

## **Native title and Joint Management arrangements for protected areas in New South Wales**

This paper has been prepared by Dr Janet Hunt, Fellow, Centre for Aboriginal Economic Policy Research (CAEPR) at The Australian National University, and Siobhan Mackay, Aurora Intern at CAEPR.

### ***1. Overview***

In NSW, Native Title processes have not been the major avenue for achieving joint management agreements, although that is changing, as this paper will show. The primary mechanism for NSW Aboriginal people to achieve joint management to date has been through hand backs or other arrangements under the National Parks and Wildlife Act 1974.

The NSW National Parks and Wildlife Service (NPWS) enables Aboriginal joint management of protected areas under the *National Parks and Wildlife Act 1974* (NSW) (the NPW Act), as amended by the *National Parks and Wildlife Amendment (Aboriginal Ownership) Act 1996* (NSW) (NPW AOA) which inserted a new Part 4A to the Act.

Part 4A notes the significance of a number of existing conservation reserves to Aboriginal people. Seven existing parks or reserves are listed as eligible for hand back under this provision. The AOA also provides that additional protected areas to those explicitly named may be nominated for Aboriginal ownership under Schedule 14 of the Act. This requires Aboriginal people who are seeking land hand back and joint management arrangements to demonstrate the cultural significance of the area proposed for nomination. Only one additional area has been nominated, but has not been listed as eligible for hand back to date.

Under the amendments the Minister is given powers to negotiate ‘Uluru’-style joint management arrangements with the Aboriginal owners. The ‘Uluru’ model enables Aboriginal ownership of the protected land with a lease-back agreement, in this case to the Minister responsible for NSW NPWS, who establishes a Joint Management

Board with majority Aboriginal membership. The Board has the powers of the Director-General of the NPWS in relation to 'care, control and management' of the jointly-managed lands. It is still subject to the Minister's direction, except in decisions about Aboriginal culture and heritage in the national park (NP) area. The land is held on behalf of the Aboriginal owners as freehold land by Local Aboriginal Land Councils (LALC), which are themselves formed under the *Aboriginal Land Rights Act 1983* (NSW) (the ALRA). It is important to note that the registered Aboriginal owners, not the LALC, have decision-making authority over the land. The 1996 amendments established (in Section 49C) a register of Aboriginal Owners which is managed by the Registrar of the *Aboriginal Land Rights Act 1983*.

The NPW AOA also allows land claims under the ALRA to be subject to lease, reservation or dedication under the NPW Act. The ALRA provides for four ways of recovering land: transfer of former reserves owned by the Aboriginal Lands Trust; claimable Crown Lands; purchases of land; and, in exceptional circumstances, compulsory acquisition. Important cultural sites are protected under the NPW Act, but are not claimable under the ALRA. It is important to note that the NPW AOA does not override the rights of native title holders in national parks.

A statutory review of the provisions of Part 4A of the *National Parks and Wildlife Act*, relating to Aboriginal Ownership, was conducted in 1999-2000 which indicated that Part 4A of the Act was operating to meet its policy objectives. However, the review generated a number of proposals for improvement to the Act, which appear to be still under consideration, as a number of them required further consultation and discussion.

The Review report and the draft recommendations are available at:

[http://www.environment.nsw.gov.au/legislation/Review\\_of\\_Aboriginal\\_ownership\\_provisions.htm](http://www.environment.nsw.gov.au/legislation/Review_of_Aboriginal_ownership_provisions.htm)

During 2009 the NSW Department of Environment and Climate Change (DECC) is planning to undertake a review of co-management arrangements in national parks.

More recently, Native Title processes have led to ILUAs between Aboriginal people and the NSW Government establishing co-management of a number of existing

national parks, or creation of new parks, in which native title rights and interests have been surrendered in return for joint management arrangements and other benefits.

This paper reviews the Native Title-related co-management arrangements first, then outlines the co-management arrangements under the National Parks and Wildlife Act 1974. It concludes with information on Indigenous Protected Areas in NSW which represent sole management arrangements.

