Indigenous Protected Areas – innovation beyond the boundaries

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The Australian Government's Indigenous Protected Area (IPA) Program has been in place since 1997/98. The Program is a mechanism to increase the representativeness of the National Reserve System through the voluntary inclusion of Indigenous estates and by supporting the development of cooperative management arrangements.

In its development over nearly 15 years it has been a story of ongoing innovation. The concept of the IPA Program was a response to the growing international and national recognition of Indigenous rights in conservation and sustainable development in the 1980s and 1990s. It was also a pragmatic recognition that a large area of land in natural condition was under Indigenous ownership and Australia's commitment to a comprehensive, adequate and representative reserve system was not possible without including Indigenous lands (Boden and Breckwoldt 1995). However, Indigenous land title under Australian law had often been hard-won and so models that required loss of title or even shared title were unlikely to succeed.

The IPA Program has been the main source of funding to Indigenous interests[1] to work through the consultation and planning steps leading up to an IPA declaration and for the implementation of management activities on declared IPAs. IPAs are planned, voluntarily declared as protected areas and managed by Indigenous interests over the land and sea areas where they have custodial responsibilities.

1 The term 'Indigenous interests' is used in this chapter to refer to the Indigenous groups, organisations or individuals that have or would assert rights and interests over a particular area of land or sea. These might include one or all of Indigenous Traditional Owners or Native Title holders (or claimants), Indigenous communities or families, Indigenous corporations or associations, or representative organisations such as land councils.

Ranger Leon Wallis on Gianguna Beach in the Yanyuwa Indigenous Protected Area in the Northern Territory, being trained in marine debris cyber tracking by Tangaroa Blue. ©Photo: Parks Australia

IPAs do not have a formal legal framework in place as is the case for legally gazetted protected areas such as national parks. They rely instead on the Indigenous interests having declared or dedicated their land and/or sea for a conservation purpose in line with deeply held cultural commitments to the health of wildlife and the environment. Governments are then invited to recognise IPAs as a part of the National Reserve System, consistent with the "legal or other effective means" phrase within the IUCN definition of a protected area.[2] IPAs are required to have a plan of management before they can be recognised by the Australian Government. The plan of management identifies the values of the area, the threats to those values and the management goals, including the relevant IUCN protected area category or categories (there may be more than one) for which the area will be managed.

The lack of a legal framework has been argued as a weakness of the IPAs as there is nothing to stop an Indigenous community from changing its view and effectively 'un-declaring' an IPA. However, government protected areas can also be de-gazetted, albeit through a legal and publicly accountable process. It is also likely that the lack of a formal Western legal basis for IPAs has been vital for their acceptance and popularity with Indigenous interests. This has ensured they remain Indigenous-owned, has allowed communities to observe the benefits to their communities, and thus could be the key to their future success, strength and security. It has also made it possible for IPAs to work over different forms of tenure depending on the circumstances at the local and regional level, because they are not constrained by legislation.

The expanding IPA network

There are now 51 declared IPAs in Australia covering a total of 36.5 million hectares of land and and sea country. This constitutes over 30% of Australia's National Reserve System. A further 43 IPA projects are underway across Australia working through the planning and consultation steps leading up to the point at which the Indigenous interests will make a decision whether or not they wish to declare an IPA. These 'consultation' projects cover land and sea areas exceeding the total area that is already declared under IPAs. This means that there is the potential through the IPA projects that are currently underway to more than double the size of the declared IPA estate.

There are other Indigenous land owners not currently involved with the IPA Program that have expressed an interest in exploring IPA development. The Australian Government's $50 million commitment to IPAs through the Caring for our Country program is fully committed to the existing IPA projects, so there has been no capacity within the existing funding allocation to initiate new projects over the last two years. Some potential IPA projects have sought funding from other sources to assist them to develop plans for country and to consult over their future management aspirations. It is likely that these groups will come forward in the future with IPA plans and a mandate from their Indigenous custodians seeking recognition from governments as IPAs.

The reason why there is a high demand for IPAs are varied. Culturally, communities value their land and sea country above all and wish to see it healthy and productive, especially of native food species. Declaration of an IPA can attract funding from government and other partners for desired management activities and for ranger jobs. Significantly these jobs value and incorporate traditional knowledge alongside Western science and enable Indigenous people to have employment within their community and stay on country. Another element of considerable importance is that there is increasing evidence that working on land management has real benefits to health, education, employment and social cohesion (Hunt et al. 2009).

