Bay Territory and in NSW.

Queensland approach

A modified form of the Uluru model was developed in QLD in the early 1990s, but the QLD government's insistence that the lease-back to the government in perpetuity for no lease payment of what would have become Aboriginal-owned parks meant that no transfer to Aboriginal ownership or joint management of protected areas has occurred in this state. This is despite numerous successful claims over national parks under the *Aboriginal Land Act 1991(Qld)*.

Western Australian approach

There is a long history, going back to the 1970s, of attempts to negotiate comprehensive joint management arrangements for national parks in Western Australia (WA). The difficulties in achieving joint management are in part due to the failure of WA governments to implement the recommendations of the 1983 Aboriginal Land Inquiry in that state. The WA government released a co-management discussion paper in 2003 indicating support for co-management arrangements consistent with the Uluru approach and negotiations are underway to implement such arrangements as part of the negotiation of native title determinations in parts of the Kimberly region. Meanwhile, park councils have been established for some existing WA national parks to provide an advisory role for Aboriginal people in park management.

The Witjira approach

Witjira National Park, located in the north of SA, was established in 1985 under an agreement between the Aboriginal traditional owners, represented by the Irrwanyere Aboriginal Corporation, and the SA government. The agreement provides for a Board of Management and recognition of Aboriginal rights and interests similar to the Uluru approach. A significant difference, however, is that Witjira National Park remains under government ownership and is leased to the Irrwanyere Aboriginal Corporation for a period of 99 years.

Tasmanian approach

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 4500 h. The land includes areas and places of cultural, spiritual or historical importance to Aboriginal people; some of the areas lie with existing protected areas, or comprise historic reserves such as Oyster Cove and Risdon Cove.

Victorian approach

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 (e.g. Brambuk Cultural Centre at Gariwerd National Park).

2.3 NATIVE TITLE AND JOINT MANAGEMENT

The joint management approaches described above are based on the statutory recognition of Aboriginal rights and interests in national parks that have resulted in the granting of land to Indigenous people by governments, typically through successful claims under land rights legislation. In contrast, recognition of native title rights and interests acknowledges pre-existing and continuing ownership of land by Indigenous people under their own laws, which in turn are now recognised as part of Australian common law as a result of the 1992 High Court *Mabo* native title decision. Although the claim for recognition of native title on Mer (Murray Island) by Eddie Mabo and other Meriam people did not include a national park, the Chief Justice of the High Court, Sir Anthony Mason, in his *Mabo* judgement 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 (e.g. land set aside for national parks).¹⁴

Recognition of native title, typically through the development of an Indigenous Land Use Agreement (ILUA), therefore provides additional opportunities for Indigenous people to negotiate joint management or other involvement in the management of protected areas.

In 2001, Arakwal National Park, on the north coast of NSW, was the first protected area in Australia to be established under an ILUA. The Arakwal ILUA recognises Aboriginal rights to use traditional resources within the Park (subject to a Plan of Management) and provides for a Joint Management Committee that advises the NSW National Parks and Wildlife Service about the management of the Park. Unlike the Boards of Management in the Uluru Model, however, the Arakwal Joint Management Committee does not have decision-making powers.

The determination of Djabugay people's native title in 2004 led to the negotiation of an ILUA outlining Djabugay native title rights and interests in Barron Gorge National Park in north QLD, including the rights to hunt, fish, camp, conduct ceremonies and protect cultural sites. The ILUA also provides for the involvement of Djabugay people in the development of a Plan of Management, but falls short of delivering comprehensive joint management arrangements.

In the NT, however, recognition of native title has been instrumental in delivering formal joint management arrangements over 27 national parks through 31 ILUAs. The NT government decided to develop these agreements following a decision by the High Court in August 2002 that Keep River National Park had been established without taking into account native title interests and was therefore invalidly declared. This decision cast doubt over 49 parks that had been declared between 1978 and 1998.

In 2007 it is anticipated that the Githabul people of northern NSW will get joint management control of 19 national parks and state forests after securing the biggest native title deal struck on Australia's eastern seaboard. The claim covers parts of the Githabul nation, which stretches for more than 6000 sq km straddling the NSW and QLD border near Mt Lindesay and taking in the World Heritage-listed Border Ranges and Toonumbar national parks.

14. *Mabo v Queensland (No 2)*.

2.4 NATIVE TITLE AND IPAS

The recognition of native title over areas of land and sea will provide new opportunities to establish IPAs, which to date have typically been established on areas of land purchased by Aboriginal people or granted to them by governments. In particular, native title may provide a legal management tool for including sea country within IPAs.

2.5 OTHER FORMS OF CO-MANAGEMENT

Other forms of co-management include:

- a Memoranda of Understanding negotiated between government agencies and Indigenous groups to provide for some recognition of their interests within protected areas. These non-binding agreements fall short of a formal role in decision-making, but can represent a significant improvement on previous policies of total rejection of Indigenous interests in protected areas;
- Indigenous membership of Boards of Management of World Heritage Areas, such as the Great Barrier Reef and Wet Tropics, both of which are in QLD.¹⁵ Though in a minority, Indigenous membership of these boards encourages the development of policies and management plans that take account of Indigenous peoples' interests;
- employment and training of Indigenous people. Protected area management agencies throughout Australia now have policies and strategies to encourage Indigenous participation in the workforce, which in turn encourages greater recognition of Indigenous values.

2.6 ISSUES IN JOINT MANAGEMENT

Aboriginal use of park resources

In all jointly managed national parks discussed above, the rights of traditional owners to occupy and use the parks are recognised and protected in legislation, and/or leases agreements, and/or plans of management.¹⁶ On these Aboriginal lands, the rights of traditional owners to continue to hunt, fish and gather are regarded as essential to their cultures and identities. 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:

15. Since the preparation of this report, Indigenous representation on the board of the Great Barrier Reef Marine Park Authority was removed by an amendment to the *Great Barrier Reef Marine Park Act 1976* in June 2007.

16. The summary of issues in joint management in this section is adapted from Smyth, 2001b.

- 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.

Aboriginal use of resources is sometimes 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.

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 numbers 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. Opportunities and constraints for Aboriginal people, conservation agencies and park visitors associated with sharing country are summarised in Table 1.

Table 1: Potential advantages and disadvantages of joint management¹⁷

Stakeholder	Potential Advantages	Potential Disadvantages
Aboriginal owners	<ul style="list-style-type: none"> • Recognition of traditional ownership • Participation in decision-making on the management of the national park • Training and employment of Aboriginal people • Resources for infrastructure and support services • Enhanced opportunities to protect cultural sites and heritage • Enhanced opportunities to educate people about Aboriginal culture and contribute to reconciliation • Income derived from lease payments and/or percentage of entrance fees, franchise fees etc. 	<ul style="list-style-type: none"> • Requirement to share management of traditional land with government agency • Requirement to allow large numbers of people to visit traditional land • Limited options for development and use of traditional land
Government Conservation Agency	<ul style="list-style-type: none"> • Enhanced opportunity to protect and interpret cultural values of the park • Enhanced opportunity to access and apply Aboriginal knowledge in the management of the park • Enhanced opportunity to contribute to reconciliation 	<ul style="list-style-type: none"> • More complex management structure • Additional demands for financial and other resources to implement joint management arrangements • Additional restrictions on access to areas of the park • Additional demands to train and supervise staff
Biodiversity conservation	<ul style="list-style-type: none"> • Enhanced recognition of cultural values associated with the park's biodiversity • Improved protection and management of biodiversity values through application of Aboriginal knowledge and practices 	<ul style="list-style-type: none"> • Increased pressures on biodiversity through reintroduction of Aboriginal hunting and gathering • Increased pressure on biodiversity resulting from the establishment of Aboriginal living areas within the park

17. Adapted from Smyth, 2001b.

Stakeholder	Potential Advantages	Potential Disadvantages
Park visitors	<ul style="list-style-type: none"> • Enhanced opportunities to appreciate cultural values of the park • Enhanced opportunities to communicate directly with Aboriginal owners and/or employees • Enhanced opportunities to participate in the process of Reconciliation 	<ul style="list-style-type: none"> • Additional costs associated with park use, either via taxation or entrance fees • Additional restrictions on destinations and/or activities within the park (due to cultural site protection)

2.7 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 has emerged over the last ten years. Indigenous Protected Areas 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 IUCN of new guidelines in 1994 for the establishment of protected areas;¹⁸
- 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 return their land to government control as national parks. The 1994 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.

18. Commission on National Parks and Protected Areas, and World Conservation Monitoring Centre, 1994.

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 SA. There are now 22 IPAs declared in all states and the NT and collectively they comprise approximately 20% of the total terrestrial protected area estate in Australia.

IPAs can be established with formal conservation agreements under state or territory legislation, but the IUCN guidelines 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 voluntary, 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 of their land with the goal of conserving its biodiversity values.

Under the Australian 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 Programme 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 enables research and negotiations within and between the government and Aboriginal sectors that may assist them achieve joint management by agreement. To emphasise this goal, Aboriginal participants at a 1997 IPA workshop developed a definition of an Indigenous Protected Area that includes both Aboriginal-owned land voluntarily declared as a protected area as well as existing protected areas that are or have the potential to be jointly 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 2005 a team of researchers headed by Professor Marcia Langton considered two IPA case studies (Nantawarrina in SA and Dhimurru in the NT) as part of a broader study of 'Community-oriented Protected Areas' for Indigenous peoples and other local communities in Australia and the Asia-Pacific region.¹⁹ They concluded:

The success of programs like the IPA program in Australia lies in access to guaranteed land security and the ability of Indigenous people to exercise their own governance structures, whilst at the same time accessing the multiplicity of linkages with outside agencies which can provide a basis whereby Indigenous people can have informed choices about how they exercise their rights and interests in their traditional lifeways and also in creating the capacity for a sustainable economic base for their communities within the modern market economy.

In 2006 the Australian government commissioned an independent review of the Indigenous Protected Area Programme. The review undertaken by a former head of the NSW Parks and Wildlife Service (Brian Gilligan) found that:

The success of the programme is widely acknowledged, particularly in bringing bioregionally significant lands into the National Reserve System as a voluntary contribution from Indigenous landowners without the land having to be purchased.²⁰

The review also found the IPA Programme is highly cost-effective and that the declaration and management of IPAs is typically accompanied by improved social, educational and economic outcomes for Indigenous communities, in addition to the environmental protection and biodiversity conservation outcomes. The review recommended that the Australian government should significantly increase financial and other support to the IPA Programme. The former Parliamentary Secretary to the Minister for the Environment and Heritage (Greg Hunt) responded in January 2007 by announcing a doubling of annual IPA Programme funding from \$3 million to \$6 million.²¹

2.8 INTERNATIONAL DEVELOPMENTS

During the decade in which Australia has been developing IPAs, other countries and international conservation organisations have been exploring similar ideas. The IUCN now recognises that Indigenous peoples and other community groups have

19. Langton et al., 2005. IPA case studies were based on field work at Dhimurru and on research by Muller (2003) at Nantawarrina.

20. Gilligan, 2006. The review is available at <www.deh.gov.au/indigenous/publications/ipa-evaluation.html>.

21. Greg Hunt's media release is available at <www.deh.gov.au/minister/ps/2007/index.html>.

traditionally set aside areas of land and sea equivalent to protected areas. The 5th World Parks Congress held in Durban in 2003 developed recommendations that governments should:

- recognise and support these areas, referred to by IUCN as ‘Community Conserved Areas’ (CCAs), as part of their national protected area estates;
- develop programmes for the co-management of government protected areas; and
- take steps to recognise the rights and interests of Indigenous peoples in establishing and managing protected areas.

These recommendations (reproduced in full in Attachment 1) provide a benchmark for achieving world’s best practice in protected area management in Australia, including, for example, Recommendation 24 which addresses the issue of Indigenous prior informed consent for the establishment of protected areas:

ENSURE the establishment of protected areas is based on the free, prior informed consent of indigenous peoples, and of prior social, economic, cultural and environmental impact assessment, undertaken with the full participation of indigenous peoples.²²

2.9 LIMITATIONS OF THE CASE STUDIES

The case studies described in the following sections provide three snapshots of the current state of best practice Indigenous partnerships in protected area management in Australia. The case studies describe the journeys undertaken by Indigenous people and by conservation agencies to achieve the partnerships that now exist — journeys that are far from over. However, three case studies cannot provide an overview of the diversity of Indigenous partnerships in protected area management that have developed in recent years in Australia, nor do they seek to provide partnership blueprints to be followed elsewhere. While the case studies have led to conclusions on success factors and policy recommendations, Indigenous and conservation agency participants in these studies were keen to stress that successful partnerships must be negotiated locally to meet local needs and circumstances.

Concepts and practices in Indigenous management of protected areas are continuing to evolve in Australia as they are overseas; the people who make up the partnerships described in the three case studies are making significant contributions to that process of evolution.

22. The implications of these recommendations and proposals for action are explored at length in Borrini-Feyerabend et al., (2004).

3. NITMILUK NATIONAL PARK: JOINT MANAGEMENT AS PROCESS AND BALANCING INTERESTS

Toni Bauman

Nitmiluk National Park is more than just a gorge; it's a special kind of country that has to be managed right so it can always be here for all to share.

3.1 INTRODUCTION

Nitmiluk National Park is located to the northeast of the town of Katherine approximately 350 km south of Darwin in the Northern Territory of Australia. It occupies an area of around 292,008 h and attracts around 240,000 local, national and international visitors per year. In 2006, the Northern Territory Parks and Wildlife Service received the Northern Territory Chief Minister's Awards for Excellence in Public Sector Management in the Regional and Remote Development Category for progressive joint management, in partnership with Indigenous people of the Katherine region.

Much has thus changed since 1989 when the Park was handed back to the Jawoyn Aboriginal Land Trust on behalf of Jawoyn traditional owners as the result of a successful claim under the *Aboriginal Land Rights NT Act 1976 (ALRA)* amidst considerable public uproar and opposition. Whilst rangers wore black armbands to the handback ceremony, lamenting that the Park would be lost to all for ever, Jawoyn leader, the late Mr Bangardi Fordimail Nagarimayn, and the inaugural Chairman of the Nitmiluk Board of Management noted wryly, that the Park was still there for all to see and that it is was clearly going nowhere.

As agreed, the Jawoyn Aboriginal Land Trust leased the Park back to the Northern Territory Government's Conservation Land Corporation, a land holding body established under the *Northern Territory Parks and Wildlife Conservation Act*, for 99 years and for the benefit of all. The *Nitmiluk (Katherine Gorge) National Park Act (The Act)* established a management structure for the Park consisting of the Nitmiluk Board of Management with a majority Jawoyn membership and a Jawoyn Chair with day to day management to be carried out by the then Conservation Commission of the Northern Territory (now the Northern Territory Parks and Wildlife Service (The Service) under a ten year Plan of Management.

The Park plays a fundamental role in attracting visitors to the region and contributes an estimated \$50m to Katherine's economy. Its Jawoyn traditional owners have won the respect of the Katherine community and joint management of the Park is generally held in high regard. The Park also has bipartisan political support and has set a 'high-water mark' for Indigenous involvement and control in new Parks which are currently being developed in the Northern Territory.

Arriving at this point has meant a delicate balancing act of commercial, environmental, social and cultural interests which has not always been easy. It can be attributed to a range of factors which will be discussed below, and which continue to hold many challenges.

3.2 METHODOLOGY: CONDUCTING THE NITMILUK CASE STUDY

Written permission to carry out this case study was obtained from the Nitmiluk Board of Management by Toni Bauman on behalf of AIATSIS. Subsequently, it was agreed in face-to-face discussions that a paper to appear on the web would be the most useful research output. This paper is based on a desk top review, interviews which were held with a range of stakeholders in Darwin, Katherine and Barunga between 12 and 25 October 2006 and attendance at a Jawoyn pre-Board meeting, and a Nitmiluk Board meeting proper on 19 and 20 October 2007 respectively. Stakeholders included: Jawoyn and non-Jawoyn Nitmiluk Board of Management members, Jawoyn Association Board Members and other Jawoyn people, staff at various levels of the Territory Parks and Wildlife Service, Aboriginal rangers and ranger trainees, Nitmiluk Tours trainees, visitors to the Park, and staff at the Katherine Visitors Centre. Members of the Board and staff of the Service and the Jawoyn Association commented on drafts of the paper, and some of its findings were workshopped with the Nitmiluk Board in August 2007.²³

3.3 THE CONTEXT OF JOINT MANAGEMENT

The regional socio-cultural and administrative context

Katherine has a population of around 10,000 people, of whom around 2000 or 20% are estimated to be Aboriginal. The town is backed by a vast hinterland comprising a number of smaller towns, Aboriginal reserves which were scheduled as Aboriginal land under the ALRA and pastoral stations on which a number of town camps, Aboriginal outstations, and community living areas are located. Katherine is also a regional administrative centre and since the introduction of

23. I wish to acknowledge the contributions of all involved: their interest in the project and their generosity in giving their time to talk to me, particularly those who provided detailed comments on drafts.

self-determination policies in 1972, a number of local interest Aboriginal organisations and government departments have been located there.

The Jawoyn population is estimated at around 500 adults and approximately 200 Jawoyn under the age of eighteen. Most live on Jawoyn lands in and around Katherine, Barunga, Wagularr (Beswick), Mataranka or Pine Creek. Around 50 Jawoyn live at Jodetluk which is located close to the Katherine Gorge entrance to the Park and around 30 live at Werrenbun on an enhanced NT freehold lease in the vicinity of Edith Falls. A number of 'mixed descent' Jawoyn who are descendants of those often referred to as the 'Stolen Generations', live in Darwin, Alice Springs and beyond.

There is much movement as Jawoyn people maintain the complex and dense family kinship networks and the cultural priorities around land which were determined by the travels of ancestral beings in the *Burr* or Dreaming, and which give meaning to Jawoyn society and culture. In and around Katherine, the Jawoyn are closely related through intermarriage with a number of neighboring Aboriginal groups, including the Wardaman, Yangman, Dagoman, Manggarayi, Mayali and Ngalkbon (Dalabon). Although at least 33 Aboriginal languages have been identified by linguists throughout the Katherine region, many of these, including Jawoyn, are significantly under threat and most Jawoyn speak Kriol, Aboriginal English and/or English.

Along with other Aboriginal people in the region, Jawoyn occupy the bottom end of most social indicators, with very high levels of unemployment or perhaps more aptly, underemployment, poor health, low skills levels, a high dependence on social welfare payments and low life expectancies. Alcohol is often disruptive of peoples' lives, though statistics show that the majority of Aboriginal people do not consume alcohol. At times it seems that Jawoyn people live in a constant state of grief, always attending funerals, the effects of which ripple across the entire community along dense and complex kinship networks.

Since the 1970s, a significant number of non-local Aboriginal people have moved to Katherine, particularly from the west and southwest, as have a diverse range of Aborigines and Torres Strait Islanders from other urban centres and interstate cities. This in-migration has been exacerbated by the expansion of the Tindal RAAF Base since 1986 which has seen the transformation of the non-Indigenous population of Katherine from a significantly local long term one to a new fusion with transients from other cities and states in Australia. The majority of Katherine's non-Aboriginal population know little, if anything, of the furore which greeted the Handback ceremony at Nitmiluk.

There was significant opposition to the Jawoyn (Katherine area) Land Claim which included Nitmiluk in the 1980s, with 'Rights for Whites' marches in Katherine Terrace and the displaying of offensive cartoons outside the office of the Member of the Legislative Assembly. Today, however, opposition to proposals for new parks

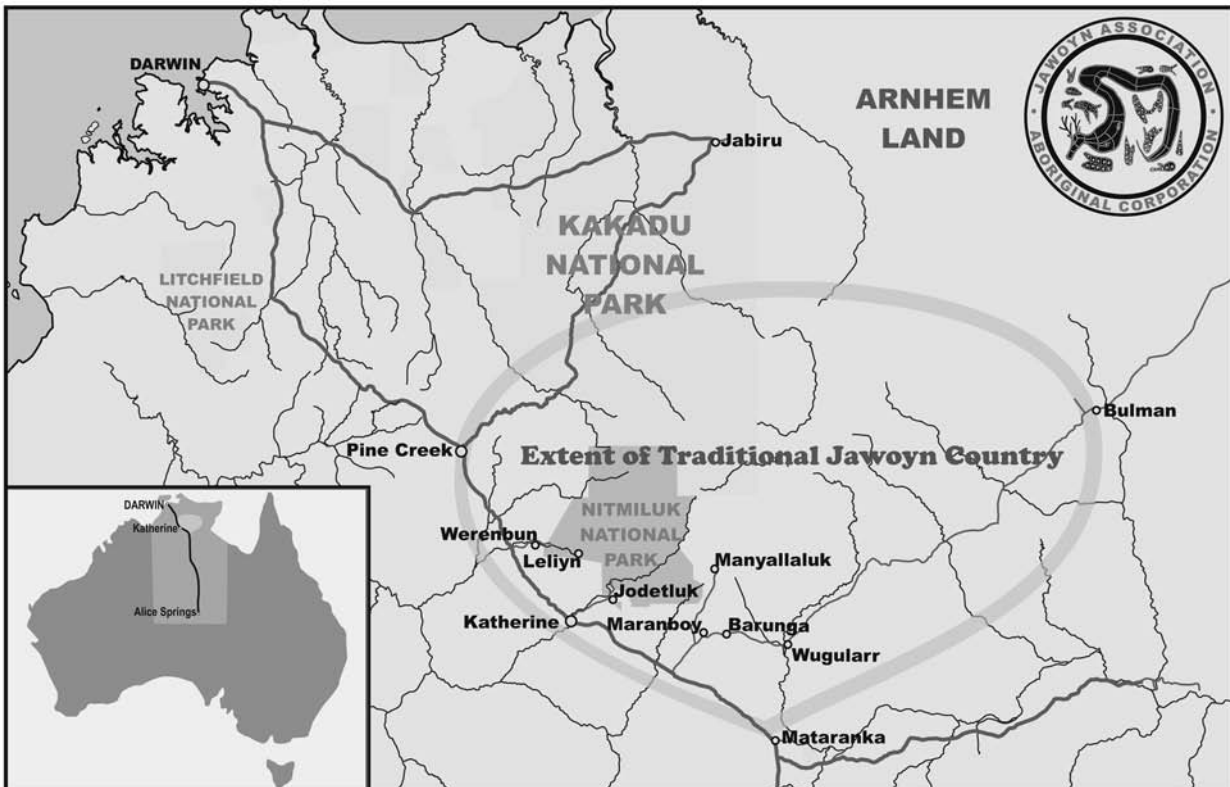
throughout the NT attracted only about 20 people to a public meeting. A key factor in the success of the Park is 'being able to say we own this resource to grow the whole town, and the town now claims it as its collective achievement' (senior Jawoyn man).

Jawoyn lands and Nitmiluk

Nitmiluk is not an island; at the landscape level, it's all Jawoyn land.

Nitmiluk National Park represents only a portion of the approximately 50,000 sq km of Jawoyn traditional lands. Jawoyn land extends south of Katherine to around Mataranka, east to the Mainoru Pastoral lease including the Beswick Aboriginal Reserve, and what was previously the Eva Valley Pastoral Lease, north and northeast towards Pine Creek and the World Heritage Kakadu National Park.

In the early 1990s, an agreement between the Jawoyn Association, the NT and Commonwealth governments and Zapopan NL (a gold mining company) for a proposal for gold mining in the Mount Todd area, saw additional Jawoyn land incorporated into the Park. This provided significant training, education,



Nitmiluk National Park and the extent of traditional Jawoyn country.

employment opportunities and housing at Werrenbun. The Mount Todd agreement involved the settling of two outstanding land claims under the ALRA in exchange for forgoing native title rights under the Commonwealth *Native Title Act 1993* including a claim to the Eva Valley (Manyallaluk) Pastoral Lease which had been purchased for the Jawoyn by the Indigenous Land Corporation. Northern Territory Portion 4424 in the northwest of the Eva Valley pastoral lease which is vested in the Manyallaluk Aboriginal Land Trust, was added to the Park, significantly increasing its size.

Claims under the ALRA to the former Gimbat Pastoral Lease which was located in the proposed Stage III of Kakadu NP, and to Gunlom Falls (previously UDP Falls: Uranium Development Project) adjoining the Kakadu NP, were also successful. In 1996, Gimbat became Aboriginal land and was incorporated into Kakadu NP.

A series of legislative opportunities, strokes of good fortune, astute management, skilful negotiation and relatively sufficient resources, have meant that today the Jawoyn are able to assert at least some rights and interests over some of their traditional lands and that the management of Nitmiluk is only one of many Jawoyn land management issues.

Jawoyn land tenure

A variety of titles and administrative and legal arrangements apply to Jawoyn lands. These are superimposed onto Jawoyn land tenure systems which have been determined by the ancestral *Burr* or Dreamtime beings whose activities at sites in the landscape determine ownership of country and the manner in which country must be looked after. These ancestral beings also set down the laws and structures by which Jawoyn must live every aspect of their lives, determining kinship relations, who one can marry, and how people should relate to each other.

The basis of the Jawoyn (Katherine Area) Land Claim was an ‘all-Jawoyn, one mob’ model, with the principle of recruitment involving membership of the Jawoyn language-owning group through the affiliations of a Jawoyn mother or father (Merlan and Rumsey, 1982). However, Jawoyn people are also members of less inclusive patri-clan groups or *mowurrwurr*, which are associated with specific tracts of land within Jawoyn country.

Part of the reason for the ‘all-Jawoyn’ approach taken in the original claim was that a number of *mowurrwurr* groups specifically affiliated with the land under claim were extinct, leaving an opening for opposing lawyers to argue that there were no longer traditional owners for those areas — despite the fact that land is always succeeded to according to principles of Jawoyn Law. Senior Jawoyn also saw the potential divisiveness of a clan based claim and the importance of providing Jawoyn with ‘the thrust of unity’ and of encouraging them ‘to speak as one voice’ (senior Jawoyn man).

The ‘all Jawoyn’ claim model, together with the dynamics of and struggle around the preparation and hearing of the claim provided the locus for the ‘corporatisation’ and recognition of Jawoyn identity. This is a significant factor in the effectiveness of management of the Nitmiluk Park since it constitutes a readily identifiable joint management party. It can also have a ‘flip side’, like many success factors, as the codification of Jawoyn identity is challenged by the negotiated and changing qualities of Aboriginal life and of relationships to land and by specific *mowurrwurr* interests.

The structural framework of Nitmiluk Park management

A key factor in the sustainability of the Park is the unequivocal title to land in the Park which is now held in perpetuity by the Jawoyn under the ALRA.

Beyond this, the Nitmiluk Act, the Memorandum of Lease (the Memorandum) and the Plan of Management constitute the legal and administrative framework for management of the Park and enshrine and affirm various rights and interests of Jawoyn traditional owners as represented by the Jawoyn Association or its agents or representatives. These include:

- the rights of the Jawoyn Aboriginal traditional owners to occupy and use the land;
- adequate protection of sites of spiritual significance;
- fostering the maintenance of Aboriginal tradition;
- promoting respect for traditional languages, culture, custom and skills including instruction by Aboriginal people engaged for this purpose;
- encouragement of the participation of Aboriginal traditional owners in the management of the Park and in associated Aboriginal commercial enterprises;
- preferential employment of Aboriginal staff, contractors and organisations when issuing leases, licences, and contracts;
- the implementation of a training program;
- and cultural awareness and induction programs of staff.

The Memorandum of Lease provides for an annual lease-back fee of \$100,000, which was increased to \$140,000 with the addition to the Park of those areas (see *Jawoyn Lands and Nitmiluk*). The fee is paid to the Jawoyn Aboriginal Land Trust and is administered by the NLC, which is responsible for its distribution. Although the Memorandum provides for the renegotiation of the fee every three years, this has not yet occurred and any agreed fee should be retrospective. Disagreements over the rental fee, will, under Clause 7 of the Memorandum, be referred to an arbitrator who shall determine a fair rent, taking into account the Consumer Price Index for Darwin, visitation rates and other indicators of Park usage and Park revenue.

The Memorandum results in between 50% and 62% of various Park revenues being paid to the Trust quarterly including fees or charges for camping on or using the Park and its services or facilities and moneys received from any licences,

concessions or permit activity. The remaining revenue is retained by the Service as a contribution towards Park administration costs. Clause 9 of the Memorandum means that proposed regulations or legislation which are inconsistent with the lease and detrimental to the Jawoyn Aboriginal Land Trust constitutes a breach of the lease. Upon notice in writing of 180 days by the Lessor to the Lessee, the lease may be terminated. Under Section 5(4), the Nitmiluk Act also prevails where there is inconsistency with any other law or Territory Act. Although under Section 19, the Nitmiluk Board can be subject to directions of the Chief Minister of the NT, such directions may not relate to the Plan of Management, Aboriginal use and occupation rights, the protection of sites of significance, or advice, information or recommendations by the Board except for protecting its confidentiality.

The Act provides for a Plan of Management which must be consented to by the Jawoyn Association. There have been two Nitmiluk Plans of Management and the mandatory five yearly review of the current plan is currently due. The Plan provides for the ongoing conservation of the Park's natural and cultural resources, continuing public recreation and Jawoyn traditional use and commercial development. It sets out the values of the Park which are the basis for the Park's reservation. They include:

- Aboriginal cultural values involving a complex of traditional rights, benefits, obligations and responsibilities including hunting and fishing;
- scientific values including the diversity of the Park's vegetation communities and fauna populations, the protection of endangered ecologically important plant species, and important bat and bird populations;
- tourism and recreation values including commercially run boat tours of the Nitmiluk Gorge, bushwalks of varying distances, a range of camping opportunities, swimming and canoeing;
- educational and interpretation values including geology and landscape, wildlife and cultural history apparent in interpretations at the Nitmiluk Visitor Centre;
- and historic values.

This structural framework of Park management thus provides significant benefit and a degree of certainty and long term security to the Jawoyn. Nevertheless, as Mr Fordimail said at the Handback: 'We can't live on a piece of paper. Paper is a whitefella thing and means nothing unless....there is a future' (Nitmiluk Handback Ceremony, 10 September 1989).

The meaning of Nitmiluk

The Nitmiluk Plan of Management is guided by the vision of the now mostly deceased elders who were involved in the original Jawoyn (Katherine area) Land Claim. From the late 1970s, they worked tirelessly to prepare the claim, bumping around in four wheel drive vehicles over rugged country and providing anthropologists with information about sites of significance, genealogies and the relationships between land, people and Dreamings, to meet the definition of

‘traditional owner’ under the ALRA. Prior to and during the hearing of the claim, often held in bush courts in sometimes-stifling weather, they were often subject to public criticism and legal trickery, facing repetitive interminable questions from lawyers, the implications of which they often did not understand.

Their single-mindedness, commitment, and ability to work together provided strong foundations for Park management. Many became inaugural members of the Nitmiluk Board of Management, and they continue to be held in high esteem and to be a strong influence in the Park: ‘there’s plenty of sweat from the old people here and I think they are watching over us now’ (Jawoyn Park film, Nitmiluk Visitor’s Centre). Their three key messages, ‘welcome to country’, ‘sharing our country’ and ‘working together’, appear frequently in the Parks’ interpretative and marketing materials and also provide a strong ideological foundation for approaches to Park management.

Their vision, which is widely respected and often referred to, reads as follows:

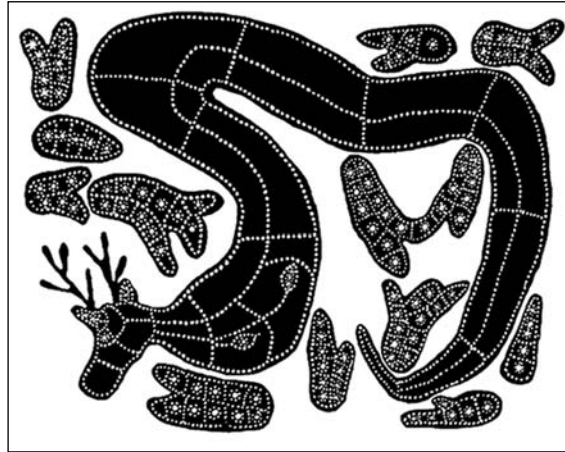
The Jawoyn owners of the Park and Parks and Wildlife Commission of the Northern Territory will work together in a spirit of cooperation in accordance with the following tenets:

- Jawoyn culture is an ancient and dynamic living culture that will be valued and fostered.
- The Park’s ecological processes, its biodiversity and the values and character of the landscape must be conserved.
- Visitors to the Park should have broad opportunity to appreciate and enjoy the Park’s natural and cultural heritage.
- The benefits and successes of joint management should be widely promoted and joint management processes subject to continuous improvement.

The Nitmiluk vision is located in broader Jawoyn paradigms in which the Park has become a ‘symbolic feature in the natural landscape’, reflecting ‘divergent histories of conquest, colonialism, and...indigenous rights struggles’ and where it ‘continues to form a nexus of cultural and spiritual practices, and has become central to political strategies towards self-determination and economic independence.’ (Gibson and Dunbar-Hall, 2000:39).

The Park has also become a symbol of reconciliation with its three major themes of welcoming and sharing country, and working together.

At the Handback ceremony Blekbala Mujik, a local band, wrote a song specifically for the event: they sang of forgiveness, breaking the chains, and the naming of the landscape in the *Burr*. The Park’s emblem, a painting of *Bolung* or Rainbow Serpent which lives in the deep water of the second Gorge and which also depicts *Nitmi* (cicada), mussels, fish and rocks, is a narrative of both survival and celebration (Gibson and Dunbar-Hall, 2000:59) and a symbol of the future.



Nitmiluk Park's emblem

The Jawoyn have not seen land claim processes as ends in themselves, but rather as providing 'stepping stones' to a brighter future for Jawoyn children and as enabling them to manage and look after the country according to Jawoyn Law. Translating the structural guarantees, vision and symbolic content of Nitmiluk into day-to-day practice in order to realise Jawoyn rights, interests and needs and their control of the Park provides many challenges. All who are involved in the Park would agree that, despite any advancement to date, there is still a long way to go.

