

INDIGENOUS PROTECTED AREAS IN AUSTRALIA

Incorporating Indigenous owned land into Australia's national system of protected areas

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Introduction

Indigenous Protected Areas (IPAs) are a relatively new form of protected area that has been developed collaboratively by Indigenous landholders and federal, state, and territory conservation agencies in Australia. IPAs are owned and managed by Indigenous peoples, in accordance with IUCN categories, and form part of Australia's national system of protected areas. This article summarises the background to the establishment of IPAs, reviews their development over the last seven years and highlights the legal and policy innovations on which they are based.

Background

For historical, political and economic reasons, the protected area estate in Australia developed in a very *ad hoc* way, and there has been a bias for particular kinds of landscapes at the expense of others. There are plenty of rocky hilltops that have become national parks, while virtually no fertile river flats and very few native grasslands have been protected.

Australia is governed as a federation of six states and two territories (formerly separate British colonies), and the great majority of national parks in Australia are in fact state or territory parks. In 1992 the Federal Government announced its intention to establish a 'Comprehensive, Adequate and Representative System of Protected Areas for Australia'. The objective was to address the lack of representation of certain kinds of landscapes and habitats and to ensure that the full suite of the nation's biodiversity had refuges in protected areas. Along with the announcement of this objective was the commitment to provide a significant pool of funding (under the National Reserve System program) to purchase lands (in partnership with state and territory conservation agencies) assessed as being important additions to the National Reserve System.

Bio-regions as a basis for National Reserve System

Before lands are purchased purchasing land for protected areas, it was necessary to develop an agreed strategic framework that would avoid repetition of the *ad hoc*, politically-driven or

opportunistic acquisitions of the past. In 1994, after much negotiation, the Federal Government's conservation agency, in cooperation with the state and territory nature conservation agencies, released the Interim Biogeographic Regionalisation of Australia (IBRA). The development of a database of distinct bioregions in Australia enabled a national snapshot to be taken of the comprehensiveness of the existing reserve system and to use the same data to help prioritise future acquisitions.

An unexpected outcome of the IBRA was an awareness that Indigenous peoples owned large areas of land, including entire bioregions, which were essential for the achievement of a comprehensive, adequate and representative National Reserve System. Furthermore, additional land was being returned to Indigenous ownership through land claims, which were increasing during the 1990s as a result of recognition of pre-existing Aboriginal 'native title' by the High Court of Australia in 1992.

Incorporating Indigenous land into the national reserve system

The inclusion of bio-regionally significant Aboriginal-owned land within the National Reserve System (NRS) required an innovative solution. The land was not for sale, and it was no longer politically or legally possible to simply acquire Aboriginal land for protected area purposes. This stimulated the search for an alternative process which would enable Indigenous lands to come into the reserve system without loss of ownership and control by the Indigenous peoples.

The idea of Indigenous owned and managed protected areas as a component of the NRS emerged partly out of necessity. However, those involved in the early development of this concept also felt that there was a genuine convergence of interests between Indigenous land management aspirations and the purpose of protected areas. Aboriginal Traditional Owners use terms like 'caring for country' or 'healthy country', to indicate their desire to maintain the wellbeing of their inherited landscapes – a concept that meshed well with national and international visions for protected areas.

The concept of what was to become known as 'Indigenous Protected Areas' was explored further through several research and consultative processes, which are described in detail in Smyth (1995), Sutherland and Smyth (1995), and Thackway et al. (1996). These processes involved:

- discussions with key Indigenous organisations;
- discussions with state conservation agencies;
- review of state and federal legislation applicable to conservation initiatives on private land;
- consideration of how IUCN protected area guidelines could apply to IPAs; and

- two national workshops involving Indigenous landholders, Indigenous organisations, federal, state and territory conservation agencies and non-government conservation organisations.