While the IPA Program has been the primary source of funding for IPAs this may not be the case in the future. IPAs have been very successful in accessing funds from the Australian Government's Working on Country Indigenous rangers program. Increasingly, IPAs are embracing a wide range of partnerships with other tiers of government, non-government organisations, private industry, philanthropic donors and research agencies. IPAs are also generating their own income from activities including tourism, the sale of permits, and contracting the provision of natural resource management services.

2 A protected area is a "clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values" (Dudley 2008).

Recent developments on existing protected areas and multi-tenures

The IPA Program began by supporting Indigenous land owners to develop and declare IPAs on their land and sea areas. The Program also included a co-management stream which supported Indigenous interests to work with existing protected area managers to progress cooperative or joint management arrangements over existing government-declared protected areas that were within their traditional estates. Recently these two separate streams of the IPA Program have begun to coalesce with some state and territory protected area agencies recognising IPA declarations over existing protected areas.

One example is Mandingalbay Yidinji IPA near Cairns in Queensland which covers a range of conservation tenures (national park, forest reserve and local government reserve) over which co-existing Native Title has been determined by the Federal Court. The IPA also includes an environmental reserve where Native Title was extinguished by an earlier tenure, as well as part of a state marine park where exclusive Native Title has been recognised above high tide (see chapter by Leverington in this publication).

The IPA consultation process for the Mandingalbay Yidinji IPA used a 'country' based approach. This approach looked at the the Mandingalbay Yidinji people's conservation and cultural aspirations from the perspective of understanding the traditional totality of their sea/land country which underlies different formal tenures. Mandingalbay Yidinji were able to work with the relevant management agencies for the different tenures to agree a set of arrangements that recognised both the management purpose for the area and the Mandingalbay Yidinj management and cultural aspirations. IPA status over the existing protected areas recognises the continuing Indigenous values of the country and complements the existing management arrangements[3].

The Mandingalbay Yidinji saw this process as putting their country 'back together' through the recognition of an overarching framework of Indigenous values and management arrangements across different tenures. The IPA framework also enables the government conservation agencies to better manage the Indigenous cultural values of their respective protected areas (by providing mechanisms which were not there previously for Indigenous engagement on these issues).

This development, whereby IPA status is recognised over an existing protected area by state/territory and federal governments, has also been implemented in the Northern Territory with the declaration of the Yanyuwa IPA over Indigenous-owned lands and Barranyi (North Island) National Park in the Gulf of Carpentaria. Here the underlying legal arrangements for the National Park are established through a joint management arrangement between Traditional Owners and the Northern Territory Government. The recognition and integration of Indigenous values and management objectives into the formal park management arrangements is being given effect through a revised plan of management for the park with ownership of the land returned to Indigenous interests and a lease-back arrangement for the ongoing management.

In the case of Barranyi National Park, joint management is being progressed as part of the broader Northern Territory approach to joint management on national parks. The potential to overlay this arrangement with an IPA was recognised through the IPA planning process. The IPA aspirations and the joint management arrangements were part of the same outcome, recognising Indigenous values and interests in the ongoing management of the area. In this way the IPA and the joint management arrangements can recognise and reinforce each other.

IPAs have been developed on Indigenous-owned[4] areas where the land owners can choose the purpose for which their land or sea is managed. They have also been recognised over existing conservation tenures as in the examples above. In both cases the designated purpose for the management of the land (as designated by the land owners or through the gazettal of the protected area) is for conservation with varying levels of sustainable resource use depending on the IUCN protected area category assigned to the area.

There is increasing interest from Indigenous groups in whether IPAs might be developed on land and sea areas that are neither Indigenous-owned nor gazetted for conservation. This would mean that the development of an IPA would change the purpose for which the area is managed, with the agreement of the land owner or any other interests that might be affected. An example

3 Further information on the Mandingalbay Yidinji IPA can be found at www.djunbunji.com.au/ipa

4 Indigenous owned areas over which IPAs have been declared include different forms of tenure such as freehold land, Aboriginal Land Trusts or pastoral leases. The key requirement is that the tenure arrangements in place enable the Indigenous community to determine that the land be managed primarily for conservation in line with IUCN protected area guidelines.

of this approach would be the establishment and recognition of IPAs over the sea (where there are generally non-exclusive Indigenous rights) or on other non-Indigenous land tenures.