Readers should be aware that the actual implementation of written agreements will vary according to a host of factors, among them the historical relationships between Aboriginal people and the co-management partners at the local level, the capacity of both sets of partners to work effectively together, the leadership demonstrated in partners to the agreements, the extent to which Indigenous rights are enshrined in the agreements and how effectively they can be exercised locally, and so on.

## **2. *Native Title, ILUAs and National Parks***

There have only been two successful native title consent determinations in NSW, both of which concluded that native title exists over the entire determination area:

- The Dunghutti people were successful in the first ever consent determination under the *Native Title Act 1993* over 12.4 hectares in Crescent Head in April 1997 (*Buck v New South Wales* [1997] FCA 1624). A Section 21 agreement was signed regarding sub-division and housing development works on the land and financial compensation. This determination does not relate in any way to Joint Management.
- In November 2007, the Githabul people succeeded in their claim over 13 state forests and nine national parks in Northern NSW, totalling 1,199 square kms (*Trevor Close on behalf of the Githabul People v Minister for Lands* [2007] FCA 1847).

This Githabul Native Title claim has resulted in a joint management agreement.

### **2.1 Githabul people**

### *Native Title*

Preceding the native title consent determination made in *Trevor Close on behalf of the Githabul People v Minister for Lands* [2007] FCA 1847 an ILUA, covering the largest area of any ILUA in NSW, was registered on 15 August 2007. The ILUA and subsequent determination settled the native title claim of the Githabul people over 112,000 hectares (1,199 square kilometres) of national parks and state forests in the land north of Casino and Tenterfield to the Queensland border.

On 29 November 2007, the Federal Court recognised the Githabul people's non-exclusive rights to:

- access the determination area for spiritual purposes and access sites of spiritual significance
- access and camp in the area
- fish, hunt and gather animals and plants for personal, domestic or non-commercial communal needs
- take and use water for personal, domestic or non-commercial communal needs, and
- lawfully protect places of importance to the Githabul people in the determination area.

### *Agreement Details*

The ILUA allows for:

- consultation and involvement in the management of 9 national parks (including some areas outside the determination area)
- consultation about the management of 13 state forests
- protection of culturally significant areas (eg Tooloom Falls)
- transfer of freehold title over 102 hectares of land to the Githabul Nation Aboriginal Corporation and exercise of the native title rights in accordance with some agreed restrictions, and
- employment opportunities for at least four Githabul people.

Further details of this agreement are not available.

National Native Title Tribunal, *Githabul People's Native Title Determination*, at:

<http://www.nntt.gov.au/Publications-And->

Research/Publications/Documents/Multimedia and determination

brochures/Determination brochure Githabul people November 2007.pdf

Plans of Management have been developed for four of the nine national parks covered by this determination. However, it should be noted that these were developed prior to the ILUA.

Captain's Creek Nature Reserve Draft Plan of Management (September 2002)

<http://www.environment.nsw.gov.au/resources/parks/pomdraftcaptainscreek.pdf>

Toooloom National Park Plan of Management (September 1999)

<http://www.environment.nsw.gov.au/resources/parks/pomfinaltooloom.pdf>

Toonumbar and Richmond Ranges National Parks Plan of Management (26 July 2005)

<http://www.environment.nsw.gov.au/resources/parks/POMNthnRichmondRange.pdf>

## **2.2 *ILUAs not based upon a native title consent determination***

Eight ILUAs have also been registered in NSW over areas where native title has not been determined, or has been determined to be extinguished. Four of the ILUAs relate to the development of a nature reserve or park; three of these, relating to the Byron Bay area, are interlinked.

### **2.2.1 Arakwal National Park**

#### *Native Title*

A 2001 consent determination that native title did not exist over the Byron Bay Area was based upon the earlier ILUA signed by the Arakwal (Byron Bay Bunjalung)

people. In this agreement they surrendered to NSW any native title rights and interests, thereby extinguishing native title. This was reflected in the consent determination (*Kelly v NSW Aboriginal Land Council* [2001] FCA 1479).

### *Agreement Details*

Three ILUAs have been signed by the Byron Bay Bunjalung people and the Government of New South Wales.

