

Chapter 1.

Introduction:

Indigenous governance and management of protected areas

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1.1 AIATSIS Conference 2007

This publication had its origin in one-day workshop on Indigenous Governance and Management of Protected Areas held during the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) Conference in Canberra in 2007 (Smyth 2007a; Ward 2007). All but one of the contributions to this publication began as a presentation at the workshop. The workshop was an opportunity for Indigenous land managers, protected area managers, researchers and graduate students (not mutually exclusive categories) to reflect upon and share their experiences about the current status and direction of Indigenous peoples' involvements with protected areas (national parks, marine parks, world heritage areas etc.) in Australia. The presentations represented a snapshot of initiatives, innovations, opportunities and challenges faced by all parties involved in the continuing journeys towards the recognition of the rights, interests and opportunities of Indigenous peoples within protected areas established on their traditional Country. With this publication our aim is to make this snapshot available to a wider audience and to provide a permanent record of the status of those journeys in 2008.

1.2 Indigenous peoples and protected areas in Australia¹

For tens of thousands of years Indigenous peoples used and managed Australian terrestrial and marine environments as 'Country' – a continent-wide mosaic of what might now be called landscape-scale protected areas. Rules were in place about how resources should be used, by whom and at what times, and certain especially sacred areas were set aside for very restricted or no access. The network of ancient cultural protected areas across the Australian landscape was not understood or recognised by the British colonists and subsequent colonial administrations.

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 – that is, 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 one hundred years.

¹ Adapted from Smyth and Bauman (2007)

Meanwhile, over the same period, a very different network of reserves was established to 'protect' Aboriginal peoples – that is, curtail their freedoms and segregate them from colonial societies. Only very recently have those freedoms been restored and inherent Indigenous legal and cultural rights begun to be recognised – a process that in turn has revolutionised thinking and practice in the governance and management of protected areas in Australia.

Until about thirty 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 rock-art. Indigenous peoples 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 millennia. In this respect, protected areas were part of the broader colonial project that denied Indigenous Australians 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 Indigenous Australians and the continent's landscape, fauna and flora. This, in turn, has led to the development of various mechanisms for the involvement of Indigenous Australians in the management of protected areas, including the transfer of ownership of some national parks to Indigenous groups 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 Northern Territory, the Queensland Government compulsorily acquired a pastoral station on Cape York Peninsula, declaring it a national park as a mechanism to deny Aboriginal ownership (Smyth 1981). Over the last ten years, however, all Australian States and Territories (including Queensland) have adopted legislation and policies that provide for substantial roles for Indigenous peoples in protected area governance and management, though their implementation remains patchy within each jurisdiction.

Australia now has examples of terrestrial and marine protected areas that fall within the entire range of the governance spectrum described in IUCN guidelines on Indigenous peoples and protected areas (Borrini-Feyerabend et al. 2004). While, at one end of the spectrum, most Australian protected areas continue to be owned, declared and managed by government agencies with limited involvement of Indigenous groups, there is a growing number of jointly managed (or co-managed)² national parks in which Indigenous Australians play a significant role in decision-making. Co-management arrangements for marine protected areas are less advanced (though advancing), reflecting the more limited legal recognition of Indigenous rights over Sea Country as compared to the terrestrial components of traditional estates.³

The various protected area co-management arrangements represent a trade-off between the rights and interests of Indigenous peoples and those of the wider Australian community, as well as biodiversity conservation. Typically, but not always, co-managed national parks involve the transfer of ownership of land to an Indigenous group in

² The terms 'joint management' (used more commonly in Australia) and 'co-management' (used more commonly internationally) are used interchangeably in this book.

³ A recent indication of improvement in Indigenous involvement in marine protected area management, and an indication of the still contentious nature of such involvement, is the decision by the current Australian Government to legislate for Indigenous representation on the Board of the Great Barrier Reef Marine Park Authority – reversing a decision of the previous government.

exchange for continuity of national-park status over the land, and shared responsibility for park management. Formal joint-management arrangements bring the benefits of recognition and involvement, but can be accompanied by the tensions that stem from contested authorities and cross-cultural partnerships that have not been entered into freely.

