

Managing sea country together: key issues for developing co-operative management for the Great Barrier Reef World Heritage Area

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FOREWORD

This report is the first in a series by the Co-management Research Task of CRC Reef Research Centre which was considered an important part of its management studies concerning the Great Barrier Reef World Heritage Area.

As this report documents, the possibility of co-operative management between Indigenous people and the Great Barrier Reef Marine Park Authority (GBRMPA) has been under discussion for several years, and relates well to the negotiation of native title claims and Indigenous Land Use Agreements. Practical steps to increase Indigenous participation in day-to-day management of the park, particularly in the management of turtle and dugong, and employment of Indigenous rangers, are already in place in some communities.

The project is managed jointly by a committee comprising two representatives of the Southern Great Barrier Reef Sea Forum (an Indigenous forum enabling coastal Traditional Owners south of Cooktown to work collectively) with a representative of Balkanu Cape York Development Agency, two representatives of GBRMPA and the research team. This is itself an innovation in the co-operative management of research, which brings the users of the information together with the researchers to jointly decide the research directions (Innes and Ross 2001). The research team is: Professor Helen Ross, School of Natural and Rural Systems Management, The University of Queensland, Gatton (phone 07 5460 1648, hross@uqg.uq.edu.au); Mr James Innes, Manager Research and Monitoring, Social Science, GBRMPA; and Ms Melissa George, research assistant, Wulgurukaba Traditional Owner and member of Sea Forum working group.

The purpose of the research is to promote informed decision-making about co-management, by providing research, information and knowledge-building services to the parties considering negotiating co-management. The formal objectives are:

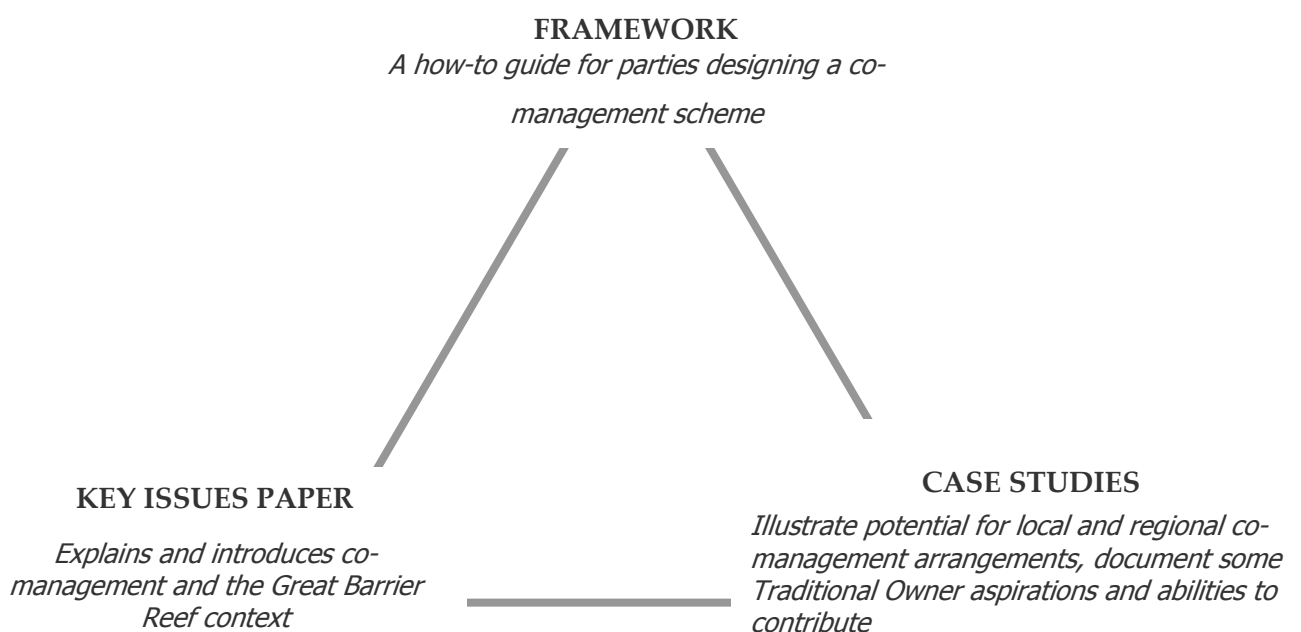
- To provide information and relationship-building support to GBRMPA and Indigenous Traditional Owners who wish to be involved in future co-

management, in developing a process and structure for co-operative management of areas and natural resources within the Great Barrier Reef Marine Park (GBRMP).