#### ILUA 1

The first ILUA, registered on 28 August 2001, was the first agreement of its kind, creating a new National Park to be jointly managed by the Traditional Owners and the NSW NPWS. Under this agreement the Bunjalung people consented to future acts to create a National Park (clause 6); surrendered their native title rights to two pieces of land which were transferred to the Arakwal Corporation (AC) (subclauses 5.1.2, 5.2.4-5); and to an access road to be opened to one (Clause 8). The land is to be used for housing, the construction of a cultural centre and a tourist facility. The ILUA also provides for a cottage to be available as temporary accommodation for the Native Title holders, pending the development of the AC land (clause 10), and validates a previous Cape Byron agreement relating to the State Recreation Area around the Cape Byron Lighthouse (clause 11).

The requirement that a Plan of Management be devised was fulfilled, and finalised in February 2007:

<http://www.environment.nsw.gov.au/resources/parks/arakwalpomfinal.pdf>

Arakwal ILUA:

[http://www.atns.net.au/objects/Agreements/Bunjalung\(Arakwal\)ILUA.pdf](http://www.atns.net.au/objects/Agreements/Bunjalung(Arakwal)ILUA.pdf)

### *Governance*

Schedule G of the ILUA addresses National Park management. The Minister is required to establish an Arakwal National Park Management Committee (ANPMC) (Clauses 1.1-1.2). This must comprise three people nominated by the AC, three

National Parks nominees and one Byron Shire Councillor (subclause 1.3.1). A quorum requires two from the AC, one from the NPWS and one other (subclause 1.4.2). The ANPMC has a secretary, remunerated by the NPWS, who may be a member of AC with sufficient expertise (Clause 1.6). The ANPMC must meet at least three times per year (this can be by telephone [2.4.2]); has powers to advise the Director-General of the DECC about the care, control and management of, and educational and interpretive policies for the National Park; and must report annually to the Director-General (Clause 2.3).

*Other provisions*

Other benefits include:

- AC members and other Aboriginal people authorised by AC are exempt from entry, camping and other fees which may be levied
- members of the AC have access for protection and conservation of cultural heritage and areas of cultural significance
- the right to conduct ceremonies under traditional law or custom
- rights to gather material for traditional medicines, ceremonies and food;
- access for fishing and hunting
- consultation about the development and implementation of a program for the identification and recording of Aboriginal sites, and an agreement to keep the location of sacred sites confidential to the native title claimants and the ANPMC
- employment of at least three Indigenous people, desirably Arakwal people, in the National Park, and relevant on-the-job or formal training courses paid for by NPWS
- the opportunity for an AC representative to be on selection panels for any position involved in the day to day running of the Park
- cross cultural training for non-Arakwal staff
- AC may set up an Aboriginal Training Program to develop skills relevant to National Park management (this could be traineeships, or formal secondary or tertiary study, or a training course approved by the NPWS). The NPWS are to

try and secure up to \$150,000 a year for such traineeships to be administered by the NPWS

- notification to AC of any work to be contracted out by the NPWS so that the AC can either offer to conduct the work, or indicate its wish to be consulted about the tender/contract proposed, and
- the right of AC or a person it nominates to a licence to carry out a commercial venture within the Park.

### ILUA 2

The Bunjalung people signed a second ILUA with the Government of New South Wales in 2008 (ILUA 2), surrendering native title rights over a 1866 square km region covered by the *Bunjalung People #1 and #3* native title applications, transferring a further 124 ha to the NPWS. The NPWS in turn committed to an ongoing employment and training program, and the NSW Government committed to a grant of freehold over the Broken Head Caravan Park which the Bunjalung people will use to stimulate economic development. The agreement was registered in April 2008.

### ILUA 3

The third ILUA was also registered in April 2008, for no specified period. It covers 58 ha south of Byron Bay and includes Ti Tree (Taylor's) Lake. The ILUA caused the area to be declared an Aboriginal Area under the National Parks and Wildlife Act 1974, and to be transferred to and managed by the NPWS. An Aboriginal Advisory Committee of female elders and others appointed by the Deputy-General will provide advice.

