Managing Parks / Managing 'Country':
Joint Management of Aboriginal Owned Protected Areas in Australia

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Joint Management of Aboriginal Owned Protected Areas in Australia

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Major Issues

The creation of protected areas in Australia is now being determined by policies relating to biodiversity, ecologically sustainable development and the need for a national reserve system which is representative of the major biogeographical regions of Australia. Joint management of protected areas is an attempt to implement conservation and land management policies that protect Aboriginal interests.

National parks arose from intellectual understandings of wilderness which marginalised and then excluded indigenous people. Historically the rights of indigenous people to resource use on their traditional lands in national parks have been curtailed, with little or no consultations, in favour of conservation of areas of scenic or aesthetic value to non-indigenous people and the protection of endangered and vulnerable plant and animal species.

For Aboriginal park managers, who view the Aboriginal culture as adaptable and responsive but value conservation as a means for providing a basis for the sustainable use of resources, including both native and introduced plants and animals, traditional European assumptions about protected areas raise complex problems. But while many conservation organisations support the right of Aboriginal people to hunt, fish and collect on Aboriginal land, they reserve the right to oppose practices that would lead to possible threats to endangered or protected species. The 1990 Millstream Recommendation (Recommendation 315 of the Royal Commission on Aboriginal Deaths in Custody) on Aboriginal participation in protected area management offered a unified Aboriginal perspective on participation in conservation area land management that was subsequently endorsed by the Commonwealth, States and Territories.

From the perspective of traditional Aboriginal owners, joint management is a matter of process, not structure, and an aspect of community development rather than a specific conservation agreement. Their aim of control over traditional lands has been largely determined by the need for strengthening cultural identity, community development and economic self-sufficiency, and not environmental protection. Control of land is seen as vital for community and cultural survival in the face of external pressures, and for these reasons joint management has become closely linked to questions of land rights, self-determination, preservation of culture, employment and skills acquisition. Aboriginal perceptions of conservation and protected area management have been determined by the long, bitter struggle over land rights and uranium mining, and the need for Aboriginal
people to have their role as custodians of the land legally recognised. There is no single Aboriginal perspective on conservation and protected area management, because the historical experiences of Aboriginal people vary across the country. Some Aboriginal people see conservation management as a way in which rules and regulations are imposed over their socially and culturally legitimate activities and a means for further political control over Aboriginal land and land management practices. For many, the declaration of conservation status over Aboriginal lands is seen as an imposition and part of a continuing process of dispossession.

There is no generic model or blueprint for successful joint management. Each agreement must be separately negotiated and must be responsive to the needs and aspirations of each local community. The process of joint management is the on-going process of consultation and negotiation leading from the foundations provided by structural guarantees towards the publicly-stated and identifiable goals of conservation and protection of the natural and cultural heritage in accordance with the needs and aspirations of the traditional owners. This long term process requires a strong sense of commitment from the management agency and an equally strong sense of identity and place from the traditional owners. What gives life and meaning to joint management is working through complex issues on a day-to-day basis, often in situations of conflict, through conciliation and negotiation with Aboriginal traditional owners. Failure to recognise this can result in distrust, disharmony and dissatisfaction. In the evolution of joint management structures, success can be seen as the degree to which security of tenure, the existence of formal lease arrangements, and an Aboriginal majority in decision-making enable Aboriginal people to participate in management as equal partners. The success of the process of joint management should be measured in terms of Aboriginal empowerment, equity and social justice.

Current models still place emphasis on developing acceptable patterns of use of the physical environment and not on recognition of social and spiritual values of land to indigenous people. Management agencies seeking alternative forms of management that both reflect the growing need for ecosystem conservation and the protection of indigenous lifestyles, and conform to international standards and guidelines, need an understanding of local economies, cultures, history, political structures and the needs and aspirations of the traditional owners. These complex social and cultural values must then be incorporated into zoning structures, management regulations and day-to-day management practice.

The principles which underlie the current joint management arrangements in the Commonwealth national parks in the Northern Territory, Kakadu and Uluru-Kata Tjuta, are: land rights and legal ownership of the land in communal title, lease-back to the Director, National Parks and Wildlife, contractual obligations defined in a lease, and the establishment of a Board of Management with an Aboriginal majority.

It is evident that joint management in both Kakadu and Uluru-Kata Tjuta National Parks will continue to be an evolving process. Many issues still have to be resolved, not the least
the important questions of equitable power-sharing with Aboriginal traditional owners, the strengthening of the effectiveness of the Board of Management and the creation of a meaningful and fulfilling role for Aboriginal rangers within the parks management service. From a conservation perspective, problems of effective joint management may include questions of weed management, feral animal control and differing attitudes to 'traditional' hunting.

Aboriginal owned national parks are not a panacea for solving the conservation and land rights issues. They establish acceptable and increasingly recognised mechanisms for communication and conflict resolution. The integration of traditional and western land management principles allows for the rights and responsibilities of Aboriginal people to be recognised within a policy framework of self-determination. Currently, Aboriginal opinion is that the procedures established at Uluru-Kata Tjuta and Kakadu National Parks cover the minimum conditions required for cooperative management of protected areas in Australia.
Introduction

This paper assesses joint management arrangements in operation in Aboriginal owned protected areas in Australia, taking Kakadu National Park as a detailed case study and contrasting it with Uluru-Kata Tjuta National Park. Some broad concepts are examined, such as the nature and use of wilderness, assumptions about Aboriginal land management practices from a non-Aboriginal perspective, and the principles behind the rise of the national parks concept. Aboriginal and non-Aboriginal perceptions of nature conservation and the significance of the Millstream Recommendation, a principal recommendation of the Royal Commission on Aboriginal Deaths in Custody, are examined. This assessment argues that while managers of non-Aboriginal land and protected areas continue to perceive joint management as a set of structures and legal guarantees established through the legal and political framework of the majority culture, the eventual success of joint management depends on its acceptance as a real process of consultation and negotiation.

Joint management in the future will be part of a wider package of social justice, community development and the preservation of cultural identity. Until the specific issues that have been identified are resolved, however, the declaration of conservation status over Aboriginal owned protected areas will continue to be seen, by some Aboriginal people, as part of a continuing process of dispossession and alienation.

Protected Areas and National Parks

The aim of protected areas has been the preservation of endangered or threatened species, protection of natural phenomena such as waterfalls, rivers, wetlands, mountains and forests, and conservation of cultural curiosities such as art sites, rather than the maintenance of essential ecological processes. The World Conservation Union (IUCN) in 1994 defined a protected area as:

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

The six IUCN categories of protected area are: (I) Strict Nature Reserve/Wilderness Area; (II) National Park; (III) Natural Monument; (IV) Habitat/Species Management Area; (V)
Protected Landscape / Seascape; and (VI) Managed Resource Protected Area. In its reclassification of types of protected areas, the World Conservation Union has recognised the rights and interests of indigenous people in all but the first of the six categories. The IUCN Commission on National Parks and Protected Areas now declares that taking account of the needs of indigenous people, including subsistence resource use in so far as this use will not adversely affect the other objectives of management, is a specific objective of the creation of national parks. While indigenous people's claims to ownership of lands, and a legally recognised position within the management structure, are not guaranteed under the new categories, the recognition of indigenous interests is a significant step forward.

The long delay in official recognition of the rights of indigenous people to land and resource use reflects fundamental differences in indigenous and non-indigenous land management strategies. Lack of understanding of the social and cultural relationship of indigenous people to their land continues to be an impediment to the establishment of protected areas and to full participation of indigenous people in land and resource management.

Commonwealth and State Conservation Ministers in Australia in 1970 adopted the IUCN definition of a national park, as:

A natural area of land and/or sea, designated to:
- protect the ecological integrity of one or more ecosystems for present and future generations,
- exclude exploitation or occupation inimical to the purposes of designation of the area,
- provide a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which must be environmentally and culturally compatible.

Amendments to the IUCN definition in 1978 specifically stated, as a criterion for selection and management, that national parks:

contain one or several entire ecosystems that are not materially altered by human exploitation and occupation. The highest competent authority of the country has taken steps to prevent or eliminate as soon as possible exploitation or occupation in the area and to enforce effectively the respect of ecological, geomorphological or aesthetic features which have led to its establishment.