3.4 PARTIES TO NITMILUK JOINT MANAGEMENT

The relationships and more formal partnerships that are involved in the management of the Park are complex multi-levelled, layered, directional and purposeful and are difficult to unravel. The four key entities, all of which must be effective for the Park to be successful, are:

- the Jawoyn Association Aboriginal Corporation, representing the interests of Jawoyn traditional owners (the Association);
- Nitmiluk Tours Pty Ltd, a Jawoyn owned company which runs almost all of the commercial activities in the Park (Nitmiluk Tours);
- The Northern Territory Parks and Wildlife Service of the Northern Territory (the Service); and
- the Nitmiluk Board of Management (the Board).

Each of these entities is located in other partnerships, networks and relationships which also impact on the running of the Park including the neighbouring Kakadu NP to the north, the Katherine Town Council and the Katherine Visitor's Centre, the Katherine Regional Tourist Association, the NLC, and a range of Aboriginal corporations. Other regimes of Territory and Commonwealth government departments such as the Territory Department of Planning and Infrastructure, and the Commonwealth Department of Workplace Employment and Training through

the Community Development Employment Program (CDEP) also play roles in Nitmiluk.

The Jawoyn Association Aboriginal Corporation

The Jawoyn Association Aboriginal Corporation (the Association) was incorporated under the Commonwealth *Aboriginal Councils and Associations Act 1976* in 1985. It aims to maintain the cultural integrity of the Jawoyn Nation: to control and protect traditional lands and culture, to achieve a measure of economic independence, and a sustainable future in tourism by investing in the future in both human and capital terms, to plan for the long term, and to avoid the temptation to look for 'quick bucks'. Its current draft business plan lists communication and liaison, support of Jawoyn identity, families and young people, education, land management, economic activities, and membership services as key activities.

Ordinary and Foundation membership of the Association is decided by a Council of Elders against eligibility criteria for Foundation membership which includes recognised genealogical affiliations with the Jawoyn, membership of a Jawoyn *mouurrwurr* and maintenance of social connectedness. Ordinary membership requires only genealogical connection. The Association has an Executive Committee which consists of a maximum of 14 members elected every two years at a Jawoyn Annual General Meeting including two office bearers, a Chairperson and a Deputy Chairperson. Other than these two office-bearing positions, executive committee members are elected to represent the geographical spread of communities on Jawoyn lands and the sizes of their populations.

From its humble beginnings with no office premises and a single staff member, staffing levels of the Jawoyn Association have fluctuated. This has occurred as functions such as health, service delivery and training have been devolved to specific purpose organisations which the Association has been instrumental in establishing, to allow it to re-focus on core activities. The Association has also progressively purchased most of the strata titles to its office premises on First Street in Pandanus Plaza. Today it has a staff of 11, including a newly appointed Executive Director (a man with Jawoyn affiliations), a Jawoyn management trainee, two personal assistants, a project officer, a manager of lands and infrastructure, a lands coordinator, a trainee administration officer who is currently completing a Certificate 3 in Business, and three finance officers. The Association engages, on a contractual basis, two highly experienced financial advisors on matters dealing with commercial development and the more complex financial arrangements of the Association and its entities.

The Association meets the requirements of the Office of the Registrar of Aboriginal Corporations, has annual audits, presents an annual report including financials to its AGM, keeps minutes of meetings and so on. Staff are committed, with one of the financial staff noting, in comparing her job satisfaction to previous employment in a non-Indigenous company, the pleasure of familiar greetings from Association

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Jawoyn Association staff:
(top) Wes Miller, Executive
Director; (middle, L-R)
Lisa Mumbin, Chairperson,
with Nitmiluk Tours trainee
Jaidine Fejo; and (bottom)
Preston Lee, Trainee Manager.
Photo Toni Bauman 2006.



members when met in the street and ‘of working to a goal, not just making money — you can see and know who’s going to benefit from what you’re doing. The goal here is doing the best you can for the members, using money in the best possible way in the long run, not the short term’.

Over the years, the Association has been involved in a range of business activities including mining, land management, pastoral activities, pet-meating and buffalo safaris, building and construction, forestry and management of training programs in the region. Some have been more successful than others. The Mount Todd agreement, for example, collapsed with the failure of gold prices in 1997–98. The Association has a group structure including a number of Charitable Trusts related to specific activities and sub corporations, some of which are passive land owning bodies, and others, which are currently dormant.

In 1993, the then Katherine Aboriginal and Torres Strait Islander Commission’s Regional Council, who believed that the ‘Jawoyn had too much’, withdrew Government funding to the Association. Today, the Jawoyn are relatively independent of Government funding with the exception of grants from the Commonwealth Department of Environment and Heritage and the National Heritage Trust on a joint basis for rock art recording and feral eradication programs. Jawoyn public benevolent activities have been financed through the Association’s self-generated income streams, principally its ownership and operations at Nitmiluk, but also through commercial loans and joint venturing, using the money and resources of others whilst protecting Jawoyn funds and not exposing other Jawoyn joint ventures. This has meant the ‘quarantining’ of income for future developments rather than the reduction of any overall capital base with the ‘Jawoyn actually at the table with real rather than passive interests’ (Jawoyn financial adviser).

The annual income generated by the Association at present is in the order of \$1.3 million per annum of which around 50% is derived from Nitmiluk Park lease related funds, 20% as a distribution from Nitmiluk Tours Charitable Trust and the balance is associated with various charges for services provided including capital works programs in the Park for which the Association tenders. These available funds are fully utilized in undertaking various public benevolent activities and broadly comprise: aged care support services, management and administration of Jawoyn traditional lands, tourism and mining developments and associated activities, emergency assistance, support to community based activities; and group corporate management and administration costs. Servicing the members and making decisions as to who should receive emergency assistance can be a vexed issue and often involves a subjective decision within broad parameters by the Chief Executive Officer and Chairperson, the latter receiving a stipend and working in the office daily.

The Association is often used as a conduit for a range of projects proposed for communities on Jawoyn lands and has always been involved in broader advocacy

issues in and around Katherine, causing some Jawoyn to comment that the Association is used by Government to 'do their work for them'. Today, for example, it is involved in Katherine's Economic Development Committee and the Katherine Harmony Project which aims to address issues such as substance abuse and anti-social behaviour. The Association initiated and plays an on-going role in the Sunrise Health Service and the Nyirranggulong Regional Government Council, which service Aboriginal communities to the east and south east of Katherine, most of which are located on Jawoyn lands. It established nutrition and literacy partnerships at Wugularr with the Fred Hollows Foundation and the Ian Thorpe Foundation respectively, both of which were devolved to the Sunrise Health Service when it gained independence. It is also involved in a 'sister city' student exchange program with the Sutherland Shire Council in Sydney.

Over the years the Jawoyn, through their leadership and work place and personal networks, have occasionally been able to call on a range of political, administrative, legal, financial, economic, scientific, anthropological, and other expertise. This has been a critical factor in the sustainability of the Association, and is the legacy of visionary Jawoyn man, Mr Bangardi Lee, who died prematurely in October 2005. He was the Chair of the Nitmiluk Board and served the Jawoyn Association in a range of capacities for many years, having been elected as the Chair of the Association in 1997, and subsequently taking on the role of Chief Executive Officer. Prior to his death, with the ratification of an AGM, he secured the temporary services of a Special Adviser, Mr Jack Ah Kit, to ensure the Association weathered the changes which would inevitably accompany his death. Mr Ah Kit is a former Executive Director of the Association and an ex-Member of the Northern Territory Legislative Assembly. He set the foundations of the Association in the early to mid 1990s and has worked with the Katherine Aboriginal community in a range of capacities.

The effectiveness of the Association is a critical element in the joint management of Nitmiluk, given that it is responsible for ensuring that the Jawoyn are consulted about Nitmiluk matters.

In a speech to the National Indigenous Tourism Conference in Alice Springs in 2006, representatives of the Association outlined critical factors in its development. These included:

- a clear and shared vision for the organisation;
- keeping membership informed;
- strong and enduring leadership;
- broad geographical representation;
- strong governance;
- a well-informed executive committee being consistent in its decisions, and acting with full knowledge of the consequences of decisions;
- maintaining the right balance between cultural and mainstream imperatives;
- rejecting economic imperatives where they conflict with cultural ones;

- joint venture or joint management arrangements;
- capacity to turn land assets into sustainable, commercially-viable ventures;
- mostly self-funding which has provided the flexibility and empowerment to achieve outcomes;
- retaining committed and competent staff;
- the development of a network of skilled people who can provide advice/services;
- getting people with the right skills for the job;
- development of strong partnerships with other Aboriginal organisations, businesses and governments;
- constant monitoring and evaluation of projects;
- and hard work and being prepared to go without (ie, royalties not distributed but rather, re-invested).

Nitmiluk Tours Pty Ltd

Since 1989, Jawoyn have made the transition from having no commercial interests in the Park to having virtually full ownership of and a directive role in its commercial operations. Through its company, Nitmiluk Tours, they have what one interviewee, referred to as 'a cultural monopoly' on revenue raising activities in the Park.

In July 1993, the Association and the then Aboriginal and Torres Strait Islander Commercial Development Corporation (CDC, and now Indigenous Business Australia) entered into a joint venture with Travel North to operate the boat cruises within the NNP on a 25:25:50 bases. Under the arrangement, the Nitmiluk Gorge joint venture partners undertook the executive management of the business and appointed Travel North to carry out the day to day management, administration, and marketing of the venture. In 1995, the Association, using bank loans, bought out the CDC 25% share of the joint venture, moving to a 50% equity position and the joint venture assumed responsibility for the canoe hire activities in the Park. In 1997, a number of major additions were made to Park infrastructure as part of the Gurriluk Masterplan for the development of the intensive use zone. This included the Nitmiluk Visitors Centre which provides not only information to visitors but is also the focal point of the commercial operations of the park. For the Nitmiluk Gorge joint venture, this represented an investment of some \$1.5 million which was financed by a combination of retained earnings and bank loans.

In January 2006, Nitmiluk Tours moved to the full purchase of all commercial operations at Nitmiluk (with the exception of helicopter tours), including taking over the Leliyn kiosk and campground which the Association purchased in 1997. Nitmiluk Tours business involves launch tours including sunset and sunrise meal cruises, canoe hire, walking and bush tucker tours, campgrounds, kiosks and a restaurant in the Nitmiluk Visitor's Centre.

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An aerial view of the Nitmiluk Visitor's Centre designed in the shape of *Nitmi* cicada.
Photo Ray Whear.

As part of the revised ownership and operations of the Nitmiluk Tours business, a General Manager who had previously worked in a similar position with Travel North was recruited, thus ensuring continuity and a seamless transfer in the management of the operations. The Association also entered into a three year management agreement with the Aurora Hotels, Resorts and Attractions group which operates other tourism activities within the NT. Under this arrangement, Aurora provides overall day to day management, administration and marketing services as previously occurred with Travel North. The Nitmiluk Tours General Manager reports to Aurora.

Overall executive management of the business is undertaken by Nitmiluk Tours via its Board of Directors. This Board comprises a majority of Jawoyn members together with its financial advisers.

The immediacy of the Association's commercial interest and the 'strictly commercial business' approach of Nitmiluk Tours has forced the Association and Nitmiluk Tours executive members to confront commercial imperatives including issues around employment and training. The General Manager of Nitmiluk Tours also has a direct interest in the success of company, and noted: 'I have to be successful because that's [park revenue] what I get paid out of'.

This immediacy works towards ensuring not only commercial success in the Park, but also a sense of Jawoyn ownership and accountability. Their effects at the ground level are noted in the comments of an Aboriginal Tour Guide: 'It used to be them and us. Now it's great, there are Aboriginal paintings on the boats and they have Aboriginal names and we feel part of it'.

Meeting of Nitmiluk Tours Board of Directors, the Jawoyn Association and Aurora management team in the Jawoyn association offices. Left to right around table: Wes Miller, Jack Ah Kit, Mark Lewis, Brian Kimmings, Andrew Davies, Lisa Mumbin, Sybil Ranch, Preston Lee, Ian Drummond, Tony Quartermass, Clive Pollack, Jane Runyu. Photo Toni Bauman.



Northern Territory Parks and Wildlife Service in the Department of Natural Resources, Environment and the Arts

The responsibility for the day-to-day management of the Park rests with staff of the NT Parks and Wildlife Service which is located within the Department of Natural Resources, Environment and the Arts (NRETA) and which acts on behalf of and is subject to the Board of Management.

There are currently 17 service staff positions in the Park, 14 of which are based at the Nitmiluk Ranger Headquarters and three at Leliyn. Two positions are filled by women, and six by Aboriginal people. The staff are headed by the Chief District Ranger who has overall responsibility for the Park, and who is assisted by a Senior District Ranger who manages the staff. There are three Senior Park Rangers, one of whom is based at Leliyn, eight rangers at the Park Ranger level, two Aboriginal Trainee Rangers and one apprentice ranger.

An Information Officer is responsible for the Information Desk in the Visitor's Centre, but the position was unfilled at the time of fieldwork, with Rangers taking turns to answer queries.

The Chief District Ranger reports to the Katherine Regional Director, who, in turn, reports to the Executive Director in Darwin and ultimately to the Director of NRETA. The Regional Director, who has worked in the Katherine area for a significant period of time, is based in the Katherine regional office which provides a range of expertise across the Katherine region including in

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Ranger Noel Grogan
at the Information Desk.
Photo Toni Bauman.



Chief District Ranger
Sarah Kerin. Photo
Toni Bauman.

joint management, community education and interpretation, planning, technical services, administration, wildlife and bushfires.

Government funding is a critical issue for the Park which receives annual funding of around \$1.4 million. This is extremely limited when matched against objects which are outlined in the Plan of Management and when the estimated \$50 million return to the Katherine economy from Nitmiluk associated activities is taken into account. Around 90% of the budget represents core running costs leaving a very limited operational budget. The Act requires \$30,000 of the budget to cover sitting fees, food, travel, and accommodation for Board members. Forty free hours of helicopter time per year is provided by Skysafari as an aspect of their successful tender to work in the Park.

Operational action plans which are presented to the Board of Management reflect the overall Plan of Management. However, about 90% of staff time is spent on visitor management, particularly in the high season, leaving little time for carrying out the environmental and biodiversity monitoring and the 'time free' consultations with Jawoyn which are required by the Plan.

Nitmiluk Board of Management

Membership of the Board is established under the Act which was amended to ensure greater flexibility in appointing an extended array of expertise including tourism, finance and business, and other expertise as needed. There are thirteen positions on the Board. Eight are nominated by the executive committee of the Jawoyn Association; three by the Commission, to include one Service representative and two NT public sector representatives; one local resident is to be appointed by the Mayor of the municipality of Katherine; and one by the Kakadu National Park Board. The Chair is selected from the Board's Jawoyn members and appointed by the Minister.

The functions of the Board are to advise and manage, to prepare plans of management, to protect and enforce the rights of the traditional owners to use and occupy the Park, to determine rights of access of others, 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 including the issuing of Section 13 permits for commercial activities. Examples of decisions made by the Board include restrictions to be placed on helicopter tours, proposed names for boat tours, walking tracks and other natural features, restrictions around the sale of alcohol, justifications for prices rises, and public tendering.

The Board usually meets four times per year, but with the considerable changes which have occurred in the past twelve months including Jawoyn's 100% commercial interest in Nitmiluk Tours (and the death of the Association's chairman), meetings are currently held six times a year. Board meetings are formally chaired, confidential minutes are kept and ratified at subsequent meetings, decisions are made by a show of hands, inward and outward correspondence is accepted and so on. The Service administers the Board, with the newly appointed Registrar in the Darwin NRETA office, who is also the Registrar for Gurig National Park, making provisions for sitting fees, keeping records of Membership and minutes and scheduling meetings. The Chief District Ranger acts as secretary to the Chair, preparing Board papers, writing correspondence and maintaining liaison with Board members. She also attends Board meetings, informing the Board of day to day activities and providing information and advice. Rangers often make power point presentations around issues such as rock art preservation and threatened species such as Leichardt's grasshopper.



Jawoyn members of Nitmiluk Board of Management. Left to right: Chairperson Samara Andrews, Jack Ah Kit, Deputy Chairperson Jane Runyu, Ryan Barrawei, Mildred Brennan, Noelene Andrews, Jeffrey Walla, Nell Brown, and Denise Williams. Photo Toni Bauman.

An examination of Board resolutions shows that, over time, there has been a shift away from interest in the micro details of day to day operations such as uniforms to more strategic decisions. This reflects a considerable consistency in Jawoyn Board membership which has contributed to the building of Jawoyn expertise. Jawoyn who are not Board members often act as proxies and some members are accompanied by younger members of their families as observers.

Between 1990 and 2005, the Board was chaired by the late Mr Bangardi Lee and is currently chaired by the Jawoyn Special Adviser, Mr John Ah Kit. Parks representatives include NRETA's Executive Director of Wildlife, based in Darwin, its Bio Parks Executive Director, based in Alice Springs, and the Regional Director of the Service. The Katherine mayor, Anne Shepherd, represents the municipality. The Board has a legal adviser, Tim Jacobs for Ward Keller, who has a long term interest in Nitmiluk joint management and previously worked for the NT Government. He gives advice on request from the Board allowing the Board to deal with complex issues at arms length.

Parks Service Board members see themselves as representing various public interests, providing technical advice and other expertise if needed, and ensuring a Government point of view as required. Katherine Town Councillors other than the Mayor have served on the Board, though having the Mayor representing the views of the broader Katherine community brings an added dimension of recognition of the importance of the Park to Katherine. In the past there has been a preponderance of male Jawoyn Board members. However, today, five of the eight Jawoyn members are female, as are the Chief District Ranger and the Mayor, which has altered the gender balance on the Board.

Anne Shepherd, Katherine mayor and member of the Nitmiluk joint management Board. Photo Toni Bauman.



Jack Ah Kit, Chair of Nitmiluk Board of Management, and Ryan Barrawei, Deputy. Photo Toni Bauman.



Apart from the Katherine community position on the Board, nominations of non-Jawoyn are made by the Director of NRETA who seeks advice from both Jawoyn and non-Jawoyn who are directly involved with the Park. As one Board member commented, it is the particular combination of players together with the certainty of the land grant that ensures the effectiveness of Nitmiluk:

The apparent harmony and lack of friction over the last 10 years is more to do with the combination of all players than with the legal structure. The structure has enabled things to occur but it is the lesser of the two.

Other less direct partners

Park management readily identify a need for conservation, biodiversity, recreation, natural and cultural preservation initiatives across broader landscapes since protected areas cannot be managed successfully in isolation from surrounding environments.

The Jawoyn Association is currently undertaking a five year business planning consultative process and a renewal of its vision. A key aspect of its communication and liaison aims involves developing formal partnerships with the NLC, Nyirranggulung Regional Government Council, the Aboriginal Areas Protection Authority, and schools operating on Jawoyn land. The effects of these partnerships impact on management of the Park to a greater or lesser degree and it is important that Jawoyn roles and common ground are clearly identified in such partnerships. A range of other multidirectional and overlapping partnerships or less formal structural relationships, often relating to broader Jawoyn aims, involve Jawoyn Board members and the Katherine Town Council in initiatives such as the Harmony Project and Katherine's Economic Development Committee.

Kakadu Board of Management and Commonwealth Department of Environment and Heritage

Jawoyn lands straddle a common boundary between the Nitmiluk NP and the Commonwealth Kakadu NP to the north. Out of a total of 15 traditional owner representatives, the Kakadu Board has five Jawoyn representatives, two of whom also sit on the Nitmiluk Board.

There is a need for collaboration and strategic engagement between the Boards and staff of each Park if the Parks are to realise their respective statuses as a World Heritage Area and as an 'icon'. Increased cooperation and involvement is also critical for successful biodiversity and natural resource management and the management of feral animals and fire. There are also shared strategic issues such as the development of tourism products including a proposed walk which would pass through both parks.

There may be a need to formalise a multi-level partnership between the Boards, staff and traditional owners, of the parks, perhaps in the form of a Memorandum of Understanding, which reflects their significant status. This might involve a requirement of the Jawoyn member who sits on both Boards to formally report to both Board meetings about mutual issues. Any such Memorandum might ultimately be seen as a bi-lateral agreement between Commonwealth and Territory governments.

Nyirranggulung

In 2004, the NT government, with the support of the Jawoyn Association, established the Nyirranggulung Mardrulk Ngadberre Regional Council (NMNRC). The Council has municipal responsibilities for a number of communities on Jawoyn lands, including Wagularr (Beswick), Manyallaluk (Eva Valley), Barunga, Jodetluk, Barnartjal and Werrenbun, many of which previously had their own local government councils which were no longer financially sustainable in economies of scale. Clearly, Nyirranggulung has a critical role to play in fire and feral animal management on Jawoyn lands including the Park since a number of these communities adjoin the Park.

Nyirranggulong has a regional CDEP which involves working for unemployment benefits, and assists its clients to access labour markets. CDEP projects involve a range of activities including horticulture, land management, building, and rubbish collection. The Deputy Chair of the Jawoyn Association is a member of the Nyirranggulong Board, the Nitmiluk Board of Management, the Board of Nitmiluk Tours and works part-time as the CDEP manager at Jodetluk. A number of Nitmiluk Tours trainees are funded through 'top-up' moneys of CDEP and funds for vacant positions at the Service are sometimes used to 'top up' CDEP to support trainees to a standard where they can apply for a base level ranger position.²⁴ The Jawoyn Association is also proposing that its tenders for contracts including those in the Park involve subcontracting Nyirranggulong for both to benefit from Jawoyn's preferential status to carry out work in the Park.

There are thus obvious synergies between Nyirranggulong, the Jawoyn Association and the Service. There are also less obvious ones in that many of Nyirranggulong's aims relate to Jawoyn social and emotional and cultural wellbeing, as do values in the Park. As the recently deceased Mr Lee, commented, in his final address to the Association AGM in 2005: 'It's not only Jawoyn [and Nitmiluk] we have to worry about. We have to worry about....the others that Jawoyn established [including Sunrise Health Service and Nyirranggulong]. So we all work together, collectively in partnership. Communicating pretty well, we can achieve these [our] goals.'

Northern Land Council

In establishing joint management arrangements, Jawoyn elders, in wanting to 'stand on their own two feet', decided that the Northern Land Council (NLC) would not have a seat on the Nitmiluk Board. Nevertheless, the NLC plays and has played critical roles in the effectiveness of Nitmiluk, and its relationship with the Association continues to be an important factor.

Under the ALRA, the NLC has to consent to subleases, though is rarely involved, if at all, in negotiating the leases. The NLC also has a requirement to consult traditional owners of Aboriginal land and represented Jawoyn traditional owners in the Jawoyn (Katherine Area) Land Claim and was instrumental in the putting forward of the 'all Jawoyn one mob' model of land ownership which was accepted by the Aboriginal Land Commissioner and which subsequently fostered a discourse of Jawoyn nationhood. In the mid 1990s, it also played an important role in representing the interests of Jawoyn traditional owners in a proposal to mine at Coronation Hill (*Guratba*) in Sickness Country, the disturbance of which can have cataclysmic consequences according to Jawoyn Law. Following the considerable

24. Note that the Commonwealth Government's proposed changes to CDEP which have emerged since the time of carrying out this case study will have a significant impact on training initiatives at Nitmiluk.

divisiveness of the *Guratba* controversy, the Association embarked on a process of rebuilding and healing. A report, *Rebuilding the Jawoyn Nation* (Jawoyn Association, 1994), which was prepared as part of an interagency Government review arising out of the Resource Assessment Commission's recommendations, described a discourse of Jawoyn nationalism, though not a separatist one, as 'a contemporary corporate response to political and social pressures on the Jawoyn' that allowed the Jawoyn 'to exert political, social and economic influence over a country in which they now find themselves a minority', and as 'a unified response to a variety of government and semi-government imposed administrative arrangements and boundaries which cut across traditional lands' (Jawoyn Association 1994:17; see also Gibson 1995).

This discourse of nationhood is today challenged by the need to meet a range of individual membership needs — 'the members have big needs, you can't just leave them by themselves' (Jawoyn management trainee) — and by assertions of the primacy of less inclusive *mowurrwurr* affiliations to specific tracts of land above those of the Jawoyn group as a whole. Whilst there is recognition by Jawoyn that 'we want to build up money for kids', there is also growing pressure to make individual cash payments from the Nitmiluk lease back payments, this practice having ceased some years ago. Older Jawoyn complain, 'how long do we have to wait [for returns on our investment and quarantining of money to stop]; we want money now before we die'.

The NLC plays a critical role in taking instructions from Jawoyn traditional owners as to the distribution of Nitmiluk lease back fees and revenue which have for some years been paid to the Association. The ceasing of cash payments, which were also important symbols of recognition of Jawoyn identity, has seen some 'balkanisation' as groups with *mowurrwurr* affiliations to the north have instructed the Northern Land Council that revenue associated with the successful Gimbat Land Claim should be directed to the Werrenbun Aboriginal Corporation rather than to the Association.

The NLC also has responsibilities under the ALRA for maintaining and updating a register of traditional owners of Nitmiluk. The compilation of such lists is a complex task and the requirement for finite lists does not reflect the negotiable nature of Aboriginal societies. Aboriginal groups are not bounded entities and territorial boundaries are not like lines drawn in the sand. *Mowurrwurr* groups at the boundaries of Jawoyn country are often described as having dual linguistic affiliations (Ngalbon/Jawoyn for example), and there is much interconnection and intermarriage across groups giving rise to multi-'tribal' identifications.

Such lists can take on a life of their own. Discrepancies between lists of the Association members, the Aboriginal Land Commissioner's traditional owner lists, and the NLC's updated lists of traditional owners create spaces which become the foci of disputes about eligibility for membership of the Association and who should benefit from any economic activity.

Katherine Regional Tourist Association and the Katherine Visitor's Centre

The Katherine Regional Tourist Association (KTRA) is responsible for strategic sales and marketing and most visitors to Katherine pass through the Katherine Visitor's Centre. Managers of the Nitmiluk Visitor Centre (Nitmiluk Tours) and the town's visitor centre co-operate and collaborate at an operational level, and the Chairperson of the Jawoyn Association is a member of the KTRA.

The governance of Nitmiluk

The governance of Nitmiluk is thus located in a complex organisational landscape of overlapping and intersecting governance networks of multiple organisations and authorities, which provide Jawoyn with alternative pathways of influence. Its success is dependent upon the capacity of all involved. From a corporate governance point of view, the relationships involved are difficult to conceptualise with their layers of contextual authority and control and shared and competing interests.

In summary, the Nitmiluk Board of Management is both a representative body and a managing entity, interstitial between Service management, the Jawoyn Association and the world at large and advised by the Chief District Ranger. The Association and the Service deliver services to and on behalf of each other, provide mutual policy advice and decision-making processes, share commercial, environmental, natural and cultural values and conservation interests in the Park, have a range of obligations to each other, and take the advice of the Nitmiluk Board which has a majority of Jawoyn. They are also involved in implementing decisions of the Board and accomplishing the tasks it directs, with their focus not just, as Mandell (2006) describes, on the processes and institutional arrangements to accomplish tasks, but also on requirements to achieve them. With preferential Jawoyn employment in the Park, the Association also tenders for and carries out, capital works contracts which may be overseen by Service staff.

Each is responsible to other stakeholders including the broader public and has a financial interest in the Park. Parks Service staff answers to the Director of NRETA through a bureaucratic hierarchy. Staff of the Association, whilst under the direction of the Executive Director, are also answerable to the broader Jawoyn they represent. All must be responsive to a range of other Government legislation, such as rules which effect air space and the helicopter scenic flights:

We can have policies and practises in place, but Nitmiluk is still a Park within the parameters of the Government, a whole raft of other Government legislation with which we must comply and the Jawoyn vision which has generally not changed.' (Chief District Ranger)

A number of Jawoyn members of the Board of Management sit on other Boards and committees which impact the Park to a degree, including Nitmiluk Tours. Staff of Nitmiluk Tours work daily with Park staff on the ground, and its General

Manager consults regularly with the Executive Director of the Jawoyn Association, its Special Adviser and senior Service staff. The General Manager of Nitmiluk Tours also puts proposals to the Nitmiluk Board.

Some Service staff also see themselves as ‘working for Jawoyn’, with one senior employee noting:

My role on the Board is to represent Parks, and to provide advice, and joint management expertise and steer that, and to advise the Board on the minefield of Government processes — what is possible in the Government structures and what the system doesn’t allow — and to suggest pathways, and act as a conduit between the Government and Aboriginal people. I also have a personal role. While I get paid by the Government, I also see myself as working for Jawoyn, and that’s how the Jawoyn see it as well. I see myself as an advocate for a joint management party, the Jawoyn, and for Indigenous involvement principally.

A Jawoyn Board member summarised the joint management relationship, as between ‘black landowners’ and ‘white businessmen and managers’ where ‘[Jawoyn] countrymen own the land and whitefella got the brains for money. It makes the mixture right’. Other layers to the joint management relationship incorporate the co-operation, co-ordination and collaboration aspects of the three kinds of partnerships described by Mandell (2006).²⁵ However, Jawoyn control makes the joint management relationship significantly different from other partnerships:

Jawoyn Association has a partnership with the Parks Board, but it’s more than this. Jawoyn are in control and people don’t give up easily. There’s not only an Act of Parliament in control. We are in control. The Nitmiluk Board has been there, done that and a business sense has developed over time. They’ve done it hard after 20 years. The Jawoyn have really started to assert themselves and how they want the Park run, it’s a lot more equal. (Jawoyn Association Executive Director)

The complex web of intersecting and overlapping roles, interests and authority structures which constitute the governance of Nitmiluk may not constitute corporate commercial best practice governance as one Board member commented. However, as he also noted: ‘The joint management Board is organic in many ways. That it is bound to fail is one perception. But things have gone smoothly for the last ten years. The potential to fail badly has not manifested in practicality.’

A critical success factor in the management of what might be described as the Nitmiluk ‘symbiotic collaborative joint venture under Jawoyn control’ has been the delicate balancing act which is required to meet the needs and interests of all parties, whilst upholding the values of the Park. This is an ongoing process with no

25. These involve the strategic shared knowledge and goals implied by collaboration; the shorter term, task orientated, shorter term goals implied in co-operation; and the avoidance of duplication in doing things effectively where partners may have separate interests and sets of objectives in co-ordination.

single moment defining success, as interests change and approaches depend upon the existing capacity of all involved.

3.5 BALANCING INTERESTS

‘The whole will suffer if we don’t get together — biodiversity, the environment, the whole lot’.

All involved in the Park are aware that its success depends on the balancing of environmental, cultural, commercial and social interests and that ‘Jawoyn, Nitmiluk Tours, won’t be happy unless Parks are happy’. Many of those interviewed spoke of influences ‘from all sorts of different angles to make us work together to contribute to the way the Park is’, with the General Manager of Nitmiluk Tours commenting, ‘If it doesn’t work for one, it’s not working, it’s symbiotic’. Maintaining this balance will inevitably test the Board with the possible re-emergence of issues such as a proposal, which offers additional recreational facilities and other commercial possibilities, to dam the Gorge in the light of the volume of water at Nitmiluk in recent floods.

There are a number of inherent forces which provide a point of reference in times of uncertainty. These include compliance with legislation, the Plan of Management and particularly its vision, the three key welcoming, sharing and working together messages, the recent Nitmiluk Commercial Development Plan, and Jawoyn Law. The ‘icon’ factor, and needing to work for the benefit of all, also acts, as one Board member commented, ‘as a sanity check on all, it’s important for everyone. The stakes are higher, and we need to reach consensus in the greater interest.’ There is a strong feeling of accountability amongst Board members and other Jawoyn and Park staff to the broader public and acceptance of responsibility: ‘It’s real, it’s not constructed, there’s no pretence and no excuses’. Many also spoke of the checks and balances involved in shared interests, goals and risks in managing the Park for ‘the benefit of all’, including personal interests in the Park as members of the public or as Jawoyn traditional owners.

A key factor in balancing interests in increasing visitor numbers and commercial developments against environmental, cultural and biodiversity concerns is that these interests are interdependent. The General Manager of Nitmiluk Tours pointed out:

The commercial and natural and cultural values are interlinked. People don’t want to go to Disneyland. They want a natural experience. We need to maximise numbers but to also balance tourism against maintaining the cultural values of the Park.

Whilst the Jawoyn make no apologies for using their land for commercial gain, seeing this as part of the way it has always been, this does not mean exploiting the land:

Land has always been part of our traditional economy...That doesn't mean we see it as something to be exploited. It's not just there to make money out of and then be left behind. We have responsibilities to our land, which are responsibilities to the old people, the present generation and our children and grandchildren. We have to use the land wisely. (Bangardi Lee, Chairman, to the Katherine Chamber of Commerce and Industry 1989)

That is, Jawoyn's commercial interest is intricately linked to Jawoyn cultural priorities:

It's a real pleasure seeing lots of tourists walking around. I feel pride. These people have come across the world to see our country. We're not just there for the money but to showcase and support our culture. The money we earn allows us to do this. (Jawoyn Association Executive Director)

A high level of shared concern around visitor safety also works to ensure balance in management of the Park. Jawoyn fears around visitor safety have a strong cultural component relating to 'blame': 'We're worried about safety. We don't like tourists falling down and the blame coming back to the Board' (Jawoyn Board Member). 'Blame' in this context has its origins in Jawoyn beliefs that accidents and deaths are rarely attributed to natural causes and offers the promise of sorcery. Blame is rarely laid on individuals, but rather on families, and has a ripple effect across the Jawoyn community. When visitors are welcomed to country, Jawoyn are responsible for their welfare. Visitor safety also affects everyone involved in the Park in that whilst the Northern Territory Government indemnifies the Board, a civil suit could be taken out against the Board or individuals.

Over the years, the Board has maintained a balanced and flexible approach to complex issues, with Jawoyn Board members prepared to consider all points of view to reach consensus and to compromise where necessary:

The beauty is the endeavour of the Jawoyn Association to always work towards finding a compromise. It's important to Jawoyn as part of the elder's vision to maintain the integrity of the Park. (Chief District Ranger)

One such compromise was reached to trial a limited number of Nitmiluk Tours sunset dinner cruises as Board members expressed concern about the effect of increased traffic on freshwater crocodile populations. The presence of freshwater crocodiles in the gorge system is used as an indicator to detect estuarine crocodiles. Impacts on their populations are not only of environmental and cultural concern but also have a commercial impact since canoeing and swimming in the park are closed when there is an estuarine crocodile in the system.