### **3. *Other co-managed National Parks with lease-back arrangements***

These co-management arrangements were not dependent on Native Title claims, but arose from Part 4A of the amended *National Parks and Wildlife Act*. Mutawintji, Biamanga, Gulaga, Mt Grenfell, Worimi are all examples of Aboriginal ownerships and lease back of parks under Part 4A of the National Parks and Wildlife Act 1974.

#### **3.1 The first Aboriginal owned and leased-back park in NSW: Mutawintji**

The struggle for Mutawintji was a long one. In 1983, after Indigenous people had been ignored in the gazettal of a reserve in 1927, and again when the Mutawintji Historic Site (1967) and National Park (1983) were declared, some 200 local Aboriginal people blockaded the Park. The Mutawintji Local Aboriginal Land Council (MLALC) was subsequently formed, with the goal of regaining control of their lands which, as a National Park, they could not claim under the new ALRA. The activism of the Aboriginal owners of Mutawintji was a major stimulus to the NPW AOA, and they were the first to request negotiation with the Minister under Part 4A.

The handover of Mutawintji National Park (MNP) as inalienable *Wimpatja* freehold title to the MLALC, on behalf of the traditional owners, took place on 5 September 1998.

### *Tenure*

As agreed between the parties, in return for the freehold grant of the land the MLALC granted the NSW Minister for the Environment a 30-year lease over the National Park, Historic Site and Nature Reserve, renewable for periods of at least 30 years, to continue to be part of the NSW conservation estate. The lease is to be reviewed every five years to determine whether any changes are necessary; however, any changes cannot lower the benefits or rights of the MLALC or Traditional Owners.

### *Agreement Details*

The terms of the lease provide a number of benefits to the Indigenous owners:

- Annual rent as compensation. Initially set at \$275,000 per year, to be adjusted for inflation and reviewed when the lease is reviewed, the rent may be used only for the purposes of the lease, which may include community development and purchasing land to add to the Park (clause 6).
- Training and employment, with new Aboriginal jobs provided by the lease. The Joint Management Coordinator (not a board position), rangers, field officers, administration officers and trainee positions will be Aboriginal

designated positions. The lease provides for MNP staff to have a fair share of training opportunities within the normal national park training program and, where space is available, Board members can access such training too.

- The MLALC can be given preference in the contracts for works on the lands, where it is legally allowed to do so.
- Non-*Wiimpatja* staff and board members are required to do cultural awareness training that is run or approved by the MLALC.
- Rights to access and use the lands in accordance with Aboriginal tradition, so long as this is within the national park laws governing the lands.
- Aboriginal owners and *Wiimpatja* with a cultural association with the lands do not have to pay entry, camping or other fees.
- The ability to have a cemetery on the lands, for *Wiimpatja* and other people approved by the Board and MLALC.
- Ownership of *Wiimpatja* art, designs and cultural property at Mutawintji; however, the NPWS have free use of them to promote MNP or the national parks system.

### *Governance*

- Rights to be consulted by the Minister before any laws/rules that apply to the MNP lands are developed.
- The Traditional Owners must constitute a majority membership of the Board which makes decisions about the planning and management of the lands (a requirement of s71AN of NPW Act). Further, a majority of *Wiimpatja* is required for a quorum.
- The Board is appointed by the Minister, who is to try to achieve a balance of Aboriginal owner family interests in his/her appointments (requirement of s71AN of NPW Act). These appointments are for four years.
- A separate account for funds to manage the lands (s138 of NPW Act).  
(The above three dot points are all legislative requirements of Part 4A).
- The Board is responsible for appointments to work on MNP lands (but with normal Public Service rules applying); has control over permits to operate in the MNP; and can develop kangaroo plans.

- The Board is to control the use of rights to hunt and gather food for domestic, ceremonial and cultural purposes (s71AO of NPW Act).
- The Board is to be consulted regarding the conservation and recovery plan for the Yellow-footed Rock-wallaby (and none of this species to be removed from the MNP unless in an emergency).