Discussions with key Indigenous landholders and organisations indicated that they were cautiously interested in exploring the concept of IPA further. State and territory conservation agencies were more sceptical. They were concerned that establishment of additional protected areas within their jurisdictions would place extra demands on their scarce protected area management funds. They were also concerned about the potential loss of their monopoly to declare protected areas on state and territory lands. Nevertheless, Indigenous organisations and conservation agencies sent representatives to attend two national workshops and take part in the discussions that brought the concept of IPAs into reality.

Meanwhile, analysis of the various federal, state, and territory laws governing conservation management and the capacity of government agencies to enter into management agreements with private landholders, showed that there were no legal barriers to implementing the IPA concept across Australia (Sutherland and Smyth 1995).

Another key process was an examination of the IUCN *Guidelines for Protected Area Categories* (CNPPA/WCMC 1994) to determine whether the IPA concept was consistent with agreed international principles for protected areas, as required by the NRS. The examination revealed that the IUCN *Guidelines* did indeed contain the flexibility of vision to accommodate all the important features of IPAs. IUCN's definition of a protected area is:

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

The references to 'cultural resources' and 'management through effective, non-legal means' provided the basis for establishing a management framework that recognises the importance of Indigenous cultural values and which validates Indigenous governance.

Other aspects of the IUCN *Guidelines* that supported the establishment of IPAs include:

- Management of protected areas may rest with '*central, regional or local government, non-government organisations, the private sector or the local community*'.
- The primary objective of a protected area is determined by '*national legislation (or similar effective means, such as customary agreements or the declared objectives of a non-government organisation*'.

- Management objectives and constraints for most of the IUCN protected area categories provide for the sustainable use of natural resources by Indigenous peoples.
- The potential role of Indigenous communities as managers is specified in the description of several protected area categories. However, the descriptions for all categories, except Category 1 (Strict Nature Reserves and Wilderness Areas), envisage the potential for management by ‘*a local organisation or community*’, which could be an Indigenous community.
- Recognition of Indigenous peoples’ capacity to establish their own protected areas is consistent with recent Australian and international developments towards political, social and economic self-determination by Indigenous peoples.

In summary, it is clear that if an Indigenous community or landowning group have an explicit objective of long-term conservation, with customary or other agreements in place, they can establish and manage a protected area outside the existing legislative protected area framework and still be consistent with the IUCN *Guidelines* (Thackway et al 1996).

At the first national workshop, Indigenous landowners agreed to consider including their land in the national protected area system, provided it enhances their capacity to manage their lands and does not result in any loss of control over their lands. Discussions at the workshop also resulted in the IPA program being expanded to include funding to support the negotiation of co-management arrangements for existing government managed protected areas.

The second national workshop, held in 1997, developed the following definition of IPAs that recognised the indivisible link between cultural and biodiversity values in protected area management:

An Indigenous Protected Area is governed by the continuing responsibilities of Aboriginal and Torres Strait Islander peoples to care for and protect lands and waters for present and future generations.

IPAs may include areas of land and waters over which Aboriginal and Torres Strait Islanders are custodians, and which shall be managed for cultural biodiversity and conservation, permitting customary sustainable resource use and sharing of benefit.

Funding arrangements

The Federal Government Department of Environment and Heritage (Environment Australia) funds the IPA program for each of the following stages:

Stage 1: Consideration of an IPA declaration.

Indigenous landowners consider whether establishing an Indigenous Protected Area on their land is viable and meets their requirements. This first stage may include seeking advice on the legal, cultural heritage or conservation aspects of the proposed IPA to inform the decision-making by the landowners. Many landowners seek funds to travel to existing IPAs to discuss the concept and program with other Indigenous people. Community meetings are held and information is provided on a range of issues, such as IUCN categories, the concept of bioregions and the National Reserve System.

Stage 2: Development of a Management Plan for the property

This stage includes more detailed community consultation about management prescriptions for particular areas, species, values or management issues. Expertise from government conservation agencies, neighbours and others is engaged during this process. The final product is a Management Plan endorsed by the Traditional Owners, which reflects their long-term aspirations for their country and contains management actions for the next 5-7 years. Each plan also identifies the IUCN category which best reflects the management objectives of the area.