Models for protected areas

National parks are undoubtedly the most significant category of protected area, at least in the public perception. The national park model evolved from three basic ideas which continue to hold power today: preservation for conservation, preservation for scientific
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research, and preservation to provide access for tourism. The myth that national parks are an unpeopled sanctuary, almost sacred places, set apart from and unaffected by environmental impacts, resource exploitation and the urban/industrial society surrounding them, contains elements of contradiction, for the first national parks were also designed as areas for human use and recreation. National parks have always been closely tied to the political economy of tourism, and the 'conflict between preservation and profit lies at the heart of nature parks'.

The first protected area in the United States in the Yosemite Valley was declared in 1864. The first national park, and the first extensive tract of land set aside and preserved for the benefit and enjoyment of the people, was declared at Yellowstone in 1872. Preservation of the wilderness was seen as a key to the preservation of national cultural values. The move to reserve protected areas for recreation began early in Australia. In 1866 the Fish River (Jenolan) Caves in New South Wales were reserved and became a popular tourist destination. In 1879 land was set aside as a national park near Port Hacking, south of Sydney, and used for public recreation, acclimatisation of exotic plants and animals, and even military exercises. The building of summer cottages within the boundaries was also permitted. The park became immensely popular for day-trippers from Sydney and was later expanded; in 1955 it was renamed the Royal National Park.

The first national parks were modelled on Yellowstone National Park in the United States, which sought to preserve natural resources from destruction, excessive development and other impairment, while continuing to provide recreation and enjoyment for visitors. This model has dominated the creation and development of national parks and protected areas throughout the world, but it has inherent contradictions, for it attempts to create protected areas for public recreation and use without permanent human habitation or extractive use and without employing indigenous resource management strategies. It has been unable to accommodate the massive growth of global tourism, and the limitations of its global application, particularly in the developing world, are only now being realised.

The major colonial powers also excluded indigenous people from national parks. They declared that wildlife preserves and national parks were required in their African colonies for the purposes of flora and fauna observation, nature preservation and public control, and that the exclusion of human activity was the best possible means for such protection. Tourism, important to the economies of the colonies, was not to be excluded, but the hunting, capture and killing of fauna, and the destruction of flora, were to be strictly prevented.

Protected areas were first established on economically 'worthless' lands. Sectional interest groups ensured that economically valuable areas, useful for agriculture, mining, grazing, forestry, settlement, water storage and fisheries remained unreserved. In many parts of the world this concept is being questioned by the need for conservation of representative areas of biogeographical and cultural importance. The challenge is to find a solution to the
problem of alternative land use while accepting that 'substantial, sensitive, and continuing human intervention' may be needed.\(^1\)

The management of protected areas in Australia involves elements of the multiple use and ecosystem models of land management. The multiple use model is an attempt to balance the needs of conservation with the demands of resource use, such as commercial fishing, forestry, mining, pastoralism and tourism, within which traditional uses have been seen as a subset. The principal exponents of multiple use of protected areas have been governments and the resource industries. The model is characterised by the development of management and zoning plans. Within national parks, the recognised place for indigenous people is prescribed by zones in which both human land use and environmental impacts are managed, but this is at odds with indigenous concepts of landscape and the interrelationship between people and place. Continued indigenous resource use is still controlled by the management agency and resource managers' perceptions of appropriate land use.\(^1\)

Multiple use which is now being displaced by the ecosystem model and which seeks to preserve entire biological communities, including humans and animals as well as natural processes such as fire, challenges some of the assumptions behind the current system of zoning protected areas.\(^1\) The habitat or ecosystem model recognises that the integrity and maintenance of ecosystems must be the first consideration of management, and that because ecosystems do not stop at the boundaries, management of lands both inside and outside protected areas must be complementary.\(^1\)

The ecosystem model has been a driving force behind the resurgence of interest in the United Nations Man and the Biosphere (MAB) program. Each biosphere reserve is constructed on the idea of an ecosystem consisting of an 'aggregation of relationships, a self-regulating community of innumerable species', including humankind.\(^1\) Like World Heritage status, the biosphere concept is an overlay that extends beyond the formal tenure limits of the protected area, but its boundaries may be altered over time with changing conservation needs and human activities. Natural areas are located within the core area, surrounded by a buffer zone of disturbed or manipulated land used for research, environmental monitoring, education, ecological rehabilitation and restoration. Beyond the buffer zone is a transition zone in which the emphasis is on controlling resource exploitation in an environmentally sustainable way.\(^1\)

The principle of preservation of biodiversity should support the idea of maintaining the link between protected areas and people, particularly where indigenous people have a major role in management. The ecological role of indigenous people has only recently begun to be recognised by management agencies and the establishment of protected areas on lands owned and occupied by indigenous people offers challenges to management agencies. For Aboriginal people the environment has an intrinsic value, based not only on its use to humans but also on its social or spiritual role and purpose. For them, the issue is
not land use management but recognition of traditional customary rights, including the right to own land, the use of resources and the preservation of subsistence and ceremonial practices.

Current models still place emphasis on developing acceptable patterns of use of the physical environment, and not on recognition of social and spiritual values of land to indigenous people. Management agencies seeking alternative forms of management that both reflect the growing need for ecosystem conservation and the protection of indigenous lifestyles, and conform to international standards and guidelines, need an understanding of local economies, cultures, history, political structures and the needs and aspirations of the traditional owners. These complex social and cultural values must then be incorporated into zoning structures, management regulations and day-to-day management practice.

European emphasis on the preservation of natural heritage, with an additional emphasis on the value of wilderness areas as remote places with little evidence of human use, preserved from all forms of human exploitation, was based on the belief that before the colonial period the landscape was unchanging and unmodified, preserved in a pristine way by Aboriginal people who were natural conservationists. The acceptance of such a definition has little to offer Aboriginal people seeking to assert traditional rights to forage, hunt and fish and to reestablish traditional Aboriginal land management practices in 'caring for country'. It has been argued that the wilderness idea has been superimposed over 'terra nullius' to invalidate the existence of indigenous management practices and the very presence of Aboriginal people on the land. Some conservation agencies now recognise that Australia is largely a created landscape, and an attempt has been made to reassess the narrow definition of wilderness with the inclusion of the clause:

- substantially undisturbed by colonial and modern technological society, and remote at its core from points of mechanical access and other evidence of colonial and modern technological society.

The current Kakadu plan of management defines wilderness as:

- an area of land substantially unmodified by balanda (non-Aboriginal people), or capable of being restored to such a state where perceptions of solitude, space and wilderness are readily achieved and sustained.

This is a significant change from the first plan of management, which described Kakadu as an untamed wilderness. The Aboriginal and Torres Strait Islander Commission (ATSIC) has proposed an even more challenging definition of a wilderness as land 'without its songs and ceremonies', implying that wilderness only exists when the essential land and people relationship, maintained through ritual and ceremony, is broken. wilderness is land without a soul.
Limitations on traditional use

While there may be convergent points of view over the long-term value of protection of areas with natural and cultural significance, there are strongly divergent views on the way in which these areas are declared and managed. For Aboriginal park managers, who view the Aboriginal culture as adaptable and responsive but value conservation as a means for providing a basis for the sustainable use of resources, including both native and introduced plants and animals, traditional European assumptions about protected areas raise complex problems. There was no pressure from Aboriginal people to establish either Kakadu or Uluru-Kata Tjuta as wilderness national parks. The declaration of protected area status has meant the transformation of Aboriginal land into restricted areas under the control of national, state and territory governments. Along with pastoral leases and other land tenure systems, the restrictions on access to land and rights to live on traditional lands has meant loss of livelihood, tradition and autonomy.24

While many conservation organisations support the right of Aboriginal people to hunt, fish and collect on Aboriginal land, they reserve the right to oppose practices that would lead to possible threats to endangered or protected species. This approach was also considered by the House of Representatives Standing Committee on Environment, Recreation and the Arts, which supported Aboriginal rights to maintain traditions and practices but, as a management policy, recommended the application of the precautionary principle. It found no proof that Aboriginal practices had resulted in the extinction of native species, but considered that permitting the hunting of a protected species ran an unacceptable risk.25

In 1986 the Australian Law Reform Commission also found that the interests of conservation represented a legitimate limitation on the rights of Aboriginal and Torres Strait Islander people to hunt and fish.26 In seeking to clarify the question of tradition in relation to Aboriginal hunting and fishing of both native and feral animals, the Commission determined that attention should focus on the purpose of the activity, rather than on the methods or the technologies used. However, longstanding criticism by conservation interests of the use of modern hunting technology by Aboriginal people remains unresolved.