There were a number of restrictions on the Board's exercise of full control over the lands in the lease:

- The incorporation of the Historic Site and the Nature Reserve into the National Park requires Parliamentary approval.
- The Minister has to agree to any extension of the Park (e.g. through purchase of additional land).
- The NPWS Director-General has powers to make decisions relating to the lands in an emergency.
- The Board has to develop a Management Plan, an annual budget proposal, and meet at least 4 times a year.
- The Board may be subject to an NPWS annual audit. The MNP annual audit has certain requirements.
- The Board cannot permit commercial or other culling of kangaroo, or set Park entry, camping and other fees without the Minister's permission.
- The *Wilderness Act 1987* (NSW), and The *Threatened Species Conservation Act 1995* (NSW) apply.
- The Board must be given at least one month's notice of any proposals for new commercial activities before it can make a decision.

Mutawintji lease:

<http://www.austlii.edu.au/cgi-bin/sinodisp/au/other/IndigLRes/remote/mutawintji/lease.html?query=mutawintji>

### **3.2 Other Parks with lease-back arrangements**

Other parks with lease-back arrangements of the Mutawintji type include:

- Biamanga NP and Gulaga NP (2005), both on the far South Coast.

- Mt Grenfell Historic Site (2004), west of Cobar, is an Aboriginal Rock Art site. It was formerly a reserve, and was returned to its traditional owners through the Cobar LALC, and
- Worimi Conservation Lands (2007) north of Newcastle. The Stockton Bight (Worimi Conservation Lands) Co-management Agreement resulted from the resolution of land claims (under the *Aboriginal Land Rights Act 1983*) by the Worimi LALC (WLALC), and the Worimi Traditional Owners and Elders Group by an agreement to lease back the land (4,198 ha) to the Minister for the Environment for use as a publicly accessible conservation reserve. Some small areas were also granted to the WLALC.

Three NPs remain on the Schedule 14 list —Mungo NP, Jervis Bay NP and Mount Yarrowick Nature Reserve—as eligible for handback. Mungo NP has developed an alternative arrangement –see Section 4 below.

## **Gulaga and Biamanga National Parks**

### *Agreement Details*

The provisions of the Gulaga and Biamanga leases are very similar to the Mutiwintji lease, with the exception of specifically relevant provisions to each park. The Gulaga and Biamanga National Parks are part of a single cultural landscape and, although each has a separate lease, they are being managed in a coordinated way. The leases provide for an initial 30-year term, renewable for 30 year periods.

The rent set for each park is currently \$210,000 each year. An additional \$40,000 was provided in the first two financial years (2006/07 and 2007/08) as Board establishment funds which covered: governance training for the Board; a skills audit for Yuin and Land Council members; additional Board meetings or visits to the land; and visits to other joint or co-managed Parks to learn from their experience.

### *Employment and Training*

Between the two Parks, six Aboriginal identified NPWS jobs were created. At the commencement of the lease, four of the positions were already established following the Eden and Southern Regions Comprehensive Assessment which formed part of the Regional Forest Agreement (RFA) for the area. The Eden RFA was unique in terms of its relatively high level of Indigenous participation and subsequent outcomes for Aboriginal employment. This was due to numerous native title claims having been lodged by the time of negotiations for the RFA, making it impossible to ignore Aboriginal groups (Rangan and Lane, 2001, 152). The jobs established under the Assessment were a Project Officer, two field officers, and a ranger for Gulaga NP, as well as two Aboriginal Cultural Heritage Officers who are available on a needs basis to take part in the care, control and management of the lands. For additional positions in the Parks, the Director-General is to consider the Boards' views about whether they should be Aboriginal-identified. One employment criterion for Aboriginal-identified positions is local knowledge and cultural association with the area and local community.

The Board is entitled to set up an Aboriginal Employment and Training program, and to employ people with its own funds. The Land Councils that hold the leases may request the Minister to sub-lease a reasonable part of the lands for community development purposes. The Boards may also require tour operators to use trained Yuin people for cultural interpretation in new or renewed permits.