Stage 3: Declaration of an IPA

Declaration takes the form of a formal and public announcement of the intention to manage land as an Indigenous Protected Area according to the Management Plan and specified IUCN category. The landowners write to the Federal Minister for Environment and Heritage to register the details of their property on the Collaborative Australian Protected Area Database (CAPAD) along with all other properties that constitute the National Reserve System.

The declarations generally culminate in a formal public launch, which includes the signing of a declaration statement with the federal, state and territory government representatives. The on-site launches have become big community events with politicians and other special guests visiting the area.

Stage 4: Implementation of the Management Plan

IPA management is implemented through on-ground works as specified in the Management Plan, such as putting into place weed and feral animal controls, cultural and natural heritage conservation activities or the establishment of infrastructure to manage visitor access. The IPA managers continue to access funding for these purposes through the IPA program on an annual basis. Funding is based on budgets developed to implement actions identified in the Management Plans. At this implementation stage access to IPA program funding is no longer a competitive process, although the level of funding is negotiated each year.

Stage 5: Monitoring

The landowners, in consultation with other agencies, monitor the implementation of activities under the Management Plan and the effectiveness of the on-ground works. Monitoring mechanisms should be identified in the Management Plan and should focus on the condition and trends of the natural and cultural resources in the IPA.

Throughout these stages, the following key principles and understandings have been identified to guide the administration of the IPA program:

- people tend to behave responsibly when they have responsibility;
- good decisions will generally be made when the decision makers have good information presented in an appropriate way;
- don't push too hard or too fast for a result - allowing time and space for decisions results in better and more durable outcomes;
- all decisions regarding country remain with the Indigenous owners/managers;
- Indigenous groups are free to run the consultative process their own way and to hire their own experts to help;
- funding must allow for on-ground work from the beginning, rather than just planning and talking in the abstract;
- everyone needs to know they can withdraw from the process at any time; and
- regular monitoring and review by the land managers is necessary every two years to maintain good management outcomes.

Funding for IPAs has largely been sourced through annual grants from a national IPA program. The Indigenous communities involved in the program provide a significant contribution in human resources and government-funded employment programs cover a major portion of the labour costs.

To obtain IPA funding, Indigenous landowners apply to Environment Australia and identify their own cash and in-kind contributions. Applications are assessed by officials, comments are sought from other stakeholders and the IPA Advisory Group, which makes funding recommendations to the Federal Environment Minister.

A contract is prepared specifying the work to be undertaken, a schedule of payments and reporting requirements. The funding contracts are business-like agreements whereby the Federal Government is purchasing specified environmental services from Indigenous landholders. These funding agreements have been effective in maintaining a focus on outcomes in IPAs to date. The

unresolved issue of funding continuity and annual funding cycles remains the major impediment to consolidating IPAs individually and as a permanent feature of the protected areas landscape in Australia.

Assessment of the contribution of IPAs to the National Reserve System

Since August 1998, when the first IPA was declared by the Nepabunna Community in South Australia, a further 16 IPAs have been declared and added to the National Reserve System. A further 10 co-management projects on government-owned protected areas have been funded, with only one reaching the stage where there is a formal joint management structure in place.

The 17 IPAs declared cover 13.8 million ha of lands which would otherwise not have been available to enhance the conservation estate. After only six years of the IPA Program almost 17% of the terrestrial protected area estate in Australia is in IPAs. With the new IPA development projects currently in the consultation or planning stages, further large additions to the NRS are likely in the near future.

There are declared IPAs in each state and territory, with the exception of the Australian Capital Territory (where there is Aboriginal involvement in Namadgi National Park, which comprises 70% of the territory). The distribution of current and pending IPAs is shown in Figure 1. For further details of each of these IPAs and other aspects of the IPA program refer to Environment Australia (2003).