Jawoyn interests, however, are not to be compromised where activities are seen to contravene Jawoyn Law and involve issues such as the protection of sites of significance, the latter being nominated by several Jawoyn Board members as their issue of greatest concern. A recent incident concerning the flight of a helicopter around a culturally restricted location and the taking of photographs by a visitor

Left to right: Phillip Runyu (Nitmiluk Ranger), Patrick Carmody (Wildlife Ranger) and Magnus Fejo (Nitmiluk Trainee Ranger) remove a saltwater crocodile from the Katherine River, 2005. Photo NT Parks and Wildlife Service.



met with Jawoyn insistence that the visitor be pursued, the photos retrieved, various aspects of the helicopter operations suspended, and that staff of the company undertake cultural awareness training.

The Jawoyn having ultimate decision-making power on the Board does not appear to be problematic as one non-Jawoyn Board member commented:

My perceptions are that the Jawoyn majority is totally endorsed and accepted and acknowledged and that this has been the case since I've been involved. Other Board members are not threatened by it and it doesn't appear to impede the Service management of the Park.

In any event, the actual distribution of power across Board members and relevant organisations is delicately balanced and contextual. Jawoyn members may be seen to be disadvantaged in that Board processes are essentially 'whitefella' ways of doing business for which many Jawoyn have neither been culturally conditioned nor formally educated. Correspondingly, non Jawoyn Board members may see themselves as simply rubber stamping decisions which are made by Jawoyn Board members at pre-meetings which are held prior to the Board meeting proper to discuss issues and develop Jawoyn consensus. Ultimately, there is the potential for Jawoyn to no longer vote as a block, which would result in changed voting configurations. Any overemphasis on commercial interests, tendencies to be vexatious, unwillingness to compromise or to take all interests into account on the part of individual Board members could alter the balance of interests and the spirit of co-operation which characterises the Board and relationships between the Jawoyn and the Service. However, as one Board member pointed out: 'Documents and written rules are one side of governance. But, over time, a corporate culture cements itself in a strange way. The likelihood of nominations to the Board who are unsuitable is small because such a person would simply not be interested'.

All partnerships are centred on the people involved at the time and their level of commitment and involvement. Yet, as we have seen, Nitmiluk joint management is more than a partnership and the capacity of those involved to work for the broader benefit of the community and towards effective interaction between two cultures is critical. As the Chief District Ranger commented, 'It's a higher level thing'.

Vested interests

Balancing commercial, environmental, social and cultural interests in the Park requires awareness of the meaning of and potential for conflict of interest. As noted, some Jawoyn members of the Nitmiluk Board are also members of a number of other Boards and executive committees, including Nitmiluk Tours and the Jawoyn Association which make decisions about overlapping and potentially conflicting interests. Many recognise this potential and the possibility of it arising more frequently with Jawoyn's increased commercial interest in the Park. However, it is also the case that such overlapping responsibilities can have some benefits.

Jawoyn see the management of their social, commercial, cultural and economic interests as in a holistic landscape in which they inevitably have vested interests which they see as complementary rather than conflicting. Each Board is seen to be located in a hierarchy which requires instruction from the top by the Executive Committee of the Jawoyn Association:

The Nitmiluk Tours Board has to be in place to provide direction to their management body, Aurora, so we have those relationships. And we also have to have Jawoyn members who sit at the top and provide direction to the Nitmiluk Board of Management and Nitmiluk Tours Boards as well as direction on the ground. (Jawoyn Special Adviser)

Overlapping Board and Executive Committee membership also means that Board members are exposed to a range of perspectives in decision-making processes. Listening to repeated explanations of issues at various meetings whilst wearing different 'hats' means that representatives become more familiar with issues and their implications and are able to build consensus over time. A non-Jawoyn Nitmiluk Board member also commented that 'the changing of hats seems not to present a problem due to the relevant people having a clear understanding of the importance of and differences between their roles, and recognising the proper interests of all in administration'.²⁶ It is critical that Board members clearly identify the 'hat' they are wearing in addressing particular issues.

26. There are also logistical and time concerns in overlapping Board membership. Nitmiluk meetings are time-consuming for Jawoyn representatives, with meetings of Nitmiluk Tours, the pre-Board Nitmiluk Board meeting and then the Board meeting itself taking place within the same week. Most members also sit on at least one but often more executive committees and Boards, which also deal with services and issues on Jawoyn lands: 'If meetings are on the same day, we're jammed; we need one big Board.' (Jawoyn management trainee)

The Board is also dependent upon the advice of the Chief District Ranger, who, in expressing her concerns to the Chair and other Jawoyn Board members that she may be too vocal in meetings and overly influential in Park business, was told that her contributions were expected and that the information she provides is essential. Her role is particularly complex, in her words, ‘involving stakeholder and partnership management, and now a tripartite one with Jawoyn having a more directive role in commercial operations in the Park with Nitmiluk Tours’.

The ability to account for all interests in working towards compromise, to step back, and balance the range of interests is a core characteristic of effective leadership:

I go back to the elders who put me there for the benefit of my people. We have to help us all, not just Nitmiluk. I never learned to take sides; I’m there for both sides of the family. I need to be very careful about how to do it. If a decision needs to come out, I really have to speak and make sure the decision comforts both sides of the family. (Jawoyn Association Chairperson and Nitmiluk Board Member)

Leadership

Strong leadership at every level plays a critical role in Nitmiluk Park management. This includes the leadership of Board and Executive Committee members, the Executive Director and other staff of the Jawoyn Association and the Service through to the upper echelons of NRETA and beyond to Government Ministers, and of representatives in a Jawoyn network of governance which includes senior members of *mowurrwurrs* who occupy various leadership positions on communities on Jawoyn lands.

The genealogy of Jawoyn leadership is impressive including the elders who built the foundations of joint management, who encouraged younger people to be involved and who continue to inspire Jawoyn Board members today: ‘If things they had to make a decision on, they’d get it right...they really inspired me. I was young then. Through all their talking and sitting around listening to them, I came to be a leader myself’ (Chairperson, Jawoyn Association and Nitmiluk Board Member). The presence of the late Bangardi Lee is also strong in the Park. He is often described as ‘coming from the community’, ‘being able to successfully articulate what Jawoyn Association members wanted’ and as having ‘the cultural authority to step in and put a stop to things where necessary.’ He frequently spoke of education as the key to the future for Jawoyn and ensured succession plans were in place prior to his death. As the Chair of the Nitmiluk Board and the Executive Director of Jawoyn, his relationship with the Chair of the Jawoyn Association was mutually supportive.²⁷

27. This was particularly the case where unpopular decisions about no longer making cash payments had to be implemented, as the Chairperson of the Jawoyn Association pointed out: ‘We went through a hard time. We set ourselves up to make the organisation stronger for the people. *Bangardi* and I planned it. We saw lots of things happening and had to make really hard decisions. We know the families and we got hated for it. But you have to be cruel to be kind. Jawoyn office should be based on needs not wants’.

Jawoyn leadership has also been about the ability of leaders to attract resources, to be good negotiators, to take into account the interests of all parties, to have integrity and capability, and to attract and retain skilled people to work with them. 'Political savvy' has been significant:

It doesn't matter how good the structure is. If a leader doesn't have the qualities and qualifications, they'll be put into the position of becoming a 'yes' person.' If you don't know how the game's played, you don't know how to play the ground properly. You could have a beautiful piece of land, a lovely Council of Elders, but if you don't have political savvy, you don't get anything and don't go anywhere. You advance too slowly. (Jawoyn Special Adviser)

Both Jawoyn and Parks Service leaders attempt to embody what can sometimes be conflicting qualities of leadership in managing change and big picture issues whilst carrying out the locally based relationship building and communication which paves the way to understanding Jawoyn issues and aspirations in the Park over the short, medium and long term. The Chief District Ranger and the Regional Director have earned the respect of the Jawoyn and locate Jawoyn interests at the centre of Park management: 'The Chief District Ranger is a good CEO and speaks to people with respect. She's strong, and has changed things incredibly, including increasing services' (Jawoyn Board member). As one interviewee pointed out, 'the Chief District Ranger has a lot of influence but she doesn't use it'.

Accountability, particularly for Jawoyn leaders, is a major issue. Whilst they have to work to gain the respect of both Indigenous and non-Indigenous communities, they are neither paid the huge salaries that non-Indigenous CEOs often receive, and are accountable in every aspect of their daily lives:

Everyday we're accountable. We have to live this, day in and day out. We may not be accountable at an annual share meeting but we're constantly being watched, facing constituents every minute. We have to be careful about how decisions are made in moving forward. (Jawoyn Special Adviser)

Leadership and accountability means developing governance processes which incorporate the emotional, procedural and substantive needs and interests of parties and work towards outcomes which balance them.

3.6 THE BUSINESS OF PROCESS

Accounting for the emotional, procedural and substantive needs of parties in decision-making processes, which focus not only on substantive outcomes but also on how outcomes are arrived at, and which map out strategies for change that are not divisive and which have parties appropriately positioned, is the business of process. It requires considerable facilitative skill and is a key aspect of effective joint management. As one senior Service staff member put it: 'How you get there is important. How discussions are stimulated is very important'. The processes which are employed must affirm the right to the free, prior and informed consent

which is enshrined in many United Nations documents and recognise that Jawoyn aspirations for Nitmiluk cannot be separated from their socio-cultural needs, the realisation of their rights, and their desire for self determination over their own lands.

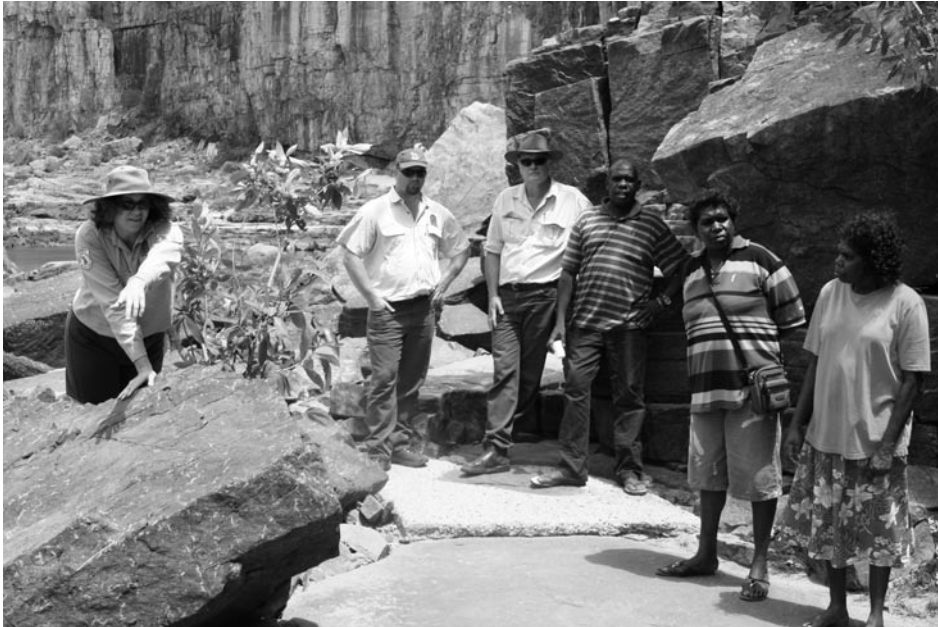
Free, prior and informed consent

Numerous references are made in Park documents to consulting and liaising with Jawoyn or the Jawoyn Association; S11 (q) and S11(r) of the Memorandum, for example. In addition, S11 (m) of the Lease requires the Commission to take all practicable steps to promote Aboriginal involvement in the administration, management and control of the Park.

Decisions must be transparent, inclusive and owned by the Jawoyn if they are to be sustainable. Decision-making processes should involve a direct relationship between cause and effect so that those who make the decisions also take responsibility for their consequences, as is the case with Nitmiluk: 'You couldn't say whitefellas are doing it. Jawoyn can't blame head office, Government, whitefellas or the Nitmiluk Board'. Misunderstandings, which often form the locus of conflict, can arise if issues are not clearly understood; false expectations of large payments of money, for example.

The processes by which free, prior and informed consent is arrived at require knowledge of group dynamics and group formation, an ability to map decision-making processes and underlying disputes, and a range of other skills including specialist communication skills. Ideally, decision-making processes, particularly around complex or controversial issues, should be facilitated at arms length, freeing up those with technical expertise and relevant information to advice, alleviating the potential for authority figures to influence outcomes, ensuring that discussion happens within and between individuals and groups and that technical information is provided in user-friendly ways through the use of visual materials and simple imagery.

The Nitmiluk Board adopts a number of approaches in managing decision-making processes. Decisions will often be deferred if the Jawoyn require additional time to speak with other Jawoyn, have not reached a consensus, or the appropriate decision-making authority for the area of interest is not present. Where there is uncertainty about a proposal put to the Board, it is often trialled and monitored for a period of time, ensuring that a final decision can be made with a more informed understanding of its implications. Some motions have been rejected in Board meetings, but it is rare for motions to be put formally if Jawoyn consensus has not been reached. Committees are often established to discuss issues outside of Board meetings. Meetings of both the Jawoyn Association and the Nitmiluk Board of Management, encourage transparency and inclusiveness, with non-executive members welcome to attend.



Chief District Ranger Sarah Kerin and the Jawoyn Nitmiluk Board discuss plans for upgrading the crossing between the first and second gorges prior to meeting the following day. Left to right: Sarah Kerin, John de Koning (Regional Director Katherine NT Parks and Wildlife Service), Andrew Davis (Senior Ranger, Katherine NT Parks and Wildlife Service), Ryan Barrawei, Noelene Andrews, and Nell Brown. Photo Toni Bauman.

The pre-meeting for Jawoyn Nitmiluk Board members on the day before Board meetings assists in understanding issues and building consensus, and often takes the form of a boat cruise, with other non-Board members and children also in attendance. Visits are made to sites which will be the subjects of discussion the following day, such as the crossover between the first and second gorges, where the Chief District Ranger explains plans to upgrade the crossing. Informal information and discussion sessions also occur outside of the pre-meeting and the Board meeting, often in vehicles when Rangers collect Jawoyn members for meetings, or ferry them between the boat ramp and the Ranger headquarters. The Chief District Ranger also consults regularly with the Chair of the Board, the Executive Officer of Jawoyn and the General Manager of Nitmiluk Tours. Dynamics of meetings shift according to the style of the Chair, with some Chairs being more facilitative than others. This often relates to the degree of authority of the Chair, with less senior Chairs who are uncertain of their authority having a greater need to identify support.

Effective consultation by Indigenous representatives with the groups they represent is an issue across Indigenous Australia, and is a requirement that does not generally apply to members of non-Indigenous commercial Boards who are often required only to report to stakeholders at AGMs. Non-Jawoyn Board members are not exposed to consultation processes with Jawoyn and depend upon Jawoyn members and the Association to ensure that it has taken place. One view is that members of the Jawoyn executive are elected to make decisions on behalf of other Jawoyn and that discussing issues with them is sufficient. However, Aboriginal interests and

rights in lands are usually determined collectively, may not be homogenous and there are often interest groups other than land-owning groups whose concerns need to be taken into account. Effective consultation is time consuming and labour intensive and often overtaken by other demands on representatives. Many Jawoyn representatives also lack the necessary communication tools such as motor vehicles, phones and fax machines.

There may be a need for full time dedicated positions in both the Service and the Jawoyn Association for skilled and trained community liaison and facilitation officers who can tailor decision-making and dispute management processes to local cultural and social needs, rights and interests and capacity in a whole-of-community and whole-of-government approach. Previously, the Commission has provided a salary for a Parks and Tourism Officer to be employed by the Jawoyn Association to facilitate consultation, but there is currently no similar position. Staff of the Commission and the Jawoyn Association, as well as Board and Executive committee members would also benefit from governance and facilitation, mediation and negotiation training.²⁸ The Chairperson of the Jawoyn Association noted: 'I grew myself up in this position. It was hard. There was no one around to give me support to where I am today. Brother (Mr Lee) made sure I was OK. We worked together on everything. I trained from him'.

Everyone involved in the Park management understands that: 'Nitmiluk is a pressure cooker', that staff sometimes finds time to keep people informed, but that there is a need to review the issue. Support for Jawoyn Association executive committee members, Nitmiluk Jawoyn Board members and Service staff to discuss Nitmiluk issues with other Jawoyn is an important aspect of relationship building and requires detailed operational planning.

Relationship building

Many of those interviewed noted that relationship building, mutual respect, support and trust are the most important aspects of joint management, as they are in any partnership: 'In all business, you're dealing with people. Trust is paramount. It's not so much about handshakes on the day, but that you walk away from business if you can't rely on their [your partner's] word' (Jawoyn financial adviser).

Whilst relationships between Jawoyn and non-Jawoyn Nitmiluk Board members are built through Board meetings, this is an institutional formal setting and, as the Chief District Ranger noted,

The Board is no surrogate for relationship building. Joint management is layered and it is about getting interaction and relationships right at each layer. The joint management relationship because of two cultures is a strategic and operational blend.

28. See Bauman (2006) for a range of other relevant training in Indigenous decision-making and dispute management.

The relationships which are implicated are not only between Jawoyn and the Service at any institutional level of cultural engagement. They are also relationships between, among and across CEOs, Chairs, Board and executive committee members, staff, Jawoyn people, Katherine townspeople and other visitors to the Park. As the Mayor of Katherine commented in noting her pleasure at meeting Jawoyn people down the street, 'Interpersonal-relationships are a big thing in Katherine'.

Relationship building occurs both formally and informally at a number of levels at Nitmiluk. The Commission has a stand at the Katherine Show and the conference room at Nitmiluk headquarters is sometimes used by Aboriginal organisations from town. The Board makes a significant effort to meet public needs. They have allowed the Park to be used for the Katherine Canoe Club events, the Australian Red Cross Triathlon, the Katherine Ultra Challenge, Charles Darwin University's International Guitar Festival, Dragon Boat Races and the Darwin Symphony's Orchestra's performance of *Bohemia* on the River, among other events. The Park is also often used for local events such as Tupperware parties and office Christmas celebrations. The Jawoyn Association has long been concerned to develop its local relationships, meeting with the Chamber of Commerce and accompanying a group of local businesswomen on the Sunset Dinner Cruise. Jawoyn Nitmiluk Board members are highly sensitive to the interests of town residents in developing Park policies in making decisions about proposed activities. Where Katherine had an uneasy relationship with the Jawoyn at the time of the Handback, it was, in its 2005 Flying Fox Festival, able to celebrate the Nitmiluk creation journey, which was acted out and choreographed to dance and music.

Ranger training camps conducted on the Park have promoted cross-cultural exchange and two-way learning and have added to natural resource databases. The flood in April 2006 has meant that such activities have been considerably disrupted. This includes the twice-yearly cultural management programs where the Service takes Jawoyn on to country, camping out, surveying rock art and visiting sites, in tandem with monitoring and site maintenance activities. This is a major logistics exercise, and conflicts with peak visitation of the Park since it has to be carried out prior to the wet season.

At the Board level, the Chief District Ranger and the Regional Director had close and personal relationships with the previous Chair, as did the Mayor of Katherine and relationships are now being built with the current Chair and the Executive Director of the Jawoyn Association. Relationship building between and amongst staff of the Jawoyn Association, Nitmiluk Tours, the Service and Board members is also important. Seasonal staff can be bewildering for Jawoyn: 'There are a lot of staff changes in Nitmiluk Tours. We don't know who's who, biggest mob come and go, seasonal workers, and they don't know who's Jawoyn'.

Spending recreational time together seems to be the most valued relationship building formula for Jawoyn, for whom personal relationships are the priority:

'BBQs, sitting down with us, trying to learn our ways, eating with us, finding out what issues we have with the Park, and trying to fix them...learning from each other, and telling Dreamtime stories' (Jawoyn Board Member). Service staff involved at a personal level note the rewards in spending such time with Jawoyn: 'They've looked after me too and shared things with me. They're all good to me, but they also know there's a line. If other family members are humbugging, they'll stop them'. Small relationship building efforts are appreciated such as stocking power cards and the brands of milk, tea, sugar which Jodetluk residents use in the Nitmiluk kiosk rather than their having to travel into town.

Some relationship building efforts may go unnoticed, as the Service's bureaucracy and resources, including vehicles and administration, provide an institutional but flexible framework to achieving outcomes for the Jawoyn and can offer stability when the Association is experiencing difficulties. \$30,000 from the Mt Todd agreement, which was allocated to fostering Jawoyn cultural interests in the Park and training an Indigenous staffer in the Park is now provided by the Service in 'topping up' trainees and supporting a trainee Jawoyn Manager of the Association (previously a Park Ranger), and for rock art programs. The Service also placed a senior level Ranger in the Jawoyn Association office from 1996–1997 who undertook liaison with the Park and organised meetings, around preparing the 2002 management plan.

Personal relationships and trust take time to develop, with one Service staff member noting: 'we're getting a good name slowly, knowing faces and connecting, people can see with their eyes'. Service staff sometimes provide transport to Jawoyn funerals, use vehicles as hearses, drop Jawoyn off for hunting and fishing in the Park, provide assistance when requested in the resolution of domestic disputes, form guards of honour at a funerals, and have assisted Jodetluk residents in times of flood.

Ultimately, achieving the kinds of relationships which are required for effective joint management depends upon recruiting staff with a commitment to the joint management philosophy and a sophisticated approach to inter-cultural relationships: 'It will not work without understanding. You can't be confrontational, and you cannot afford to treat people badly' (Senior Service staff member).

Allocating sufficient time for relationship building is an integral aspect of operational planning for all stakeholders including the Jawoyn, Nitmiluk Tours (despite its commercial imperative) and Park staff, for whom: 'visitor management characterises everything, and it's very much a juggling of resources to do relationship building with other stakeholders and especially the Jawoyn'.

Planning and evaluation

The planning processes of all parties are a key aspect of Park success. The Nitmiluk Plan of Management comes into effect after 7 sitting days of being tabled in the Northern Territory Parliament. As a part of the 2002 Plan of Management, the



Board member Jeffrey Walla and his wife, Marjorie Avalon fishing upstream from the Visitor's Centre on the Katherine River. Photo Toni Bauman.

twenty-year Nitmiluk Commercial Development Plan was also launched in 2006, including major plans, in the first instance, for the Nitmiluk Resort Development involving an upgrading of the caravan park, and the installation of pools, cabins, and tourist lodges. A planning committee has been established. Development in the intensive use area is limited because of the availability of land which is not flood prone and thought is being given to establishing other access points to the Park. The Jawoyn Association is also currently carrying out consultations for a five-year business plan.

The current Plan of Management is based on a formula of the equal distribution of cultural, natural, commercial and visitor interests. It sets out management objectives against which the traditional owners, the Service and the general public may measure progress. This includes: the enhancement of Jawoyn involvement in management through tailored training and employment opportunities, the management of feral animals and fire, protection of biodiversity in the Park and so on. It lists issues associated with achieving these objectives and actions required. Annual audits of the Park also occur. The last planning process involved the public circulation of a Draft for comment. Interested parties were requested to write to the Commission or to meet Rangers and planning staff and Board members at the Katherine Visitor's Centre where assistance was provided to put comments in writing if required.

Given the number of parties involved, co-ordination, collaboration and co-operation in planning are key aspects of management of the Park. All plans, including any Nitmiluk related activities in the Jawoyn Association business plan, should be in

keeping with the priority values of the Park in the Plan of Management, and to complement each other. Joint operational planning between the Service and the Association around Nitmiluk related issues is essential: for each to understand the other's priorities, and to plan to accomplish shared priorities, and to allocate sufficient time to do so. Nitmiluk is only one of many of responsibilities of the Jawoyn Association. They are also responsible for the demands of everyday Jawoyn lives such as organising funerals, facilitating telephone calls, dealing with social security issues and so on. Its ability to focus on Nitmiluk issues fluctuates. For Service staff based at Nitmiluk, whilst the Park is their sole focus, they are unable, in the words of one staff member, 'to do everything'. One senior Service staff member commented:

I try to tell staff that it's easy to be narrow-minded when they think things are not happening. They need to understand the wider Jawoyn objectives. We're not the centre of the universe to Jawoyn people; we need to keep things in the context of the broader community.

Planning needs to be realistic and needs to make allowances for contingencies such as bush fires which can involve the closing down of bush walks and affect the visibility of the helicopter scenic flights, the postponement of Board meetings or the closing down of the Jawoyn Association offices because of 'Sorry Business'. Ninety per cent the Park business involves visitor management including visitor emergencies. It also needs to allow substantial time for planning processes themselves. The five-year review of the Plan of Management is occurring in 2007, and will need to account for the rapid changes in setting realistic foundations for the next plan of management. Rendering plans meaningful to the Jawoyn also requires careful consideration. 'Simple English' plans with photographs may be effective and could be presented jointly to Parliament with the formal Plan of Management. However, 'simple' plans can also permit a range of (mis)interpretations by staff and governments and can create uncertainty.

Ideally, evaluation processes and short, medium and long term benchmarks are built into planning programs at the outset, in a layered approach which is mirrored in operational action plans. The review might consider ways of benchmarking qualitative aspects of joint management. This may include the emotional, procedural and substantive content of any activity, support for Jawoyn culture, relationship building, capacity building, free, prior and informed consent, and the realisation of Jawoyn rights in the Park. One senior Service staff commented: 'I'm starting to judge the success of joint management when people stand up and say what they think.'

Planning, benchmarking and evaluating the 'fostering of Jawoyn culture' is particularly complex and one which requires a (re)conceptualisation of culture which is shared by all stakeholders.

3.7 'CULTURE' IN THE PARK

Whilst 'culture' lies at the heart of the joint management relationship, it is a poorly understood concept both on the ground and in academic circles, and is located in a broader theoretical debate about the nature of the 'intercultural'.

The 2002 Nitmiluk Plan of Management notes that Jawoyn cultural and economic interests are paramount. 'Jawoyn culture' and the presence of Jawoyn people in the Park are also critical to the success of commercial activities in the Park:

The business would be twice as profitable if there were more Indigenous people on the ground. As a commodity, they enhance our product. (General Manager, Nitmiluk Tours)

Jawoyn have also expressed an imperative to make visitors aware of Jawoyn ownership of the Park and of increasing visitor understanding of Aboriginal approaches. Some of this may be achieved 'subliminally':

The Visitor's Centre, artists-in-residence and things like that get into peoples headset. Some may not be interested in Jawoyn but they need to walk away with a subliminal understanding. (Chief District Ranger)

The recent development of Nitmiluk Tours has brought about an infusion of 'culture' into the Park. Whilst its approach is entrepreneurial, there is a need in supporting and investing in Jawoyn culture into the future, to consider tensions and interconnections between the development of Jawoyn cultural products, fostering Jawoyn cultural knowledge, and Jawoyn culture as a lived day-to-day experience. Whilst the exotic difference of Jawoyn as a commodity is clearly an important element upon which successful strategies might be formulated, many processes and procedures expect Jawoyn to be the same as everybody else, to adopt mainstream values, to sit on Boards and work regular hours. Some Jawoyn expressed this as: 'different people pulling different ways'. One interviewee commented:

sustaining Jawoyn culture and sustaining economic viability don't totally marry because there are so many things in Indigenous culture that don't fit the tourist operation, including the need to educate tourists in a pleasant way that there are differences in cultural protocols for face to face engagement.

Finding ways to 'foster' Jawoyn culture whilst meeting the demands of the tourism industry requires coming to terms with the meanings of 'intercultural engagement' and 'intercultural awareness' in the Park and developing innovative and flexible approaches to Jawoyn involvement which are culturally legitimate today but not stereotypical.

The intercultural

In writing about Katherine, Francesca Merlan, an anthropologist who worked on the Jawoyn (Katherine Area) Land Claim, has drawn attention to the fact that Aboriginal meanings are not produced in an autonomous and bounded social

field free from influence of supposedly distinct 'western' imperatives and practices. She notes the way in which new concepts of Aboriginal selfhood have been generated through policies of self-determination including land claim processes in a process of 'social technology' (Merlan, 1998:180, 235; see also Bauman, 2006). In this process, Aborigines are required to engage with the past, rather than with the present to produce images of themselves in a discourse of traditionalism. This discourse invokes supposed opposites such as the 'pre-modern' and 'modern', and the 'past' and 'present' and imply that the indigenous natural or customary is not permitted to be either changing or modern (Merlan, 1998:232).

Those aspects of culture which can be easily seen as different, including the Dreaming, have in the eyes of some, according to Merlan, become the 'sole set of resources which Aborigines have to meet change' (Merlan, 1998:233). They are seen to be unaffected by human modes of action and interrelationships. This view underlies the attempts by Aborigines, as Merlan comments, to imitate those 'exalted' forms which are expected of them such as art, dance, ritual and language and which are easily recognised as different. It also underpins the apparent need for both Aborigines and those who are involved in representing them to make excuses for the fact that things are not the way they were. In this process, the presently lived lives of Aborigines are devalued and 'culture' is seen as something which is lacking or lost, despite the fact that social and cultural meaning is always a matter of negotiation.

Fostering 'Jawoyn culture'

'Fostering Jawoyn culture' in the Park thus requires an understanding of what it is to be promoted and encouraged. Culture is not static and its content does not only relate to ceremonies, rock art, sites of significance, coroborees, body paintings and art works. It also relates to the day to day lives of Jawoyn people, their relationships with each other, the effects of colonialism, and particular Jawoyn histories. 'Jawoyn culture' is embodied in Jawoyn people, and embedded in the conditions in which it is produced. Its importance to the Park means that clear strategies are needed not only to ensure that cultural knowledge is supported and maintained, but to also base operations on a (re)conceptualisation of culture which accepts that all Jawoyn have 'culture' and that culture manifests itself in many forms. Such a strategy might also involve the re-education of visitors as to what to expect of Jawoyn culture. Some visitors who were interviewed had perceptions of culture that they saw as 'lacking' in Jawoyn culture.

The Service has employed traditional owners on a casual basis for their expertise and opinions on cultural aspects of Park management such as recording rock art and making decisions on their maintenance. A Guide Book for tour operators has been produced and the Jawoyn Association, in collaboration with the Service and CSIRO has published a book of Jawoyn plants and animals which is on sale at

the Visitor Centre.²⁹ Interpretations in the Visitor's Centre also include aspects of Jawoyn culture, history and society.

Many areas in the Park have been inaccessible to Jawoyn until recently and it is only with the handback that Jawoyn have begun using the Park in any comprehensive way.³⁰ Many of the elders who provided information about sites and Dreamings at the time of the land claim are now deceased. As the Chief District Ranger commented, there is a need to 'link and mesh Jawoyn cultural interests and knowledge with other parts of the Park [other than the Visitor's area]. We are still to do this successfully.' There is an acknowledged need for a concerted effort to undertake further recording and to compile the documentation of Jawoyn cultural meanings in the Park, into an electronic data base/digital archive which is accessible to Jawoyn and nominated Service staff. This may involve including sites of significance such as rock art and biodiversity issues. Conditions of access to such information need to be carefully negotiated. A joint strategy and detailed operational plan developed between the institutions holding these materials (the Jawoyn Association and the Service) may ensure the return of materials safely. Such information could also inform the development of innovative and rich interpretative materials. There is also a need for the documentation of current Jawoyn social histories, including those of younger Jawoyn, since the cultural aspects of people's lives as they are lived today are equally important in interpreting Jawoyn cultural values in the Park and in enriching any cultural products.

To ensure its 'fostering', 'culture' might be located at the centre of planning processes which must match the emotional/cultural, procedural and substantive/commercial needs of the Jawoyn, those who operate commercial operations, and Service staff. Some Jawoyn cultural needs require substantial logistical assistance and careful planning such as facilitating visits by Jawoyn families to country in the Park.

Intercultural awareness and engagement training

Effective engagement with Jawoyn by those who service them to arrive at free, prior and informed consent is not just a matter of intercultural awareness training; it also involves translating this awareness into intercultural engagement.

There are few satisfactory cultural awareness training courses in Australia. NRETA may be in a position to develop a range of generic non-stereotypical curriculum for Parks in the Northern Territory, which could then be supplemented by local information and tailored to specific contexts. Courses could be made available not

29. See Wynjorrotj et al., 2005.

30. In the 1960s, smaller areas around Maud Creek were used for recreation, and were subsequently amalgamated into a larger Park in 1977. Jawoyn people in Katherine preferred to fish and hunt away from visitors at other places along the Katherine River. Others were living on the Beswick Reserve or working on pastoral leases away from the Park.

Top left: Jordon Runyu (kneeling), Wyonna Woods (middle) and Jessica Woods fishing for shrimps with a visitor to the Park; top right: Randal Fordimal and Jessica Woods; bottom left: Jessica Woods; bottom right: Veronica Moreen.



only to staff but also to visitors and non-Jawoyn Board members and delivered by Jawoyn where appropriate. They might also address responses to frequently asked visitor questions around issues such as work absenteeism, education and housing, so-called 'special' treatment of Aboriginal people, and alcohol. Such a course might be informed by cultural issues which affect Jawoyn behaviour such as the effects of shame (see p. 62, and Bauman, 2002), the undesirability of face to face confrontation, cultural factors around blame and the latter's connection to the high level of Jawoyn concern around visitor safety.

In turn, a generic curriculum would also require awareness-raising activities for Aboriginal people involved in Parks which address the needs of visitors generally, the specific needs and understandings of international visitors according to their countries of origin, and of local non-Aboriginal people. The sustainability of the tourism industry in the Park is dependent upon a consistent product, which means meeting the demanding itineraries which visitors have to follow and often working under pressure. Many Jawoyn have little understanding of the needs of the visitors they are trying to please.

Training needs around intercultural engagement have been mentioned earlier (see *Free, Prior and Informed Consent*, p. 48).

3.8 EMPLOYMENT AND TRAINING

The Act requires that, within 5 years of its commencement, the majority of permanent employees should be suitably qualified Aboriginals with the Jawoyn

Association (or its representatives) being involved in procedures for selection and appointment of permanent staff. Indigenous employment in the Park has fluctuated over the years, and, in the words of one interviewee, has been 'semi-successful'. All Aboriginal staff are at the lower end of the employment market.

Policies also involve preference to Jawoyn for tenders for work inside the Park and for nominated employment with statutory decisions of the board being subject to the competition principles of Government agreements.