The three main non-governmental conservation organisations in Australia (the Australian Conservation Foundation, The Wilderness Society and Greenpeace) have each issued Aboriginal land rights policies.27 All three agencies support the rights of Aboriginal people to the ownership, occupation and management of areas of major cultural significance and their right to own these lands under inalienable freehold title. They acknowledge that Aboriginal people were the original inhabitants of Australia who were displaced by non-Aboriginal occupation of the country. The rights to hunt, fish and gather food for subsistence and ceremonial purposes, and the fundamental right of Aboriginal people to determine the pace and direction of their own development, are all supported.
At the heart of the issue is a difference in perception by Aboriginal and non-Aboriginal people of the criteria for acknowledging responsibility for decisions about land and sea. For non-Aboriginal people, owning land and managing land are two overlapping but distinctive categories. For Aboriginal people, traditional owners have the ultimate responsibility for making decisions concerning the resource management. Conservation of natural heritage and the preservation of cultural heritage, controls over subsistence use of natural resources, permanent Aboriginal settlement in restricted living areas within protected areas, and the role and nature of tourism, all conflict with the traditional relationship between land ownership and land management by Aboriginal people.28

While land that has been legally granted to Aboriginal people may be leased back through the maze of social and political structures of the dominant society, the Aboriginal position remains that, first and foremost, the land is Aboriginal 'country'. Traditional owners have granted permission for the management agency to manage the land on the condition that the agency fulfil certain social and cultural obligations. Not only does this position require a rethinking of the philosophy of land ownership which is currently under examination right across Australia, it also requires a reassessment of the nature and meaning of relationships of power between Aboriginal and non-Aboriginal people.

Conservation or Community Development?

One of the principal reasons for the acquisition of traditional lands through the complexities of the land claim processes is that ownership of land provides a base for development of permanent living areas and opportunities to continue a spiritual relationship in 'caring for country'. It also means maintaining associations with sacred and secular sites and the continuation of cultural practices such as seasonal burning of the land, exploitation of the land and its resources, performing ceremonies and ensuring that cultural obligations are maintained. The result is a desire for privacy away from high tourist areas, and the closure of culturally sensitive areas such as burial and art sites and areas of a secret and sacred nature so that these roles and duties can be undertaken without interference.

This has the potential for causing conflict with some non-Aboriginal people who cannot see beyond the restrictive nature of the request and cannot perceive the social and cultural reasons behind it. The conflict here is not only between Aboriginal and non-Aboriginal perceptions of the role and purpose of land within protected areas, but also with the acceptance of different cultural value systems within a multi-cultural society. The values and attitudes of non-Aboriginal Australians are the result of 200 years of cultural dominance. For non-Aboriginal Australians there are parallel views about Aboriginality and the environment.

Ownership of land by Aboriginal people provides a means for the reestablishment of forms of Aboriginal land management practices which may vary according to economic and
social circumstances, and which may also incorporate non-Aboriginal commercial activities such as pastoralism and mining. It should not be assumed that Aboriginal relationships to land are frozen in cultural traditionalism. The option for minimal intervention in caring for country provides some answer for the acceptance of conservation and protected area status by Aboriginal communities, but it should not be assumed that Aboriginal people will value conservation above commercial exploitation and community self-management, and be prepared to hand over management of their land to external agencies.

For Aboriginal people, while conservation status is seen as one way of caring for the land, it has to be combined with traditional access and use rights, the right to live on the land, the maintenance of social and cultural life and community development. The aim of control over traditional lands has been largely determined by the need for strengthening cultural identity, community development and economic self-sufficiency, and not environmental protection. Control of land is seen as vital for community and cultural survival in the face of external pressures, and for these reasons joint management has become closely linked to questions of land rights, self-determination, preservation of culture, employment and skills acquisition.

Protected areas and indigenous people

In 1975 the IUCN passed the Zaire Resolution on the Protection of Traditional Ways of Life. Included in this resolution was the request that all IUCN member governments, including Australia, devise means by which the lands of indigenous people could be brought into conservation areas without loss of use and tenure rights. The resolution also called for member governments to recognise that indigenous people have a right to live on their traditional lands and that they should not be displaced by the creation of protected areas, nor should protected areas be created without consultation with traditional owners. This resolution was later re-endorsed at the IUCN meeting in Perth in 1990.

The 1992 Caracas Declaration considered that the establishment and effective management of protected areas must be carried out in a 'manner sensitive to the needs and concerns of local people'. The declaration mentioned the importance of national protected area policies being sensitive to customs and traditions and safeguarding the interests of indigenous people. The congress recommended that governments should recognise the needs and aspirations of people resident in and around protected areas, ensure the continuation and development of social and cultural values, incorporate customary and indigenous tenure and resource use as a means for enhancing biodiversity, and promote the participation of local communities in planning and management of protected areas.

Chapter 26 of Agenda 21, issued at the 1992 United Nations Conference on Environment and Development in Rio de Janeiro, emphasised the role of indigenous communities in the
management of natural and cultural resources and their effective participation in the achievement of sustainable development. International agreements such as the International Covenant on Civil and Political Rights (1966) and the International Labour Organization's 1989 Indigenous and Tribal Peoples Convention (No. 169) now take account of indigenous land issues at an international political level. Participation at these conferences, support for the various resolutions and conventions, and particularly the 1991 ratification of the First Optional Protocol (1976) of the International Covenant, means that Australia supports a strong moral and political commitment to respect the involvement of all indigenous people in protected area management, both within the country and overseas.

The participation of Aboriginal people in the joint management of national parks and World Heritage Areas is supported by the Aboriginal and Torres Strait Islander Commission (ATSIC) in its recent draft environmental policy paper. The ATSIC model for joint management measures success on the basis of 'equity to jointly decide, share, use and manage an area', while emphasising that one model of joint management will not suit every situation. The ATSIC document also states that, in practice, joint management continues to be constrained by the unequal distribution of powers, the lack of full recognition of cultural values in legislation, inadequate control of the pace and direction of development, and failures to provide equal employment of Aboriginal people at every level in protected area management.

Aboriginal perceptions of conservation and protected area management have been determined by the long, bitter struggle over land rights and uranium mining, and the need for Aboriginal people to have their role as custodians of the land legally recognised. There is no single Aboriginal perspective on conservation and protected area management, because the historical experiences of Aboriginal people vary across the country. Some Aboriginal people see conservation management as a way in which rules and regulations are imposed over their socially and culturally legitimate activities, and a means for further political control over Aboriginal land and land management practices.

### Joint Management: Structure and Process

The statutory and administrative guarantees which protect the interests of Aboriginal people are the formal structures which characterise joint management. The success of joint management must be measured both by the effectiveness of those structures and by the effectiveness of the processes which empower Aboriginal decision-making. The two main principles upon which joint management stands are a solid legal basis specifying rights and responsibilities, and goodwill between traditional owners and staff of the management agency. Essential components in joint management are clear and honest communication between parties and mutual trust based on practice and experience, not just on 'verbal assertions of trust'.

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There is no generic model or blueprint for successful joint management. Each agreement must be separately negotiated and be responsive to the needs and aspirations of each local community. That community must act as an equal partner in management, with representatives trained and confident in their decision-making capacities. Aboriginal participation in the management of national parks and conservation reserves has been described as a formal relationship between the Government(s) and the Aboriginal owners of protected areas, in which the owners have freehold land title and by leasing or other means the Government obtains authority to manage the land.

There should be a statutory requirement to produce a plan of management detailing management prescriptions, objectives and mechanisms to resolve conflict between the two parties. The management agreement should specify the rights of traditional owners to the use and occupation of the land and detail the obligations of the lessee to protect and promote those rights. Agreements should be written in clear, unambiguous language, be subjected to regular review, and be capable of future updating and change. There should be regular contact between the local community and the management agency at all levels to ensure good, though not necessarily conflict free, working relationships.

Formal structures such as Boards of Management, with specified roles and responsibilities, should be established as the principal decision-making bodies, and a majority of their members should be Aboriginal traditional owners of the protected areas 'able to exercise their authority to negotiate further refinements to the model so that they are involved in a 'formal power sharing' management arrangement'. Such structures set the framework for a model of joint management that establishes Aboriginal control and ownership.