IPAs have achieved the highest level of acceptance in South Australia and, after initial reluctance, there is now good progress in the Northern Territory and Western Australia. Success factors relate strongly to local political issues, including the nature of the relationship between Indigenous peoples and the state and territory governments. The amount and size of Indigenous land holdings has not been a major factor, as is evident by the number of IPAs declared in Tasmania (with relatively small areas of Indigenous owned land) and the reluctance of Indigenous landowners in Queensland (where there are large areas of Indigenous owned land) to take up the IPA option.

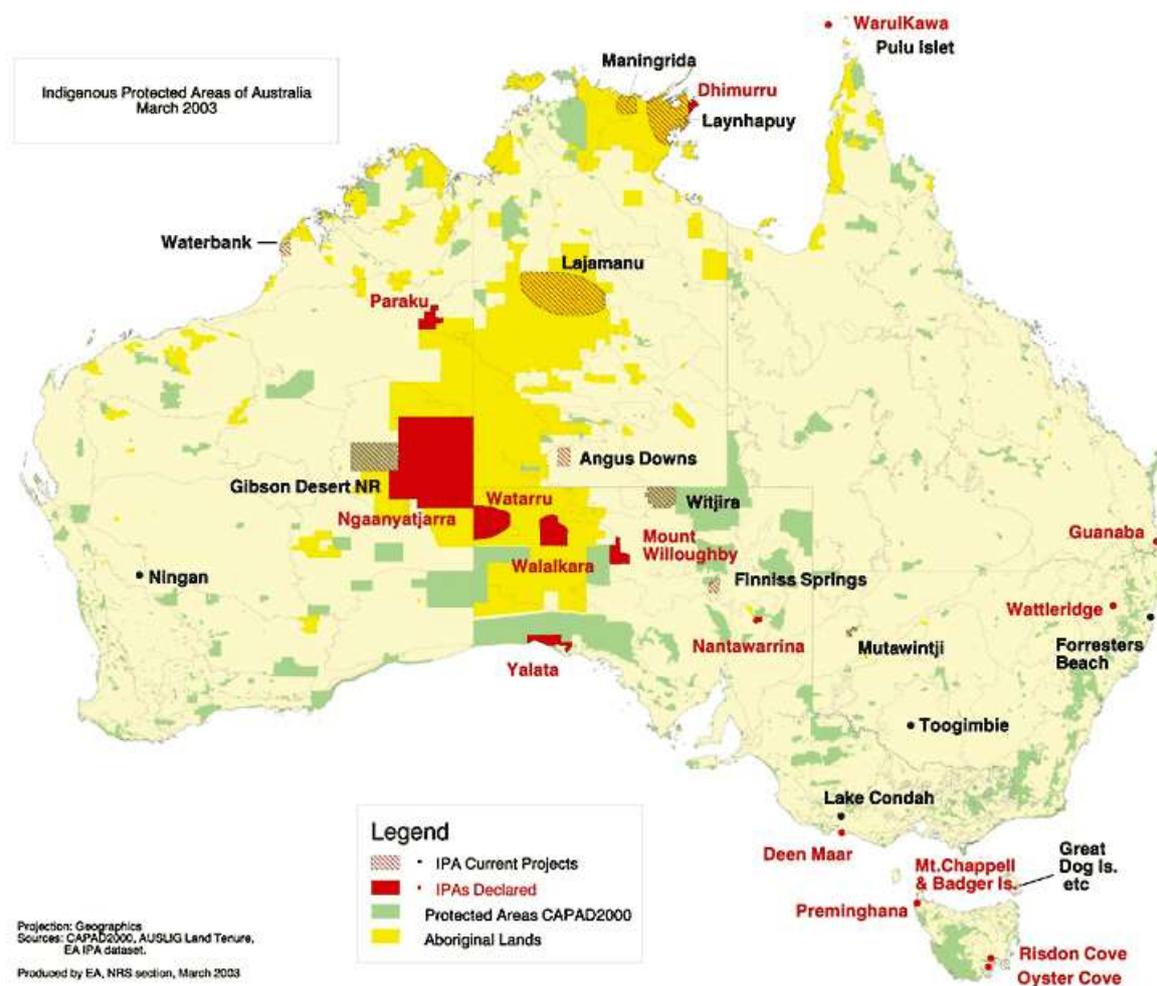


Figure 1. Location of declared IPAs, IPAs under consideration, government-managed protected areas and Indigenous owned land. The faint lines indicate boundaries of IBRA bioregions.