Parks Service employment and training

Having Aboriginal rangers in the Park is an important aspect of conveying messages about Aboriginal owned Parks, and affects levels of visitor satisfaction. Working for the Commission is seen as prestigious, and a number of successfully trained Aboriginal rangers have moved on to other Parks or to positions of authority within their communities. Base graded positions are designated as Jawoyn.

Parks Service approaches to Aboriginal employment in the Park are as part of an integrated team:

The secret to joint management is that we used to put [Aboriginal] people on a pedestal and treat them separately and differently. Now they are viewed as part of a team and integrated into the workings of the Park.

The approach to Ranger training is to multi-skill, with an Aboriginal ranger being allocated to each activity. Staff members are advised that they should each see themselves as training officers and be rolling out their skills.

There are only two NRETA funded positions for Indigenous trainees in the Northern Territory, one of which has been won by Nitmiluk. All Nitmiluk trainees are male, one is under the Apprenticeship scheme and another occupies a school-related position in the VET sector with the trainee spending two days a week at Nitmiluk whilst completing Years 11 and 12. This latter approach is designed to locate the student strategically to apply for a T1 base ranger position on leaving school. A second trainee is supported by CDEP 'top up' from Nyirranggulung.

There is no specifically designed Aboriginal Ranger program in the Northern Territory. Aboriginal rangers at Nitmiluk are enrolled in VET sector Certificate Level Conservation and Land Management courses at Charles Darwin University (CDU). The Service is the host organisation, CDU, the training provider and Group Training NT's Katherine Unit, the employee group. The majority of trainees are completing Certificate 2 level courses, which is mostly 'on the job participation'.

Nitmiluk Tours employment and training

Recent changes with Jawoyn taking over Nitmiluk Tours have seen some major training initiatives including a Nitmiluk Tours investment of \$220,000 for training. It has in-season staff of 50–60 people including trainees, and around 25–30 out-of-season people of whom approximately 25% are Aboriginal.

Nitmiluk Tours in conjunction with Charles Darwin University has developed a training package aimed at developing a critical mass of Aboriginal employees and a flexible labour pool of Indigenous employees. In its first intake, in 2006, nine students commenced, with two lapsing. Trainees have come through various employment agencies including ITEC (Indigenous Training and Education Centre), or through CDEP programs at Kalano, a Katherine-based Aboriginal resource organisation and Nyirranggulung. By March 2007, if the seven Aboriginal trainees are successful they will be offered full-time employment. Nitmiluk Tours recognises that, although this training initiative will be unproductive commercially in the first twelve months, it is a critical investment for the future.

Nitmiluk Tours in partnership with Charles Darwin University and ITEC employ a part-time trainer. Trainees are currently undertaking two nationally accredited Certificate 2 courses, one in Tourism and Hospitality, and the other in retail in the VET sector which recognises prior learning. Two days per week consist of formal classroom training at Nitmiluk.

Contractual work

The Jawoyn have a cultural and economic monopoly in the Park and are in a strong position to negotiate arrangements in the Park in a formal and transparent fashion through established protocols and contractual procedures.³¹

The Board must consider the competitive nature of tenders including best prices and quality, not always selecting Jawoyn tenders which often involve capacity building and 'one-on-one' training. Nevertheless, the Service makes every effort to award Jawoyn tenders by filling any potential gaps with expertise from the NT Infrastructure and Planning Department. The Service pays for this expertise or borrows expertise from other 'panel tender' teams.

Jawoyn contractual work in the Park has had mixed success in the past. Some Jawoyn tenders have been managed without business acumen, employing unskilled Jawoyn, but not having efficient training mechanisms and procedures. The involvement of trainees can also mean time frames are longer and deadlines may not be met. Individual Jawoyn have the opportunity to organise themselves with ABNs and to contract for services, as the Jawoyn Association does now on their behalf, but there is generally a lack of capacity to do so. Tenders carried out in this way would mean individuals taking direct responsibility for their success and associated decisions,

31. Whilst Jawoyn preferential treatment has been criticised by some members of the Katherine community who may be competing for tenders, this approach is legally confirmed by provisions in the ALRA which is beneficial legislation and takes preference over any competition laws. The Jawoyn Association also took legal advice regarding the Trade Practices Act, which was that although Jawoyn land is subleased to the Park, this doesn't remove their ability to run commercial enterprises.

and developing a competitive ideology which responds to market forces. In the first instance, Jawoyn require experience working with others to gain the necessary skills, and then to undertake formal training.

The Jawoyn Association is currently aiming to undertake feral animal and fire control in the Park and discussions are taking place with the Service. Other aspects of contractual work, which could be carried out in the Park as part of a broader agreement, could include: work on rock art, biodiversity projects, a range of scientific research which incorporates local knowledge and expertise, identification of areas which might be made more accessible to tourists, and further interpretative work.

Aboriginal employment and training issues at Nitmiluk

Aboriginal employment is often a vexed issue and a high priority for Jawoyn: 'I want to see Aboriginal people doing the hard work there with all the tourists, art and craft, telling stories on the cruises, and scenic flights' (Jawoyn Board Member). Its 'semi-success' in the Park suggests that specific initiatives are required which must also be balanced against current mainstreaming approaches. As one Board member commented: 'there's no instant fix, it's long term'.

Understandings differ as to whether employment approaches in the Park are intended to benefit Aboriginal people generally or Jawoyn specifically. A number of Aboriginal people employed in the Park are either Jawoyn or closely related to or intermarried with Jawoyn. There is some disgruntlement when, on the basis of merit, local Aboriginal job applicants lose positions to Aboriginal people who come from elsewhere.

A range of cultural and social factors are at play in the employment of Jawoyn people in the Park. These include educational standards, Jawoyn capacity, work effectiveness, work ethics, alcohol-related issues, desire or ability to work full time in strict hours, the nature of employment and a range of cultural imperatives. Also identified as relevant factors are the attitudes of trainers and employers, their relationships with Jawoyn, assumptions that Jawoyn are unable to carry out tasks and the general training environment were also identified as relevant.

Trainees are often young adults who, like school leavers everywhere, require additional support. In the words of one Jawoyn woman: '18–20 fresh out of school, they're still a kid; they think they know but they don't. They say, "I know", but they don't'. They have not experienced employment elsewhere, are uncertain about what they 'really' want to do and lack understanding about the level of commitment required to hold a position and the repetitive nature of many menial jobs. Some lack the literacy and numeracy skills, which are required in undertaking classroom training as part of the Certificate level courses on offer, let alone occupy senior positions in the Park: 'It is not possible to turn people into business experts in eight weeks. Trainees have to be prepared to start at the bottom, show commitment and learn'.

One lapsed trainee listed a complex number of related issues including not understanding his role as a trainee, believing he would work only on the boat tours, that the training did not offer sufficient variety — ‘same river every day, I want adventure’ — that the classroom was uncomfortable, and that he did not have the skills to undertake classroom training.

Gender balance is also an issue in training environments with all Aboriginal ranger trainees currently being male, and the majority of Nitmiluk Tours trainees, female. Appropriate accommodation is a significant factor, with Aboriginal employees and trainees ideally being accommodated in the Park should they wish. As the Chief District Ranger noted: ‘It’s essential to get the accommodation right: it affects everyone.’ However, housing shortages, the standard and appropriateness of some existing accommodation, and the lack of room for expansion means that accommodation options are limited.

Aboriginal trainees and employees require significant support, particularly initially: ‘Once people are used to it, [training and working and/or living in the Park], they’re OK by themselves, but to start, they need a lot of support’ (Jawoyn executive manager trainee). This is recognised by the part-time Nitmiluk Tours trainer who noted the impossibility of compartmentalising the demands and obligations of family life and cultural values from employment and training responsibilities: ‘It’s challenging and all encompassing. There’s never just one aspect of the work. We compartmentalise. But if there’s a problem with the family, it’s a whole work training issue’. This requires a significant commitment from training officers as she noted:

My job description is teaching but I spend three hours getting banking organised [for the new trainees], organising family money to be divided, and addressing social security issues. I am introduced to other family members, some of whom also want to talk about work. I’m a taxi service. I also need to keep an eye on illness — one trainee suffered with a festering leg cut because he didn’t want to let Nitmiluk Tours down.

Mentoring is also a key aspect of Aboriginal employment and training in the Park, with Aboriginal rangers working with mentors, and two Jawoyn having been nominated as mentors for the Nitmiluk Tours trainees. Mentoring is a skill and mentoring positions are ideally formally recognised and remunerated. Training is required for mentors in understanding their roles and in developing specific mentoring and communication skills to deal with issues such as performance feedback, unexplained absences, and vocational futures.

A major cultural force to be reckoned with is increasing Aboriginal employment numbers if the Park is ‘shame’. Shame is an important element of social control and ensures that there is mutual respect and that everyone knows their place in a landscape of connectedness. It is also a significantly restrictive force in Jawoyn entering mainstream employment. Singling out someone for attention, including

face to face confrontation, or blaming them, locates them outside a world of family and connectedness and can cause embarrassment. Refusal also invokes shame as it signals the rejection of need in a culture of demand sharing. This is an issue in giving meaningful performance feedback and 'shame' was repeatedly mentioned by past employees in the Park as reasons for their no longer working there. Aboriginal people who have had mainstream education are less likely to be susceptible:

Town Aboriginal people have a better idea of the mainstream. Some of them know how to talk to *munanga* (non-Aboriginal people) without being shamed, because they've had to talk up at school. Bush mob has no confidence in speaking up and venturing out into the world by themselves. How can 18, 19, 20 year old whitefellas go backpacking around the world by themselves? I've never seen a blackfella do that. If backpackers are running out of money, they'll look and ask for work, blackfella will wait for that person to ask them – they're shy, they don't want to be told 'no'. If they ask for jobs in town, they'll be told to go away, whereas on communities they soften the blow. They say things like 'not now maybe come back later. (Jawoyn Board member)

The Jawoyn through Nitmiluk Tours are working towards developing a flexible pool of labour which could account for some employment issues. Nitmiluk Tours allows flexibility with rosters within the demands of the business, provides opportunities for trainees to experience a range of employment in a system of rotation, and encourages trainees to find replacements if they are unable to attend work due to 'Sorry' or other family business. A pool of artists in residence, appropriately accommodated and with the capacity to bring one or two key family members with them might be considered. Nevertheless, the demands of the tourism industry are highly inflexible and developing a diverse labour pool will require considerable innovation:

There's no room for variances. Boats have to go at certain times. While there may be sorry days when staff wants to take time off, the cultural factors have to be weighed up. They have to take second place. The tour operators have to make the decisions as to who is employed and whether they stay employed on a commercial basis. (Manager, Nitmiluk Tours)

There is, thus, a tension between Aboriginal employment and Jawoyn cultural imperatives. That is, that employees work to the same rules and in the same way as everyone else, but that there is a particular need to foster Jawoyn families as an aspect of fostering culture. Jawoyn family and kinship relationships will continue to be driving forces in Aboriginal socio-cultural reproduction and are the foundations of Aboriginal culture:

Happiness for Aboriginal people is with family, no matter what tribe you're from. It's the only thing that keeps Aboriginal people together. Family has to be there first. When whitefellas grow up, they're gone and they just come back for a visit. That's why community bush people don't like working in town because they can't bring their family, especially until they get used to it. (Jawoyn Board Member)

Kelly Vrelyks, Manager of the Visitor's Centre for Nitmiluk Tours, and Nitmiluk Tours staff at the kiosk.



Larissa Manbulloo, Nitmiluk Tours Trainee and Clive Pollack, General Manager of Nitmiluk Tours at the kiosk in the Nitmiluk Visitor's Centre. Photos Toni Bauman.



Issues around capacity and cultural factors in employment and training are thus complex. These issues require detailed examination and innovative thought around the development of vocational pathways and culturally legitimate employment. Meaningful employment does not necessarily have to mean full-time employment at senior levels. A number of Aboriginal Rangers were satisfied to remain at base levels, preferring to work out on the Park; not wanting to take on the administrative work which comes with promotion, possibly because of a lack of literacy and numeracy skills. This signals the need for specific Aboriginal Ranger pathways of promotion which may differ from those of the mainstream. Some of these pathways might be on a part-time basis, such as in the area of biodiversity. Innovative employment activities might involve, for example, visitors being given the opportunity to spend time with a 'normal' Jawoyn family on a picnic or walk,

or a fishing trip, where differences can be understood but not in terms of some kind of imagined primitivity.

The need for an innovative and concentrated focus on training and employment, incorporating support for Jawoyn culture, suggests the need for specifically dedicated training officers in addition to the part-time Nitmiluk Tours trainer, who can plan to factor in time for on the job training and additional support for trainees and mentors. Nitmiluk Tours and Service trainees undertake some similar training modules which might be undertaken jointly such as tour guiding which is part of both Tourism and Hospitality, and Land Management courses. A focus group of lapsed and current trainees might be asked to identify issues and make suggestions as to how 'to make the pathway for the children, to make sure they have something to look forward to, to make a friendly environment that countrymen can go and ask questions whenever they like' (Jawoyn Board member).

The Jawoyn Association and the Service are aware of the need to be proactive in raising the awareness of future employment opportunities to Aboriginal children living on Jawoyn communities. Service staff visit schools and attend key Jawoyn community events and expos and the Association is involved in school holiday programs and a project called 'Pathways', run in association with Katherine Group Schools and Charles Darwin University. Pathways brings children from outlying communities to Katherine, where they are shown the Jawoyn Association, Sunrise and Nyirranggulong offices, and taken to Nitmiluk for a Boat Tour where they meet trainees.

As Wes Miller, Executive Director of the Association commented:

Kids are the key, we are working through the schools and building relationships with children and supporting them all the way. We're trying to look at partnerships with schools. There's a massive realisation everywhere to nurture youth, because we already have a lost generation of adults. The message is, 'Get educated and we'll find you jobs. Show promise and we will sponsor you and give scholarships'. There's a light at the end of the tunnel.

3.9 SUSTAINABILITY AND CHANGE

Managing and consolidating the rapid change which has impacted on Nitmiluk and the Jawoyn Association over the past 12–18 months is a key aspect of sustainability in the Park with Jawoyn's Special Adviser effectively acting as a 'change manager'. Changes have included the death of the senior Jawoyn leader, who had been involved with the Park since its inception in varying capacities, the recent flood in April 2006, and wide sweeping bushfires in 2006. The buy-out of Nitmiluk Tours by the Jawoyn Association has meant a concentration on commercial activities and Jawoyn having a greater direct impact on day-to-day management of the Park. The Chief District Ranger noted:

Bulman schoolchildren on work experience visit the Jawoyn Association offices with teacher Peter Murphy (back) and Wes Miller (right), Executive Director, Jawoyn Association. Photo Toni Bauman.



Now it's a different era, a different concept, a totally different attitude to what is expected, with a greater focus on making money. The form and dynamic has completely changed. We've implemented so many new things in the past twelve months. They have been successful to a large degree, but it's hard to tell. We could have got a lot more business, but we're not professional enough to meet interstate and international standards yet. The standard has to become more professional and consistent. Joint management is a fluid relationship; there are now new players, and enormous challenges with the commercial operations.

Over the years the Jawoyn Association itself has also undergone considerable change from 'a brash young organisation, a shooting star with high hopes and dreams to one with a more mature approach and sophisticated operation in a more sophisticated world' (Jawoyn Special Adviser). Whilst criticisms are sometimes made that the Association is top heavy with finance staff, one of the major factors in its sustainability has been its ability to rely upon sound financial advice which has protected Jawoyn interests. As one of the financial advisers commented, 'financials can bring down an organisation'. With skilled business management of revenue from the Park and the lease back fee, the Association is relatively secure at least within the 99-year lease back period. This depends, of course, on visitor numbers, natural disasters and other occurrences such as terrorist acts, which affect the tourism industry. Income from Nitmiluk has also provided the foundations for re-investment in joint ventures, leading to the Jawoyn Association being relatively independent of Government funding. For Nitmiluk Tours, sustainability is a matter of instituting infrastructure 'that can sustain itself, will not be reliant on one person and provides an effective management structure to be taken over by Indigenous

people' (General Manager, Nitmiluk Tours). It is also a matter of developing innovative cultural products which match the needs of the Jawoyn.

Withstanding the kinds of changes which have and are taking place requires the tightening and strengthening of existing core partnerships, before expanding into others. Too many partnerships, like the administration of Government grants, are a management issue. It also requires staff consistency and commitment to see the Park through this critical stage and the further development of the Jawoyn framework for succession, which is currently occurring. Patience is required to ensure Jawoyn engagement, as one senior Service staff member noted:

We have to be patient or the relationship won't work. Sometimes we have to take a step back and wait and let things come to you. This is one of the tools in joint management partnerships: to leave it and re-engage at a later time, and let things settle. There is a matrix of interests. The key is to be able to sit back even if we feel we're not getting anything done. We are looking at a seventeen-year milestone. Everything does not have to be done, right here, right now. There have been huge changes.

Whilst commercial best practice might suggest the clear separation of social welfare, land management and commercial programs, one Jawoyn staff member commented, 'They're all mixed in together. You can't separate them out. Jawoyn is like a trusty snake that goes in around everything'. Sustainability will thus also depend upon the development of a shared Jawoyn/Service/Board of Management approach to the holistic management of the Park, with a significant investment into Jawoyn social and cultural capital, which is a major resource for the Park. If 'culture' is to be seen as something more than imagined formal Aboriginal institutions and stereotyped activities, it would ideally be located at the centre of Park management. That is, there will always be an extra cultural dimension that impacts on the Park:

Cultural considerations are the underlying thread with everything. The cultural dimension is there all the time. There is a need to recognise this, acknowledge it. It permeates the entire Board process. The need for whitefella governance and the integration of Jawoyn processes means it affects the way we do business, Government does business, cultural management, and governance operations. (Chief District Ranger)

Sustainability also depends on developing the 'bigger picture'. Jawoyn Board members and staff of Nitmiluk Tours and the Association have recently been exposed to other Indigenous tourism enterprises and their products at the National Indigenous Tourism Conference and in travelling internationally to the European Indigenous Tourism Roadshow. It requires an ability on the part of all those directly involved in the Park to be self-reflexive and to listen to and account for the views of others:

Sometimes we need to get countrymen in from outside to see the external view because, in every day, you're focussed on the thing that mob are telling you, but from outside it looks different. There's no time to look at this. (Jawoyn Board Member)

3.10 CONCLUSION: CRITICAL SUCCESS FACTORS

Nitmiluk National Park is often held up as a ‘Rolls Royce’ model of park management in the Northern Territory and whilst joint management cannot be a panacea for all problems, it has provided a range of opportunities and a solid foundation upon which the Jawoyn may build their futures.

The philosophies embedded in its joint management framework including fostering culture and the recognition of Indigenous rights and interests are transportable, given the political will to do so. However, such philosophies must permeate all layers of joint management. This can only occur through effective, transparent and inclusive decision-making processes which arrive at Aboriginal-owned and sustainable outcomes through free, prior and informed consent. The willingness to enter into such processes will depend upon the approaches of the individuals involved, the depth of relationships between them, and a high degree of mutuality and trust, all of which has to be built over time.

Of critical importance in Aboriginal commitment to joint management processes is a clear and mutual understanding of the roles and responsibilities of parties. Also an understanding of the political realities and gaps between ideals, promises and actual realities such as expectations of the equality of partners, political expediencies, power and commitment differentials, and time constraints (see also Mandell, 2006:3, 17).

The Nitmiluk case shows that joint management of Parks is a matter of serial capacity building, including that of the public servants involved: ‘If you go in with a ‘whitefella’ perspective wanting things to happen, you’re kidding yourself. It’s a progressive thing’ (Service Regional Director). Effective approaches need to be tailored to match existing local capacity needs and interests, all of which will vary from Park to Park. Those who are responsible for them require a high degree of formal facilitative and dispute management skills, and training in participatory community development approaches. This will allow for the identification of pathways of social and cultural cohesion. The work required is time- consuming and labour intensive, and requires continuity and consistency amongst those involved and the development over time of a productive and flexible culture of joint management.

A focus on the interface between any Indigenous representative bodies and groups of Indigenous land owners and the broader community is imperative. The danger is that such bodies begin to work ‘upwards’, looking for funding, running commercial activities, and dealing with Government representatives.

Whilst Parks across the Northern Territory may have similar challenges, there will be different solutions embedded in local cultural understandings and values of how things should work. Needs, interests, and rights will also vary. It is the business of process, which should be integral to any new Park policies.

Critical success factors in joint management highlighted through the Nitmiluk case study, not all of which are necessarily occurring in the Park, include:

- unequivocal title and Indigenous control, through a majority of traditional owners on the Board of Management which is enshrined in legislation;
- a bipartisan political approach in which all parties work together including political parties, members of the Board, and staff and representatives of the Jawoyn Association, the Parks and Wildlife Service and Nitmiluk Tours for the benefit of all;
- a coherent and effective representative Indigenous party which has a big picture approach but which also addresses short term local issues;
- the balancing of commercial, environmental, social and cultural needs, interests and values;
- certainty including guaranteed resources over the long term for Government Departments and Indigenous organisations through which additional funding and support might be leveraged;
- effective governance processes of all parties involved;
- good working relationships and mutual respect between the individuals involved in developing a productive culture of joint management partnership;
- consistency in highly skilled and culturally competent staff and ability to recognise the need for outside expertise as required;
- a holistic approach which is directed at existing local capacity and pathways of social cohesion, and integrated with other local services and organisations, but which also recognises that joint management cannot be a panacea for all problems;
- shared non-stereotypical understandings and interpretations of the meaning of ‘culture’ and ‘fostering Indigenous culture’ which values culture, not as something which is lost, but as a day to day lived experience and as embodied.
- recognition of the importance of effective partnerships with neighbouring landowners and managers in biodiversity and other environmental initiatives.
- the importance of allocating sufficient resources and planning to participatory community development approaches, including inclusive and transparent decision-making and dispute management processes.
- recognition that changes of mindset and skills may be required in managing change and that joint management is a matter of serial capacity building of all parties.
- the necessity of a strong focus on Indigenous youth and on the development of flexible alternative vocational pathways for Indigenous employment and training in the Park;
- the importance of cultural engagement and awareness training and of community education aimed at:
 - the broader community and the Jawoyn traditional owners about Park activities and biodiversity and environmental issues; and
 - Jawoyn about Nitmiluk Board decisions and activities.

Other critical governance success factors highlighted through the case study include:

- short, medium and long term strategic and operational planning involving all parties including:
 - evaluation, monitoring and accountability measures which are matched against the emotional, procedural and substantive rights, needs and interests of parties;
 - factoring in time and resources for benchmarks such as affirming Indigenous on-country relationships and other Indigenous cultural needs; and
 - matching planning against resources;
- arriving at shared and innovative understandings of the meaning of capacity building, identifying existing capacity and ways of building new capacity;
- the importance of facilitative processes in ensuring:
 - free, prior and informed consent, that decisions are owned and sustainable, that decision-making processes are layered and inclusive of relevant interest groups, and that processes and outcomes are tailored to existing local capacity, needs and interests; and
 - time for relationship building and specifically designed relationship building exercises.

4. BOODEREE NATIONAL PARK: ON A JOURNEY TO SOLE MANAGEMENT

Dermot Smyth

4.1 LOCATION

Booderee National Park (BNP) is located in the Jervis Bay Territory, Bherwerre Peninsula in Jervis Bay Territory³² on the coast of south-eastern Australia, about 200 km south of Sydney. The Park, which includes Bowen Island and a portion of the Jervis Bay marine environment, is owned by the Wreck Bay Aboriginal Community Council (WBACC) and jointly managed by WBACC and the Director of National Parks (the statutory body responsible for managing Commonwealth protected areas).

Located within the Park is Booderee Botanic Gardens, Australia's only Aboriginal-owned botanic gardens. Other major land tenures within Jervis Bay Territory are HMAS *Creswell* (a naval officer training facility), University of Canberra Field Station, Jervis Bay Range Facility (a naval air base) and 403 h of WBACC land not included in the Park. Booderee National Park and other land tenures in Jervis Bay Territory are shown in the map below.

On the northern boundary of BNP is Jervis Bay National Park,³³ managed by the NSW National Parks and Wildlife Service; seaward of BNP is Jervis Bay Marine Park managed by the NSW Marine Park Authority.

4.2 HISTORY OF BOODEREE NATIONAL PARK

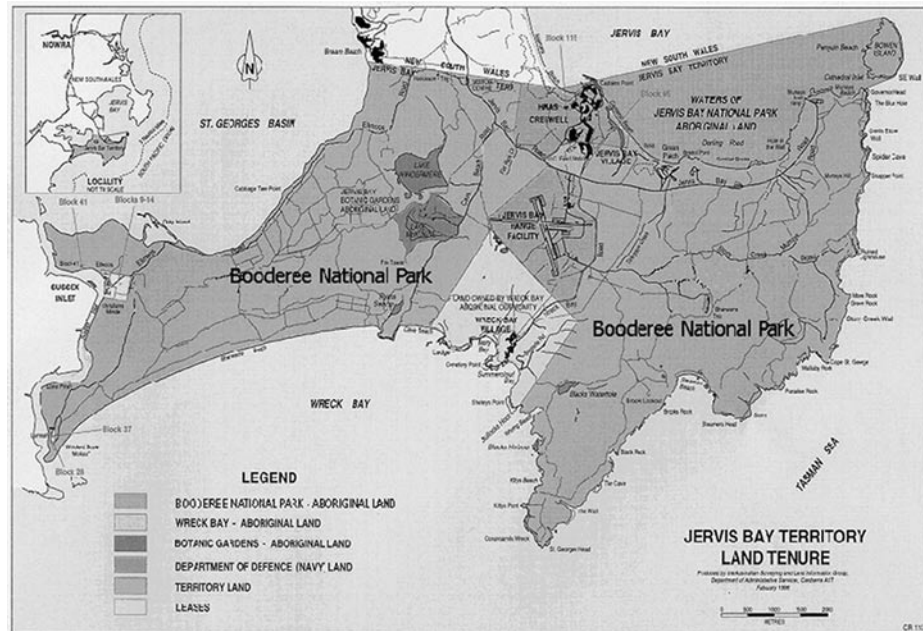
Koori people have lived in the Jervis Bay Region for at least 20,000 years,³⁴ when the sea level was considerably lower and the coastline was about 20 km further east than at present. Material found in middens and the concentration of axe-grinding grove sites in coastal rock formations indicate that since the stabilisation of the

32. Jervis Bay Territory was acquired by the Australian government from NSW in 1915 to provide a sea port for the land-locked ACT.

33. See Feary (2001) for discussion on Aboriginal involvement in the management of Jervis Bay National Park.

34. An archaeological site at Burril Lake 30 km from Jervis Bay shows evidence of Koori occupation 20,000 years ago (Egloff with Wreck Bay and Jerrinja Aboriginal Communities 1995).

Map of Booderee National Park and other Jervis Bay Territory land tenures.



current sea level about 6000 years ago people associated with what is now BNP have relied on fish and other marine resources, a tradition that continues today.

The spread of British colonists along the coast of south-eastern Australia during the early 1800s, the resulting frontier conflict and occupation of Koori land led to significant reduction in the Koori populations. Some Aboriginal reserves were established to provide refuge for Koori people, but the reserves were reduced in size or revoked over time in response to demands by the colonists for additional land.

In the early 1900s some Koori people established a settlement at Wreck Bay on the southern shore of the Peninsula. In 1925 the Wreck Bay Aboriginal Community came under the administration of the Board of Protection for Aborigines in NSW, though the land occupied by the community was not officially given the status of an Aboriginal Reserve until the 1950s.³⁵

The Jervis Bay Nature Reserve was proclaimed in 1971, resulting in a considerable reduction in the size of the Wreck Bay Aboriginal Reserve. On Australia Day in 1979 residents of Wreck Bay blockaded the access road to the popular tourist picnic area at Summercloud Bay within the Nature Reserve, resulting in the start of negotiations between the Community and the Commonwealth government over ownership of land in Jervis Bay Territory. In 1986 under the *Aboriginal Land Grant (Jervis Bay Territory) Act* an area of 403 h of freehold land was vested in the WBACC.

35. Egloff with Wreck Bay and Jerrinja Aboriginal Communities (1995).



The 1979 blockade at Summercloud Bay, Jervis Bay Nature Reserve.

In 1992 the Jervis Bay National Park was proclaimed over the area of the Jervis Bay Nature Reserve and the WBACC was offered two places on the newly established Board of Management for the National Park. This offer was rejected and the Community continued to pursue their goal of ownership of the National Park and majority membership on the Board of Management.

In 1995 the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986* and the *National Parks and Wildlife Conservation Act 1975* were amended by the Commonwealth Parliament to transfer freehold title of the National Park to the WBACC on condition that the Park was leased to the Australian government's Director of National Parks for 99 years. At the same time, the Jervis Bay National Park Board of Management was established with a majority of members from the Wreck Bay Aboriginal Community. The Park was renamed *Booderee*³⁶ *National Park* in 1998 and the first Management Plan for the Park was published in 2002. An extract from the Management Plan summarising the history of the Wreck Bay Community and BNP is reproduced in Table 2.

4.3 VALUES OF BOODEREE NATIONAL PARK

The Park is of great cultural, historic and economic significance to the Wreck Bay Aboriginal Community and to other Aboriginal people of the region. Its terrestrial and marine resources remain central to the lives and domestic economies of local Aboriginal people who continue to fish, hunt and use plant resources in addition to engaging in paid employment within the Park and elsewhere. The entire park,

36. *Booderee* means 'bay of plenty' or 'plenty of fish' in the local Dhurga language.

including the marine environment, is a cultural landscape imbued with cultural and spiritual meaning and the subject of cultural/creation stories, some of which are shared with visitors to the Park. Over one hundred archaeological sites have been recorded within the Park.

The Park also has important biodiversity and other natural heritage values due to its relatively intact terrestrial and marine environments. Jervis Bay is renowned for its exceptional water clarity and pristine white sands. The marine component of the park supports the largest seagrass communities along the south-eastern Australian coast, and the Park’s terrestrial vegetation includes relic rainforest, littoral rainforest, woodland, wet and dry heath, salt marsh, coastal wetlands, coastal scrub and grassland communities. The native fauna of Booderee National Park includes 26 terrestrial mammals, 13 marine mammals, 17 terrestrial reptiles, two marine reptiles (turtles), 15 amphibians and about 200 birds (including a colony of Little Penguins on Bowen island).

Booderee National Park has outstanding aesthetic and recreational values and attracts large numbers of Australian and international visitors. Recreational pursuits include walking, picnicking, camping, diving, fishing, bird watching and visiting historic sites (such as the Cape St George Lighthouse). There are approximately 450,000 day-use visitors and about 75,000 camper nights each year.

Table 2: Wreck Bay Aboriginal Community timeline³⁷

Always	Since time, Koori people have always used Bherwerre because of its rich diversity. It has always been a place of great significance to our people because of its unique location and its abundance of foods and medicines. It has provided us with an area where we can continue to pass on our traditional knowledge.
Early 1800s	Europeans given estates on the south coast of NSW which started the dispossession of land from the local Aboriginal people.
1830–1840	Local Aboriginal people listed in the record for distribution of blankets and rations.
1880s	Aboriginal reserves established on the south coast due to the dispossession of traditional lands.
1912	Naval College established at Jervis Bay.
1915	Commonwealth acquires the Bherwerre Peninsula, which becomes a part of the ACT. Efforts were made at that stage to relocate the Aboriginal Community at Wreck Bay.
1924	First school built at Wreck Bay.

37. Commonwealth of Australia (2002).

1925	Aboriginal Protection Board of NSW accepts the Commonwealth offer to administer the Wreck Bay 'reserve' under the provision of the New South Wales <i>Aboriginal Protection Act 1909</i> . First manager appointed.
1929–1949	Fish Protection Ordinance 1929–1949 has a provision that excludes Aboriginal residents of the ACT from paying fishing license fees. Aboriginal initiative to establish a fishing industry in the region.
1930s	First houses built on the reserve.
1940	<i>Aboriginal Protection Act 1940</i> reflects shift from protectionism to assimilation policies in NSW. Aboriginal people issued with 'dog tags'. Cultural expression continued to be outlawed to fit in with the assimilation policy of the day.
1952	The boundary of the Wreck Bay Reserve marked out by Bob Brown, Archie Moore and Reg McLeod.
1954	Wreck Bay Reserve is gazetted under the provisions of the Aborigines Welfare Ordinance ACT. Provision of the Aborigines Protection Act of NSW no longer applies.
1965	Aborigines Welfare Ordinance ACT is repealed, thus effecting the transfer of the 'reserve'; from the Aborigines Welfare Board to the Commonwealth Department of Interior. At the same time, the reserve was abolished and declared an 'open village'. Assimilation policy of the day brought about attempts to house non-Aboriginals at Wreck Bay, which the Community opposed. Efforts were made to relocate the Community once again. Wreck Bay School was moved to Jervis Bay.
1965–1966	Wreck Bay Progress association formed to counter the open village status and to secure land tenure, thus securing the community's future.
1971	Proclamation under the Public Park Ordinance (ACT) of the Jervis Bay Nature Reserve over the majority of the Territory including the non residential land of the reserve.
1973–1974	The Wreck Bay Housing Company and the Wreck Bay Women's Committee formed. Land Rights issues were the main issues for discussion between the Community and the government.
1979	Blockade of the Summercloud Bay Road, which prevents the general public of access to the Summercloud Bay day visitor area. This action was taken as a result of the land ownership issue.
1985	Announcement by the Prime Minister of plans to transfer the Fleet Base and Armaments depot to Jervis Bay. The Wreck Bay people opposed this decision because of the impact to the Cultural and Natural environment of the region. The land rights movement accelerates.
1986	The <i>Aboriginal Land Grant (Jervis Bay Territory) Act 1986</i> enacted.