The diversity of approaches to co-management of national parks in Australia has been summarised by Bauman and Smyth (2007), and the policy implications of these comparisons discussed by Smyth and Bauman (2007). Earlier overviews of Indigenous involvement in protected-area management across Australia were undertaken by Collins (2001), Smyth (2001a), Corbett and others (1998) and Woenne-Green and others (1994). In addition, there is a significant literature examining in detail the co-management arrangements of particular protected areas, including the Gurig National Park (Foster 1997), Uluru and Kakadu national parks (De Lacey 1994; De Lacey and Lawson 1997; Lawrence 1996, 2000; Robinson et al. 2005), and Jervis Bay (Feary 2001). Issues specifically relating to Indigenous peoples' involvement in the management of marine protected areas – particularly the Great Barrier Reef World Heritage Area – have been addressed also (Smyth 2001b; George et al. 2004; Ross et al. 2004; Robinson et al. 2006). These reviews, which collectively trace the history of Indigenous participation in protected area management over the last fifteen years, reflect the broader changes in the legal and cultural relationships between Indigenous and non-Indigenous Australians over that time.

The most recent protected area co-management approach (too recent to be included in the above reviews) is provided by the *Cape York Heritage Act 2007 (Qld)*, which only applies to national parks on Cape York Peninsula. This legislation provides for the transfer of ownership of national parks to Aboriginal Traditional Owners, with management arrangements to be negotiated between Aboriginal Land Trusts and the Queensland Environment Protection Authority via Indigenous Management Agreements and Indigenous Land Use Agreements. This development reflects the patchy implementation of policy innovation and reform referred to above. Aboriginal groups on Cape York Peninsula now have opportunities for regaining at least shared authority over, and some livelihood benefits from, their traditional lands included in existing and new national parks – opportunities consistent with world best practice as determined by IUCN and international instruments such as the Convention on Biological Diversity. Meanwhile, elsewhere in Queensland – south of a legally defined line across the south of Cape York Peninsula – Aboriginal peoples are denied these opportunities. The implications of this legislation are reviewed for the first time in Chapter 6 of this publication.

The last ten years has also seen the establishment of Indigenous Protected Areas (IPAs), which are protected areas declared and managed by Indigenous communities and organisations, with varying levels of government support. This approach to protected-area declaration and management is supported by similar developments internationally and is challenging the previous government-held monopoly on formally establishing protected areas. IPAs provide an opportunity for Indigenous peoples to manage their Country via a protected-area framework of their own choosing, supported by government conservation agencies that recognise the contributions that IPAs make to national conservation objectives. The concept of IPAs has been discussed elsewhere,⁴ and future directions of IPAs are explored here in Chapters 8 and 9.

⁴ Thackway et al. 1996; Thackway and Brunckhorst 1998; Muller 2003; Szabo and Smyth 2003; Langton et al. 2005; Smyth 2007b.

1.3 About this publication

As with the workshop on which it is based, in this publication we aim to provide a snapshot of initiatives, perspectives and issues that are being considered, debated and implemented, at a time when long-held certainties about what protected areas are, who declares and manages them and how they are governed are being challenged. Co-managed national parks challenge the century-old monopoly that government conservation agencies have had on protected area governance. Indigenous Protected Areas challenge an even longer-held government monopoly of legislatively based land management. These fundamental changes to Australian protected area regimes are happening in the context of similar developments internationally, and at a time when the role of protected areas in contributing to global conservation in the face of climate change is under increasing scrutiny.

In Chapters 2 and 3, Mac Moyses and Bill Panton, and officers of the two major Northern Territory Aboriginal land councils present, respectively, the perspectives of a government conservation management agency and land councils on the considerable challenges and opportunities presented by the current negotiations and planning for co-management of twenty-seven national parks and reserves in the Northern Territory. These chapters provide insights into the particular demands and expectations faced by the major players in implementing the most ambitious protected area co-management commitments yet undertaken in Australia.

In Chapters 4 and 5, several perspectives on co-management in New South Wales are presented. Michael Adams, Vanessa Cavanagh and Bridget Edmunds report on the co-management of natural and cultural resources where both Indigenous groups and protected area management agencies are actively engaged in the same landscape. Aboriginal communities are using adaptive approaches to continue millennia of cultural tradition in social and physical environments that are significantly changed and changing, while protected-area managers are seeking to understand and adapt agency responses, so as effectively to engage and support Aboriginal interests. These contrasting perspectives on using, managing and protecting Country are explored through two case studies: the harvesting of bush lemons and honey by the Bundjalung people of northeastern New South Wales, and the traditional beach fishery of the Yuin within a marine park in southeastern New South Wales. These case studies, involving collaboration between Indigenous and non-Indigenous researchers and Indigenous communities, reveal the need to respect continuities of ancient cultures, practices and knowledges, while also recognising that adaptation to environmental and social change is a key element of cultural continuity.