- To help develop a framework for co-management and other forms of partnership in management of the GBRMP, suited to Indigenous management and potential later participation of other stakeholder groups.

The emphasis is on *providing information* and supporting *mutual learning*, towards the best possible design and implementation of future co-management arrangements. The project does not attempt to collect or disseminate Indigenous traditional ecological knowledge. Such detailed information is not necessary for the design of co-management systems, though it is highly important to respect that Indigenous people hold such knowledge.

The project is producing three research reports, this key issues report which explains and introduces co-management and the Great Barrier Reef context, a case studies report which documents Traditional Owner aspirations and illustrates the potential for local and regional co-management through three regional case studies, and a framework to assist parties in designing a co-management scheme.



Indigenous participation is important to the research design and fulfillment of its aims. Indigenous traditional owners of the Great Barrier Reef area participate in project decision-making through Sea Forum's and Balkanu's memberships on the Research Management Committee, and in the research itself through Melissa George, an Indigenous Traditional Owner of the Townsville-Magnetic Island area, and 'case study' tasks for which budgets were provided to Indigenous people.

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We acknowledge the previous work undertaken by Sea Forum and CSIRO in producing a discussion paper on co-management for government consideration (see Sea Forum 1999) and the work of Appleton (2000) in elaborating a multi-agency strategy for the State and Commonwealth governments, with costs. We thank CRC Reef, and particularly our Program Leader Professor Helene Marsh, for recognising the need for a research project on co-management, Dr David Williams, and Ms Bryony Barnett for their encouragement, and Dr Louise Goggin for support in the publication of this report. Fellow CRC Reef researchers, especially Ms Melissa Nursey-Bray, have been helpful in sharing perspectives and information. Dr David Lawrence and Dr Jocelyn Davies made comments to improve and clarify the text of this report.

We thank the other members of the project's research management committee, including Ms Pat Leedie and Mr Ricco Noble (representing Sea Forum), Mr Chris Roberts (Balkanu), Mr Andrew Skeat, Ms Leanne Sommer and later Mr Chicka Turner (representing the Great Barrier Reef Marine Park Authority).

We also give credit to the efforts Sea Forum and other Indigenous organisations, the GBRMPA and other state and federal government agencies, are putting into creating bonds and finding new ways of managing this special place, the Great Barrier Reef.

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EXECUTIVE SUMMARY

Co-operative management (known as 'co-management') offers flexible possibilities for combining Indigenous common property rights and responsibilities with private property and resource rights of other stakeholders in environmental management. The essence of co-management arrangements is that they are negotiated among the stakeholders - hopefully to mutual satisfaction - so that arrangements can be customised to each circumstance. In this report and project we use the term 'co-management' to refer to *equitable partnerships in management* (McKay and Jentoft 1996), synonymous with the Australian term 'joint management'. The partners should have balanced power relationships in decision-making, though they may contribute in different ways according to their interests, priorities and capacities.

This report is designed to inform Indigenous, government, and other parties about the issues which would be involved should they proceed to negotiate any form of co-operative management over the Great Barrier Reef World Heritage Area (GBRWHA). Its purposes are to explain the concept of 'co-operative management', offer a history of co-management with respect to Indigenous people in the GBRWHA, and introduce key issues which are involved whenever co-management arrangements are designed.

To Indigenous people, cultural heritage and natural resource management are a single concept, in which the management and use of natural resources are intertwined in cultural practice and the exercise of cultural responsibilities. Many Indigenous people would see co-management as intertwined with their resource and political rights, culture, and social and economic arrangements – not as an independent arrangement as management agencies tend to see it.