Assessment of benefits to Indigenous land owners

A third national workshop held in May 2003 provided the first opportunity for Indigenous managers from all declared IPAs, and representatives of communities at various stages of establishing IPAs on their lands, to share their experiences of the realities of implementing the IPA concept. While concern about security of long-term funding was a common theme, workshop participants were enthusiastic in their support for IPAs, both as a mechanism for improved environmental management and for the associated cultural, education, health, employment and other social benefits. In their workshop presentations, IPA managers made it clear that the environmental and cultural benefits are inseparable; they included:

- getting Traditional Owners back on country, often after long absences;

- involving school children in IPA field trips, transferring knowledge between generations and strengthening languages;
- re-establishing traditional burning practices, maintaining waterholes and reducing feral animal impacts;
- providing training and employment in managing country;
- promoting renewed interest about caring for the country.

The general mood of the workshop was one of pride in what has been achieved in a short time and with a small government investment. Strong interest was expressed in exploring ways to strengthen the legal protection of IPAs that did not compromise Indigenous peoples' authority over their land and sea country. The workshop also strongly reconfirmed the importance of maintaining support for increased involvement of Indigenous people in government managed protected areas as part of the ongoing government commitment to IPAs.

Conservation Significance of IPAs

There is great variation in the conservation values and size of the IPAs established so far. Like the existing statutory system of protected areas, some areas are more significant than others, at least in their biodiversity value. However, all the IPAs are of great cultural value to those Indigenous peoples who own and manage them. In negotiating the pilot IPA projects for funding, it was necessary to ensure that this cultural perspective was fully incorporated, rather than merely seeking out those Indigenous lands that are of interest to Environment Australia from a biodiversity conservation perspective. Environment Australia's preparedness to accommodate Indigenous perspectives on the significance of landscapes has been critical in gaining the confidence of Indigenous groups to declare IPAs on the more bioregionally significant properties as the program has matured.

Much of the Indigenous owned land in Australia has not been subject to high impact uses such as land clearance, cropping and heavy grazing. While this was largely due to climatic factors and distance from major centres, which made these lands unattractive to non-Indigenous settlers, the result is that some of the most intact landscapes and ecosystems are on country that has been reserved for Indigenous use or subsequently reclaimed by the Indigenous traditional owners. Nevertheless, environmental management problems, such as feral animals and invasive weeds, do occur in these remote regions. The declaration of IPAs provides a mechanism to address such issues strategically.



Patch burning to create a mosaic of different age spinifex is an important tool for Walalkara and Watarru IPAs

Figure 2: Continuation of traditional burning practices is essential for the maintenance of biodiversity and cultural values in Walalkara and Watarru Indigenous Protected Areas in South Australia.

Comparison of IPAs with Co-managed Protected Areas

Over the past 20 years a spectrum of co-management arrangements has been developed by federal, territory and state governments which seek to involve Indigenous people in some government-managed protected areas in Australia. Kakadu, Uluru Kata-Tjuta and Nitmiluk (Katherine Gorge) National Parks in the Northern Territory are the best known of these, and there are others in South Australia, New South Wales and Jervis Bay Territory (a small federal-controlled enclave on the south coast of New South Wales). Most co-managed national parks are owned by Indigenous groups, who have had their land returned to them on the condition that they lease it back to government conservation agencies to manage as protected areas. The Indigenous landowners are represented on the park boards of management, and they benefit economically through ranger employment, annual rent payments and a percentage of revenue raised in the park (through entrance fees, commercial tourism etc.). These joint management arrangements are discussed further in Smyth (2001).