Biamanga National Park lease agreement:

<http://www.environment.nsw.gov.au/resources/parks/biamangaLease.pdf>

Gulaga National Park lease agreement:

<http://www.environment.nsw.gov.au/resources/parks/gulagaLease.pdf>

Mt Grenfell Historic Site lease agreement:

<http://www.environment.nsw.gov.au/comanagement/MtgrenfellLeaseback.htm>

Worimi Conservation Lands lease agreement:

<http://www.environment.nsw.gov.au/resources/parks/WCLLeaseAgreement.pdf>

#### **4. *Co-management through Memoranda of Understanding***

A further way to establish co-management agreements and other partnerships is through Memoranda of Understanding (MOU). There are eight memoranda of understanding and two other agreements with Aboriginal communities in NSW for management of parks:

- with Menindee Elders Council for management of Kinchega NP
- with Three Traditional Tribal Groups Elders Council for management of Mungo NP
- with Peak Hill Bogan River Traditional Owners Group for Goobang NP and Snake Rock Aboriginal Area
- with Aboriginal community representatives from Coonabarrabran, Gunnedah, Narrabri and Barradine for management of Pilliga Nature Reserve, Dandry Gorge Aboriginal Area and Pilliga East Aboriginal Area - the Gawambaraay Pilliga Co-management MOU
- with twelve Aboriginal organisations for all parks in the NPWS Central Coast Hunter Range Region - the Central Coast Hunter Range Region Co-management MOU
- with the Darug people for a number of parks in metropolitan Sydney and part of the Blue Mountains National Park
- with the Saltwater people for the management of Saltwater National Park and part of Khappinghat Nature Reserve and for camping and other cultural activities
- with Baakandji and Budjiti people for management of the Paroo River Wetlands Ramsar Site, including Nocolche Nature Reserve and Paroo Darling National Park
- a statement of joint intent with Ngiyampaa people for culture camps at Yathong Nature Reserve
- a court agreement with Forster Local Aboriginal Land Council for the management of Myall Lakes National Park.

##### **4.1 Kinchega National Park**

The Kinchega MOU arose as a formal recognition of the NPWS' commitment to work cooperatively with the Menindee Aboriginal Elders Council (MAEC) in the management of Kinchega NP, east of Broken Hill, recognised as being critically important for Aboriginal culture and heritage, and containing ancient Aboriginal occupation and burial sites. Rather than have an ad hoc relationship, elders established the MAEC, with whom the MOU was negotiated (rather than with a LALC in this case, although the Menindee LALC facilitated the establishment of the MAEC). The MOU took effect on 1 July 2002, and has no impact upon native title rights.

The MOU provides for the NPWS to consult with and enable the MAEC to have real input into the management of the park, to assist them to do so, and particularly to involve them in protection and interpretation of cultural sites, determining the annual works program, consulting them about contracts for work and licences for tour operators, and offering employment to Barkindji and Nyiampaa people.

The Kinchega National Park Plan of Management was developed in December 1999, prior to the MOU:

<http://www.environment.nsw.gov.au/resources/parks/pomfinalkinchega.pdf>

## **4.2 Mungo National Park**

The Mungo NP joint management agreement (JMA) was created to enable the three tribal groups over whose lands the Park ranges to be involved in park management. This was agreed with the Three Traditional Tribal Groups Elders Council (the three groups are Barkindji, Mutthi Mutthi and Nyiampaa). The Three Traditional Tribal Groups Elders Council existed before the Mungo NP Joint Management Agreement and has a role in the management of the Willandra World Heritage Area (an area that is larger than Mungo NP and includes other Crown land and pastoral leases). Mungo NP is a Schedule 14 National Park which is eligible for handback to the Aboriginal owners and joint management under the NSW AOA. However, in 2000 the three groups decided not to pursue a handback with full joint management at that stage. Instead, in order to preserve and encourage constructive input by the traditional owners in the interim, the JMA was negotiated. The initial agreement was concluded in March 2001, and reviewed in June 2004, leading to a revised agreement.

The JMA sets up an Advisory Committee with three representatives from each Tribal Group and six other members to advise on the management of the park and educational and interpretive policies. The Advisory Committee may grant fee exemptions on an individual basis. The agreement provides for employment of at least three members of the three traditional tribal groups in the management of the park, training for those people, involvement in selection of staff and decisions about contracts for work or services.