IPAs on Sea Country

Coastal Indigenous interests who have been involved with developing IPAs have expressed the view that they want to manage both their land and sea country as IPAs. For these groups the separation of land and sea is incompatible with their view of country and their cultural responsibilities to care equally for their customary land and sea estates.

The Australian Government's IPA Program has supported a number of groups to undertake planning and consultation around their aspirations to develop sea country IPAs. Interestingly there has been no policy framework in place relating to what sea country IPAs might entail and whether, if they are declared by Indigenous interests, they would be recognised by state/territory and federal governments.

Previously land and sea have been treated quite differently in the IPA Program. Apart from some small areas of the sea over which Indigenous interests have the ability to exercise control over access[5], IPA declarations in the sea have not proceeded. The view has been that where an area of land or sea is not Indigenous-owned then there is no capacity to decide how the area is managed, so it cannot be managed as an IPA.

A model is emerging where Indigenous aspirations to care for their sea country are driving the development of a range of partnerships and collaborative work with other sea country interests, governments and researchers with a view to being able to deliver a conservation and sustainable use outcome. At its core are the aspirations of the Traditional Owners to maintain their cultural connections and to continue to use and to care for their sea country. The Indigenous groups conducting this activity hope that governments will be able to recognise these arrangements as IPAs in the sea.

Negotiation and partnership-building with all of the other interests is resulting in respect for the wishes of the Traditional Owners and progressing discussions over how the sea country may or may not be used. This model is not proposing changes to the rights of other sea country users but it is seeking agreement about exercising those rights in ways that are compatible with the objectives of the Traditional Owners. The resulting collaborative arrangement would establish an agreed management area in the sea based on negotiations between parties rather than legal gazettal of a protected area.

The challenge for coastal and island Indigenous groups is to develop and negotiate a package of 'legal and other effective means' that can deliver conservation and sustainable use outcomes that meet the threshold of the IUCN definition of a protected area and hence can be recognised by governments.

Sea country IPAs could make a contribution to reconciliation through recognition of 'country' as an enduring cultural scale for managing Australia's environments. The integration of terrestrial and marine areas under a single IPA framework could contribute to better management of the interdependent marine and terrestrial environments and the many important species that depend on both. The multi-stakeholder partnerships inherent in sea country IPAs could also broaden the support base for managing such areas.

A challenge for governments is whether to recognise sea country IPAs (or the marine components of integrated land and sea IPAs) as part of the National Representative System of Marine Protected Areas (NRSMPA). Internationally there is increasing recognition of Locally Managed Marine Areas (LMMAs) – non-gazetted community-managed areas managed for sustainable food security and biodiversity. Currently in Australia marine areas are only added to the national system if they are legally gazetted as protected areas, which is a higher threshold than the IUCN protected area definition and a higher threshold than for terrestrial areas to be added to the National Reserve System.

The emergence of IPAs based on country rather than tenure is analogous to the way designation of a World Heritage Area can provide a multi-tenure framework for managing places of global significance. Country-based IPAs represent a new phase in the evolution of the IPA concept and provide a new Indigenous-led pathway to collaborative management of existing protected areas and other areas (including marine areas) in which no management framework currently exists.

5 The Dhimurru IPA, declared in 2000 near Nhulunbuy in Arnhem Land in the Northern Territory, includes a portion of sea country over which the Traditional Owners can control access by all other parties under the provisions of the sacred site legislation in the Northern Territory. This ability to control access was seen as enabling the Traditional Owners to control the use and management of the area in line with their IPA aspirations.

Yanyuwa Indigenous Protected Area in the Northern Territory. ©Photo: Parks Australia

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Biography

Bruce Rose has a background in biology with over 20 years experience working with Indigenous organisations and governments on land use, management and conservation issues. For the last 14 years Bruce has been working with the Australian Government's environment departments on the establishment and management of Indigenous Protected Areas across Australia. Bruce is currently the Director of the Indigenous Protected Area Program with the Australian Government Department of Sustainability, Environment, Water, Population and Communities.