The process of joint management is the on-going process of consultation and negotiation leading from the foundations provided by structural guarantees towards the publicly-stated and identifiable goals of conservation and protection of the natural and cultural heritage in accordance with the needs and aspirations of the traditional owners. This long term process requires a strong sense of commitment from the management agency and an equally strong sense of identity and place from the traditional owners. What gives life and meaning to joint management is working through complex issues on a day-to-day basis, often in situations of conflict, through conciliation and negotiation with Aboriginal traditional owners. Failure to recognise this can result in distrust, disharmony and dissatisfaction.

In the evolution of joint management structures, success can be seen as the degree to which 'security of tenure, the existence of formal lease arrangements, and an Aboriginal majority in decision-making enable Aboriginal people to participate in management as equal partners'. Dependence on the goodwill and strong personal friendships between Aboriginal and non-Aboriginal people offers no assurance of continuing success of joint management, nor does it mean that formalising the process of joint management will invariably create good working relationships. But joint management is essentially about
partnership across unequal constituencies, and for this to be successful there must be some
mutuality, not simply camaraderie, personal commitment or political rhetoric.\textsuperscript{43}

The success of the process of joint management should be measured in terms of
Aboriginal empowerment, equity and social justice. In joint management arrangements
which empower Aboriginal people, traditional owners exercise rights and responsibilities
for the selection and allocation of policy values, for rationalising and translating policy
values into objectives, priorities and guidelines, and for the day-to-day operations in which
resources are allocated to administer the protected area.\textsuperscript{44}

Participation in management is not the sole means for the resolution of conflicts between
protected area management and local peoples. A number of key obstacles continue to
inhibit establishment of successful joint management arrangements in protected areas:

- the institutional environment of protected area management
- the lack of trust between conservation authorities and local communities
- difficulties in communication; inappropriate language use and differences in literacy and
  numeracy skills
- the number of stakeholder, or interest, groups involved
- the difference in power relations between conservation authorities and the local people
- the degree of risk and uncertainty in entering discussions aimed at resolving conflicts
- the problem with binding, contractual obligations and
- lack of understanding of alternatives to participation.\textsuperscript{45}

Opposition to joint management arrangements is based on arguments that Aboriginal
control of national parks will not be in the best interests of nature conservation, or that
joint management imposes land use and land management regimes that will undermine or
sell out Aboriginal autonomy and control over land and resources, and lead to a reliance on
non-Aboriginal expertise and management systems that devalue Aboriginal traditional
knowledge and practices.\textsuperscript{46}

Joint management arrangements have also been criticised for being
distinctively coercive, with the Governments falsely asserting that they have something
to offer indigenous land owners. Without exception, the models have bargained with
ownership. These 'negotiations' often result in ridiculous sacrifices of control and
autonomy for the recognition of secure title.\textsuperscript{47}
[The] reality of the situation is that a trade-off is usually to be effected between the two cultures, often prompted by economic pressures such as tourism and resource development.\textsuperscript{48}

The Development of Policy on Aboriginal Owned Protected Areas

The Royal Commission into Aboriginal Deaths in Custody sought to examine the social, cultural and legal issues behind the deaths of 99 Aboriginal people. The Commissioners were convinced that the cause of the deaths, and the identification of solutions, lay in understanding a wide range of social, economic and cultural factors affecting Aboriginal people in contemporary Australia. They considered empowerment of Aboriginal people through a policy of self-determination to be the essential component in a mature relationship between Aboriginal and non-Aboriginal Australians. Contained within that relationship should also be a willingness to permit Aboriginal people the right to make decisions concerning their own lives and communities, and the right to retain their culture and develop it according to their own concepts and values.\textsuperscript{49}

The Royal Commission presented the Commonwealth with a number of recommendations on appropriate ways for Aboriginal people to achieve self-determination. These included rights to traditional lands, and the right of Aboriginal people with cultural, historical and traditional associations to negotiate terms and arrangements for the protection and management of lands considered important for conservation purposes. Among these were full participation in the negotiation processes conducted between Aboriginal people, their representative organisations and national park management agencies.

Millstream Recommendation

These recommendations, later adopted by the Royal Commission as Recommendation 315, did not originate with the Royal Commissioners. They had first been discussed by Aboriginal representatives at a Conservation and Land Management meeting held at Millstream-Chichester National Park in the Pilbara, Western Australia in August 1990 and had become known as the Millstream recommendation.\textsuperscript{50}

The Millstream meeting recommended encouragement of joint management arrangements between Aboriginal people and national park management agencies, involvement of Aboriginal people in the development of management plans for national parks, excision of areas within national parks as living areas, granting of access to protected areas for subsistence hunting, fishing and gathering rights, and facilitating the control of cultural heritage information by Aboriginal people. The wide ranging recommendations called for further affirmative action policies with regard to employment of Aboriginal people as
administrators and rangers and their full participation in the negotiation of lease-back arrangements. The meeting also requested that policies be put in place to support the charging of admission fees for entry by tourists to protected areas, that areas of land within national parks be reserved for ceremonial purposes, and that mechanisms be established for Aboriginal custodians to maintain control of protection and access to sites of significance.51 These recommendations provided a concise summary of virtually all the current concerns of Aboriginal people with regard to conservation, land management, empowerment in decision-making and the role of protected area status over Aboriginal land. The Millstream recommendation offered a unified, although essentially conservative, Aboriginal position with clearly articulated, feasible and achievable goals.

Government Responses to Millstream

The Commonwealth Government, in its formal response to the recommendations of the Royal Commission into Aboriginal Deaths in Custody, supported the development of strategies for Aboriginal self-determination and the restoration of unalienated Crown land to Aboriginal people able to substantiate claims to the land on the basis of cultural, historical and/or traditional affiliations. The Commonwealth and the Northern Territory Government, together with New South Wales, Victoria, Queensland and Western Australia, all supported the Millstream recommendation in principle, but it was clear that Aboriginal rights and interests in protected areas through the states and territories of Australia would continue to remain subordinate to both governmental and non-governmental economic and political interests and be seen to conflict with tourism, resource development, mining, and conservation of natural resources.52

Australian Conservation Foundation Response to Millstream

In 1994 the Australian Conservation Foundation published a comprehensive examination of the legal and administrative arrangements for Aboriginal participation in protected area management in Australia in response to the Millstream recommendation. The report, entitled Competing Interests, was the most detailed examination of joint management structures and Aboriginal involvement in protected areas in Australia yet undertaken, and included case studies from all States and Territories. The authors found that:

From a national perspective, the adoption of the Millstream Recommendation by the Royal Commission [into Aboriginal Deaths in Custody] has encouraged governments to support the 'soft' principles expressed in terms of 'encouraging' and 'facilitating' whilst effectively continuing with the status quo, defined by local State and Territory conditions. The fundamental principle of the right of Aboriginal people to the substantive involvement in the control and management of reserved areas is not
specifically addressed in the Millstream Recommendation, although it was the overwhelming theme of the Aboriginal delegates to the Millstream Conference. 53

Kakadu National Park: A Case Study

Commonwealth legislation has been the main facilitator of joint management arrangements in both Kakadu and Uluru-Kata Tjuta National Parks. They are not the only joint management arrangements in operation, but they are certainly the most legally secure. The structural framework of the Uluru-Kata Tjuta and Kakadu models is now being applied in joint management arrangements with the Wreck Bay Aboriginal Community Council for the Jervis Bay National Park and Jervis Bay Botanic Gardens in southern New South Wales. 54

Kakadu is an important example of the complex nature of evolving joint management arrangements. Some of the park is Aboriginal-owned land, and the need for settlement of land claims and appropriate representation has complicated its development. 55 The first Kakadu lease, signed in 1978, was a relatively simple legal document. In 1991 the lease was renegotiated with a significantly stronger position for Aboriginal people, more financial security, clearly specified responsibilities for the Director, and direct Aboriginal participation on a Kakadu Board of Management. The lease contains three sections: the rights of Aboriginal people to use and occupy traditional land, the terms of the agreement, and 22 specific covenants designed to promote and protect Aboriginal interests, traditions, employment, consultation and liaison. A termination clause means that any breach of the covenants would constitute a breach of the lease and full control of the land would then, by law, pass to traditional owners.

Board of management

The creation of the Board of Management was part of the key management objective which sought to give Aboriginal people a major voice in the management of Kakadu National Park, and follows the model established within the Uluru-Kata Tjuta National Park Board of Management and defined in the 1985 amendments to the National Parks and Wildlife Conservation Act. The functions of the Board of Management include preparation of plans of management for the park, decision-making consistent with those plans of management, monitoring the management of the park and advising the Minister for the Environment on the future development of Kakadu National Park.