Mungo National Park Plan of Management (July 2006):

<http://www.environment.nsw.gov.au/resources/parks/Mungomgmtplan.pdf>

Memorandum of Understanding for Kinchega National Park and Joint Management Agreement for Mungo National Park:

<http://www.environment.nsw.gov.au/comanagement/MemorandumOfUnderstandingForCo-management.htm>

## **5. *Indigenous Protected Areas (IPAs)***

According to the Caring for Country website:

‘An Indigenous Protected Area (IPA) is an area of Indigenous-owned land or sea where traditional Indigenous owners have entered into an agreement with the Australian Government to promote biodiversity and cultural resource conservation.’

The IPA Program began in 1995 with the twin objectives of supporting Indigenous land management and contributing to national conservation objectives. There are now 25 declared IPAs covering a total of almost 15 million hectares across the country. A 2006 evaluation of the IPA program found that it:

- has been extremely cost effective in contributing to national conservation goals; and
- provides meaningful work opportunities for Indigenous Australians.

It found that as well as achieving important biodiversity and conservation outcomes, Indigenous communities involved in the IPA Program report significant other benefits. IPAs create pathways to meaningful jobs looking after land and offer opportunities for skills development:

- ‘95% of IPA communities report economic participation and development benefits from involvement with the Program;
- 60% of communities report positive outcomes for early childhood development from their IPA activities;
- 85% report that IPA activities improve early school engagement;
- 74% report that their IPA management activities make a positive contribution to the reduction of substance abuse; and
- 74% of IPA communities report that their participation in IPA work contributes to more functional families by restoring relationships and reinforcing family and community structures.’(Gilligan 2006: 30)

Since 2006/7 the Indigenous Land Corporation (ILC) has committed \$7m over three years to support the expansion of the IPA programme nationally. Indigenous Land Corporation funds, apart from purchasing properties, may also support community consultation about the development of an IPA and to create the plan of management. They are also supporting land management activities on a number of declared IPAs. This program partnership between ILC and the Australian Government’s Department of Environment, Water, Heritage and the Arts (DEWHA), has achieved 76 full time Indigenous employees and 111 part time employees across all IPAs. 15 IPAs received Working on Country funds which created another 98 full time-equivalent positions in 2008. Some 222 Indigenous people have also undertaken accredited training associated with land management.

There are currently two IPAs in NSW, and others are in development:

- Wattleridge, approximately 648 hectares, near Guyra New England is part of the Banbai nation and was declared an IPA in June 2001,
- Toogimbie IPA was declared in March 2004. Covering 4,600 hectares in South West NSW north of Hay plain, Toogimbie is home to the Nari Nari people.

- Gumma (Forresters Beach) IPA on the north coast of NSW is being developed, and is proposed to include an aquatic reserve under NSW Fisheries legislation.

## **5.1 Wattleridge IPA**

Wattleridge is a botanically diverse bushland with high biodiversity values on outcropping granite country. It has evidence of long Aboriginal occupation, including axe grinding groove sites, art sites and scarred trees. The land was bought by the ILC in 1998 to enable Banbai people to return to a part of their land and reclaim their cultural heritage. Three years after this purchase the land was declared an IPA, and in February 2008 the ILC granted ownership to Banbai Land Enterprises.

The IPA has at least 15 rare or endangered plant species and 12 rare or threatened fauna. It is managed by the traditional owners, who are undertaking major pest management and fire management strategies. The pests being eliminated include foxes, and rabbits, wild dogs, feral cats, pigs and goats as well as weeds such as blackberries, nodding thistle and fireweed. The community is also developing a native plant propagation nursery, training people in horticulture, and establishing seed banks and restoring degraded land through revegetation.

The community is aiming to make the property self-sufficient, and is developing small businesses to help promote employment and additional funds for conservation. They are upgrading cabins, building walking tracks, viewing platforms, and developing interpretation signage to foster ecotourism. They hope that this tourism venture will grow to provide income, employment and further infrastructure development. Community members are undertaking a Certificate course in building and construction, and several have already completed Cert 1V level accreditation. 15 community members have also attained certificates in Bobcat and excavator operation; seven of these also gained certificates in front end loader and backhoe operation.