1987	The Wreck Bay Community secure land tenure of 403 h of land via the <i>Aboriginal Land Grant (Jervis Bay Territory) Act 1986</i> and the Wreck Bay Aboriginal Community Council (WBACC) is established.
1991	Public announcement of the Jervis Bay National Park is made.
1992	The Jervis Bay National Park is declared replacing the Jervis Bay Nature Reserve. The Wreck Bay Community is offered 2 positions on a Board of Management of the newly declared Park. The offer is rejected.
1993	Commonwealth announces that the armaments depot will be built in Victoria. The <i>Native Title Act 1993</i> is enacted.
1994	The Commonwealth Ministers for Aboriginal & Torres Strait Islander Affairs and the Environment announce intentions of a land grant of the Jervis Bay National Park to the Wreck Bay Aboriginal Community. Amendments to the <i>Aboriginal Land Grant (Jervis Bay Territory) Act 1986</i> and the <i>National Parks & Wildlife Act 1975</i> amended to facilitate land grant.
1995	Amendments passed in both houses of Parliament and the WBACC is granted freehold title to Jervis Bay National Park. Park leased back to the Director of National Parks.
1996	The Jervis Bay National Park Board of Management is established which has a majority of Wreck Bay Community representatives on the Board. For the first time the Wreck Bay people have a real say on how traditional lands are managed.
1997	The WBACC lodges a land claim for the remaining areas in the Jervis Bay Territory, which is not Aboriginal Land.
1998	To reflect Aboriginal ownership the Jervis Bay National Park is changed to Booderee National Park.
1999	Wreck Bay Enterprises Limited is established.
2000	Interdepartmental Committee is established to look at a number of land issues in Jervis Bay Territory including the Wreck Bay land claim.

4.4 ORGANISATIONS INVOLVED IN JOINT MANAGEMENT

There are three key organisations involved in the joint management arrangements at Booderee National Park. These are:

1. Wreck Bay Aboriginal Community Council;
2. Wreck Bay Enterprises Limited;
3. Parks Australia (acting on behalf of Director of National Parks).

Each of these organisations is described separately below to provide background information for subsequent discussion on the relationship between the organisations that comprise the joint management arrangements.

Wreck Bay Aboriginal Community Council

The WBACC comprises all the registered adult members of Wreck Bay Aboriginal Community, including members not currently living at Wreck Bay. WBACC was established under the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986* and is the owner of the freehold title to BNP and to 403 h of the Bherwerre Peninsula not included in the Park.

The WBACC performs many of the functions of a local government authority and is responsible for management of the Wreck Bay Aboriginal Community, administered by an executive Board.

Wreck Bay Enterprises Limited

Wreck Bay Enterprises Limited (WBEL) is a private company wholly owned by WBACC. The aims of WBEL are to:

- undertake contract work to generate income for WBACC;
- provide employment to residents of Wreck Bay Aboriginal Community;
- provide training to residents of Wreck Bay Aboriginal Community;
- develop capacity within the Wreck Bay Aboriginal Community.

WBEL is located in buildings within the BNP headquarters compound. WBEL currently employs 35 members of WBACC, under the leadership of an Executive Officer with extensive corporate experience in Australia and overseas. WBEL's business activities currently focus mostly on delivering services to BNP, but also include some contract grounds maintenance of the Naval Air Base and the Jervis Bay Primary School. WBEL also provides administrative, land management, road maintenance and cleaning services to WBACC. In the future the company aims to expand delivery services across the border into New South Wales (e.g. Shoalhaven Shire Council).

WBEL currently has contracts with the Director of National Parks to deliver the following services to BNP:

- operating the Park Entry Station, including collecting entry fees;
- cleaning in all Park buildings, including Headquarters and visitors facilities and campgrounds;
- maintaining all roads and tracks within the Park;
- grounds maintenance works in the Booderee Botanic gardens.

Parks Australia

Parks Australia is the protected area management arm of the Australian Government's Department of the Environment and Water Resources. Parks Australia manages BNP on behalf of the Director of National Parks, according to the terms of the lease from WBACC and the Management Plan, under the direction of the BNP Board of Management. Parks Australia manages two other jointly managed national parks (Kakadu NP and Uluru Kata-Tjuta NP), both of which are located in the

NT. Parks Australia also manages national parks on offshore Australian territories such as Christmas Island, Norfolk Island and Cocos (Keeling) Island, as well as 14 marine protected areas in Commonwealth waters.

Parks Australia is headed by the Director of National Parks, which is a statutory position under the *Environment Protection and Biodiversity Conservation Act 1999*. Booderee National Park was leased to the Director in 1995 at the same time that ownership of the Park was transferred to WBACC.

4.5 METHODOLOGY: CONDUCTING THE BOODEREE NATIONAL PARK CASE STUDY

Booderee National Park was selected as a case study because it is widely regarded as a successful jointly managed national park.³⁸ Features of the BNP that make it a valuable case with which to compare the Nitmiluk NP and Dhimurru IPA case studies, because the:

- Park is owned by an Aboriginal Community Council;
- joint management partner is an Australian Government agency;
- Park is located in southern Australia;
- Park includes a marine component;
- Management Plan explicitly states that the goal of the Aboriginal owners is to achieve sole management of their lands and waters.

The request to undertake the case study was communicated in the first instance by phone and then in writing to the manager of BNP, who undertook to forward the request to the WBACC. The WBACC Board subsequently decided that the case study should proceed but that, since its nominations for WBACC members of the next Booderee Board of Management had not been finalised, the WBACC Board would not participate directly in the case study research. Instead, the researcher was requested to make contact with WBACC members directly involved in implementing joint management at Booderee, with other parks Australia staff and with staff of WBEL.

Information for the case study was gathered by desktop research, on-site interviews with key people involved in joint management at Booderee (13–16 December 2006), and follow-up email and phone contact during the preparation of the case study report. Interviewees are listed in Table 3.

38. In November 2006 BNP received an award by WWF-Australia as one of Australia's Top 10 National Parks; in December 2006 the Australian Bush Heritage Fund awarded the inaugural Rick Farley Memorial Scholarship for Indigenous people to Darren Brown who is employed as a research officer at BNP.

Table 3: People interviewed for the Booderee National Park case study

Name	Position
Scott Suridge	Booderee Park Manager
Martin Fortescue	Booderee Park Services Manager
Marjorie Gant	Booderee Visitor Services Manager
Leon Brown*	Booderee Executive Trainee
Kami Gosford	Booderee Training Manager
Graeme beech	Booderee Contract and Visitor Facilities Manager
Sue-ann Brown*	Booderee Customer Services Officer
John Harvey	Legal and Education Officer
Bryan Harty	Booderee Botanic Gardens Curator
Bernie McLeod*	Booderee Parks Services officer, Booderee Botanic Gardens
Kain Ardler*	Booderee Horticultural Trainee, Booderee Botanic Gardens
Bubi Gerber	CEO, Wreck Bay Enterprises Ltd
Darren Brown*	Research Officer, ANU Fire Ecology Project
Con Boekel	Assistant Secretary, Department of the Environment & Water Resources

(*indicates member of Wreck Bay Aboriginal Community Council)

Interviews were conducted in a semi-structured format, lasted between 30 and 60 minutes and typically included the following stages:

1. Interviewer (Dermot Smyth) describes the Joint Management Case Study Project as part of the wider AIATSIS 'Success in Indigenous Organisations' project;
2. Interviewee outlines his or her role in the joint management of BNP;
3. Interviewer stimulates responses by asking the following questions:
 - in what ways has joint management been successful?
 - in what ways has joint management been challenging or unsuccessful?
 - what are the reasons for success or failure?
 - in what ways does joint management at Booderee have advantages or disadvantages not typical of other joint management arrangements?
 - are there any other comments you would like to make about joint management at Booderee?

It was stressed at the beginning of each interview that the case study project was not a detailed 'warts and all' review of joint management. Rather, the project was seeking to learn from the Booderee experience so that successful aspects of joint management at Booderee could be shared with other Indigenous communities and government agencies that may be engaged in or contemplating establishing their own joint management arrangements. The focus of the case study interviews was on joint management rather than on the workings of each organisation involved in the joint management partnership.

Written notes taken during the interviews form the basis of information and observations presented in the sections below, supplemented by information available in key documents relating to joint management at Booderee and other relevant publications.

4.6 PARTNERSHIPS: THE ELEMENTS OF JOINT MANAGEMENT AT BOODEREE

Joint management at BNP has been in operation for ten years. The elements of joint management comprise a combination of legal instruments, policy initiatives, institutional and personal commitments and financial resources. Each of these elements is examined further below.

Legal instruments

The key legal instruments underpinning joint management at Booderee include:

- 1995 amendments to the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986* and amendments to the *National Parks and Wildlife Act 1975* which transferred ownership of BNP to the WBACC;
- the *Environment Protection and Biodiversity Conservation Act 1999*, which carried forward the 1995 amendments to the *National Parks and Wildlife Act 1975*, including the establishment of the BNP Board of Management;
- the BNP Lease between the WBACC (lessor) and the Director of National Parks (lessee);
- *The Booderee National Park Management Plan*, prepared by the BNP Board of Management and the Director of National Parks.

The Lease

The granting of freehold ownership of Booderee to the WBACC in 1995 occurred simultaneously with the leasing of Booderee from WBACC to the Director of National Parks for 99 years. Provisions of the Lease set the framework for how joint management will operate in the Park. These provisions include:

- the right of members of the Wreck Bay Aboriginal Community to occupy and use resources within the Park. Specifically these rights include:
 - to enter upon the Park and use or occupy the Park to the extent that entry, occupation or use is in accordance with the Aboriginal tradition of the Community governing the rights of community members with respect to the Park, whether or not those rights are qualified as to place, time, circumstances, purpose, permission or any other factor;
 - to continue, in accordance with law, the traditional use of any area of the Park for hunting or food-gathering (otherwise than for purposes of sale);
 - to continue the traditional use of any area of the Park for ceremonial and religious purposes; and

- to reside within the Park at such locations specified in the Management Plan together with rights of access and residence for their employees, staff, invitees and agents.
- the right to request the Director to sub-lease a portion of the park to a member of the Wreck Bay Community to be used in accordance with the Management Plan;
- payment to WBACC of an annual rent (set at \$215,758 in 2003–4³⁹) plus 25% of all entry fees, sub-lease fees and fines or other charges collected in Booderee;
- the Director's obligations to:
 - promote and protect the interests of the Community;
 - protect sacred sites, areas and things of significance to the Community;
 - promote and assist in the provision of resources for the involvement of Community members in the development of Plans of Management;
 - encourage the maintenance of the Aboriginal tradition of the Community;
 - promote and assist in the provision of resources for the involvement of Community members in the operations and management of the Park;
 - establish and implement a program for training reasonable numbers of the Community in skills relevant to the administration, management and control of the Park;
 - contract the Council's services and engage as many Community members as is practicable to provide services in and in relation to the Park;
 - take all steps reasonably required to adjust working hours and conditions to the needs and culture of Aboriginals contracted or employed in the Park;
 - identify and utilise the traditional skills of the Community in the management of the Park;
 - promote among non-Aboriginals contracted or employed in the management of the Park and, to the extent that is reasonably practicable, among visitors to the Park and residents of the Park and adjoining lands a knowledge and understanding of and respect for the traditions, languages, culture, customs and skills of the traditional Aboriginal owners and to arrange for appropriate instruction in connection therewith to be given, to the extent that is reasonably practicable, by Aboriginals engaged for the purpose;
 - encourage appropriate business and commercial initiatives and enterprises by the Council and Community members within the Park;
 - only consult with individual Community members who are not members of the Board of Management with the Council's prior consent;
 - consult with and have regard to the views of the Council in respect of the formulation of any educational and interpretive policy in relation to the Park;

39. Adjusted in accordance with a formula that includes the Consumer Price Index.

- provide such capital equipment and machinery as is reasonably required for the adequate maintenance of roads, and all other improvements in the Park (being roads, facilities, or improvements owned by the Director or controlled by the Director);
- provide funding to the Council for the purpose of fulfilling Community liaison functions;
- assist with a business case and seek funding for the construction of a cultural centre and consult closely with the Council in the planning and design of the centre;
- contract out appropriate services in and in relation to the Park;
- give preference to the Council, its wholly owned company, Wreck Bay Enterprises Ltd, or another company wholly owned by the Council, for contracts to provide such services in and in relation to the Park;
- provide the Council or Community members first opportunity to purchase any Park equipment to be sold;
- promote the use of Aboriginal traditional land management practices in the management of the Park.
- With respect to changes or renewal of the lease, the parties agree to:
 - at least once in every five years discuss whether changes to the lease are required (other than a change in the term of the lease);
 - commence renegotiation of the lease at least five years before it's expiry;
 - a dispute resolution process in the event that agreement is not reached regarding changes or renegotiation of the lease, or in the event that there are disputes about whether lease provision are not being met.
- Agreement that research information and reports relating to the management held by either party will be shared with both parties, but not including privileged cultural or spiritual information held by WBACC.

Board of Management

The BNP Board of Management is established under section 376 of the *Environment Protection and Biodiversity Conservation Act 1999*. The prescribed functions of the Board are to:

- make decisions relating to the management of the Park that are consistent with the management plan in operation for the Park; and in conjunction with the Director,
- prepare management plans for the Park;
- monitor the management of the Park; and
- advise the Minister on all aspects of the future development of the Park.

The Board of Management comprises 12 members of whom a majority (seven) are representatives of WBACC and some of whom are coincidentally BNP staff. Other Board members are:

- the Director of National Parks;

- the First Assistant Secretary, Territories and Regional Support Division of the Department of Transport and Regional Services;
- a scientist familiar with the conservation values of the Jervis Bay Region;
- a tourism representative familiar with the Jervis Bay region; and
- the Commanding Officer, HMAS *Creswell*.

Management plan

The first *Booderee National Park Plan of Management* was published in 2002. It was prepared jointly by the BNP Board of Management and the Director of National Parks; it provides the blueprint of how the Park will be managed. The Booderee Management Plan explicitly outlines the Community Council's goal of 'sole management' of the Park, as set out in the vision statement at the beginning of the Plan:

Wreck Bay Aboriginal Community Council Vision Statement

Wreck Bay Aboriginal Community Council seeks to be a respected equal and valued part of a culturally diverse Australian society. By controlling and managing its own lands and waters, the Community aims to become self sufficient and able to freely determine its future and lifestyle. The Community desires to do this by protecting its interests and values while preserving for future generations, its unique identity, heritage and culture. To achieve this vision Wreck Bay Aboriginal Community Council's Goals are:

- Sole ownership of all lands and waters within the Jervis Bay Territory.
- Sole management of its freehold land and waters, allowing for Community responsibility, empowerment and self determination.
- Sole representation of the Community's united and democratically agreed interests, at all levels of Government and in all external dealings so as to protect Community and members rights.
- Environmentally sustainable development, to allow a productive economic base for the Community. By managing Booderee as an ongoing park, the Community seeks to protect the land and waters while earning income, creating jobs and achieving financial security.
- Social and cultural development, linked with appropriate cultural training and education, to improve Community empowerment and management, security and wellbeing, while preserving Community value.
- Improved health, housing and living standards, to levels at least comparable with good practice in other Australian communities.
- Recognition and support from the wider Australian community and Government, to achieve these worthwhile and positive goals.

The goal of sole management is further emphasised in a list of 'Key Issues for the Wreck Bay Community' identified in the Management Plan, which includes the following:

The Community seeks sole management of Booderee National Park in the longer term. The requirements of the lease agreement support progress towards this goal. The Director is providing training and employment opportunities for Community members, which is enhancing the Community's ability to eventually manage the Park.

The implications of the sole management goal are discussed further in *4.7 Successes and Challenges* of this report. Other key issues for the community identified in the Management Plan are:

- further development of employment and contract opportunities for community members in the management of the Park;
- resolution of ownership of the land on which the Park depot is located⁴⁰;
- establishing a Cultural Centre in the Park;
- increasing revenue from the Park;
- further developing the operations of Wreck Bay Enterprises Ltd.;
- training for community members in skills relevant to administration, management and control of the Park;
- synchronising reviews of the Lease with the development of new plans of management;
- the need for water conservation due to the large numbers of summer visitors.

The Management Plan prescribes how various aspects of the Park will be managed, including:

- cultural heritage management
- natural heritage management
- visitor and recreation management
- commercial activities management
- administration
- research and monitoring

The plan also sets out how the Booderee Botanic Gardens and associated herbarium will be managed. Since the establishment of joint management at Booderee a greater emphasis has been placed on developing the Botanic Gardens for demonstration and education about Aboriginal use and knowledge of plants. A new Aboriginal plant interpretative walk is currently being proposed.

Policy initiatives

Policy initiatives to support joint management include training programs, contract and staff employment of Community members, staff development and advancement and Community engagement. These are set out as broad policy goals in the Lease agreement and the Management Plan but are developed by Booderee Park staff in consultation with WBACC and WBEL under the direction of the Board.

40. The land is currently Commonwealth land managed by the Department of Transport and Regional Services.

Contract and staff employment

There are currently 18 WBACC members employed as BNP staff (i.e. Parks Australia employees) out of a total staff of 38, and a further 35 WBACC members employed by WBEL delivering contract services to the Park. These contract services include:

- managing and staffing the entry station;
- maintaining roads throughout the Park;
- cleaning visitor facilities and Park buildings;
- grounds maintenance services at Booderee Botanic Gardens operations;
- building maintenance.

Employment of Wreck Bay Aboriginal Community members has a long history at Booderee, extending back well before transfer of the Park to Aboriginal ownership and the establishment of joint management. Some current employees and contractors represent the second or third generation of family members engaged in managing the protected area.

Training and staff development

Training and staff development are recognised as important elements of the joint management arrangements at Booderee in both the Park Lease and the Management Plan. Specifically, training is regarded as an essential step towards achieving the goal of sole management.

Training is coordinated by a full time Parks Australia Training Manager based at Park Headquarters, advised and supported by the Training Committee. The Committee comprises the BNP Training Manager, BNP Park Manager, BNP Park Services Manager, BNP Visitor Services Manager, WBEL CEO and WBACC Community Liaison Officer. In 2004 the Training Committee agreed to develop an integrated training strategy for BNP, WBEL and WBACC, the three organisations that deliver joint management in the Park. The target groups for the training strategy are members of the Wreck Bay Aboriginal Community not currently employed,⁴¹ the current workforce of BNP, WBEL and WBACC and primary, secondary and tertiary students from Wreck Bay Community. A Draft Integrated Training Strategy was developed in 2005 and is currently being implemented. The objectives and desired outcomes for the training strategy are summarised in Table 3.2 below.

41. Including people participating in the Wreck Bay Community Development and Employment Program (CDEP).

Table 4: Objectives of the Draft Booderee National Park Integrated Training Strategy

Objective	Desired outcome
To increase the capacity of BNP staff to effectively manage BNP.	The MP is effectively implemented at BNP.
To improve WBACC’s capacity to plan, manage and implement works pertaining to the operations of BNP.	A minimum of 40% of BNP on-going positions at APS 4 and above are held by Indigenous staff.
To increase WBEL’s opportunities for employment and engagement as contract service provider.	A minimum of five new WBEL on-going positions are held by Indigenous staff.
To build Community capacity to participate in training and employment activities in the region.	100% rate of participation in training and/or employment activities.

The Training Strategy includes specific actions for each of the target groups as outlined in the following table.

Table 5: Training Strategy Actions for each target group

Target Group	Training Actions
Members of Community not currently employed	1. Identify a set of basic skills required to enhance employment opportunities in appropriate organisations. 2. Develop and implement structured awareness sessions for education, training and employment opportunities. 3. Conduct a Training Needs Analysis (including Skills Audit). 4. Develop and coordinate a skilled labour pool within the Community.
Current workforce	5. Implement voluntary placements within BNP/WBEL/WBACC and other organisations where relevant. 6. Ensure BNP/WBEL/WBACC staff are appropriately qualified/accredited to meet requirements under the MP, the WB Strategic Plan, and the WBEL Strategic Plan. 7. Foster interchange of relevant and/or compatible positions within WBEL/WBACC/BNP and with other Parks and relevant groups/agencies. 8. Develop mentorship program to supports BNP, WBACC and WBEL staff.
Primary, secondary and tertiary students	9. Initiate provision of extension programs to schools by BNP. 10. Investigate sponsorship opportunities. 11. Explore programs for exposure to a variety of workplaces.
All target groups	12. Ensure coordinated approach between WBEL/WBACC/BNP as to the sourcing of external funding. 13. Ensure coordinated and shared approach to common training content, delivery, and participation.

There is a strong emphasis on delivering training that leads to recognised accreditation that will directly assist with furthering employment opportunities within and outside the Park. Training activities include practical training skills, such as machinery operation, fire control and information technology. Some Community BNP staff are also engaged in Frontline Management courses which provide training in business management, supervision, project management and leadership skills, all of which will enable them to take on more responsibility in decision-making and strategic planning in Park management. Other successful training activities include formal and informal mentoring of younger staff by more experienced staff, and exchange work experience visits with other Parks Australia protected areas, particularly Uluru Kata-Tjuta National Park.

Another initiative was a cadet training scheme that supported two community members to undertake tertiary studies at Wollongong University. Though less than 100 km north of Booderee, Wollongong is socially and culturally far removed from life at Wreck Bay and proved to be a difficult place for young Community people to adapt to. On-site training, or attending day courses in nearby technical colleges appears to be a more successful training option at this time.

As part of the Training Strategy, the Training Manager produces a three monthly newsletter (*Booderee Training Buzz*) which documents training activities that have taken place or are planned for the future. The total resources devoted to training at Booderee represent an investment of approximately eight times the investment per staff member for the Department of the Environment and Water Resources.⁴²

Community engagement

Community engagement at Booderee occurs principally through:

- membership of the Board of Management;
- employment by Parks Australia as part of BNP staff;
- employment by WBEL to deliver contract services to the Park;
- Training activities;
- frequent meetings between BNP staff and the Community Liaison Officer;
- consultation on the development of the Management Plan or specific Park management issues;
- Jervis Bay Territory and Shoalhaven District meetings.

Two recent initiatives have sought to increase engagement with members of the Wreck Bay Aboriginal Community, particularly those not directly involved in management of the Park. The first was a visit to Bowen Island by 15 community members, some of whom had never had the opportunity to visit the island. Park staff and community members recognise the benefits of arranging further field trips to enable the community to get to know or re-acquaint themselves with the diverse environments of the Park and to spend time on Country with Park staff.

42. Con Boekel, Assistant Secretary, Department of the Environment and Water Resources (pers. comm.).

Wreck Bay Elders visiting Bowen Island



The second initiative is the 'Junior Ranger Programme' which provides opportunities for students at the local Jervis Bay Primary School to gain a better understanding of Booderee National Park and more broadly an appreciation of their local cultural heritage and their natural world. The Programme is run for one to two hours every second Wednesday and involves every student from pre-school to year six, a total of 72 kids. The Programme was developed by Park staff, WBACC members and Jervis Bay School teachers and is linked to the NSW School Curriculum.

The Programme provides different learning experiences for the different age groups:

- Year 5 and 6 — global environments and rainforests, forest ecology, fauna, Aboriginal uses, climate, animal trapping techniques and rainforest rehabilitation;
- Years 2, 3, and 4 — national park management, joint management, weed control, fire regimes and cultural heritage;
- Kindergarten and Year 1 — plant and animal studies, local Koori stories,
- bush tucker and medicines and weeds.

Subject to availability of funding everyone involved in the Junior Ranger Programme is keen to expand it into other primary schools and to high schools in the region.

The kids love it, the teachers love it and we love it — it is deadly fun and we all learn together. The involvement of BNP Koori staff into the programme gives the kids great role models to look up to and a pride in who they are and their country. Julie Freeman, Junior Ranger Programme Coordinator⁴³

43. *Booderee Training Buzz*, Issue 18, July–September 2006.

4. BOODEREE NATIONAL PARK



Junior Rangers
visiting Booderee.



The victorious Wreck
Bay 2006 touch football
team.

Community engagement also occurs at a more informal, personal level as would be expected among residents of any relatively isolated location, including, for example, lunch time BBQs for special events, surfing, NAIDOC activities, Christmas parties and the annual touch football 'grudge match' between WBACC and BNP.

Institutional and personal commitments

The institutional commitments of WBACC and Parks Australia are mandated by the terms of the Park Lease and spelled out further in the Management Plan, and the contract service delivery activities of WBEL are currently entirely devoted to park management. Joint management and the goal of achieving sole management are catalysts that fuel and guide everyday activities of Park management. The position of Executive Trainee, for example, is explicitly directed at building the capacity of a member of the community to take on higher management responsibilities over time.

Mandated institutional commitment, however, can only be delivered through the commitment of individuals within those institutions. Based on the interviews conducted at Booderee, the personal levels of commitment to making joint management work and in achieving sole management appeared consistently high. Non-Aboriginal BNP staff stated that one of the attractions of working at Booderee was to be part of implementing the joint management arrangements and supporting the goal of sole management by the local Aboriginal Community. Staff selection processes at Booderee aim to ensure that this level of support for joint management is maintained.

Aboriginal BNP staff viewed their current employment as part of the long struggle by the Wreck Bay Aboriginal Community to gain ownership of land in Jervis Bay Territory and to manage BNP. They spoke proudly of their families' role in that struggle and saw their own training and employment as part of their inherited duty to their land and their culture. While some Aboriginal staff expressed frustration about the length of time it is taking to achieve sole management, or frustration about the challenges of their own career progression, there was widespread acknowledgement that they have far greater opportunities than their parents or grandparents. There was also acknowledgement by Aboriginal staff that the non-Aboriginal staff, including senior management and the Director, are very supportive of joint management.

The CEO of WBEL also expressed a strong personal commitment to building the capacity of the organisation so that it can strengthen its role as a joint management partner and provide a strong foundation for achieving sole management. Having had a successful national and international corporate career, the CEO clearly welcomed the opportunity to use this experience to assist in meeting the challenges of joint management and the journey to sole management.

Whether Aboriginal or non-Aboriginal, many of the people interviewed expressed the view that they had a strong 'belief' in what they were doing at Booderee, that their contribution to managing the Park was more than just a job. For the Aboriginal staff in particular there was a strong sense that they were looking after the Park for their children and grandchildren to inherit and enjoy.

Financial resources

The annual budget for managing BNP is approximately \$6,000,000 per year, most of which comes as direct funding from Parks Australia. About \$800,000 is raised through entry fees, 25% of which (about \$225,000) is paid to WBACC under the terms of the Lease. Under current contract arrangements the amounts paid to WBEL for the years 1001 to 2006 are shown in Table 6.

Table 6: Payment to Wreck Bay Enterprises Limited for contract work in Booderee National Park 2001–2006

Services	2001–02	2002–03	2003–04	2004–05	2005–06
Roads and trails	262,796	350,037	607,854	462,473	756,442
Cleaning	201,624	251,966	288,505	281,212	298,597
Entry Station	110,479	117,931	133,123	138,253	184,478
Building	16,761	169,853	344,287	209,306	575,180
Horticulture & ground maintenance	90,750	91,999	101,159	96,882	101,262
Other	7,844	25,000			
Total	690,254	1,006,786	1,474,928	1,188,126	1,915,959

WBEL's other income includes \$400,000–\$450,000 per year for delivery of services to WBACC and \$55,000 per year for ground maintenance at the Naval Air Base and Jervis Bay Primary School.

WBACC is keen to develop other mechanisms for generating income and additional employment opportunities from the Park, including through the establishment of the proposed Cultural Centre, visitor accommodation facilities, catering and a retail arts and craft outlet.

4.7 SUCCESSES AND CHALLENGES

The interviews revealed a consensus view that joint management at BNP is operating successfully, particularly in that the Management Plan is being implemented and progress is being made towards the goal of 'sole management'. That joint management is recognised both in the Management Plan and in the words and actions of the joint management partners as an evolving process rather than a fixed set of prescribed procedures, helps ease the inevitable tensions and frustrations of such a complex relationship.

Not surprisingly, however, there are challenges to be addressed within the overall context of success. Some of the challenges are in fact the consequences of success. For example, the success of contracting some park management services to WBEL potentially reduces the number of BNP staff positions available for people from Wreck Bay Community. The further along the journey to sole management, the more important it is to consider the question "What is sole management?"

What is sole management?

The goal of sole management has such a prominent place in the Booderee Management Plan it is not surprising that the question of 'What is sole management?' came up in each of the case study interviews. Both the Plan and the Lease give

unequivocal support to the goal of sole management and it is clear that one of the obligations of the Director is to provide training and employment opportunities that will enhance 'the Community's ability to eventually manage the Park'. The Plan provides no definition or discussion of the meaning of sole management, nor does it set out a timetable for achieving it. Everyone interviewed had their own views on what sole management might mean and most agreed that there are different ways in which the goal of sole management could be achieved. There was also considerable diversity of opinion on how long it would take to achieve sole management — the consensus being that it would not occur during the life of the current Plan of Management (i.e. before 2009), but that it should occur during the life of the current Lease (i.e. before 2094).

Questions underlying the uncertainty of the meaning of sole management include:

- How would sole management differ in practice from joint management?
- Does sole management mean the end of a partnership between WBACC and the Australian government?
- And if not, to what extent should the existing partnership change in order to reach the goal of sole management?

One incident was raised during several interviews to illustrate the potential difference between sole management and joint management. This related to a request to install an underground power cable through the Park to a Defence installation. Community members of the Board expressed the view that permission should not be granted unless underground power was also supplied to the Wreck Bay Aboriginal Community. However, the Director authorised the request for the underground cable to the Defence facility on the grounds that it was required for safety reasons and that he was operating within the parameters of the Park lease. A Board meeting in May 2000 failed to achieve resolution of the issue, but a subsequent Board meeting in May 2001 agreed with the Director's proposal to install the underground cable along an existing access road. Nevertheless, the incident left some Community members feeling that the Board had been overridden by the Director, providing an example of why sole management is needed to establish full Community authority over land owned by WBACC. The incident is an example of how difficult it is to separate management issues in a jointly managed park from broader community development issues (such as the desire by WBACC to have underground power provided to Wreck Bay Aboriginal Community). The incident also served to emphasise the importance of the Management Plan, which specifically allows for works such as the laying of the underground cable, as the guiding document for the management of the Park.

There are several possible scenarios that could deliver sole management, including:

1. All BNP staff to be members of Wreck Bay Aboriginal Community;
2. All Park management activities to be contracted to WBEL;

3. Park to be managed by a combination of Community BNP staff and services contracted to WBEL;
4. The entire Park sub-leased to WBACC to be managed by WBEL;
5. The lease terminated by agreement and the Park managed by WBACC (or managed by WBEL on behalf of WBACC) with funding (and possibly other support) from the Australian government.

Scenarios 1, 2 and 3 are extensions of processes that are already underway and would still leave a strong role for the Director of National Parks. Would these options amount to sole management?

Scenario 4 is a possibility under the current Lease, but would still leave a strong role for the Director. Would this option amount to sole management?

Scenario 5 could result in Booderee being managed as an independent protected area (such as one of the 22 existing Indigenous Protected Areas in Australia), with government funding and other support as required. This would still involve a partnership of some kind with the Australian government — so, would this option amount to sole management?

Many of the people interviewed, including Community members who are BNP staff, expressed the view that there was benefit in maintaining some form of partnership with government. Clearly there will be considerably more thought and discussion in the coming years about the meaning of sole management. The development of the next Management Plan will provide an opportunity for those discussions to take place. However sole management is eventually defined, and however long it takes to be achieved, it seems likely that it will involve a renegotiation rather than a termination of the partnership between WBACC and the Australian government. Alternatively, sole management may continue to be an ill-defined goal that provides a catalyst for productive outcomes in park management, training, employment and community development — a journey rather than a destination.

The role of WBEL in Park management

The increasing role of WBEL in delivering contracted Park management services is a particularly successful aspect of joint management at Booderee. It is a mechanism of increasing Community involvement in park management with a greater degree of flexibility than is possible through normal Public Service employment, and has broader community development outcomes beyond park management.

WBEL has been delivering Park services since 2000 through individual contracts for each service. More recently BNP and WBEL have negotiated an overarching Services Contract, under which individual Service Level Contracts (SLAs) are being developed. SLAs are currently in place for road and track maintenance, facilities cleaning and entry station services. Future SLAs could include ground maintenance and mechanical services, Visitor Centre management, weeds and feral

animal control and possibly also general ranger work. It is easy to see, therefore, how the expanding role of WBEL is contributing to the goal of sole management.

To be successful, however, WBEL needs to operate as a profitable business as its only source of funds are service contract fees. After initially struggling to remain commercially viable, WBEL is now on a sound footing, with aspirations to expand its operations beyond the delivery of Park services in the future. Based on information provided during the case study interviews, the elements for WBEL's success include:

- high quality, committed leadership;
- good communication between WBEL and BNP (face to face meetings held at least monthly between senior management of WBEL and senior management of BNP);
- commercially bench-marked service contract charges that meet Public Service probity requirements;⁴⁴
- expectations of high quality services that delivers value for money to BNP.

The relationship between WBEL and BNP is vitally important to the success of joint management and appears to be a win-win for both partners. It enables Parks Australia to meet its obligations for enhanced Community involvement in Park management, while building up a viable Community enterprise that has community development implications beyond the management of the Park.

As the roles of WBEL in Park management increase, however, the roles of BNP staff potentially decrease. This in turn will reduce the opportunities for community employment with BNP. While this may not be a concern with respect to achieving the goal of sole management, it is a concern for individuals who aspire to employment with BNP, which brings with it the benefits of Public Service conditions and the opportunities of transfers to work in other Australian government protected areas around Australia.

Establishing a Cultural Centre

The Community's aspiration to establish a Cultural Centre at Booderee predate the transfer of ownership of Booderee to WBACC in 1995, as does the Australian government's commitment to support this aspiration, both of which are acknowledged in the Management Plan. Initial pre-design work and consultations for the Cultural Centre have been carried out and visits have been made by Community members and BNP staff to cultural centres in other Australian jointly managed national parks. However, uncertainty remains about the timing of establishing the Cultural Centre and whether funding will come from the Australian government or from a combination of government and private investment.

44. WBEL and BNP have been assisted in the benchmarking process by the Serco Sodexo Corporation which undertakes defence service contracts in the nearby Jervis Bay Naval Training facility and naval air base.

The Cultural Centre has iconic importance in the history of joint management at Booderee. When it is established it will represent a tangible expression of Booderee as an Aboriginal domain, and one that clearly distinguishes the joint management era from the time when the Park was primarily managed for its biodiversity and recreational values. That the Cultural Centre has not been established during the first ten years of joint management is therefore troubling to some Community members. However, it is recognised by all parties that the developing the Cultural Centre is a complex task and that it is linked the development of a proposed Cultural Heritage Strategy.