The Board has 14 members, 10 of whom represent the Aboriginal traditional owners of the region, two the Australia Nature Conservation Agency, one the tourist industry and one the interests of nature conservation. 56 Aboriginal Board members can be employees of the
Australian Nature Conservation Agency. This is not so at Kata Tjuta, where it is felt that if Board members were also park employees then the meetings would take on the appearance of staff meetings, and members who were also employees would be constrained in what they said.

As proposed by the traditional owners, of the ten Aboriginal members of the Kakadu Board, three come from the southern Jawoyn country, three from the central Gundjeihmi / Mayali country, three from the north-eastern Gaagudju country and one from the north-western Limilngan area. Currently, one Aboriginal member of the Board of Management represents the Gunbalanya (Oenpelli) community, whose people also have traditional and historical interests in the northern part of Kakadu National Park.

Delays in constituting the Board indicate the need to understand the role of representation and rights to speak for particular areas that are inherent in Aboriginal relationships between people and their country. Western decision-making structures such as boards of management cannot hope to succeed unless Aboriginal people have direct and meaningful input into the form, purpose and structure of those essentially non-Aboriginal creations.

Lease Arrangements

The lease arrangement, renegotiated in 1991, gave traditional owners an annual rent together with 25% of the receipts from entrance and camping fees and 25% of any charges, fees or penalties made with respect to commercial activities within the park. The lease can be terminated by the traditional Aboriginal owners of the Kakadu National Park if they consider there is a case of substantial detriment to their interests with regard to the administration, management or control of the park. The Northern Land Council demanded that the termination of lease clause be included following the precedent set in the newly signed Uluru-Kata Tjuta lease. The covenants and conditions of the new lease, and the 1991 plan of management, consolidated the rights of traditional owners and clarified, in detail, the roles and responsibilities of the management agency. The rights of traditional owners to the use and occupation of the park, and to a power sharing role in planning and management, were reconfirmed. In addition, the provisions of the lease call for increased Aboriginal management responsibility and for the development of an employment and training strategy.

The 1991 plan of management, the third management plan of Kakadu National Park, reflected more of the aspirations of the Aboriginal traditional owners, as it was developed through long consultations with the Northern Land Council and the various Aboriginal community associations. The distinctive feature of the 1991 plan of management, in comparison with the 1980 and 1986 plans, is the 'focus on Aboriginal input'. A criticism of the earlier Kakadu plans of management was that they focussed on consultation rather than negotiation, and there was a conscious attempt to reverse this situation.
Although the current lease details rights and obligations, and emphasises a commitment to the principles of negotiation rather than consultation, successful joint management also requires a commitment to the process of effective communication, conflict resolution, and empowerment of Aboriginal people in decision-making and participatory management. For this reason the 'legal and practical adequacy of the lease needs continual review', for the review process provides a mechanism for renegotiation of Aboriginal land owners' rights and management responsibilities within a continually evolving park management framework. Continual review of joint management agreements is both a symbolic and a practical affirmation of the principles of negotiation.

Development of joint management agreements

It is instructive to look at the nature and development of joint management arrangements in Kakadu National Park in some detail. In Kakadu, inter-community relations and relationships between the Aboriginal community and park management have been recognised as dynamic and, at times, volatile. The need for an evaluation of the effectiveness of joint management arrangements has been acknowledged by the Australian Nature Conservation Agency, and this paper is based on the findings of a study into the social and political contexts which led to the establishment of Kakadu, and the current joint management arrangements.

In the early period, the real feeling of external political and developmentalist pressure served to bond Aboriginal people and national parks staff. This strengthened informal management networks but delayed the development of formal structures. The second and third plans of management, written between 1986 and 1991, were constructed in different social environments.

The strong relationships between Aboriginal owners and national parks staff changed with the growth of the park and the movement of influential staff away from Kakadu. The political climate in the Northern Territory, strongly antagonistic to continued Commonwealth management of national parks within the Territory, worsened, and this created a highly charged atmosphere both inside and surrounding Kakadu. The growth of the park and the heavy political atmosphere meant that management was increasingly subject to external demands, and less able to devote time to strengthening informal relationships which had meant so much to traditional owners. As a result, conflicts emerged between the management agency and Aboriginal owners over the delivery of promised training programs, employment levels, promotion of Aboriginal people and a growing awareness of the complexities of the development of a national park of international standard. The Australian National Parks and Wildlife Service came to recognise that the success of joint management in Kakadu National Park depended as much on the formal, statutory arrangements as on informal liaison between Aboriginal people and park managers.
The continuing commitment of the Commonwealth Government to effective joint management was fundamental to the process of building strong relationships between Aboriginal land owners and national parks staff. The long process of negotiations over the new lease and the current plan of management, concluded in 1991, placed Aboriginal interests before natural and cultural heritage protection for the first time. Craig noted positive features of the joint management arrangements in Kakadu National Park. The Australian Nature Conservation Agency had become more responsive to Aboriginal aspirations with regard to employment, decision making, the role of cultural advisers and the recognition of the value of Aboriginal land management practices. In the districts, there is a significant Aboriginal presence in the day-to-day management of the park. There appears to be a genuine desire on the part of management to have Aboriginal people participate as full and equal partners, though in practice this has not yet been achieved.

The very conflicts which have been so instrumental in shaping the political history of Kakadu have helped to shape the nature of joint management in the park. One of the strengths of the Kakadu experience has been the creation of a favourable climate for evolution and experimentation. This is the key to the successful process of joint management. In the early period of the establishment of Kakadu, the Australian National Parks and Wildlife Service selected staff who were chosen for their experience in working with Aboriginal people and who were sympathetic to an Aboriginal position which saw a national park as a way of protecting both the land and Aboriginal culture from the then unknown impacts of uranium mining and tourism. A few fundamentalists among the conservation movement opposed the notion of an occupied Aboriginal-owned national park, but their position was challenged by the success of the informal arrangements of the early period.

The pressures of this earlier period have lessened, but have been replaced by others as the park has increased in size and complexity. Management accepts that Kakadu National Park is to be managed as if it were Aboriginal land. It remains to be seen if non-Aboriginal managers and staff accept that joint management requires a devolution of responsibilities to Aboriginal people who remain unskilled in professional or technical capacities, who continue to have considerable literacy and numeracy problems, who are poorly trained in management and who find the bureaucratic processes baffling. The stress and tension for Aboriginal people is that these professionally 'unskilled' people are often the very people who are culturally and ecologically knowledgable, have status within the community and have a strong desire to participate in park management at a senior level.

A positive move was the permanent appointment of senior Aboriginal cultural advisers with extensive knowledge and understanding of land and culture. The Jawoyn Association provides advice on cultural matters in the southern section of the park on a contractual basis and other respected, senior members of the Aboriginal community are also consulted regularly. The cultural adviser positions are important, but were created in the formative days of the park's establishment to give status and position to senior traditional owners.
who had once been employed as labourers and gardeners, and in practice they appear to have a nebulous position within the park hierarchy.

Power and Effectiveness of the Board of Management

The establishment of an executive role for traditional owners defines the Aboriginal participation as an active role, not just as a participatory or advisory one, and so it is considered the key policy in support of successful joint management of protected areas. The formal establishment of the Board does not guarantee its effectiveness, nor does the presence of the Board mean that Aboriginal decision-making determines the direction of park management. Despite its formal role, considerable discretionary power still rests with the Director of National Parks and Wildlife in Canberra. The Australian Nature Conservation Agency would take considerable effort to resolve any contentious issues well before arbitration was requested, but the potential for conflict and dissent at the Board table does exist.

The Australian Nature Conservation Agency is seen, particularly by some Jawoyn leaders, as centralised and controlling, and the position of the Director of National Parks and Wildlife is seen as a means of preventing or limiting direct access to the Minister. Under the Nitmiluk (Katherine Gorge) National Park agreement the Jawoyn Association has direct access to the Chief Minister of the Northern Territory. It has been suggested by both park staff and traditional owners that the Kakadu Board is essentially weak, dominated by the non-Aboriginal minority of members of skilled, articulate, powerful bureaucrats and appointed officials and constrained by formalised, non-Aboriginal administrative procedures and lack of pre-meeting consultations. The establishment of a Secretariat to support the Board is a positive move towards strengthening Aboriginal decision making.