Furthermore, the IPA is also stimulating interest in the Banbai language. All the signage at the IPA is in Banbai, so visitors are learning Banbai names for things, and the local primary school has expressed an interest in teaching the Banbai language.

Wattleridge IPA and the Tarriwa Kurrukin property (a total area of 1848 ha) received one of only two NSW *Working on Country* grants for environmental services, education of visitors and biodiversity protection in Funding Round 3, announced in December 2008.

<http://www.environment.gov.au/indigenous/ipa/declared/wattleridge.html>

## **5.2 Toogimbie IPA**

Toogimbie was a pastoral property west of Hay purchased by the ILC in 2000 along with two other properties (Lorenzo and Glenhope) which were quickly taken over by the Nari Nari Tribal Council. The total area covers 11,310 ha, of which 4,600ha forms the IPA. It encompasses plains rangelands, seasonal floodplain wetlands, and the riparian corridor along the Murrumbidgee River. It has a number of recorded and protected important Indigenous sites, for example camp sites, scarred trees and burial mounds. The properties were de-stocked at the end of 2002 to allow regrowth, and high priority is being given to wetlands restoration following damage due to timber cutting and farming practices.

An existing 2000 ha irrigation area on Toogimbie has been leased to a local irrigator in order to provide employment and funds to support ongoing works. This gives the Nari Nari Tribal Council a level of financial autonomy. They have also received funding from other sources, such as the Environmental Trust, ANZ Seeds of Renewal, Envirofund, The Community Water Trust, NSW Fisheries, The Aboriginal Water Trust and others.

IPA funding has supported improving wetland inundation, revegetation, and weed and feral animal control (foxes, pigs, rabbits), with some environmental improvements already evident. In 2005 alone, 2.5kg of local seed was collected, 8,500 seedlings were planted, 8,000 clay seed balls distributed, and 4,000 plants propagated. Bird

hides have been erected in the wetlands, and a bush tucker garden has been developed to improve community access to native seeds and plants. Altogether over \$1.2m worth of projects have been completed since 2000 in areas such as cultural site protection, revegetation, river bank stabilisation and water efficiency measures.

The governance is based on clan representation and the community is experiencing a revival, according to the Caring For Our Country website. Indigenous trainees are working on the property, and there are plans to develop a program with Juvenile Justice in the future. In 2007 skeletal remains from the Australian Museum were also buried on the Toogimbie property.

<http://www.environment.gov.au/indigenous/ipa/declared/toogimbie.html>

### **5.3 Forresters Beach (Gumma) IPA (proposed)**

The proposed Forresters Beach (Gumma) IPA on the NSW north coast will bring together an area of former Crown land proposed to be transferred to the Nambucca Heads and Unkya Land Councils to be leased back to the Minister for the Environment under Part 4A of the NPW Act, Warrell Creek itself, and a third area to the west of the creek, which was to be the Gumma IPA. The development of the proposal for lands of different tenures requires considerable negotiations, which the IPA program has helped the Indigenous participants undertake. At Warrell Creek, the major direct benefits up to 2006 had been ‘enhanced negotiations skills and confidence to operate in the business world devised by non-Aboriginal people’ (Gilligan 2006:31). Gilligan notes that there are high expectations for capacity building and employment benefits in the area, and that greater recognition of the flow-benefits of the IPA should give rise to greater funding support from other government programs. It appears that at Forresters Beach, local Aboriginal people have found the NSW state processes ‘legislatively constrained and lacking the flexibility to deliver on Indigenous aspirations.’ (Gilligan 2006:35).

### **References**

Gilligan, B., 2006, *The Indigenous Protected Areas Programme: 2006 Evaluation*, Department of the Environment and Heritage, Commonwealth of Australia, Canberra, available at: <<http://www.deh.gov.au/indigenous/publications/ipa-evaluation.html>>.

Rangan, H. and Lane, M., 2001. 'Indigenous peoples and forest management: Comparative analysis of institutional approaches in Australia and India.' *Society and Natural Resources*, 14: 145-160.

Dr Janet Hunt and Ms Siobhan Mackay  
Centre for Aboriginal Economic Policy Research  
The Australian National University  
Canberra.  
April 2009.