The Cultural Centre is also linked to the Community's wider aspirations to derive greater economic and social benefit from the Park, such as through the establishment of commercial accommodation, catering and tourism enterprises. The current Management Plan requires planning to be finalised and funds to be sought for completion of the Cultural Centre during the life of the Plan. The establishment of the Cultural Centre may therefore be a critical test for the success of joint management over the next few years.

Research

Research is an important part of operations at Booderee, and provides additional opportunities for Community training and employment in Park management. The following research projects have been identified as priorities during the life of the current Management Plan:

- cultural heritage research involving Community members;
- baseline surveys of fauna, including mammals, rock platform species and freshwater fauna;
- baseline surveys of flora and plant distribution;
- visitor surveys, including visitor numbers, activities, expectations experiences and impacts; and
- compilation of existing environmental data and identification of research priorities for marine species and habitats in cooperation with the NSW Marine Parks Authority.

A particularly strong research partnership has been developed between the Park and the Australian National University's Centre for Resource and Environmental Studies, which is undertaking a five-year study to document the role of fire in determining species distribution. The project is led by Professor David Lindenmayer and employs a Community member (Darren Brown) as a Booderee-based researcher. Darren receives on the job training and is also enrolled in a certificate III in Conservation and Land Management through the CB Alexander Agricultural College (part of the NSW Department of Agriculture). Darren has received training in animal trapping and handling, radio tracking, animal identification, vegetation survey, data input and analysis and data manipulation. In December 2006 the Australian Bush Heritage Fund awarded Darren the inaugural Rick Farley Memorial Scholarship for Indigenous people.

The ANU project is an example of how joint management can extend beyond government/community partnerships and how the personal commitment of individual researchers can provide opportunities for community members to build their knowledge and capacities to take on greater roles in researching and managing the Park in the future.

4.8 FACTORS UNIQUE TO BOODEREE

Several factors unique to Booderee that need to be taken into account when considering transferring successful elements of joint management to other protected area in Australia are discussed below.

Jurisdiction and location

Operating within Jervis Bay Territory administered directly by the Australian Government, Booderee operates in a different legal, political and social environment than many other jointly management protected areas. There is only one level of government to deal with, there are only a small number of other tenure holders and stakeholders in the area and there is only a very small resident local population. These factors may make for less complex negotiations on some matters relating to joint management, such as preferential employment and contracting opportunities, and in developing and implementing the Management Plan. Nevertheless, there are numerous Commonwealth authorities with interests and responsibilities in Jervis Bay Territory and hence in matters relating to the management of Booderee National Park. One BNP staff member, who has also worked at Uluru Kata-Tjuta National Park and Kakadu National Park, reported that BNP is the most legally complex environment of all the Commonwealth jointly management national parks.

As a Commonwealth-managed Park in a Commonwealth-administered territory there is a high level of personal involvement and commitment by senior levels of the Australian government within Parks Australia, the Department of Transport and Regional Service and other agencies. The Assistant Secretary of the Department of the Environment and Water Resources, for example, visits Booderee on average once every month for discussions with BNP staff and the joint management partners.

Located in coastal south-eastern Australia about 30 km from a large regional town (Nowra) Booderee has relatively good access to services, such as education and training. It is also has climatic and aesthetic qualities that make it attractive for non-local Park staff to settle for long periods, enabling long term relationships of trust and mutual understanding to develop between them and the local Aboriginal Community. This contrasts with the more transient nature of relationships in northern and central Australia where non-local Parks Australia staff are more likely

to remain posted in any particular Park for shorter periods (while acknowledging that some non-Aboriginal staff do choose to remain for long periods at the same location in northern and central Australia).

Nevertheless, despite its proximity to Nowra, Booderee and the Wreck Bay Aboriginal Community remain relatively isolated places. This is partly explained by being located on a peninsula, but is also no doubt the result of the manner in which the Wreck Bay Community was established — as a safe haven from the catastrophic impact of European settlement in the area in the 1800s and into the 1900s. The relative isolation of Wreck Bay, protected from European intrusion by the surrounding sea and Sussex Inlet, along with the determination of Community members, is what enabled the settlement to survive into the 21st Century. The strength of Community identity and relative isolation, however, has also made it difficult for some Community members to live away from the area — for example to study at Wollongong University. This is an aspect of community life shared by Aboriginal communities associated with jointly managed parks elsewhere in Australia.

History of community involvement

Members of the Wreck Bay Community have been involved in the development and management of the Botanic Gardens since the mid-1950s and of what is now Booderee National Park since its beginnings as the Jervis Bay Nature Reserve in 1971. The Community therefore has a history of looking after their land *as a designated protected area* for over 60 years — arguably a longer relationship between Aboriginal people and a protected area than anywhere else in Australia. The idea of caring for Country as a protected area, and employment in managing the Gardens and Park, are integral parts of local traditions and family histories. Nowhere else in Australia are there Aboriginal families with three successive generations employed in protected area management.

This history, coupled with the long political struggle for transfer of ownership of the Park to WBACC, has enabled the Community to negotiate astutely and to take maximum advantage of the opportunities presented by joint management. The explicit goal of sole management, and the acceptance of this goal by Parks Australia, is a manifestation of the unique history of Booderee and of the Wreck Bay Community. A further legacy of history that has assisted in the building of joint management partnerships is that all parties share English as their first language. While the loss of fluency in Aboriginal languages in southern Australia is associated with much trauma and cultural loss, having a shared language has no doubt simplified the process of negotiating and implementing joint management.

Community ownership

Booderee National Park is owned by an Aboriginal Community Council, rather than by a group of traditional owners determined strictly by Aboriginal descent, as

is the case with other jointly managed national parks.⁴⁵ Once again this is the result of the unique history of Wreck Bay and of the Park. While there are Aboriginal people living elsewhere in the region who have claimed rights to the Bherwerre Peninsula and an interest in being involved in the management of the Park, the Australian Government chose to recognise only members of the Wreck Bay Aboriginal Community for the purposes of the land transfer, membership of the Board of Management, employment, training and other aspects of participation in Park management.⁴⁶ Whatever the merits of this decision, it has resulted in a joint management partnership between two institutions (the Director of National Parks and the WBACC), rather than between a government authority and a diverse group of traditional owners.

4.9 CONCLUSIONS: LESSONS FOR OTHER PROTECTED AREAS

Like all protected area joint management arrangements, Booderee is a work in progress. The stand-out elements that could potentially be applied to other protected areas considering or engaged in joint management are:

- the catalytic benefits of explicitly identifying sole management as a shared goal of the joint management partners, even without defining exactly what sole management means;
- establishing an Indigenous-owned commercial entity to undertake designated aspects of park management through service delivery contracts, as a viable mechanism to significantly increase Aboriginal participation and employment in park management, complementing Aboriginal employment within the park management agency;
- a strong emphasis on training through a process that integrates training activities across all the joint management partner organisations, and provides training opportunities to local Aboriginal people whether or not they are currently

45. Though members of the Wreck Bay Aboriginal Community Council are referred to from time to time in the Plan of Management and elsewhere as traditional owners.

46. Lowe and Davies (2001) provide the following explanation for why this occurred: 'First and foremost there was the existing legislation, the *Aboriginal Land grant (Jervis Bay Territory) Act 1986*, which required only minor amendment to allow the minister to grant freehold title of the park to Wreck Bay Community Council. The Council had formally asked that such a land grant be made in 1993 and making it was consistent with government policy and also supported by the influential Australian Conservation Foundation (Egloff et al. 1995; and see Woenne-Green et al. 1994). Conversely, devising an alternative joint management structure, that included the wider group of traditional owners and yet took into account of the special interest that Wreck Bay village has in the park because of its location, would undoubtedly have stretched bureaucratic imaginations. There were no precedents in New South Wales and the Jervis Bay Territory to identify traditional owners through research and land claim hearings, since claims under relevant Land Rights Act were not required to be based on the principle of traditional ownership, unlike the case in the Northern Territory. Processes to identify native title holders were also at their infancy'.

involved in park management; it is particularly significant that training at Booderee extends beyond the practical skills of park management and includes, for example, management, horticultural, taxonomic and research training;

- a Junior Ranger Programme, or similar outreach initiative, that involves local young people throughout their education years in the concepts and practices of looking after Country, within and beyond the boundaries of a protected area;
- a strong emphasis and commitment by all joint management partners and participants to achieve commitments within the Management Plan, which itself was the product of collaboration between the joint management partners and participants.

5. DHIMURRU INDIGENOUS PROTECTED AREA: SOLE MANAGEMENT WITH PARTNERS

Dermot Smyth

5.1 LOCATION

Dhimurru Indigenous Protected Area (IPA) is located on Aboriginal land surrounding Nhulunbuy in northeast Arnhemland, incorporating the area between Melville Bay in the north, Port Bradshaw in the south and Cape Arnhem in east. The total land area is about 92,000 h, including Bremer Island offshore to the north of Nhulunbuy. The IPA also includes almost 9000 h of coastal waters bounded by Cape Arnhem (*Nanydjaka*), Port Bradshaw (*Yalanbara*), Mount Dundas (*Djuwalpauuy*) and Bremer Island (*Dhambaliya*).

5.2 HISTORY OF DHIMURRU⁴⁷ IPA⁴⁸

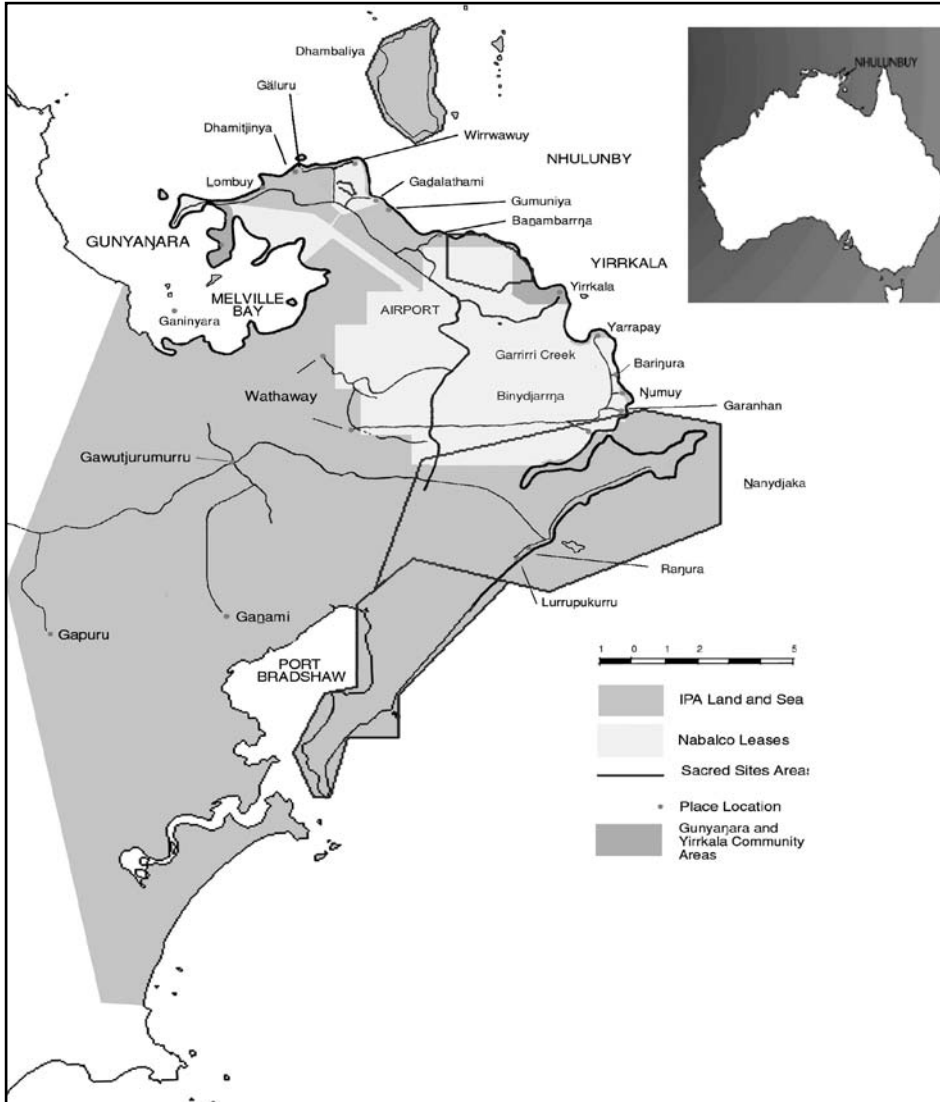
Northeast Arnhemland is the site of the first legal claim in Australia brought by Aboriginal people to assert their traditional ownership of land under their own customary law. In the Federal Court case *Milirrpum and Others v Nabalco and the Commonwealth of Australia*, the people living at Yirrkala, near Nhulunbuy, claimed that the Nabalco mining company had wrongfully entered their land to take up bauxite leases granted by the Commonwealth. Though the Federal Court denied the claim, the case led to a Royal Commission into Aboriginal land rights and subsequently to the passage of the *Aboriginal Land Rights (NT) Act 1976 (Cmlth)*, under which former Aboriginal Reserves in Arnhemland, including the land within the Dhimurru IPA, were transferred to traditional owners.

The Dhimurru Land Management Aboriginal Corporation was established in 1992 by members of 11 clans (subsequently increased to 13 clans) whose lands were being impacted by the activities of the increasing number of miners and their families who had settled in Nhulunbuy since the 1970s. Dhimurru set up and

47. *Dhimurru* is the Yolŋu language name for the east wind that brings life-giving rain.

48. For further information on the history of Dhimurru see Ayre (2002), and Robinson and Munungguritj (2001).

5. DHIMURRU INDIGENOUS PROTECTED AREA



Map of Dhimurru Indigenous Protected Area.

manages a permit system that enables Nhulunbuy residents and tourists to visit designated areas for recreation. Fees raised through sale of the permits help meet the costs of managing the recreation areas, with additional funds contributed by a suite of government and non-government organisations, including Alcan Gove (the successor to Nabalco).

The Yolŋu universe is divided into two halves or sections, called Yirritja and Dhuwa. This includes people, plants, animals and land. On the Dhimurru logo the black cockatoo represents the Dhuwa moiety and the white cockatoo the Yirritja moiety. They are encircled by a stem of a coastal ground creeping plant known as *rowu*



Dhimurru logo

(Goats Foot, Morning Glory or Purple Beach Convolvulus: *Ipomoea pes-caprae*). This plant represents the unity of the clan groups working together.⁴⁹

Throughout the 1990s the Northern Territory government sought to enter into a joint management arrangement with traditional owners to establish a national park in Cape Arnhem. However, traditional owners wanted to retain sole management of their lands and repeatedly declined to enter into a joint management arrangement. When the concept of IPAs was developed in the late 1990s, Dhimurru facilitated consultations with each of the clan groups to consider whether this form of protected area would be acceptable to them. A decision was reached to establish the Dhimurru IPA, Management Plan was developed⁵⁰ and the IPA was formally declared in 2000.⁵¹

5.3 VALUES OF DHIMURRU IPA

The Plan of Management recognises three categories of values in the IPA:

1. Yolŋu values
2. natural heritage values
3. other community values.

Yolŋu⁵² values relate to the entire landscape and seascape which are the:

- physical elements that unite people with the ancestral past and with the present spiritual and natural world;
- source of social connectedness and responsibility; and
- source of sustenance and shelter.

49. For further information on people, culture and relationship to land see Williams (1986).

50. Dhimurru Land Management Aboriginal Corporation (2000).

51. For a detailed analysis of the Yolŋu land and sea management see Ayre (2002).

52. Aboriginal people of northeast Arnhemland.



Cape Arnhem,
Dhimurru IPA.

Natural heritage values include:

- high plant diversity;
- intact faunal assemblages;
- coastal regions not represented in any other protected area;
- the largest Quaternary dune system on the Northern Territory mainland;
- significant feeding habitats and nesting sites for seabirds; and
- significant feeding habitats and nesting sites for several threatened species of marine turtle.

Other community values include the recreational, camping and fishing opportunities provided to residents of Nhulunbuy, and the opportunity to promote reconciliation and cultural understanding through the interpretation of Yolŋu beliefs and values to visitors.

5.4 ORGANISATIONS INVOLVED IN DHIMURRU IPA PARTNERSHIPS

The key organisation in the management of the Dhimurru IPA is the Dhimurru Land Management Aboriginal Corporation, which has sole management responsibility for the area. However, over its 14 years of operation Dhimurru Corporation has developed funding, technical and cooperative partnerships with several government and non-government organisations that contribute significantly to the management of the IPA.

Dhimurru Land Management Aboriginal Corporation

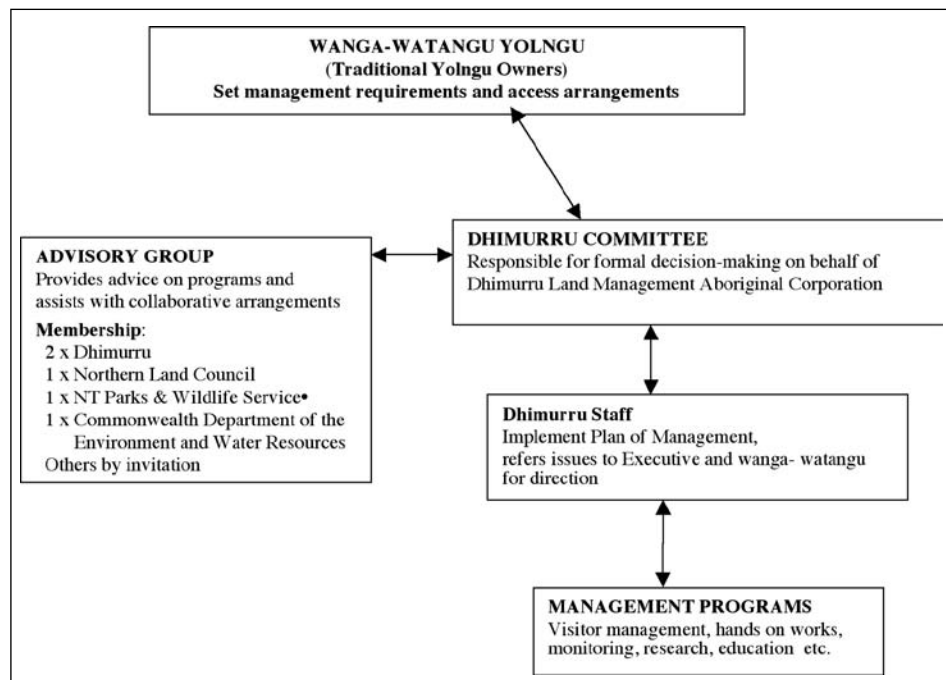
Dhimurru Land Management Aboriginal Corporation is a traditional owner community-based organisation that undertakes land and sea management responsibilities on behalf of the 13 clans whose lands and coastal waters lie within

the Dhimurru IPA. Each of the clans is represented on the Dhimurru Committee,⁵³ which in turn guides the management programs and projects delivered by the Dhimurru staff. The Dhimurru Executive receives advice and other assistance from the Dhimurru Advisory Group, comprising representatives of the Northern Land Council, the Parks and Wildlife Service of the Northern Territory, the Commonwealth Department of the Environment and Water Resources (DEW) and Dhimurru staff. Dhimurru’s management decision-making processes are represented diagrammatically below.

The guiding principles of Dhimurru Land Management Aboriginal Corporation are a commitment to:

- the conservation and enhancement of the natural and cultural values of the region while ensuring future management reflects the aspirations of Yolŋu owners;
- a representative, Yolŋu-controlled, sustainable and collective form of land and sea management, which seeks to devise strategies from a mutual investigation of Ngapaki⁵⁴ and Yolŋu systems of knowledge;
- the continued development of positive interactions with the non-Aboriginal world and the sponsoring of co-operative, respectful, educative and mutually beneficial relationships.

Decision-making structure of Dhimurru Land Management Aboriginal Corporation.



53. Current membership and clan affiliation of Dhimurru Executive are listed at the end of this case study.

54. European or non-Indigenous.

Dhimurru currently employs 13 traditional owners, five of which are on Community Development Employment Program (CDEP) placements, and four non-Indigenous staff in administrative and facilitator positions. The roles and responsibilities of Dhimurru staff are summarised below.

Table 7: Dhimurru Land Management Aboriginal Corporation employees

Position	Name
Director	Djawa Yunupingu
Senior Cultural Adviser	Mawalan Marika
Senior Ranger Special Projects	Mandaka Marika
Senior Ranger Operations	Banula Marika
Senior Ranger Galkal	Djambatj (Arian) Pearce
Senior Ranger Sea Country	Balupalu Yunupingu
Ranger Galkal	Daryl Lacey
Permits Officer	Mawuka Marika
Ranger Galkal CDEP (Maringarr)	Malati Yunupingu
Ranger Sea Country CDEP (Dhanbul)	Djawulu (Deon) Mununggurr
Ranger CDEP (Dhanbul)	Butjarri (Craig) Mununggiritj
Ranger CDEP (Dhanbul)	Waykarr Gurrawiwi
Ranger Sea Country CDEP (Dhanbul)	Patrick White
Executive Office	Steve Roeger
Permits and Accounts Officer	Joyce Warnock
Project Facilitator - Ghost Nets/Dhimurru	Jane Dermer
Project Facilitator - Sea Country	Vacant

The Director has overall responsibility for enacting committee decisions and for keeping Dhimurru on track. The Director's other roles include responsibility for:

- Yolŋu staff
- representing Dhimurru and Yolŋu interests
- maintaining Yolŋu control of joint management arrangements.

The Senior Cultural Advisor is responsible for maintaining liaison with landowners and committee members and for ensuring that correct traditional owners and managers are consulted regarding actions. The Senior Cultural Advisor's other roles include:

- ensuring staff and partners follow Yolŋu protocols
- advising on Yolŋu priorities when considering proposals
- assisting in representing Yolŋu interests.

The Executive Officer is responsible for securing and acquitting funds and other resources, for managing contracts and for ensuring clear communication with non-Aboriginal partners and contributors. The Executive Officer's other roles include:

Staff of Dhimurru
Land Management
Aboriginal Corporation.



- assisting in representing the organisation
- advising on political and strategic direction
- advising on policy and management structures
- co-ordinating office operations.

Representatives from the staff of key partners working on a day-to-day basis with Dhimurru staff, are:

- NT Parks Ranger, northeast Arnhem: Phil Wise
- CSIRO Galkal (Ants) Expert: Ben Hoffmann
- CSIRO Galkal Technical Officer: John Edgar

The Northern Land Council

The Northern Land Council (NLC) has statutory responsibility to consult with traditional owners of land held by the Arnhem Land Aboriginal Land Trust, which includes the Dhimurru IPA. The NLC was instrumental in assisting traditional owners to establish Dhimurru Land Management Aboriginal Corporation and continues to play an advisory role when required. The administration of permit applications to visit the IPA, a role normally carried out by the NLC, has been delegated to Dhimurru Land Management Aboriginal Corporation.

Northern Territory Parks and Wildlife Service

The Northern Territory Parks and Wildlife Service (NTPWS), part of the Northern Territory Department of Natural Resources, Environment and the Arts (NRETA), is the agency responsible for protected area management in the NT.

NTPWS (previously the Parks and Wildlife Commission of the NT) has had a long involvement in northeast Arnhemland through its involvement in crocodile management and other wildlife activities. The previous NT Government withdrew the Parks and Wildlife Ranger position from Nhulunbuy when negotiations to establish a jointly managed national park at Cape Arnhem failed. Traditional owners, however, were keen to re-establish a cooperative working relationship with NTPWS and lobbied to have the Ranger position reinstated.

Following the declaration of the IPA in 2000, Dhimurru negotiated a formal agreement with NTPWS (known as a 'Section 73 Agreement) in 2002 which provides for an advisory and support role for the NTPWS and which led to the re-appointment of an NT Ranger at Nhulunbuy. There is now a very close and positive, day to day working relationship between Dhimurru and the NT Ranger and other NTPWS staff:

This day-to-day on-ground assistance and partnership is one of the cornerstones of Dhimurru's success. We now have many highly respected and valued friends with research and technical and management expertise with the Parks and Wildlife Service.⁵⁵

Further details of the Section 73 Agreement are provided in section 4.6 below.



Banula Marika, Dhimurru Senior Ranger and Phil Wise, NT Parks and Wildlife Ranger, prepare to release a relocated crocodile.

55. Extract from Dhimurru's Sea Country Plan (Dhimurru, 2006).

Commonwealth Department of the Environment and Water Resources⁵⁶

The Department of the Environment and Water Resources (DEWR) is responsible for administering the IPA Programme, which provides funding and other support for the management of the Dhimurru IPA. DEWR has also provided funding and support for marine turtle research and management, the removal of abandoned fishing nets from beaches and waters around the IPA (through the Gulf of Carpentaria Ghost Nets Programme), the development of a Sea Country Plan and other natural resource management projects through the Natural Heritage Trust.

A strong collaborative relationship has developed between DEWR and Dhimurru since its inception in 1992. The Secretary of DEWR visited Dhimurru in 2005, a delegation from Dhimurru met with senior DEWR officers in Canberra in 2006, the Director of Dhimurru, Djawa Yunupingu, is a member of DEWR's Indigenous Protected Area Advisory Group and a representative of DEWR is a member of the Dhimurru IPA Advisory Group.

CSIRO — Crazy Ant Eradication Program

The CSIRO and Dhimurru are operating a joint NHT-funded project to eradicate Crazy Ants from the Nhulunbuy region. The project involves two CSIRO researchers and provides funding and training for two Dhimurru ranger positions.

Other partner organisations

In addition to the above key partner organisations, Dhimurru has developed an impressive network of support from other government, non-government and commercial organisations that provide funding, technical advice, volunteers and other support. Alcan Gove, the bauxite mining company based in Nhulunbuy, has provided an annual grant to Dhimurru since 2000 to assist with operational costs and has recently made a block of land available within the Nhulunbuy town lease for the new Dhimurru office due to be built in 2007. Dhimurru also receives assistance from time to time from university students undertaking undergraduate or postgraduate studies in the field of Indigenous environmental management, as well as help from conservation volunteers.

The Dhimurru web site lists the following organisations among its friends and supporters (in addition to those mentioned above):

- Maringarr and Yirrkala CDEP
- Aboriginal Benefits Account
- Indigenous Land Corporation
- Australian Conservation Volunteers

56. Formerly the Department of the Environment and Heritage (DEH).

- Nhulunbuy Corporation
- World Wide Fund for Nature
- Natural Heritage Trust
- Threatened Species Network

5.5 METHODOLOGY: CONDUCTING THE DHIMURRU IPA CASE STUDY

The Dhimurru IPA was selected as a case study because it is widely regarded as a successful IPA, managed by an Indigenous land management agency with a track record of innovative environmental management over a period of 14 years and a tradition of developing productive partnerships with government and non-government organisations.⁵⁷ Formal recognition of Dhimurru's success include:

- two Northern Territory Chief Minister's 2006 Awards won as a result of the both ways partnership between NT Parks and Wildlife Services and Dhimurru:
 - Award for Excellence in Public Sector Management (Community Development Category)
 - Award for Excellence in Public Sector Management – Highly Commended (Regional and Remote Development)
- Australian Government Environment Minister's Coastal Custodian Award 2006 (High Commendation) to Dhimurru Land Management Aboriginal Corporation for its Dhimurru Sea Country Plan (which includes management of the marine component of the Dhimurru IPA);
- Re-appointment in 2006 of Djawa Yunupingu, Dhimurru's Director as a member of the Australian Government Environment Minister's Advisory Group on Indigenous Protected Areas.⁵⁸ Djawa is also a member of the NT Parks and Wildlife Advisory Council and a member of the NT Bushfires Council (NE Arnhemland Region);
- Banksia Water Award 2006 (joint winner) awarded to the Carpentaria Ghost Nets Programme, of which Dhimurru is a foundation partner;
- Northern Territory Landcare Award 2002;
- Banksia Award for marine debris management 2001;
- Dhimurru is a member of the International Ranger Federation, and has represented at the last two International Congresses. The first at Wilson's Promontory, Victoria, and the second (in 2006) where Djawa Yunupingu (Dhimurru Director) and Phil Wise (NT Parks and Wildlife Ranger) travelled to Scotland to give a presentation about the Dhimurru/NTPWS partnership;
- Djawa Yunupingu and Phil Wise are the NT representatives for the Australian Ranger Federation.

57. Langton et al. (2005) also undertook a case study of Dhimurru IPA as part of a broader review of community-oriented protected areas for Indigenous peoples and local communities.

58. Dhimurru's former Senior Cultural Advisor had previously been a member of the IPA Advisory Group.

Dhimurru IPA is a valuable case study because it provides an example of a protected area for which Indigenous people have sole management responsibility and have chosen to exercise that responsibility by negotiating productive partnerships with government and non-government organisations to produce an alternative form of joint management. As an example of Indigenous sole management, it provides a valuable comparison with Booderee National Park for which sole management is a key goal of the Aboriginal owners. Dhimurru IPA is a coastal protected area that includes a marine component, once again comparable with Booderee which also has a marine component. Dhimurru is located in the NT and therefore provides an opportunity for comparison with the Nitmiluk case study which is also located in the Northern Territory.

The request to undertake the case study was communicated in the first instances by phone and then in writing to the Executive Officer of Dhimurru Land Management Aboriginal Corporation, who then discussed the proposal with the Director and other staff. Formal permission to undertake the case study was provided in writing from the Director. Information for the case study was gathered by desktop research, a visit to Nhulunbuy (19–22 December 2006), participation in a Dhimurru Staff Meeting on 20 December, participation in a Dhimurru Executive Meeting on 21 December, a visit to Dhimurru IPA (including observation of the transfer of a crocodile from a trap at Yirrkala to a crocodile farm at Nhulunbuy) and on site interviews with key Dhimurru staff members, Executive members and members of partner agencies working at Dhimurru.

Interviews were conducted in a semi-structured format, lasted between 30–60 minutes and typically included the following stages:

1. Interviewer (Dermot Smyth) describes the Joint Management Case Study Project, as part of the wider AIATSIS ‘Success in Indigenous Organisations’ project;
2. Interviewee outlines his or her role in the management of Dhimurru IPA;
3. Interviewer stimulates responses by asking the following questions:
 - In what ways has Dhimurru IPA been successful?
 - In what ways has the management of Dhimurru IPA been challenging or unsuccessful?
 - What are the reasons for success or failure?
 - In what ways does Dhimurru have advantages or disadvantages not typical of other joint management arrangements?
 - Are there any other comments you would like to make about the management of Dhimurru IPA?

It was stressed at the beginning of each interview that the case study project was not a detailed ‘warts and all’ review of the management of the IPA. Rather, the project was seeking to learn from the Dhimurru experience so that successful aspects of management at Dhimurru could be shared with other Indigenous communities

and government agencies that may be engaged in or contemplating establishing their own IPAs or jointly managed protected areas.

Each of the people interviewed expressed a willingness to share their perspectives on the management of the IPA and the operations of Dhimurru Land Management Aboriginal Corporation generally — clearly something they had thought about and cared about a great deal. They gave generously of their time and spoke frankly about the successes and challenges of making the organisation and the partnerships work. Dhimurru staff were also very helpful in providing published and electronic material for use in the case studies. The Sea Country Facilitator (Samantha Muller), Accounts Officer (Joyce Warnock) and project facilitator (Jane Dermer) in particular devoted considerable effort to providing material before, during and after the visit to Dhimurru.

Written notes taken during the interviews form the basis of information and observations presented in the sections below, supplemented by information available in key documents relating to the management of Dhimurru IPA and the activities of Dhimurru Land Management Aboriginal Corporation more generally.

A visit was also made to the Indigenous Land Management Section of DEWR in Canberra that administers the IPA Programme, where the Director of the Section, (Bruce Rose) and the Manager of the IPA Programme (Matt Salmon) were interviewed.

5.6 PARTNERSHIPS: TWO-WAYS MANAGEMENT OF THE DHIMURRU IPA

The Plan of Management embraces a ‘two-ways management’ approach to looking after the IPA, which means a commitment to utilizing the skills and knowledge of Aboriginal tradition and of contemporary science. This two-ways approach is reflected in the partnerships that Dhimurru has developed, in the mix of skills and experience among the Dhimurru staff and in the negotiation of the Section 73 Agreement, described below. When Dhimurru staff deliver presentations explaining their two-ways approach they display a traditional owner’s representation of Country next to a scientist’s representation of Country as a GIS map.

The Section 73 Agreement⁵⁹

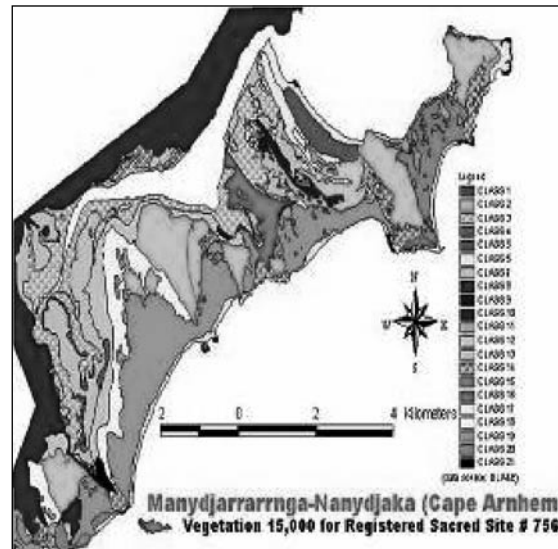
The formal agreement under section 73 of the *Territory Parks and Wildlife Conservation Act* between traditional owners, the Northern Territory Government and the Commonwealth Government, provides a strong foundation for partnerships in the

59. Information about the Section 73 Agreement is adapted from www.atns.net.au/agreement.asp?EntityID=1530.

Two-Ways Management:
mapping Manydjarrarrnga-
Nanydjaka.



Yama Munuḡiritj 1947



NT Parks & Wildlife Service 1993

management arrangements for the IPA. It provides a formal advisory and support role for the Northern Territory and Australian governments, while retaining management responsibility for the IPA in the hands of traditional owners through Dhimurru. It is the first statutory, multi-party agreement for the management of an IPA in Australia.