In addition to these formal joint management arrangements, most Australian states and territories have provision for some Indigenous involvement throughout their protected area system. This might involve, for example, a commitment to consultation with Indigenous people, an Indigenous representative on an advisory committee, some employment or responsibility for Indigenous heritage protection. Indigenous people have consistently expressed the view that such arrangements do not adequately recognise their status as traditional landowners and they are seeking more meaningful involvement, especially at the decision and policy-making level. One feature that is common to all co-management arrangements is the lack of opportunity for Indigenous groups to decide whether or not they wanted their traditional lands to become protected areas.

The 13.8 million ha of IPAs, including several projects in the developmental stage, are currently costing the Federal Government about A\$2 million (US\$1.3 million) per annum. Average annual funding from Environment Australia to each IPA project is in the order of A\$110,000

(US\$71,500). The world heritage Kakadu National Park, one of Australia's largest and best resourced national parks, has an annual operating budget of A\$12 million (US\$7.8 million) of which around 25% is raised through user fees. Full joint management is proving to be relatively costly and requires considerable time and resources for effective consultative processes.. However, Kakadu National Park is a particularly high profile and well-visited park that contributes considerably to the economy of the Northern Territory through.

IPAs are a much more streamlined approach where Indigenous peoples have control and full responsibility over resources and how work gets done. Management effectiveness is measured in terms of the condition of the country over time rather than by the size of the budget or the amount of work done. IPA funding has been successful in leveraging considerable additional resources to support Indigenous management. It has provided access to traditional land management expertise and a large pool of labour, supported through a work-for-the-dole employment scheme known as the Community Development Employment Program. Even when Indigenous people are not directly employed in IPA management, their presence on country provides a very effective and economical monitoring service. A comparison of the main features of IPAs with co-managed protected areas in Australia is given in Table 1.

Protected Area Feature	Indigenous Protected Areas	Co-managed Protected Areas
Land ownership	Indigenous ownership	Indigenous or government ownership
Establishment of protected areas status	Voluntary	Compulsory
Land management authority	Indigenous landowner group or organisation	Government conservation agency
Indigenous role in management	Indigenous control at all levels	Membership of Board of Management, or advisory role
Management Plan	Mandatory	Mandatory for some parks; discretionary in others
Comparative management costs	Relatively low	Relatively high
Security of protected area status	Indefinite, subject to wishes of Indigenous landowners	Indefinite, subject to government legislation

Table 1: Comparative features of Indigenous Protected Areas and co-managed national parks in Australia

IPAs and the conceptual development of protected areas in Australia

Over a relatively short period, IPAs have made a substantial contribution to the protected area estate on the basis of land area alone. Perhaps more importantly they have provided a way to deal with the tensions between conservation interests and the aspirations of Indigenous peoples. IPAs are demonstrating that these often competing interests are not mutually exclusive.

Several jurisdictions in Australia are seeking amendments to their legislation to better accommodate Indigenous lands, uses and aspirations in day-to-day protected area management. In the Northern Territory and Western Australia, legislative amendments are proposed to recognise IPAs in law and allow government agencies to develop programs that will support the establishment and management of IPAs.



In the past it was difficult to bring equipment onto the islands to undertake conservation work.

Figure 3: Environmental work at Mt Chappell Island and Badger Island Indigenous Protected Areas in Tasmania has focused on weed and feral animal control, revegetation and the development of jetty/landing facilities and shelters to facilitate access for management.

Challenges for the future

The most significant challenge facing the IPA initiative is securing long-term commitment of governments to funding the concept. To date funding has been on an annual basis.