Communication problems have also been identified at Uluru-Kata Tjuta, and these are considered major sources of tension in the joint management arrangements. In Uluru-Kata Tjuta National Park a Community Liaison Officer has been appointed, with duties including advising the Board of Management, assisting Aboriginal Board members, providing advice to the park management on matters of importance to traditional owners, and liaison with members of the Mutitjulu Aboriginal community. The position is considered essential to day-to-day joint management operations. This arrangement works well in Uluru-Kata Tjuta, because the Mutitjulu community is a relatively discrete and homogeneous group, but it would not work in Kakadu. The internal dynamics of the Aboriginal community in Kakadu would make it impossible to establish one community liaison position in Kakadu, and establishing more than one position would simply increase the distance between Aboriginal people and park management. The dynamics of each Park are different, and each new joint management arrangement needs to
be assessed and developed within the social and cultural dynamics of the local Aboriginal community and the history of interactions with non-Aboriginal land managers.

Employment and Training

A barrier to the effective participation of Aboriginal people in the management of Kakadu National Park is their lack of literacy and numeracy skills and poor comprehension of bureaucratic and legal processes. The original proposal in the 1970s was for Kakadu to have senior Aboriginal management staff within ten years, but this has not occurred. There appears no way in which traditional ecological and cultural knowledge can be adequately recognised within a public service staffing hierarchy which requires documentary proof of knowledge attainment. The first Aboriginal ranger training program was strongly criticised. Despite nearly twenty years of recruitment and training, the majority of Aboriginal rangers remain within the bottom levels of the staffing table, and some have been at these levels for over ten years,” and a natural response has been apathy and disenchantment with park service. Because Aboriginal rangers remain at the lower levels for long periods, the staff blockage hinders recruitment. This creates further resentment, for it may take a keen entrant two to three years to even enter the park service, complete training requirements and then progress to the base grade ranger level.

The lack of literacy skills has been documented in a 1994 report on adult literacy by Wignell and Boyd, but the lack of literacy skills is only one reason for the limited promotional opportunities for Aboriginal people. Wignell and Boyd also comment that the use of ‘secret’ or ‘big’ English (essentially academic or technical English as used in the public service) also inhibits Aboriginal people more used to speaking a form of English embedded in action rather than reflection.65 Aboriginal rangers with poor literacy skills, particularly poor writing skills, are at a distinct disadvantage in terms of promotional opportunities, job satisfaction and career status. In contrast, ranger training at Uluru-Kata Tjuta is seen as positive and on the ‘right track’, because the training officer is expected to work at all times with the community. Aboriginal people at Muitjulu consider their input into training has been considerable and that the result has been a training program designed around community needs and aspirations. Training at Uluru-Kata Tjuta is also considered to be an essential part of joint management arrangements.66

Growth of the Park Bureaucracy

The growth in size of Kakadu National Park has led to considerable structural growth and a subsequent change in management philosophy away from the informal, on-the-ground operations of the formative years towards more procedural, office based management with a corresponding increase in bureaucratic procedures and regulations governing staffing
operations, employment conditions, financial management and accountability, and the formalisation of internal meetings.

The role of the Director of the Australian Nature Conservation Agency is still crucial, but there is a conscious effort to move decision-making away from Canberra and locate it in Darwin and Jabiru. Control of the planning process is now exercised from within the park itself, and this process will continue with the development of the fourth plan in 1996, though the Board of Management has yet to take full control over the planning process. The fourth plan will be a significant step for the Board and a chance for the Board to exert effective control over park planning and management.

Management of Research

Considerable research into natural and cultural heritage has been undertaken in Kakadu National Park, but much of this material remains unpublished. Important language studies undertaken by Evans, Harvey and Merlan are not readily accessible, and yet Aboriginal people are concerned about the loss of language and cultural heritage as a result of the increased westernisation of life within the park area. Concerns over use of unpublished material and unanswered questions of intellectual property rights remain. It is a community priority to document the social history and the life histories of older Aboriginal people, and to record songs and stories in language, and this could provide an opportunity for Aboriginal rangers to participate in cultural heritage research.

In May 1995 a memorandum of understanding (MOU) regarding the control of Aboriginal cultural material in Kakadu was formulated. It encompasses all aspects of cultural research on archaeological and rock art sites and includes photographs, videos, audio recordings, unpublished printed material, notes, maps and computer data relating to Aboriginal traditional use and occupation of Kakadu as well as controls over human and animal remains regarded as significant by Aboriginal people. Although the agreement does not have the same legal status as the lease arrangements and the covenants to the lease, it is the first formal memorandum of understanding on cultural heritage research between Aboriginal people and a management agency in Australia, and involves the first Aboriginal cultural heritage management committee established in a national park in Australia.

Weed Management

Aboriginal people are concerned about the impact of introduced tropical weeds such as Mimosa pigra, salvinia and para grass in Kakadu. Because infestations have occurred during the working life of many senior Aboriginal rangers, weed control is considered a
high priority. The continued emphasis on weed management by Aboriginal people reflects a concern that the ‘country’ passed on to the next generation should be clean and well managed. A long-term weed management strategy is being developed to complement and coordinate the tactical weed control measures currently being undertaken.

Feral Animal Control

Conflicting attitudes towards feral animals continues to be a source of debate within the park management. Aboriginal people see the role of rangers as protecting animals, and consider that feral animals have a legitimate place in nature and belong to the country, but there are sound conservation principles that support the removal of any feral animals and the protection of endangered or vulnerable species within national parks. Aboriginal people support the removal of wild pigs and the control of domestic animals around outstations, but the culling of buffalo and the removal of wild horses in Kakadu remains a contentious issue. At the centre of the debate remain unresolved differences of opinion between Aboriginal and non-Aboriginal people over the relationship between land and people, and the place of animals within a cultural landscape.

Tourism

Tourism remains the largest single issue of concern to both park management and traditional owners. Until recently, mass tourism was unknown to most Aboriginal communities in the Northern Territory. The impersonal nature of modern tourist activities and the way in which it is highly organised and controlled provides little means for personal interaction between Aboriginal people and non-Aboriginal visitors. The substantial increase in numbers resulting from vigorous and highly successful marketing campaigns in recent years places increasing stresses on staffing, residents and resources, and there is a constant demand for increased access to new cultural and natural heritage sites. The heavily visited sites in Kakadu are seen as 'sacrificial' areas, and there is a reluctance by Aboriginal people and park management to approve access to other significant cultural sites.

Aboriginal people are not anti-tourism, but they have concerns about protection of privacy, lack of control over access to art sites and the need to maintain high visitation sites in a good condition. Large numbers of tourists at high density sites during the wet season have the potential to degrade sites and damage roads and infrastructure. Considering the financial significance of tourism and the potential impact of tourism on the natural and cultural heritage of the park, it is important that more research into park visitation be undertaken and that accurate visitor statistics be kept. Aboriginal ownership of national parks does not imply restrictions on non-Aboriginal use, but management and tourism
development agencies need to ensure that traditional owners are fully consulted about future proposals and development projects.

**Uluru-Kata Tjuta National Park: a different approach**

The history of the establishment of Uluru-Kata Tjuta contrasts with the long history of conflicts in Kakadu.

Uluru (Ayers Rock-Mount Olga) National Park was established under the National Parks and Wildlife Conservation Act 1975. Legislative amendments in 1985 provided for the preparation of plans of management for Aboriginal land within Commonwealth national parks and for the establishment of Boards of Management with an Aboriginal majority. The role of the Board is to work in conjunction with the Director, Australian Nature Conservation Agency, to prepare plans of management, to make decisions consistent with the plan of management in respect of the park, to monitor the management of the park, and to advise the Minister on all aspects of the future development of the park. The current management arrangements are determined by a lease agreement, signed in 1985 but substantially renegotiated in 1991. There is only one community, Mutitjulu, in the Uluru-Kata Tjuta National Park, and all Australian Nature Conservation Agency staff live in the community. The social and cultural fragmentation and administrative decentralisation which characterises Kakadu National Park does not exist at Uluru-Kata Tjuta, and this affects the dynamics of joint management operations considerably.