The parties to the Section 73 Agreement are the Arnhem Land Aboriginal Land Trust (Land Trust), the NLC, Dhimurru Land Management Aboriginal Corporation (Dhimurru), the NT Parks and Wildlife Service (NTPWS) and the Commonwealth Department of the Environment and Water Resources.

The Agreement is for a term of 21 years from the date of execution, unless terminated in accordance with the terms of the Agreement. In the final year of the term, if desired, the parties can enter into negotiations for renewal of the Agreement on substantially the same terms and conditions.

The Agreement provides for the establishment of an Advisory Group which consists of five members appointed as follows:

- two members from the Executive Committee of Dhimurru;
- one representative from the Northern Land Council;
- one representative from the NT Parks and Wildlife Service; and
- one representative from DEWR.

The Advisory Group is obliged to hold meetings not less than three times per year and is given administrative support by Dhimurru. It is responsible for developing recommendations relating to the management of the IPA for consideration of the Executive Committee of Dhimurru. These include but are not limited to:

- the collaborative working relationship between the NLC, Dhimurru, the NT Parks and Wildlife Service and DEWR in the management of the Land;
- the application of by-laws under the Act;
- the preparation and assessment of the draft Plan of Management for the IPA or any proposed amendments to the Plan of Management;
- the day-to-day management of the land;
- the location and management of works and facilities on the IPA;
- the development and implementation of programs for the protection of the environment of the IPA and for the protection of sacred sites and areas identified by the traditional owners as being significant in accordance with Aboriginal tradition;
- protecting the rights of traditional owners of the IPA to occupy and use the land, protecting maintenance of their traditions and promoting their involvement in management of the land;
- encouraging business and commercial initiatives and enterprises on the IPA by the traditional owners which are consistent with the principles of an IPA;
- promoting the maintenance and application of the traditional ecological knowledge and skills of traditional owners in the management of the land;
- promoting broad community awareness of, and respect for, the history, beliefs, laws, languages, culture, landscape management practices and skills of the traditional owners;
- the development of educational or interpretative programs designed to promote broad community awareness of the natural and cultural values of the IPA;
- the development and implementation of training programs for Dhimurru and NTPWS staff involved in the management of the IPA; and
- entry onto and use of the IPA by the public;

Under the Agreement Dhimurru has agreed to manage the IPA in accordance with the directions of the traditional owners, Dhimurru's internal rules of governance, the Plan of Management, the Agreement, the Act and any relevant by-laws. It has agreed to:

- co-ordinate the daily management of the IPA through the services of rangers;
- liaise and collaborate with external agencies and individuals seeking to undertake activities which relate to or may impact upon the natural and cultural values of the IPA;
- issue permits for access to the IPA, collect fees and monitor visitor compliance with permit provisions and access conditions. (The NLC has delegated its power under the ALRA to Dhimurru to issue visitor permits); and
- facilitate natural and cultural resource impact assessments and activities designed to protect the values of those resources.

Services agreed to be provided by the PWCNT are:

- to assist Dhimurru in the training of ranger staff;
- other management support services as agreed upon;
- reviewing, devising and settling monthly work programs in consultation with senior rangers;
- in consultation and joint operation with senior rangers or Dhimurru, enforce the by-laws that are extended to the IPA;
- in consultation and joint operation with senior rangers of Dhimurru, devise and deliver programs of community education and extension activities concerning the IPA;
- design, review and settle in consultation with employees of Dhimurru and the Advisory Group, management programs provided for under section 32 of the Act.

The NLC has statutory functions under the terms of the *Aboriginal Land Rights (Northern Territory) Act (ALRA)*, including representation of and assistance to the Traditional Owners of the IPA and consultations with traditional owners regarding actions in relation to the land which require the consent of the NLC under the ALRA, e.g. consent to the draft Plan of Management or proposals for commercial development of the land. The NLC has agreed to give other management support services relevant to the management of the IPA as may be agreed, as well as to advise Dhimurru of any development proposals that it becomes aware of that may affect the IPA.

The Agreement provides that Dhimurru, in collaboration with the NTPWS, the NLC and the traditional owners, shall prepare a Plan of Management for the IPA, which shall reflect the management wishes of the traditional owners. The Plan of Management shall provide a framework for addressing issues in the context of land management, including but not limited to:

- management of visitors, tourism and infrastructure;
- regulation of commercial activities;
- use of the land and its resources by the traditional owners ;
- maintenance of biological diversity;
- mapping the cultural landscape, the recording of traditional ecological knowledge and oral histories, and the management of sacred sites, archaeological sites and other sites of significance to traditional owners;
- scientific investigation of fauna, flora and other elements of the natural environment;
- fire management and the control of feral animals and weeds.

Other provisions of the Agreement are in relation to:

- insurance: whereby Dhimurru is required to take out and maintain public liability insurance to cover all its activities on the IPA for at least the sum of ten million dollars for any one event;

- disputes: whereby in the absence of agreement an arbitrator may be appointed by the Commonwealth Minister for Aboriginal and Torres Strait Islander Affairs;
- confidentiality: whereby the parties have agreed that the terms of the Agreement are public;
- review of the terms and conditions of the Agreement which is undertaken by the parties and the traditional owners every five years.

Dhimurru and the NT Parks and Wildlife Service are currently negotiating to establish Dhimurru Rangers as Honorary Conservation Officers under the *Territory Parks and Wildlife Conservation Act*. If these negotiations are successful, Dhimurru Rangers will have limited powers normally only given to government rangers, whilst ensuring that the care and control of the land remains in hands of Dhimurru.

Research and Monitoring Partnerships

Research and monitoring has been a key component of Dhimurru's activities since its inception, resulting in partnerships with research and management agencies that continue today. Dhimurru has played a particularly important role in marine turtle research and monitoring, including the use of satellite transmitters to track the migration of turtles⁶⁰ and patrolling beaches in the IPA to rescue and gather data about marine turtles that become entangled in abandoned fishing nets (ghost nets). This research has involved partnerships with researchers at Charles Darwin University and NT Parks and Wildlife Service, and with WWF-Australia which has developed a ghost net identification kit with assistance from NT Fisheries.

These research partnerships have increased Yolŋu and scientific understanding of migration patterns of marine turtle and contributed to an understanding of the point of manufacture of the ghost nets, most of which drift into the Gulf Carpentaria having been abandoned by foreign fishing in the Arafura Sea and elsewhere in southeast Asia. Dhimurru expanded the ghost net monitoring partnership by helping to establish the Gulf of Carpentaria Ghost Net Programme which now involves participating Indigenous communities around the Gulf coast. Dhimurru is currently engaged in monitoring turtle nesting sites on Bremer Island.

Other Partnerships

While the partnerships with the NLC, NTPWS and DEW form the backbone of joint management arrangements for the Dhimurru IPA, other partnerships make vital contributions by providing political and other support, technical expertise, funding and diverse opportunities for Dhimurru staff and other traditional owners to gain experience in the complexities of contemporary land and sea management.

60. Kennett et al. (2001) ; Kennett et al. (2004).

Through the development of the *Dhimurru Yolŋu wu Moŋuk Gapu Wāŋa Sea Country Plan*, Dhimurru is seeking to strengthen its partnerships with other Indigenous organisations, government agencies with responsibility for marine management and surveillance and commercial enterprises in the region. This will not only assist with the management of the marine component of the IPA but also provide opportunities for traditional owners to play a role in managing their traditional Sea Country which extends beyond the current seaward boundary of the IPA.

The following table summarises opportunities for other Indigenous organisations, government agencies and other organisations to work co-operatively with Dhimurru, as outlined in the *Sea Country Plan*.

Table 8: Partner opportunities for collaboration with Dhimurru

Partner Organisation	Opportunities for collaboration with Dhimurru
North Australian Indigenous Land and Sea Management Alliance (NAILSMA)	<ul style="list-style-type: none"> • Dugong and turtle research, management and monitoring • Explore options for establishing MPAs • Indigenous tertiary scholarships in land and sea management
Yolŋu community councils and associations	<ul style="list-style-type: none"> • Provide CDEP placements and share training programs • Continue to work together on projects and share resources. • Collaborate on future tourism, commercial fishing, aquaculture and other sea country based commercial initiatives
Northern Territory Environment Protection Authority	<ul style="list-style-type: none"> • Monitor marine environmental impacts of industrial and other economic developments • Encourage 'best practice' in government agencies & industries supported by education, enforcement, and prosecution. • Ensure monitoring results are made public. • Communicate and interpret monitoring results with Indigenous communities
NT Fisheries and NT Marine and Fisheries Enforcement Unit	<ul style="list-style-type: none"> • Establish and resource an integrated marine surveillance and enforcement framework with Dhimurru as a partner • Fund Dhimurru's participation in the Pilot NT Fisheries Sea Ranger Program • Work with Dhimurru to develop research on recreational, commercial and Indigenous fisheries resources • Improve collection and reporting of catch data so communities know the extent of local fishing pressure in their local area. • Develop policy and legislative arrangements to manage fisheries on a much finer geographic scale

5. DHIMURRU INDIGENOUS PROTECTED AREA

Partner Organisation	Opportunities for collaboration with Dhimurru
Australian Quarantine and Inspection Service (AQIS)	<ul style="list-style-type: none"> • Work with Dhimurru, Australian Customs, AFMA, NT Fisheries and others to develop a surveillance & enforcement framework • Help fund Dhimurru Sea Country Rangers in return for surveillance outcomes • Continue to support training of Dhimurru personnel • Assist Dhimurru to monitor and control feral pigs, particularly on Bremer Island, to reduce damage to marine turtle nests.
Australian Customs Service (ACS)	<ul style="list-style-type: none"> • Work with Dhimurru, AQIS, AFMA, NT Fisheries and other partners to develop a surveillance and enforcement framework • Help fund Dhimurru Sea Country Rangers in return for surveillance outcomes • Continue to support training of Dhimurru personnel
Australian Fisheries Management Authority (AFMA)	<ul style="list-style-type: none"> • Ensure trawlers operate in accordance with agreed environmental management plans • Assist Dhimurru by provision of information about activities of the Northern Prawn Fishery in our sea country • With Dhimurru develop social, cultural and environmental protocols & procedures for processing foreign fishing vessels. • Develop liaison protocols with Dhimurru regarding fishery management and foreign fishing in our area. • Ensure Dhimurru has the independent advice to assist with the scrutiny of Northern Prawn Fishery management
Australian Government Office of Indigenous Policy Coordination and the Northern Territory Office of Indigenous Policy	<ul style="list-style-type: none"> • Support arrangements for Dhimurru that are integrated, recurrent, streamlined and flexible • Support the development of an SRA which assists Dhimurru to implement the <i>Yolŋuuru Monuk Gapu Wāna Sea Country Plan</i>. • Ensure that a mechanism such as CDEP to support the Dhimurru career development and employment program

Partner Organisation	Opportunities for collaboration with Dhimurru
Commercial fishing industry	<ul style="list-style-type: none"> • Recognise and acknowledge customary ownership of and rights to marine and coastal resources • Involve Yolŋu people in fisheries planning, monitoring and research activities • Collect and report fine scale catch and effort data • Develop fisheries policy and legislation arrangements to manage on a much finer geographic scale • Develop policy and legislation to protect Indigenous subsistence fishing on a local and regional scale • Monitor bycatch of turtles and other species in the northern trawl fishery and in the long line fishery • Investigate causes of turtle mortality resulting from commercial fishing, and invest in the development of solutions • Explore ways for fishing industry and Yolŋu to prosper from sustainable and equitable management of marine resources • Assist Yolŋu to engage effectively in the commercial fishing industry as commercial operators in their own right • Consider the importance of marine resources to Yolŋu way of life and community economy when developing policy • Take a constructive rather than reactive approach to any discussion of marine protected areas in Yolŋu sea country.
Alcan Gove (bauxite mining company)	<ul style="list-style-type: none"> • Continue to recognise and acknowledge customary ownership of and rights to marine and coastal resources • Include Dhimurru in discussions with the NT Government and NLC regarding environmental monitoring and management • Involve Dhimurru in environmental management and monitoring. • Ensure Dhimurru has independent capacity to scrutinise the assessment monitoring and management arrangements • Support independent review of the Marine Health and Monitoring Program and public release of reports • Actively involve or commission the services of Dhimurru in monitoring, assessment and management activities • Seek Dhimurru's advice on how Yolŋu values in sea country can be defined, expressed and protected • Resource Dhimurru to undertake sea country management by building on and extending existing reciprocal agreements • Resource Dhimurru to undertake marine and coastal cultural mapping and recording of customary knowledge

Partner Organisation	Opportunities for collaboration with Dhimurru
Tourism industry	<ul style="list-style-type: none"> • Recognise and acknowledge customary ownership of and rights to marine and coastal resources • Use our sea country plan as a basis for regional tourism planning and development • Provide resources for Yolŋu to develop culturally, environmentally and economically sustainable tourism • Provide resources to support Dhimurru's operation, acknowledging our importance as tourism infrastructure • Ensure Dhimurru representation in discussions about tourism ventures in the East Arnhem region • Seek Dhimurru's advice regarding permits, licence, and interpretive material • Provide assistance to Dhimurru to prepare appropriate interpretive material • Assist Dhimurru to prepare advice for touring yachts and locate this information in the Torres Strait and in Darwin
Recreational anglers	<ul style="list-style-type: none"> • Recognise and acknowledge customary ownership of and rights to marine and coastal resources • Acknowledge Yolŋu people as managers of sea country who share a commitment to sustainable fish populations • Through the local recreational angling clubs, work with Dhimurru to develop best practice angling protocols • Support the regular collection of catch and effort data on a much finer spatial scale • Support the development of policy and legislation to protect Indigenous subsistence fishing • Take a constructive rather than reactive approach to any discussion of marine protected areas in our sea country
Nhulunbuy residents	<ul style="list-style-type: none"> • Continue to volunteer to assist in Dhimurru's important work • Report suspected wildlife and fisheries infringements • Seek advice from Dhimurru about the marine environment • Obtain permits for river, estuary, beach and island access

Funding

Funding partnerships underpin all the operations of Dhimurru Land Management Aboriginal Corporation, including the management of the IPA. The DEW IPA Programme provides contract payments (negotiated every two years) to Dhimurru for undertaking agreed management tasks that are consistent with the Plan of Management. However, these funds alone are not sufficient to cover the cost of managing the IPA, in particular the core operating cost of running the Dhimurru office and infrastructure. Dhimurru has been successful in combining the modest IPA funding from DEW with funding from other sources to enable it to expand its operations year by year. In 2005 and 2006 the total Dhimurru budget was approximately \$1.4 million, comprising contributions from a diversity of government and non-government sources, as summarised in the table below.

Table 9: Summary of Dhimurru income sources for 2005 and 2006

Source	Contribution
Permits, merchandise and service charges	12%
Commonwealth and NT Governments	69%
Industry	16%
NGOs (Land Council and conservation NGOs)	0 3%

5.7 SUCCESSES AND CHALLENGES

The undoubted success of the Dhimurru IPA, and the operations of the Dhimurru Land Management Aboriginal Corporation more generally, can be attributed to several factors, including: the commitment of traditional owners to take care of their Country; good governance structures, leadership and management practices; a commitment to partnership building; and a willingness to innovate. Each of these attributes of success is discussed in more detail below.

Traditional owners' commitment to sustainable management of Country

Underlying Dhimurru's success is the longstanding and ongoing commitment by traditional owners to caring for Country — the sustainable management of all the cultural and natural values of their traditional land and sea estates. This commitment was demonstrated by the investment of traditional owners' personal funds to enable the Dhimurru Land Management Aboriginal Corporation to function in the early years and it is demonstrated today by the continued interest of traditional owners to attend management and planning meetings, participate as members of the Executive Committee, seek employment with Dhimurru and to work with a large number of partner organisations and individuals.

Good governance and leadership

The traditional owners who founded Dhimurru in 1992 put in place a governing structure that maximized the benefit of collaboration between the clan groups without impinging on the authority of each clan or individual traditional owners. The structure also ensures that traditional owners retains control of the development of Dhimurru while recognising the need for outside expertise within the Dhimurru staff, and of the benefit of building collaborative partnerships with government environmental and natural resource management agencies and other government and non-government organisations.

Complementing the governance and decision-making structures has been the presence of strong and committed traditional owner leaders who nurtured the emerging organisation and maintained the original vision as Dhimurru expanded to take on more responsibility, more projects and more staff. The current Indigenous

Director (Djawa Yunupingu) maintains that strong leadership, supported and guided by the Executive Committee (chaired by Witiyana Marika), which takes an active role in determining Dhimurru's priorities.

Over its 14 year life, Dhimurru has had three non-Indigenous Executive Officers (Greg Wearne, Kelvin Leitch and Steve Roeger) who combined strong commitments to supporting and developing Indigenous land and sea management with profound respect for Yolŋu culture, rights and capacities. They also fostered management styles that were conducive to productive Indigenous working environments. The inaugural Executive Officer, Greg Wearne, continues to be involved in the development of Dhimurru from time to time as a consultant, and was one of the consultants who facilitated the development of the *Dhimurru Sea Country Plan*, launched in 2006.

Current management of Dhimurru recognises the need for a degree of flexibility to enable Yolŋu staff to meet their family and cultural obligations as well as their work demands, while also having very clear protocols and practices in place to control challenging staff management issues, such as the private use of work vehicles and telephones, and policies on drug and alcohol use.

The governance, leadership and management practices within the Dhimurru organisation are enhanced by the presence day by day of key management partners, such as the NT Parks and Wildlife Ranger and the CSIRO crazy ant eradication team. Although these partners have separate management structures to report to within their own organisations, they work very much as part of the Dhimurru team, and are listed as Dhimurru staff members on the Dhimurru website.⁶¹

Regular weekly staff meetings, daily meetings for members of project teams and good communication between Dhimurru and its partner agencies help keep the diverse range of projects and personnel on track. Dhimurru has also devoted considerable effort to produce communication tools, such as books, guides, plans, CDs and DVDs to enable partners and other interested parties to understand, engage with and hence support the organisation.

Partnership building

As demonstrated by Dhimurru's operational budget and by the diversity of projects it undertakes, building and maintaining partnerships with government and non-government agencies is a major factor in Dhimurru's success. This requires both the skill to build and maintain relationships, but also a mindset that values rather than fears collaboration. These skills and mindset result from the good leadership referred to above, but also from an understanding that Aboriginal landowners with knowledge and commitment to Country, particularly in remote locations in Australia, have something valuable to offer government agencies and others who

61. <www.dhimurru.com.au>.

want environmental and natural resource management outcomes that can only be achieved in partnership with Aboriginal people.

Successful partnerships need to be mutually beneficial, and this is what Dhimurru can offer. For example, Australian government support for the Dhimurru IPA contributes significantly to the national objective of building the National Reserve System (NRS) in a biogeographic region that was hitherto unrepresented in the NRS. Similarly, financial contributions to Dhimurru from Alcan Gove enhances its reputation at a responsible corporate citizen in a region where it is reaping big financial rewards from its mining activities.

It is possible also that the collaborative relationships that developed between Yolŋu and Macassans (from Macassar and elsewhere in what is now Indonesia) during their annual visits to collect *bêche de mere* (sea cucumbers) over hundreds of years prior to British colonisation has contributed to the capacity and willingness of traditional owners today to build contemporary partnerships.⁶² Then as now, the challenge of partnership-building is to achieve mutually agreeable benefits without losing authority and control. This sentiment of collaboration without loss of authority is clearly expressed in the Vision Statement at the beginning of the IPA Plan of Management:

We envisage working together with the Parks and Wildlife Commission;⁶³ we need their help in making our vision a reality. But the only people who make decisions about the land are those who own the law, the people who own the creation stories, the people whose lives are governed by Yolŋu law and belief.

Innovation

Dhimurru was the first Indigenous environmental agency in the Northern Territory to establish an Indigenous Protected Area, the first to negotiate a Section 73 Agreement with the NT Parks and Wildlife Service, the first to develop a Sea Country Plan and the first to negotiate a Shared Responsibility Agreement (SRA) with the Australian government.⁶⁴ These 'firsts' indicate a capacity to recognise new opportunities and a willingness to use innovative mechanisms to achieve traditional owners' goal of looking after Country. While the goal has remained the same for the last 14 years (and no doubt countless years before), the mechanisms to achieve the goal have adapted to emerging opportunities.

Each process of innovation, however, has been taken cautiously with appropriate consultation and access to good advice. One of the attractions of the IPA Programme is that it provides funding in stages so that Indigenous landowners can develop an

62. Baker (1999), referring to Aboriginal people from the south-west Gulf of Carpentaria, notes: 'Like other groups, the Macassans were in contact with, the Yanyuwa had a wider world view... As a result of their experience in dealing with outsiders, the Yanyuwa were obviously in a better position than many other groups to cope with European contact'.

63. Now NT Parks and Wildlife Service.

64. The SRA secured funding for the completion of the Sea Country Plan.

understanding of the concept of IPAs and consider whether it is right for them before they proceed to develop a Plan of Management and commit to declaring an IPA. The IPA Programme was therefore ideally suited to meet the Yolŋu need for caution as well as the Yolŋu willingness to innovate.

Funding

Despite an annual budget in excess of \$1 million over the last few years, an ongoing challenge for Dhimurru (and for all Indigenous environmental management agencies) is to maintain funding levels to meet existing needs and growing expectations. While the IPA Programme provides modest annual funding to undertake tasks identified in the Plan of Management, it is insufficient to maintain overall management of the IPA. The continued success of the IPA will therefore continue to rely on Dhimurru's capacity to generate additional income, such as through the sale of recreation area permits, and to secure additional grant funding from a diversity of sources. Whether Dhimurru can continue to meet this challenge will require continued good governance and leadership and continued support from the network of partners that Dhimurru has developed over the last 14 years. The Section 73 Agreement with the Northern Territory government provides further security and support, though it contains no commitment to direct funding.

Managing Sea Country

Coastal IPAs typically do not include marine areas, as it is usually only on their land that Indigenous people have legally recognised management authority, even though traditional clan estates extend out to sea all around Australia.⁶⁵ The Dhimurru IPA, however, incorporates about 9000 h of marine area comprising many marine sacred sites registered by the Northern Territory Aboriginal Areas Protection Authority. This formal recognition of the cultural significance of this 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 land.

The marine area currently included in the IPA is not the only area of sea country of concern to traditional owners. Future challenges therefore include how to enhance management authority over the existing marine area within the IPA and how to extend traditional owner management over marine areas currently outside the IPA — by extending the IPA boundary or by some other means.

The challenge of managing sea country is being addressed through the implementation of the *Dhimurru Yolŋuwanu Monuk Gapu Wäŋa Sea Country Plan* launched in 2006. This plan sets out a vision for Yolŋu management of sea country and seeks to build Dhimurru's marine management capacity through its sea

65. For a discussion on Indigenous management of sea country around Australia, see Smyth (2001a).

rangers and coastal patrol vessel (due to be launched in 2007) and through the building of partnerships with marine management agencies and marine industries. Dhimurru's experience in partnership-building for land management provides a firm foundation for building partnerships with marine managers.

Nevertheless, gaining comprehensive recognition of Indigenous peoples' rights and interests over the sea has historically been far more difficult to achieve than over land. Marine native title cases determined so far, for example, make it clear that Indigenous peoples' marine rights and interests must 'yield' to all other legal rights and interests, even in areas where marine native title has been found to exist. In extending its interests into the sea, a logical and necessary step in meeting its founders' vision of looking after Country, Dhimurru is tackling one of its greatest challenges to date.

5.8 FACTORS UNIQUE TO DHIMURRU

Many of the factors responsible for the success of Dhimurru, particularly the commitment and vision of traditional owners and the cultural and natural heritage values of the region may not be unique to northeast Arnhemland. What is rare, however, is the intersection of these Indigenous and heritage factors with contemporary, urban, industrial, corporate Australian society. It was the discovery of bauxite in the 1960s and the beginning of industrial scale mining in the 1970s that brought miners and their families to the region and stimulated the development of Nhulunbuy, which in turn led to impacts on Yolŋu Country. It was these impacts that then stimulated the establishment of Dhimurru Land Management Aboriginal Corporation and later to the establishment of the Dhimurru IPA.

Industrial scale mining, and the urban development and population growth that accompanied it, have been the catalysts both for establishing Dhimurru and for enabling it to flourish. Unlike much of the rest of Australia, the rapid urbanisation came relatively recently and without the same levels of frontier violence and catastrophic impacts on Indigenous people and culture that characterized so much of the colonial experience elsewhere.

The urbanisation of Nhulunbuy has brought many social and environmental pressures, but it has also provided the social and material infrastructure to ease the process of partnership-building that has sustained the growth of Dhimurru. The presence of schools, shops, recreational and medical facilities equivalent to a major regional centre anywhere in Australia, coupled with a pleasant climate and rich cultural and natural heritage, makes Nhulunbuy an attractive location for government agencies, other potential partners and individuals to engage with. Good transport links, including daily Qantas jet flights to and from Cairns and Darwin, also make Nhulunbuy a relatively easy place for representatives of partner organisations to visit.

It is too simplistic, however, to attribute all of Dhimurru's success to good transport links and the modern conveniences of Nhulunbuy. Without the vision of traditional owners down the generations and continuing today, perhaps drawing on their experience of collaboration with Macassans, Dhimurru would not have been poised to take advantage of opportunities as they arose.

5.9 CONCLUSIONS: LESSONS FOR OTHER PROTECTED AREAS

Dhimurru IPA provides an example of how the autonomy of Indigenous sole management of a protected area can lead to partnerships that enhance rather than threaten traditional owner authority. While IPAs lack the financial security that comes with jointly managed national parks, the Dhimurru example shows that it is possible to build a degree of security through multiple bilateral and multilateral partnerships, rather than single bilateral partnerships typical of joint management.

The Dhimurru IPA, as with the other IPAs across Australia, demonstrates that, when given the freedom to choose how to take care of their Country, traditional owners willingly enter into collaborative partnerships that can assist them to manage their traditional estates sustainably.

This case study has identified key governance, leadership and management factors that have contributed to the success of both the IPA and Dhimurru as an Indigenous organisation. The case study also concludes that some of the unique social, infrastructure and transport features of Nhulunbuy, coupled with its long history of collaboration with outsiders, have assisted Dhimurru to prosper.

Dhimurru Committee (elected 2005)

Chairperson	Witiyana Marika
Deputy Chairperson	Bawurr Munyarryun
Treasurer	Dhumadal Damarandji
Secretary	Larrkuku (Janice) Ganambarr

Clan	First name	Surname	Moity
Ngaymil	Larrkuku	Ganambarr (Yunupingu)	Dhuwa
Ngaymil	Banuminy 2	Ganambarr (Mununggiritj)	Dhuwa
Golumala	Wopurrwuy	Gulumala	Dhuwa
Golumala	Djiniyini	Gondarra	Dhuwa
Galpu	Mapuruma	Gurruwiwi	Dhuwa
Galpu	Yalata	Gurruwiwi	Dhuwa
Djambarrpuyngu	Dhumudal (Nora)	Dhamarrandji	Dhuwa
Djambarrpuyngu	Milminyina	Dhamarrandji	Dhuwa
Datiwuy	Laklak 2	Ganambarr	Dhuwa
Datiwuy	Ritjilili 1 (Manybarr)	Ganambarr	Dhuwa

INDIGENOUS PARTNERSHIP IN PROTECTED AREA MANAGEMENT

Clan	First name	Surname	Moity
Manggalili	Mayila	Maymuru	Yirritja
Manggalili	Barrapuy	Maymuru	Yirritja
Wangurri	Bawurr	Munyarryun	Yirritja
Wangurri	Guypongura	Munyarryun	Yirritja
Rirratjingu	Witiyana	Marika	Dhuwa
Gumatj	Donga	Mununggitj	Yirritja
Gumatj	Djerrekngu	Yunupingu (marika)	Yirritja
Rirratjingu	Bakamumu	Marika	Dhuwa
Djapu	~irrpia	Munungurr	Dhuwa
Djapu	Barayuwa	Munungurr	Dhuwa
Warramiri	Dipililnga	Bukulatjp	Yirritja
Warramiri	Wunarrk	Bukulatjpi	Yirritja
Identified Proxies			
Gumatj	Nayirri	Yunupingu	Yirritja
Gumatj	Djalalinngba	Yunupingu	Yirritja
Rirratjingu	Rarriwuy	Marika	Dhuwa
Rirratjingu	Raymatja	Marika	Dhuwa
Associate Clan Members (these members can not sign resolutions)			
Madarrpa	Nuwandjali	Marawili	Yirritja
Madarrpa	Djambawa	Marawili	Yirritja
Dhalwangu	Buwatpuy	Gumana	Yirritja
Marrakulu	Wolpa	Wanambi	Dhuwa
Dhudi-Djapu	Dhukal	Wirrpanda	Dhuwa
Dhudi-Djapu	Benygurr (Ivan)	Wirrpanda	Dhuwa
Gumatj	Murrmurrnga 1	Mutilnga (Burrawanga)	Yirritja
Dhalwangu	Wayilu (Botha)	Wunungmurra	Yirritja
Dhalwangu	Gupaniny	Wunungmurra	Yirritja

6. CASE STUDY COMPARISONS

All of the case studies demonstrate the value of day-to-day, on-ground working relationships between Indigenous and non-Indigenous protected area managers. It is at this level of individual partnerships that 'joint management' or 'two-ways' management pays the greatest dividends, whether or not it occurs in the context of mandated or voluntary arrangements. The mentoring, skills transfer and cross-cultural understanding that occurs when people work together on country is at least as important as the more formal decision-making relationships that occur within boards of management or other governance structures. These on-country partnerships are more readily available within jointly managed parks such as Nitmiluk and Booderee, though Dhimurru IPA has achieved a similar day-to-to partnership between its traditional owners, the Northern Land Council (NLC), the NT Parks and Wildlife Service, and the Commonwealth Department of the Environment and Water Resources through the negotiation of a Section 73 Agreement under the *Territory Parks and Wildlife Conservation Act*.

The case studies demonstrate that ongoing commitments to, and achievement of, environmental protection and biodiversity conservation outcomes by Indigenous people through protected area management can occur via both the mandated joint management partnerships involved in the lease-back of Aboriginal land to a government conservation agency (as occurs at Nitmiluk and Booderee) and the voluntary partnerships developed to support the management of Indigenous Protected Areas, as occurs at Dhimurru.

The Dhimurru IPA case study has demonstrated sustained commitment and capacity to protected area management since the IPA was declared in 2000, following on from the earlier achievements in land and sea management and research that has occurred over the same area since the establishment of the Dhimurru Land Management Aboriginal Corporation in 1992. High profile environmental management and conservation awards from both the Australian and NT governments, and strengthening financial and collaborative partnerships with government and non-government agencies and industry, are testament to these achievements.

In particular, the negotiation of the Section 73 agreement demonstrates that there are alternative ways to secure robust Indigenous/government protected area partnerships without the loss of traditional owner authority inherent in lease-back joint management arrangements. This agreement provides for the secondment of an NT Parks and Wildlife ranger to work with Dhimurru on day to day management

issues, as well as an advisory role for the NT and Australian government and the NLC in the management of Dhimurru IPA, without diminishing traditional owners' authority over the IPA.

The Dhimurru case study also demonstrates that the Indigenous autonomy associated with the IPA concept does not mean an absence of management partnerships. On the contrary, a key element of Dhimurru's success has been its capacity to negotiate and sustain a diversity of research, management, advisory and financial partnerships, resulting in an operating annual budget similar to that of Nitmiluk NP. Indeed, Dhimurru has developed a greater diversity of partnerships than has been developed in the other case study protected areas, where there is a greater reliance on the core bilateral relationship between the traditional owners and a government conservation agency. The diversity of partnerships is in part driven by the need to secure sufficient operational funding year by year; a need more securely met within joint management partnerships. On the other hand, the absence of a dominant government partner, however harmonious the partnership is, may stimulate innovative approaches and encourage other potential partners who may be less willing or able to become part of formal joint management arrangements.

The Booderee case study demonstrates that the goal of sole management, whether or not the goal is defined or reached, can provide a powerful catalyst that encourages all partners to build the capacity of Aboriginal communities and individuals to play greater roles in the complex tasks of contemporary protected area management. Another key outcome of the Booderee case study is a clear demonstration of the benefits of establishing and supporting an Aboriginal-owned commercial enterprise to undertake a range of park management tasks under service contracts, complementing opportunities for Indigenous management through employment in government conservation agencies.

The Nitmiluk case study demonstrates the importance of the balancing of commercial, environmental, social and cultural needs and interests and the potential economic benefits of joint management arrangements when opportunities to deliver commercial tourism services and products within the national park are fully developed. This experience can provide encouragement to traditional owners of other national parks and IPAs, where less emphasis has been placed on developing economic returns from protected area ownership and management to date. Nevertheless, care must be taken to ensure that any focus on economic activity does not distract from the business of looking after country, relationship building, and decision-making processes. The Nitmiluk case study also demonstrates that the development of a productive culture of joint management is an ongoing process and requires changes of mindset according to current priorities in the Park and the existing capacity of all involved.

While there is a strong focus on training at each location, the Booderee case study in particular showed the value of an integrated, high quality and diverse

training strategy, coordinated by a dedicated Training Manager and delivered through learning processes that are appropriate and successful for members of all the protected area partners. This level of training and training support would be more difficult to achieve without the funding base of a formal joint management arrangement.

The case studies reveal that the term 'joint management' has different meanings in different contexts. In Nitmiluk and Booderee, the term is a short-hand for the formal shared management arrangements involving lease-back of the parks and the operation of boards of management with Aboriginal majorities. In Booderee, there is an explicit goal to progress from joint management to sole management, with the clear indication that sole management will involve greater Aboriginal control than joint management. At Dhimurru, however, where traditional owners currently exercise legal sole management over the IPA, the term, joint management, is used to reflect the array of partnerships that traditional owners have negotiated with government and non-government agencies. In this context, joint management is an expression of sole management, not a step on the journey towards sole management.

One of the conclusions of the case studies, therefore, is to acknowledge that terms such as joint management, co-management and sole management, may have different interpretations in different locations. While strict definitions may be helpful in engaging in national and international policy debates, it is important to respect the fact that local people will develop their own terms to express their own partnerships, and that the level of satisfaction with these local partnerships, their effectiveness and sustainability, is more important than the terms used to describe them.