Gary Pappin provides a very personal perspective from the point of view of a traditional owner actively involved in the management of the Willandra Lakes World Heritage Area and Mungo National Park. Mirroring the struggles of many Indigenous managers and custodians associated with protected areas across Australia, what comes through strongly is the web of frustration and pride that is the day-to-day reality of working in partnership with a government conservation agency, under the complex gaze of cultural obligations, community expectations, legislative restrictions and financial constraints. Commitment and exhaustion shine through in equal measure.

In Chapters 6 and 7 two different aspects of protected area co-management opportunities in Queensland are addressed. Kath Larsen provides a detailed case study on the relationship of Traditional Owners to their Country, now occupied by Alice Mitchell Rivers National Park on western Cape York Peninsula, and their aspirations to manage the park as a component of, rather than separate from, their traditional estates. Her case

study also provides a vehicle for reviewing the opportunities and constraints of the *Cape York Heritage Act 2007 (Qld)* for addressing these aspirations, particularly in the context of previous failed legislative attempts to bring co-management to protected areas in Queensland.

William Hyams and his colleagues examine the role of Traditional Owners in protected areas, and their broader relationship with Country, through a research project focussing on eco-cultural tourism. The research explores applications of traditional knowledge within Aboriginal tourism and the real or imagined barriers to its recognition by the broader tourism industry as an essential linkage between Indigenous peoples and their environment. The research results suggests that cultural education and tourism activities on Country may be one of the only ways to preserve traditional knowledge as a lived-experience, as the culture surrounding traditional hunting and access to Country in protected areas continues to evolve.

The authors of Chapters 8 and 9 address two different aspects of Indigenous Protected Areas. Dermot Smyth summarises the development of terrestrial, tenure-based IPAs over the last ten years and explores the possibilities of extending the concept to include Sea Country (coastal land, sea and islands). This approach is consistent with the international (and Australian) definition of a protected area, which envisages land and sea areas being managed for biodiversity and associated cultural values by legal and other effective means. The challenge is to develop partnerships and other mechanisms for Traditional Owners to meet their cultural obligations over marine areas where they do not have the legal authority that they enjoy on Indigenous-owned land. On the other hand, Sea Country IPAs provide an opportunity for co-ordination of terrestrial and marine protected areas, and the possibility of a greater diversity of management partnerships than is available on Indigenous-owned land. The concept of Sea Country IPAs continues the protected area governance innovation that began with the declaration of the first terrestrial IPA in 1998, and paves the way for protected areas managed not as areas of tenure but as Country – the scale at which Australia’s environments have been managed for tens of thousands of years.

Jess Clements provides an example of how one State government agency (the Western Australian Department of Indigenous Affairs) has taken a significant step towards nurturing the development and management of IPAs by appointing an IPA Support Officer for the Kimberly Region. This initiative comes in recognition of the broader social and cultural benefits of IPAs, in addition to their more explicit role on conservation management.

In Chapters 10 and 11 the focus is on the nature and challenges of relationships in co-management. Sarah Hemmingsen and Chels Marshall present a comparison of Indigenous coastal resource management in Australia and New Zealand, noting that Indigenous peoples in both locations face similar struggles in communicating their cultural connections and perspectives to their potential government co-management partners. Irreconcilable differences, such as Indigenous cultural ownership of foreshores and marine areas versus the Eurocentric view of maritime areas as open commons, must be acknowledged if not overcome for the necessary relationship to develop.

Kerri Mills reviews the literature of relationships in co-management, noting that the nature of the relationship between co-management partners is often overlooked in the search for co-management structures. She correctly emphasises the importance of understanding and fostering the human side of co-management, and acknowledging that co-management is a continuing negotiation process. She also reviews possible criteria for measuring success in co-management relationships.

These chapters do not tell the whole story of developments in Indigenous governance and management in Australia in the first decade of the twentieth century. But they do provide an intriguing taste of how people, place, culture, history and environment are being re-imagined as Indigenous voices and authorities are being increasingly heard and respected. A persistent message is that, whatever formal governance and management arrangements are negotiated, collaboration and understanding between individuals, cultures, values, knowledges, traditions, practices and institutions are essential for the future of our protected areas. Governments are recognising that they need partnerships with Indigenous peoples to manage properly protected areas even when legislative recognition of Indigenous interests is meagre; Indigenous groups are recognising that they can benefit from partnerships with government agencies and others, even when sole Indigenous authority has been regained through land claims or land purchases. The future, it seems, will be about how, rather than if, those partnerships are developed.

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