Ayers Rock (Uluru) was, until the 1940s, a remote location seldom visited by non-Aboriginal people. Today, over 250,000 non-Aboriginal people visit Uluru-Kata Tjuta National Park annually. In 1958, Ayers Rock was declared a national park. It was later enlarged and in 1977 the Uluru (Ayers Rock-Mount Olga) National Park was established. A claim for title to land including the park was disallowed in 1979 as the park was judged to be alienated Crown land, but title to the remaining land was subsequently transferred to the Katiti Land Trust.

Aboriginal traditional owners rejected Northern Territory freehold title and a joint management agreement covering the park, and lobbied successive governments for Commonwealth freehold title. The early 1980s was a period of open hostility between the Northern Territory and Commonwealth Governments and the conflict was conducted on many fronts the most important being Aboriginal land rights and Commonwealth control of national parks. In 1983 the Federal Labor Government announced an intention to return ownership of Uluru to the traditional owners — a decision made outside the land claim process and without consultation with the Northern Territory Government — and in 1985 the Hawke Government granted freehold title to Aboriginal people. The Northern Territory Government opposed the terms of the agreement and boycotted the handover ceremony. As part of the negotiations for Commonwealth lease-back of Uluru and Kata Tjuta the
traditional owners requested Commonwealth freehold title, a Board of Management with an Aboriginal majority, detailed covenants to the lease specifying the responsibilities of the Director of National Parks and Wildlife, an annual rental payment and a proportion of the entrance fees to the park. The land is now owned as inalienable freehold title by the Uluru-Kata Tjuta Aboriginal Land Trust.

The 1985 amendments to the National Parks and Wildlife Conservation legislation strengthened Aboriginal power-sharing arrangements in all aspects of park policy, planning and management. This was the first public affirmation of Aboriginal rights to decision-making in protected area management on Aboriginal land. The Uluru agreement was substantially more advanced than the management agreement in place at Kakadu at that time, and became the basic set of principles for the renegotiation of the Kakadu agreement finalised in 1991.

In 1994 the Department of Arts, Sport, the Environment, Tourism and Territories renominated Uluru-Kata Tjuta as a cultural landscape in recognition of the changing nature of the World Heritage criteria for nomination and to more fully reflect the cultural importance of Uluru-Kata Tjuta to Aboriginal people. Cultural landscapes reflect the combined works of nature and of humankind. UNESCO considers that the protection of cultural landscapes assists in the maintenance of biodiversity, and that the continuation of traditional land management techniques supports the preservation of cultural landscapes. Declaration of Uluru-Kata Tjuta as a cultural landscape extends the nomination from natural landscape to the full range of cultural values represented in the landscape. The cultural landscape of the Anangu Tjukurpa (Aboriginal Law) has been declared an outstanding example of traditional human settlement patterns and hunting-gathering land use. The landscape is directly and tangibly associated with events, living traditions, ideas and beliefs of outstanding universal significance, and it is a potent example of imbuing the landscape of Australia with values and creative powers of cultural history through the phenomenon of sacred sites.

Joint Management in the Future: More of the Same, Only Different?

Joint management schemes are now being applied across a variety of jurisdictions, and with varying degrees of Aboriginal involvement, but always subject to Commonwealth, State or Territory legislative controls. There is no coordination of joint management arrangements across the country and little understanding of the use of the term and the application of principles of joint management. Joint management operates under Anglo-Australian principles of law and not under any recognition of traditional land tenure patterns or traditional land ownership. Lesley Head has written:

Aborigines continue to have to conform to definitions and perceptions of Aboriginality imposed by the colonising culture in order to legitimise access to their land and ...
without Aboriginal control, national parks can be an instrument of dispossession as much as any other type of European land use.\textsuperscript{25}

The spiritual relationship of Aboriginal people to the land, and the essential character of a socially and geographically contained Aboriginal law, is still not fully understood by non-Aboriginal people. Aboriginal land tenure patterns are inadequately fitted into the dominant cultural and legal model. Challenge to joint management will come not only from within the management arrangements but also from new legal structures which now recognise native title rights under the common law. This is vulnerable to the whim of the Crown. It has been said that native title 'gave Aboriginal people a seat at the table' but that it is 'yet to be seen whether they would be allowed to eat'.\textsuperscript{66}

As has been indicated, there can be no single, easily adopted and easily instituted model of joint management in Aboriginal owned national parks. Consideration has to be taken of separate Aboriginal cultural identities, practices and aspirations. The corporate culture of the management agency may also change. The internal culture of the Australian Nature Conservation Agency has adapted and responded to internal structural changes, to external political and industry pressures and to social developments within Aboriginal communities. The most significant change has been a move away from the symbolic recognition of abstract notions of 'traditional ownership' to the formal recognition of the rights to active participation in the decision-making processes and control by Aboriginal traditional owners.\textsuperscript{77} Informal personal liaison and communication between Aboriginal and non-Aboriginal staff and communities has been replaced by more formal, prescribed and bureaucratic processes more in keeping with the demands of a developing, more impersonal management agency.

It is important to see joint management, particularly in light of the native title debate and the progress made by the Aboriginal Social Justice Commissioner, as operating within the broad range of contemporary social justice issues in Australia, and not simply as a solution to the problems of competing land management interests. Aboriginal owned national parks are not a panacea for solving the conservation and land rights issues. They establish acceptable and increasingly recognised mechanisms for communication and conflict resolution. The integration of traditional and western land management principles allows for the rights and responsibilities of Aboriginal people to be recognised within a policy framework of self-determination. Currently, Aboriginal opinion is that the procedures established at Uluru-Kata Tjuta and Kakadu National Parks cover the minimum conditions required for cooperative management of protected areas in Australia.\textsuperscript{78}

The cooperative nature of joint management has been identified as an important feature that provides for 'cross-cultural development of management processes and conflict resolution'.\textsuperscript{79} The lease agreements provide the basis for negotiating the joint management process and do not form a rigid basis within which joint management is codified, but the negotiation processes are influenced by powerful political actors such as the Northern
Land Council and the Australian Nature Conservation Agency. Individuals, or even collective groups of traditional owners, have limited power to affect major changes to the leasing agreement without support from these players.

**ATSIC Environmental Policy Paper**

An Aboriginal and Torres Strait Islander Commission draft policy proposed guiding principles for the implementation of an environmental policy acceptable to Aboriginal and Torres Strait Islander people. The ATSIC principles supported the need for effective Aboriginal and Islander participation in the development of environmental policies, the recognition of traditional dependence on the management of natural resources and ecosystems, and the encouragement of greater recognition, by governments and the community, of the value of traditional knowledge and management practices.  

The principles listed self-determination as the determining principle, followed by ecological sustainability, conservation in support of sustainability, the application of the precautionary principle of evaluation, and assessment of potential risk. In addition, regionality, or implementation and control at the local and regional level, was to be achieved by sharing ecological knowledge in exchange for appropriate benefits. These principles are supported by Principle 22 of the Rio Declaration and Chapter 26 of Agenda 21 (the Earth Summit).

The strongly worded policy also encouraged the initiation of, and participation in, regional recovery strategies and joint management of national parks and world heritage areas in order to secure and preserve native title rights and interests in relation to areas of land and sea. This policy determined that native title rights should accord Aboriginal and Islander people the right to the sustainable use of the environment for cultural, social and subsistence purposes. Recognition of native title in common law emphasises the importance of joint management in protected areas and the involvement of indigenous people in resource management and conservation strategies as part of progress towards equitable participation in the development of joint management schemes and in decision-making processes at local, state and federal government levels.

The IUCN Congress at Caracas in 1992 reported that example after example of protected areas around the world had failed to achieve satisfactory conservation outcomes because indigenous people were not given meaningful roles in the establishment, management and monitoring of protected areas. The linking of traditional ownership patterns with social and economic development and with conservation and the establishment of protected areas was a critical issue. For joint management to work, it requires 'committed, sensitive and culturally aware players in the cooperating conservation agencies.'

Sultan, Craig and Ross caution against an uncritical acceptance of joint management. Lease-back agreements have all been the result of compromises made by traditional
owners which have involved the imposition of layers of non-Aboriginal laws and institutions on Aboriginal people. In Australia there are now a number of diverse joint management proposals, particularly in the northern States and Territories.

It is evident that joint management in both Kakadu and Uluru-Kata Tjuta National Parks will continue to be an evolving process. Many issues still have to be resolved, not the least the important questions of equitable power-sharing with Aboriginal traditional owners, the strengthening of the effectiveness of the Board of Management and the creation of a meaningful and fulfilling role for Aboriginal rangers within the parks management service.