The case study examples also contain sufficiently different characteristics to enable some individual elements of Indigenous partnerships in protected area management to be explored at some depth. These elements include:

- the impact on effective management of the circumstances surrounding the formation of the partnership, including the degree of choice in entering into it;
- the various interpretations and implications of Indigenous 'sole management' and 'joint management' of protected areas;
- whether the benefits to Indigenous people of their participation in protected area partnerships outweigh the economic and other opportunities foregone by the establishment of a protected area on their land;
- the challenges in securing Indigenous partnerships in managing marine components of protected areas comparable with those over terrestrial components, due to considerably less recognition of Indigenous rights and interests in the sea as compared to the land.

The case studies also raise a number of issues around IPAs and joint management of protected areas, which have not been thoroughly investigated here and which should be the subject of further research. They are listed in Attachment 3.

7. CONCLUSION: CRITICAL SUCCESS FACTORS

As noted in the Introduction, this case study project in protected area management has been part of a broader *Success in Aboriginal Communities* project undertaken by AIATSIS for the Australian Collaboration. In the preliminary research for that project, Finlayson discussed a number of issues at play in defining success which also apply to the case studies in this paper.⁶⁶ She concluded that success is:

- possibly best defined by Aboriginal communities themselves;
- not formulaic;
- a matter of the perspective of the stakeholder (a conservationist might not see value in commercial activity in an IPA, age and gender can be definitive of views of success, Indigenous views may vary significantly from non-Indigenous stakeholders and so on);
- influenced by local factors;
- impacted by a range of external factors often out of the control of Indigenous communities;
- often masked by ‘western measures of failure’;
- subject to changing aspirations and contexts; and
- determined by a range of qualitative and quantitative indicators.

Finlayson also listed a number of critical success factors relating to Aboriginal organisations or communities which are relevant to the success of the management of protected areas.⁶⁷ In the context of this discussion of the management of protected areas, these factors apply, not only to the Indigenous parties involved, but to the range of parties involved in the multilevel partnerships which characterise the management of protected areas. That is, the success in the management of protected areas depends on the effectiveness of all parties involved. Success is also a matter of building the capacity of all partners, ensuring that processes are tailored to local Indigenous capacity, needs and interests and that the free, prior and informed consent of those Indigenous people with rights and interests in the areas has been reached.⁶⁸ Success can also be hidden or implicit in an outcome or process and positive outcomes may have negative consequences, requiring a weighing up of the benefits and losses. Above all, success can mean different things between and

66. Finlayson, 2005.

67. Finlayson, 2005a:45.

68. Bauman, 2006.

amongst partners. It is important to have a clear understanding of these meanings at the commencement of any partnership.

Each of the three case study examples, as noted in the introduction, is moulded by local histories, legal frameworks, environments, locations, resources and capacities. They are examples of different kinds of successes, each successful in their own ways, and each demonstrating greater or lesser effectiveness across the many aspects of managing protected areas. Many of those interviewed emphasised that ‘no one size fits all’, giving rise to the conclusion, that the most significant element of best practice management of protected areas is the effective tailoring of processes to meet local needs and interests.

There are nonetheless common elements or critical success factors in all three case studies that can assist the further development in policy and practice in this area. These include:

- Indigenous land ownership as the critical foundation on which to build protected area partnerships;
- the degree of commitment of all parties to the management process;
- the commitment of Indigenous people to utilise the opportunities presented by protected areas to care for their country, reinforce its associated cultural and natural values, and further community and individual development;
- a coherent and effective representative Indigenous party which has a big picture approach but which also addresses short term local issues;
- a bipartisan political approach in which political parties, traditional owners, and relevant government departments work together for the benefit of all;
- a diversity of partnerships in arriving at the mix of personnel, resources, expertise and commitment to achieve the goals of protected area management;
- productive day-to-day, on-ground working relationships and mutual respect between the individuals involved in protected area partnerships between and across all areas of management;
- achieving a balance between Indigenous holistic community development aspirations and approaches and the reality that joint management cannot be a panacea for all problems;
- approaching the management of protected areas as a matter of progressive and incremental improvement involving the serial capacity building of all involved across a range of areas;
- recognising the importance of effective partnerships with neighbouring landowners and managers in biodiversity and other environmental initiatives, since protected areas cannot be managed successfully in isolation from surrounding environments;
- secure, annual core funding which permits robust work programmes and delivers minimum standards of management with which to leverage additional funding and support to further enhance conservation and community outcomes;

- developing sophisticated approaches to intercultural engagement and awareness and community education processes which provide local communities and traditional owners themselves with information about activities in the Park, Board decisions and biodiversity and environmental issues;
- clearly defined roles and responsibilities, and understandings of financial limitations and resources in establishing partnerships;
- clear understandings of Indigenous values and ideas of success, as well as those of other partners and their integration into evaluation and monitoring procedures;
- competent and effective governance procedures on the part of all parties which involve:
 - a degree of flexibility;
 - consistently high level leadership skills;
 - traditional owners playing a central role in identifying strategic directions and joint operational planning, monitoring and evaluation procedures which are matched against the emotional, procedural and substantive rights, needs and interests of parties;
 - allocating sufficient resources and planning to participatory community development approaches, including inclusive and transparent decision-making and dispute management processes and 'on-country' visits;
 - accessing appropriate technical advice;
 - clearly identifying and developing the capacity of all parties involved;
 - integrating training activities across all the joint management partner organisations;
 - placing an emphasis on Indigenous youth; and
 - innovative pathways of employment, research partnerships and approaches to traditional owners undertaking contract work.

Understanding factors that contribute to the success of partnership arrangements can assist not only in the development of those arrangements, but also in designing monitoring and evaluation frameworks. Some or all of the critical success factors identified in these case studies could, for example, form the basis of criteria and indicators within monitoring and evaluation processes associated with the implementation and review of protected area plans of management.

8. RECOMMENDATIONS

The recommendations in this section were developed on the basis of the findings from the three case studies and feedback from case study participants and representatives of the Australian Collaboration and AIATSIS. The final choice and wording of these recommendations, however, is the responsibility of the authors alone.⁶⁹

1. Recognise that Indigenous Protected Areas are a viable alternative to achieving the same environmental protection and biodiversity conservation objectives inherent in the lease-back joint management arrangements.
2. Encourage all governments to develop and utilise statutory arrangements (such as provisions of Section 73 of the *Territory Parks and Wildlife Conservation Act*), as well as non-statutory mechanisms, to support the long term viability of IPAs.
3. Encourage governments and IPA owners/managers to explore legal and other effective means to ensure that IPAs are protected from developments that adversely impact on the values for which the IPAs have been declared.
4. Recognise that free, prior and informed consent of Indigenous traditional owners is a requirement for the development of mutually respectful, beneficial and productive protected area management partnerships (whatever form those partnerships take) and is consistent with Recommendation 24 from the 2003 IUCN World Parks Congress.
5. Recognise that the process of establishing the consent of Indigenous traditional owners for protected area management is complex and time consuming, encourage Federal, State and Territory governments to set a goal of negotiating consent agreements with the appropriate Indigenous groups for the management of all existing protected areas by 2013, the date of the next World Parks Congress, to ensure that Australia meets world best practice in protected area management.
6. Recognise that Indigenous peoples' goal of exercising their traditional authority in the management of protected areas can be a catalyst for increasing the diversity of partnerships between Indigenous people, government agencies

⁶⁹ The recommendations form part of a shorter paper which has been extracted from this report and which is aimed at policy makers and governments. See Smyth and Bauman, 2007.

and others, and hence strengthen multi-stakeholder support for the ongoing management of the protected area.

7. Support the use of alternative mechanisms for Indigenous management of protected areas, such as through contracted services, in place of, or complementing, Indigenous employment within protected area management agencies.
8. Recognise the social, cultural, employment and economic benefits that can flow from appropriately negotiated and supported Indigenous partnerships in protected area management, including through local Indigenous monopolies in delivering contracting services and tourism enterprises, within the context of appropriate probity arrangements.
9. Support the development of Junior Ranger Programmes or other mechanisms to involve and build capacity among young people (Indigenous and non-Indigenous) in understanding and managing their local protected areas.
10. Support dedicated development/training positions within protected area management structures as one of the mechanisms to achieve Indigenous training and employment goals.
11. Recognise that Indigenous rights and interests in protected area management are not restricted to remote, northern Australia; encourage governments to develop equitable arrangements that provide similar opportunities for Indigenous people with rights and interests associated with protected areas throughout Australia.
12. Recognise the benefits of on-country, practical partnerships between Indigenous and non-Indigenous environmental managers (both government and non-government), encourage/support conservation agencies to strengthen on-ground partnerships and secondment arrangements to enable government conservation and natural resource management staff to develop long term on-country working relationships with traditional owners, promoting mentoring, skills transfer and cross-cultural understanding.
13. Recognise that there are particular challenges for Indigenous people to develop equitable partnerships in the management of their sea country within marine protected areas (MPAs) comparable to the partnerships that have developed in the management of terrestrial protected areas over the last decade; hence support Indigenous people, government agencies, NGOs and industry to explore innovative governance arrangements and other approaches to the recognition of Indigenous peoples rights and interests in MPAs, including the establishment of IPAs over sea country.
14. Support the establishment of a national protected area clearing house for Indigenous people to:

- 14.1 co-ordinate a national email network of Indigenous people involved in protected area management;
 - 14.2 share knowledge of best practice, including innovative ideas for visitor engagement with Indigenous people;
 - 14.3 develop an alternative national curriculum for Indigenous Rangers, including Junior Ranger programs with an 'on country emphasis';
 - 14.4 build on existing initiatives in developing flexible innovative vocational pathways for Indigenous employment in protected areas;
 - 14.5 build a national network of skilled, trained and nationally accredited Indigenous and non-Indigenous natural resource management facilitators, negotiators, mediators and participatory community developers network, building on the DEWR's Indigenous Land management Facilitators' network;
 - 14.6 develop community education programs;
 - 14.7 develop a generic protected areas national cultural awareness and engagement curriculum into which local components may be incorporated.
15. Support the development of digital archives for protected area cultural materials and for dedicated positions for developing intercultural awareness training and education.

Recommendations from DEWR's recent review of IPAs (Attachment 2) are broadly complementary to the above recommendations.

9. FUTURE RESEARCH TOPICS

The following topics which require research emerged directly from the case study findings and from associated discussions with case study participants, as well as from discussions with representatives of the Australian Collaboration and AIATSIS.

1. Comparative study of State, Territory and Federal joint management of national parks.
2. Comparative study of State and Territories approaches to supporting the management of Indigenous Protected Areas.
3. Development of a specific flexible Indigenous Ranger program curriculum.
4. Analysis of the types of flexible Indigenous employment and vocational pathways which could be offered on Parks and protected areas.
5. The meaning of capacity-building as it relates to protected areas and joint management of Parks, and practical ways in which capacity-building might occur.
6. The effects on management of the manner in which the partnership was entered into, including issues around free, prior and informed consent and whether the differences between ideals, promises and realities were and continue to be understood.
7. Scoping study on the time, resources, costs and benefits of achieving informed Indigenous consent for all existing and future protected areas across Australia.
8. The development of policies and practices that ensure equitable recognition of Indigenous rights, interests and values in all terrestrial and marine protected areas in Australia, irrespective of current or future tenure.
9. Options for the potential for conservation economies, including economies based on protected areas, to contribute to Indigenous communities' economic and social development.

The contribution of jointly management protected areas and IPAs to community and regional economies.

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ATTACHMENT 1

RECOMMENDATIONS FROM THE WORLD PARKS CONGRESS, DURBAN 2003

Recommendation 24: Indigenous Peoples and Protected Areas

Indigenous peoples, their lands, waters and other resources have made a substantial contribution to the conservation of global ecosystems. For this trend to continue, where appropriate, protected areas, future and present, should take into account the principle of collaborative management attending to the interests and needs of indigenous peoples.

Many protected areas of the world encroach and are found within and overlap with lands, territories and resources of indigenous and traditional peoples. In many cases the establishment of these protected areas has affected the rights, interests and livelihoods of indigenous peoples and traditional peoples and subsequently resulted in persistent conflicts.

Effective and sustainable conservation can be better achieved if the objectives of protected areas do not violate the rights of indigenous peoples living in and around them.

It is widely acknowledged that successful implementation of conservation programmes can only be guaranteed on long term basis when there is consent for and approval by indigenous peoples among others, because their cultures, knowledge and territories contribute to the building of comprehensive protected areas. There is often commonality of objectives between protected areas and the need of indigenous peoples to protect their lands, territories and resources from external threats.

In addition to the benefits to conservation, it is also necessary to acknowledge that indigenous peoples have suffered human rights abuses in connection with protected areas in the past and in some cases continue to suffer abuses today.

Resolution WCC 1.53 Indigenous Peoples and Protected Areas, adopted by IUCN members at the 1st World Conservation Congress (Montreal, 1996), promotes a policy based on the principles of:

1. Recognition of the rights of indigenous peoples with regard to their lands or territories and resources that fall within protected areas;
2. Recognition of the necessity of reaching agreements with indigenous peoples prior to the establishment of protected areas in their lands or territories; and
3. Recognition of the rights of the indigenous peoples concerned to participate effectively in the management of the protected areas established on their lands or

territories, and to be consulted on the adoption of any decision that affects their rights and interests over those lands or territories.

At the request of the World Commission on Protected Areas (WCPA), IUCN's Council endorsed in 1999 "Principles and Guidelines on Indigenous Peoples and Protected Areas", in response to actions called for in Resolution WCC 1.53. In addition, several inter-governmental bodies and international agreements, as well as international conservation organizations, have adopted and promote policies that support recognition of the rights and interests of indigenous peoples in the context of biodiversity conservation and protection of the environment.

Therefore, PARTICIPANTS in the Cross-Cutting Theme on Communities and Equity and in the Stream on Governance at the Vth World Parks Congress, in Durban, South Africa (8–17 September 2003) stressing that the following recommendations shall be conducted in full partnership with the freely chosen representatives of indigenous peoples:

1. RECOMMEND governments, inter-governmental organizations, NGOs, local communities and civil societies to:
 - a. ENSURE that existing and future protected areas respect the rights of indigenous peoples;
 - b. CEASE all involuntary resettlement and expulsions of indigenous peoples from their lands in connection with protected areas, as well as involuntary sedentarization of mobile indigenous peoples;
 - c. ENSURE the establishment of protected areas is based on the free, prior informed consent of indigenous peoples, and of prior social, economic, cultural and environmental impact assessment, undertaken with the full participation of indigenous peoples;
 - d. Further ELABORATE and APPLY, in coordination with indigenous peoples, the IUCN-WWF Principles and Guidelines on Indigenous and Traditional Peoples and Protected Areas (available at <www.iucn.org/themes/wcpa/pubs/pdfs/Indig_people.pdf>), as well as principles that build on IUCN Resolution WCC 1.53 and which fully respect the rights, interests, and aspirations of indigenous peoples;
 - e. RECOGNISE the value and importance of protected areas designated by indigenous peoples as a sound basis for securing and extending the protected areas network;
 - f. ESTABLISH and ENFORCE appropriate laws and policies to protect the intellectual property of indigenous peoples with regards to their traditional knowledge, innovation systems and cultural and biological resources and penalise all biopiracy activities;
 - g. ENACT laws and policies that recognise and guarantee indigenous peoples' rights over their ancestral lands and waters;
 - h. ESTABLISH and implement mechanisms to address any historical injustices caused through the establishment of protected areas, with special attention given to land and water tenure rights and historical/traditional rights to access natural resources and sacred sites within protected areas;

- i. ESTABLISH participatory mechanisms for the restitution of indigenous peoples' lands, territories and resources that have been taken over by protected areas without their free, prior informed consent, and for providing prompt and fair compensation, agreed upon in a fully transparent and culturally appropriate manner;
 - j. ESTABLISH a high level, independent Commission on Truth and Reconciliation on Indigenous Peoples and Protected Areas;
 - k. ENSURE respect for indigenous peoples' decision-making authority and SUPPORT their local, sustainable management and conservation of natural resources in protected areas, recognising the central role of traditional authorities, wherever appropriate, and institutions and representative organizations;
 - l. REQUIRE protected area managers to actively support indigenous peoples' initiatives aimed at the revitalization and application, where appropriate, of traditional knowledge and practices in land, water, and resource management within protected areas;
 - m. UNDERTAKE a review of all existing biodiversity conservation laws and policies that impact on indigenous peoples and ensure that all parties work in a coordinated manner to ensure effective involvement and participation of indigenous peoples;
 - n. DEVELOP and promote incentives to support indigenous peoples' self-declared and self-managed protected areas and other conservation initiatives to protect the lands, waters, territories and resources from external threats and exploitation;
 - o. ENSURE open and transparent processes for genuine negotiation with indigenous peoples in relation to any plans to establish or expand protected area systems, so that their lands, waters, territories and natural resources are preserved and decisions affecting them are taken in mutually agreed terms;
 - p. INTEGRATE indigenous knowledge and education systems in interpretation of and education about natural, cultural and spiritual values of protected areas; and
 - q. ENSURE that protected areas are geared towards poverty alleviation and improve the living standards of the communities around and within the parks through effective and agreeable benefit sharing mechanisms;
2. RECOMMEND IUCN and WCPA to:
- a. FORMULATE and CARRY OUT a programme of work, with the full participation of indigenous peoples, to support their initiatives and interests regarding protected areas, and to actively involve indigenous peoples' representative authorities, institutions and organizations in its development and implementation;
 - b. PROVIDE support and funding to indigenous peoples for community conserved, co-managed and indigenous owned and managed protected areas;
 - c. ENCOURAGE international conservation agencies and organizations to adopt clear policies on indigenous peoples and conservation and establish mechanisms for the redress of grievances; and
 - d. CONDUCT an implementation review of the World Conservation Congress Resolution 1.53 Indigenous Peoples and Protected Areas and the IUCN-WWF

Principles and Guidelines on Indigenous and Traditional Peoples and Protected Areas; and

3. RECOMMEND IUCN Members to consider the establishment of an IUCN Commission on Indigenous Peoples and Protected Areas at its next World Conservation Congress.

Recommendation 25: Co-management of Protected Areas

The benefits of promoting and strengthening partnerships for conservation have been repeatedly stressed by IUCN, from Council Resolution 22 of 1952 to Resolution 1.42 of the IUCN World Conservation Congress in Montreal (1996) and Resolution 2.15 of the IUCN World Conservation Congress Amman (2000). They have also been recognized by the Convention on Biological Diversity, the Millennium Development Goals and the WSSD plan of action.

Co-managed protected areas (CMPAs) are defined as protected areas (as per IUCN categories I–VI) where management authority, responsibility and accountability are shared among two or more stakeholders, including government bodies and agencies at various levels, indigenous and local communities, non-governmental organizations and private operators, or even among different state governments as in the case of trans-boundary protected areas.

In the 21st Century the size, number, and complexity of protected areas systems has increased to impressive proportions. In accordance with good governance principles, consolidating, expanding and improving this global system of protected areas should be done while respecting the rights, interests and concerns of all stakeholders, including their right to participate in decision-making in the establishment and management of protected areas. The sharing of protected area management authority, responsibilities, benefits and costs should be distributed among relevant actors, according to legitimate entitlements. Such entitlements should be defined through a negotiation process that specifically involves disadvantaged groups, and results in stronger engagement of civil society in conservation.

Are governments alone able to ensure the accomplishment of all their protected areas conservation objectives and social requirements? Some estimate this to be plainly impossible. Fortunately, there is a substantial wealth and diversity of conservation-relevant knowledge, skills, resources and institutions at the disposal of indigenous, mobile and local communities, local governments, NGOs, resource users, and the private sector. Co-management settings are one of the most effective ways to organize such conservation-relevant resources, but are they successfully enlisted and implemented?

Current efforts to involve indigenous peoples, mobile peoples and local communities in protected area management are often limited to consulting them, asking their help in implementing predetermined activities or assigning to them some “benefits” (often unrelated to the costs incurred), without effective discussion and negotiation of options. This may be due to various causes, but lack of supportive policies and capacities are at the roots of many failures. Actions are needed to facilitate:

1. understanding the potential of, and obstacles to, co-management approaches;
2. undertaking co-management processes;

3. negotiating co-management agreements;
4. developing co-management organizations;
5. integrating adaptive governance approaches with more familiar adaptive management exercises; and
6. learning by doing through participatory monitoring and evaluation.

The diversity of co-management approaches makes them capable of fitting different contexts. If properly understood and adopted, co-management can lead towards more effective and transparent sharing of decision-making powers, a more active, conservation-friendly and central role of indigenous, mobile and local communities in protected area management, and a better synergy of the conservation capacities.

Therefore, PARTICIPANTS in the Communities and Equity Cross-Cutting Theme at the Vth World Parks Congress in Durban, South Africa (8–17 September 2003):

RECOMMEND international conventions, governments, protected area agencies, donor agencies, conservation NGOs, communities, and the private sector, and in particular IUCN — The World Conservation Union as potential inspirer and leader of well coordinated and synergistic efforts, to:

1. SUPPORT the review, consolidation, strengthening and expansion of existing experiences of co-management of protected areas;
2. PROMOTE the participation of stakeholders in decision-making concerning protected area management, with particular regards to indigenous, mobile and local communities, and disadvantaged groups via a range of mechanisms including information generation and sharing; joint visioning and participatory assessment exercises; support to stakeholder organizing and capacity building; negotiated management agreements and benefit sharing; and full empowerment and accountability for conservation in effectively co-managed and community-managed areas;
3. CREATE or strengthen enabling legal and policy frameworks for co-management in protected areas;
4. UNDERTAKE programmes to develop and strengthen institutional and human capacities for co-management of protected areas as part of efforts towards good governance and more effective management, including setting up basic training and refresher courses for natural resource managers, national and international exchange visits and joint learning initiatives among PA institutions and sites engaged in co-management efforts;
5. PROMOTE participatory action-research in co-managed protected areas with emphasis on stakeholder identification, social communication initiatives, negotiation processes, consensus-based decision making, co-management outcomes and impacts, and legislation and policies for a supporting environment;
6. EXPAND the sharing of experience and lessons learned on co-management of protected areas at national, regional and international levels including by strengthening the work of the Co-management Working Group (CMWG) of the IUCN Commission on Environmental, Economics and Social Policy (CEESP) and of the joint World Commission on Protected Areas/CEESP Theme on Indigenous and Local Communities, Equity and Protected Areas (TILCEPA); and

7. CALL upon the Conference of the Parties to the Convention on Biological Diversity to address co-management issues in their programme of work for protected areas, in particular with regard to enabling legal and policy framework, capacity building, participatory action-research and exchanges of experiences and lessons learned.

Recommendation 26: Community Conserved Areas

A considerable part of the earth's biodiversity survives on territories under the ownership, control, or management of indigenous peoples and local (including mobile) communities. However, the fact that such peoples and communities are actively or passively conserving many of these sites through traditional or modern means, has hitherto been neglected in formal conservation circles.

Such sites, herein called Community Conserved Areas (CCAs), are extremely diverse in their institutions of governance, objectives of management, ecological and cultural impacts, and other attributes. Two primary characteristics distinguish them:

1. predominant or exclusive control and management by communities, and
2. commitment to conservation of biodiversity, and/or its achievement through various means.

In this context, CCAs are natural and modified ecosystems, including significant biodiversity, ecological services and cultural values, voluntarily conserved by indigenous and local communities through customary laws or other effective means. The term as used here is meant to connote a broad and open approach to categorizing such community initiatives, and is not intended to constrain the ability of communities to conserve their areas in the way they feel appropriate.

Various international instruments dealing with environmental and human rights have recognised the role of communities in relation to natural resource management, such as:

1. the emphasis provided by the Convention on Biological Diversity (CBD) to the biodiversity-relevant knowledge, skills, innovations, and practices of communities; or
2. the Draft *Declaration of the Rights of Indigenous Peoples*, which acknowledges the right of such peoples to control and manage their territories.

Today, most CCAs remain unrecognised in national and international conservation systems, and are largely outside the official protected area networks of countries. This may be because the resource management systems of CCAs are often based on customary tenure systems, norms and institutions that are not formally or legally recognized in many countries.

CCAs as they exist today serve the management objectives of different protected area categories. Nevertheless, CCAs everywhere are facing threats, including:

1. those resulting from unclear and insecure tenurial arrangements;
2. unsustainable developmental projects;
3. delegitimization of customary rights;

4. centralized political decision-making processes;
5. social, economic and political inequities;
6. loss of knowledge and cultural change; and
7. commercialization of resources.

It is therefore recognized that communities need support and facilitation to respond to these threats, and to enable them to reach greater security in their conservation and sustainable use practices.

Mindful of these points, participants in the cross-cutting Theme entitled “Communities and Equity” have deliberated on CCAs in several sessions of the 5th World Parks Congress, and have concluded that national and international recognition of such areas is an urgent necessity.

Therefore, PARTICIPANTS in the Communities and Equity Cross-Cutting Theme at the Vth World Parks Congress, in Durban South Africa (8–17 September 2003):

1. RECOMMEND governments to:
 - a. PROMOTE a multisectoral process for recognizing, enlisting, evaluating, and delisting CCAs;
 - b. RECOGNIZE and PROMOTE CCAs as a legitimate form of biodiversity conservation, and where communities so choose, include them within national systems of protected areas, through appropriate changes in legal and policy regimes;
 - c. ENSURE that official policies, guidelines, and principles, recognise diverse local (formal or informal) arrangements developed by communities on their own or in collaboration with other actors, for the management of CCAs;
 - d. FACILITATE the continuation of existing CCAs, and their spread to other sites, through a range of measures including, financial, technical, human, information, research, public endorsement, capacity-building, and other resources or incentives that are considered appropriate by the communities concerned, as well as the restitution of traditional and customary rights;
 - e. ACKNOWLEDGE that it may be appropriate for some existing protected areas to be managed as CCAs, including the transfer of management of such areas to relevant communities;
 - f. PROVIDE protection to CCAs against external threats they face, including those mentioned in the preamble;
 - g. RESPECT the sanctity and importance of CCAs in all operations that could affect such sites or the relevant communities, and give particular attention to applying the principles of Prior Informed Consent, participatory environmental impact assessments, and other measures as elaborated in decisions and documents of the Convention on Biological Diversity (CBD);
 - h. SUPPORT self-monitoring and evaluation of CCAs by the relevant communities, and participatory monitoring and evaluation by outside agencies or actors; and
 - i. PROVIDE impartial information when and where needed and/or asked for by the relevant communities;

2. ALSO RECOMMEND communities to:
 - a. COMMIT to conserving the biodiversity in CCAs, maintaining ecological services, and protecting associated cultural values;
 - b. CONSIDER extending the network of CCAs to sites not currently being conserved or sustainably managed;
 - c. STRENGTHEN or initiate measures to respond to forces that threaten CCAs, including those mentioned in the preamble above;
 - d. RECOGNIZE the ecological, cultural, and other values of the CCAs and species that are within territories the communities are controlling and managing;
 - e. SEEK public recognition for the CCAs they are managing where it is appropriate, including from governments; and
 - f. COMMIT to strengthening or developing effective mechanisms for internal accountability;
3. FURTHER RECOMMEND conservation agencies and other non-government organizations (NGOs), donor agencies, private sector, and other actors:
 - a. RESPECT the sanctity and importance of CCAs in all their operations that could affect such sites or the relevant communities, and in particular activities that could adversely affect them; and
 - b. PROVIDE support of various kinds to CCAs, where considered appropriate by the concerned community, including to help build capacity;
4. CALL on international organizations to:
 - a. RECOGNIZE CCAs in all relevant instruments and databases, including in the United Nations List of Protected Areas, and the World Protected Areas Database;
 - b. PROVIDE adequate space for consideration of CCAs in relevant documents, such as the State of the World's Protected Areas Report, and Protected Areas in the 21st Century;
 - c. PROMOTE OCCAs through appropriate programmes of work, in particular the Programme of Work of the CBD on protected areas; and
 - d. INTEGRATE CCAs into the IUCN Protected Areas Category System, through the introduction of a dimension of governance, appropriate interpretations and additions to the definitions and guidelines especially regarding cultural values, and work towards identifying CCAs that would fit into each of the six IUCN Protected Areas Categories.

ATTACHMENT 2

RECOMMENDATIONS FROM THE AUSTRALIAN GOVERNMENT'S EVALUATION OF THE INDIGENOUS PROTECTED AREA PROGRAMME (SECTION 6, PAGES 58–60)⁷⁰

Overall Assessment

Consideration of major issues arising in DEH's evaluation of the IPA program, as outlined in Section 5, gives rise to a set of specific findings which, in turn, can be translated into specific recommendations relevant to the future scope and direction of the IPA Programme.

Taken together, the findings and recommendations from the evaluation present an opportunity for what is already a highly successful Programme to evolve into an even more effective one based on four parallel initiatives:

- facilitating tripartite agreements between Indigenous landowners, State or Territory Governments and the Australian Government;
- formulating a graduated system of Indigenous land management supported by a sliding scale of public investment;
- exploring a differentiated set of governance options which take account of clan estate traditions in cultural resource protection and land management; and
- funding a dedicated program targeting delivery of natural and cultural resource management services, independent of welfare-based programs.

Growing the model

With the success of the IPA Programme widely acknowledged and its current budget fully committed in support of 22 existing and nine developing IPAs, there is clearly a need for the budget to be increased to fund the progressive declarations of new IPAs and to maintain existing minimal levels of seed funding.

The current level of support provided should be considered a minimum or base level of seed funding to keep the IPA framework in place, assuming that funding for specific projects will be forthcoming from other sources.

A concerted effort should be made to streamline administration of grants through Shared Responsibility Agreements and a strategic partnership between the Department of the Environment and Heritage, the Department of Employment and Workplace

70. Department of the Environment and Heritage 2006. *The Indigenous Protected Areas Programme* — 2006 Evaluation by Brian Gilligan.

Relations and the Indigenous Land Corporation to deliver whole-of-government outcomes.

Depending on the timing of new IPA declarations, maintenance of the current Programme at a basic level of operation could require a doubling of the current budget to around \$6 million in 2008–09 and further increases to about \$10 million by 2010–2011.

To permit essential forward planning, funding should be provided on a three to five year cycle subject to annual monitoring and reporting.

While this base level of operation should be retained as an option for Indigenous landowners, for individual IPAs and the Programme as a whole to be able to reach their full potential, options for further development need to be formulated through the four parallel initiatives listed above.

It is difficult to usefully speculate on the possible levels of funding needed for a fully fledged system of Indigenous managed protected areas, but if even moderate progress can be made in tripartite negotiations for a fully funded graduated system of Indigenous land management supported by a targeted ranger programme.

\$20–30 million per year might be able to be well invested by 2010–2011 rising to \$50 million thereafter. Increases of this magnitude in the scale of the IPA budget should be conditional on the achievement of well defined conservation outcomes by the IPA Programme. The pace at which any such escalation of the Programme occurs will depend on the progress of tripartite negotiations and Indigenous decision making and land management capability on any changes for individual IPAs.

Specific recommendations

6.1 Status and funding

- 6.1.1 Funding to at least a minimum base level of ongoing management of IPAs should be sought, within the supportive framework of tripartite agreements between owners, State or Territory Governments and the Australian Government, if their full value to the National Reserve System is to be realised.
- 6.1.2 Management funds should be provided on the basis of three–five year forward estimates, with actual spending reviewed annually against achievements.
- 6.1.3 The recurrent funding formula applied should be reviewed over time to reflect different levels of Indigenous land management activity negotiated in tripartite agreements between Indigenous landowners, States and Territories and the Australian Government.
- 6.1.4 The issue of possible recognition of IPAs as Conservation Agreements under Part 14 of the EPBC Act should be considered along with other options for a graduated system of Indigenous land management defined in tripartite negotiations.

6.2 Linkages with other programmes

- 6.2.1 Given the significance of land management activities to community well-being, Indigenous Coordination Centres should be asked to consider the value of using IPAs as a focus for integrating community based programme delivery.
- 6.2.2 The Department of the Environment and Heritage (DEH) should develop a policy that implements streamlined funding processes for Indigenous communities receiving DEH funding.
- 6.2.3 The Department of the Environment and Heritage should work with the Indigenous Land Corporation and the Department of Employment and Workplace Relations and other relevant Australian Government agencies to streamline programme delivery associated with land management and employment.
- 6.2.4 The Department of the Environment and Heritage should investigate options for a national Indigenous ranger programme which links to and enhances existing programmes (such as the IPA Programme) under a broad 'Caring for Country' framework.

6.3 Management effectiveness

- 6.3.1 IPA monitoring, evaluation and reporting requirements should be reviewed to ensure that they are consistent with emerging management effectiveness regimes.
- 6.3.2 IPA Programme staff should be involved in the wider task of formulating management effectiveness protocols for reserves to ensure that the scale and complexity of the management challenges facing IPA managers can be properly recognised; adaptive management and capacity building can be tracked; and achievements acknowledged.
- 6.3.3 The Australian Government should undertake a thorough investigation into the relationship between IPAs and ranger programmes. This research should also consider ranger programmes operating outside the IPA framework and examine the potential to incorporate the successful features of existing ranger activities into a nationally coordinated and funded ranger programme.

6.4 Scale and ongoing support

- 6.4.1 Australian Government Land Management Facilitators should be explicitly tasked to provide support for IPAs to enhance their capacity to engage in integrated landscape management and regional NRM programmes.

6.5 Governance

- 6.5.1 Respect for Indigenous decision making and governance regimes should continue to be a fundamental operating principle for the IPA Programme and some differentiation of governance arrangements should be explored to better reflect traditional Indigenous governance.
- 6.5.2 Any escalation of the IPA Programme in an effort to maximise potential contributions to the NRS should take account of the time frames and resources required for Indigenous decision making and governance.

6.5.3 The development of new IPAs should take account of the optimal scale of operations to satisfy both Indigenous and non-Indigenous governance requirements.

6.5.4 The manner and location of funds being invested by the Australian Government for IPA land management activities should take account of traditional clan governance and land management accountabilities.

6.6 Land and sea country

6.6.1 The Australian Government should further investigate the implications of community requests to declare IPAs over sea country.

6.7 Programme management

6.7.1 As the number of IPAs grows, consideration should be given to the need for additional Programme staff, both to continue the engagement between IPAs and Canberra, which is valued by the IPAs, and to enhance productive linkages with other Programmes at national, state and regional levels.