Currently there is a commitment from the Federal Government to fund the program through to 2005-6, allocated in two annual funding cycles to individual IPAs on the advice of the IPA Advisory

Group (formerly the IPA Taskforce). State and territory agencies are increasingly contributing resources and support to IPAs, but this has been to be sporadic and short term. To date, therefore, it is only the IPA owners and managers who have been able to make the of long-term commitments that effective protected area management requires.

Government decision makers must be convinced that IPAs function properly, are cost-effective, are essential to the long-term conservation of natural and cultural heritage, and that supporting IPAs is a core responsibility of government conservation agencies. There is provision for this in the Federal Government's *Environment Protection and Biodiversity Conservation (EPBC) Act 1999* in the form of Conservation Agreements. By bringing IPAs under the auspices of the EPBC Act, the Government commits itself to the other party to the agreement and accepts some responsibility for long-term support. There are similar provisions under state and territory legislation, where private lands can have special conservation status conferred on them, but to date only one IPA has a formal agreement with a state or territory government.

In some cases there may be other options to securing a greater commitment. For instance, two of the existing IPA projects have extensive and internationally significant wetlands over which the Indigenous landowners are considering protecting through listing as a Ramsar site. Ramsar wetlands are a Federal Government responsibility under the EPBC Act, which brings with it scope for some on-going funding commitment for management. World Heritage values and natural and cultural values of national significance will occur on some IPAs, providing opportunities for other alternative sources of long-term government funding.

Capacity building and professional development of IPA owners and managers is another major challenge. This is largely in the scientific/technical areas and addressing contemporary resource management issues, such as feral animals, erosion, visitor management and legal issues. A positive outcome of reinstating and resourcing Indigenous management in the IPAs has been the renewed interest in 'traditional ecological knowledge' among young people, who are most likely to be involved in management activities.

Management structures are variable across the IPAs. The most effective arrangements are where there is a dedicated natural or cultural resource management organisation, separate from other community structures, which provides land and heritage management services to the traditional owners. Associated with this is the need for appropriate training and support, which will lead to a reduced dependence on outside expertise and advice.

Law enforcement is seen by many Indigenous groups as an important extension of on-ground management they routinely undertake. They see this as part of increasing their level of professionalism and enhancing their capacity to actually protect the values of the IPA and achieve greater parity with statutory protected areas. Some training has occurred in this area but no formal

delegation of law enforcement powers to IPA managers has yet occurred. An analysis of federal, state, and territory legislation indicates that there are adequate opportunities for devolving law enforcement to appropriately trained individuals outside of government agencies.

Conclusion

The innovations associated with the development of IPAs relate to the interpretation and application of the IUCN Guidelines and a conceptual re-evaluation of how protected areas are established and managed in Australia. IPAs emerged as a consequence of the political commitment to develop a National Reserve System that is representative of all of Australia's bioregions. The resulting development of the Interim Biogeographic Regionalisation of Australia was an innovative policy initiative that was crucial to the emergence of the IPA concept. New laws are currently being drafted in some jurisdictions to provide statutory recognition of IPAs. Key innovations associated with IPAs are summarised in Table 2.

Policy or law	Innovation
IUCN definition of protected area	Indigenous ownership and management of IPAs ensure that the ' <i>protection and maintenance</i> ' of ' <i>associated cultural resources</i> ' is integral to the management.
IUCN definition of protected area	Indigenous ownership and management of IPAs provide an innovative interpretation and application of ' <i>management through legal and/or other effective means</i> '.
IUCN Protected Area Categories	IPAs represent an innovative applications of the Categories, all but one of which provide explicit or implicit recognition of Indigenous ownership and management of protected areas
Policy commitment to develop a National Reserve System	IPAs are an innovative mechanism to assist in the achievement of the National Reserve System, without devoting huge financial resources towards the purchase of land, while respecting Indigenous peoples' right to self-determination.
Federal, State and Territory conservation legislation	IPAs represent an innovative application of governments' capacities to enter into conservation and funding agreements with private landholders. Some legislation is currently being amended to reflect and support the development of IPAs.

Table 2: Innovative features of Indigenous Protected Areas

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