National Reserves System

It is appropriate that the Commonwealth should now institute an integrated approach to Aboriginal participation in the management of national parks in Australia. The Australian Nature Conservation Agency is actively seeking a means for the voluntary inclusion of significant areas of Aboriginal land and sea country within a managed resource protected area system, the sixth of the IUCN categories. These protected areas would have a lesser status than national parks, but would be managed directly by Aboriginal people in consultation with the Australian Nature Conservation Agency.

Across the nation the issues of ownership, models of agreement, subsistence rights and employment opportunities for Aboriginal people are being debated, but adequate resourcing for protected area management and a clear definition of Aboriginal protected areas is needed. Voluntary agreements may strengthen Aboriginal bargaining power in negotiating land management agreements, but empowering Aboriginal people in the decision-making process is part of a more complex process of community development, social justice and equity.

Moves towards the establishment of a national reserves system by the year 2000 were confirmed as a policy commitment of the Commonwealth Government in 1995. The preliminary process requires a survey of all major ecosystems. The report by Sutherland and Smyth is a product of the need to consult widely with Aboriginal land owners across the country and to identify the resource management issues relating to Aboriginal and Torres Strait Islander involvement in protected area management. Similarly, the needs and aspirations of Aboriginal and Islander people with coastal marine affiliations is being considered as part of the strategy for conservation of the marine environment prepared by the Australian Committee of the IUCN.
National Parks in the Northern Territory

The Northern Territory Government continues to press for control of all national parks within the Northern Territory and maintains its opposition to Commonwealth control of national parks. The Northern Territory Government would expect that all title to land held by the Director of National Parks and Wildlife for the purposes of national parks would be handed over to the Conservation Commission of the Northern Territory or similar body on Statehood, and a review of the plan of management would be required to take account of the new governing legislation and to bring Commonwealth managed protected areas into line with the policy of multiple land use provisions operating in other parts of the Northern Territory. Leases would continue to be governed by existing terms with 'appropriate guarantees of Aboriginal ownership', but new or renegotiated leases would be under terms 'relevant to the utilisation of mineral resources' and subject to the existing exploration and mining provisions currently applying to parks and reserves in the Northern Territory.89

Tourism has become a major economic base for the Northern Territory. Upon Statehood, tourism in the park would be integrated into the tourism marketing strategies of the Northern Territory Tourism Commission. In 1993 the Northern Territory Government issued a discussion paper on directions for tourism development aimed at providing a comprehensive tourism development strategy along with 'appropriately regulated resource use within a multiple use framework'.90 The long term goal is to create three major national parks in the Northern Territory: Greater Katherine to Gurig National Park encompassing Kakadu National Park, Gurig National Park and Nitmiluk (Katherine Gorge) National Parks with a possible extension to Mungarlea and Elsey National Park; the Greater MacDonnell Ranges National Park with Alice Springs at its centre; and the Central Australia Desert Ranges National Park including Watarraka and Finke Gorge National Parks and the potential extension of Uluru-Kata Tjuta National Park across Lake Amadeus. The paper acknowledges that management of the greater national park system would be complex but justifies the proposal on the grounds that 'the concept is simple, marketable and makes good sense in terms of conservation management and tourism development'.91

Nomination and declaration of World Heritage status for Kakadu and Uluru-Kata Tjuta National Parks has been a continuing source of political conflict between the Commonwealth and Northern Territory Governments. The conflict is embedded in two arguments: first, the need for a secure economic base for the development of a separate Northern Territory removed from Commonwealth financial and political control and, secondly, the use of constitutional powers by the Commonwealth in relation to environmental matters. International environmental conventions have served to accentuate the conflict. Developmentalists are opposed to the 'locking up' of economically important natural resources, and see economic self-sufficiency as a means to withstand centralist economic control and exert State sovereignty rights. Environmentalists, activists in support of the preservation of natural and cultural heritage from exploitative human activity,
oppose any extractive economic development in protected areas, regardless of environmental safeguards. There is little understanding of the Aboriginal position.

Regional Agreements

Regional agreements may be established under the native title legislation. This will empower Aboriginal and Islander communities in determining the nature, speed and direction of protected areas management in Australia. Regional agreements are seen as a way in which indigenous people in a defined territory can organise policies, administration and public services. Included within this arrangement is a wide range of land use, management and conservation issues. Aboriginal reluctance to allocate land for conservation will continue until the processes of negotiation and empowerment are tested through meaningful policies and real empowerment of Aboriginal land owners. Obstacles to regional agreements continue to be the multiplicity of conservation agencies, lack of coordination between agencies at the Federal, State and Territory levels, inadequate funding for long-term conservation projects involving Aboriginal and Islander people, management and skills training, and the need to involve whole communities rather than just individuals in the negotiation processes.

Conclusion

The rise of environmentalism in Australia since the 1970s at first appeared to offer a means for linking Aboriginal and non-Aboriginal values and attitudes to land, but this has not been achieved. Values and perceptions of land and the conservation of natural resources in Australia continue to divide Aboriginal and non-Aboriginal people. For Aboriginal people, 'country' is more than just an exploitable economic resource; it is the basis of cultural identity. For non-Aboriginal people, land is more generally seen as a commodity, to be exclusively owned and traded. Joint management of protected areas is an attempt to implement conservation and land management policies that protect Aboriginal interests. However, the declaration of conservation status over Aboriginal land is widely regarded by Aboriginal people as an imposition and a further means of political control over socially and culturally legitimate Aboriginal land management activities.

Finding ways in which Aboriginal and Islander people can be fully integrated into decision-making processes, establishing means for advancement and employment, and creating the means for the resolution of conflicts within a framework of administration that acknowledges that it is an imposition, and not a model, is critical if the double tragedy of ecosystem loss and cultural loss is to be avoided. Successful adaptation of management systems will only be achieved if Aboriginal people see joint management as a means for reestablishing control over traditional lands, view the process as assisting in the
maintenance of cultural and community identity, and consider it to be part of a wider social justice package.

Joint management is not simply a conservation agreement, it is part of the wider issue of social justice, community development and preservation of cultural integrity. This is not fully understood nor recognised by management agencies and the conservation community. If this broader focus is not recognised then the declaration of more protected areas in Australia will continue to be seen as paternalism, at best, and internal colonialism, at worst.94

In planning future joint management arrangements policy makers need to be aware that although Kakadu and Uluru-Kata Tjuta National Parks offer acceptable management models, they are models which can be improved upon.

Endnotes


2 IUCN Commission on National Parks and Protected Areas, Guidelines for Protected Area Management Categories, Gland, IUCN, 1994, p. 7.

3 Ibid., p 19.


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11 Wilson, A., op. cit., p. 235.
14 Lowry, W.R., op. cit., pp. 139-140.
15 Wilson, A., op. cit., p. 239.
17 Stevens, S., op. cit., p. 30.
23 Aboriginal and Torres Strait Islander Commission, A Fine and Delicate Balance: a discussion paper on ATSIC's draft environment policy, Canberra, ATSIC, 1994, p. 17.


Aboriginal and Torres Strait Islander Commission, op. cit., pp. 17, 20.


Ibid., p. 204.


Ibid., p. xxxv.

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50 Johnston, E. (Commissioner), *op. cit.*, Overview and recommendations, p. 100.


60 Craig, D., *op. cit.*, p. 146.
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61 Lawrence, D., *op. cit.*

62 Craig, D., *op. cit.*, pp. 144-146.


65 Wignell & Boyd, *op. cit.*, p. 27.


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80 Aboriginal and Torres Strait Islander Commission, op. cit., p. 16.

81 Ibid., pp. 2, 5-6.

82 De Lacy, T., 'The Uluru/Kakadu model — Anangu Tjukurrpa: 50,000 years of Aboriginal law and land management changing the concept of national parks in Australia', Society and Natural Resources, 7, 1994, pp. 480-481, 493.

83 Sultan, R., Craig, D. & Ross, H., op. cit., p. 16.


85 De Lacy, T., op. cit., p. 495.


87 Sutherland, J. & Smyth, D., op. cit.


89 Northern Territory of Australia, Legislative Assembly, Towards Statehood: national parks upon statehood, Options paper, September 1987, Darwin, Legislative Assembly of the Northern Territory, 1987, pp. 24, 37, 45.


94 Stevens, S., op. cit., p. 30.
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