The report considers

- **co-management and native title**

We argue that co-management in the Great Barrier Reef area could be negotiated separately from native title, as 'stand-alone' arrangements with independent

status, or become part of the settlement of individual native title claims. This places coastal Traditional Owners in a flexible position – to negotiate towards co-management either within or separately from native title claims, and to include independently negotiated arrangements in native title agreements later if they wish. It would, however, be unwise for co-management arrangements to conflict with native title proceedings.

- **history of co-management discussions concerning the Great Barrier Reef World Heritage Area**

- **advantages of co-management for the World Heritage Area**

These include informing and enhancing the management of natural resources, and efficient and equitable management of wildlife. Co-management can incorporate native title rights into management for mutual advantage, by recognising Indigenous systems of tenure, management, harvesting and use in a way that avoids costly legal proceedings. It can thus overcome mutual mistrust and provide an ongoing mechanism for conflict resolution, and reduce the social impacts of protected area status.

- **types of co-management**

The main types of co-management arrangements, worldwide, are shared management of a species, usually migratory, on land or in sea; shared management of an area; a combination of these (eg management of a species or its habitat, on certain types of land or water). The most common forms of co-management are between government agencies and other parties, but agreements are possible between non-government parties, for instance Indigenous people with an industry. The opportunities for solving both Indigenous and non-Indigenous management and access desires in the Great Barrier Reef probably lie in some combination of area, species and multi-purpose agreements. For instance Sea Forum (1999) advocated a combination of a 'framework' agreement, along regional lines, for the Southern Great Barrier Reef and finer-scale localised agreements moulded to local Traditional Owner and other-party wishes and local circumstances.

- **parties to co-management of the GBRWHA**

If co-management were formally negotiated (or designed) for the GBRWHA, especially on a wide scale, we envisage the *central* parties would need to be GBRMPA, as the inter-government agency legally charged with the administration of the GBRWHA, and Indigenous Traditional Owners of the sea country estates coinciding with the GBRWHA. Under Indigenous customary law, Traditional Owners are the decision-makers and responsibility-holders for the health and use of marine country, and the primary knowledge-holders. These are the parties with the most direct responsibilities for management of sea areas in the GBRWHA, under Australian and Indigenous law respectively. Other parties have potential roles in co-management, but none have authority specifically to manage the sea country of the GBRWHA areas. Other parties with specific management responsibilities (fisheries, day to day management) or responsibilities with respect to Indigenous issues can also be brought into the arrangements if desired.

- **governance**

The form of governance for co-management would need to be negotiated. One challenge for the parties to co-management is that GBRMPA is a *centralised* body with authority over a very large spatial area of sea and reefs, while Indigenous authority (under customary law) is *decentralised*, with prime authority being vested in the Traditional Owners of many clan estates. Non-Indigenous people often expect bodies such as ATSIC, Land Councils and Native Title Representative Bodies to be capable of making decisions on behalf of Indigenous people, but their charter is most often to represent or act on behalf of Indigenous interests including consulting with their members, not to make decisions. Institutional arrangements for coping with the cultural differences in governance include Boards of Management and Regional Agreements. Present indications are that a reef-wide agreement is unlikely in the foreseeable future, but a variety of different localised arrangements are emerging.

The report also canvasses a number of suggestions for negotiating and maintaining successful co-management. These include

- Developing relationships between and within the parties before meeting at a negotiation table
- Designing the negotiations carefully
- Having preparation and training for both parties before negotiations start
- Capacity and resourcing, for negotiations and for implementation
- Information management
- Maintaining the relationship.

Capacity involves more than cash. It is necessary for both parties to co-management, and for the success of their relationship. It may be helpful to consider ‘capacity’ in several dimensions: (i) individual skills, (ii) social (interaction) skills, (iii) flexible world views, (iv) supportive organizational arrangements, (v) financial and staff resources, and (vi) time and patience.

Resourcing will be a particular challenge both for developing and for implementing co-management in the GBRWHA, since Indigenous people have few financial resources of their own to contribute, and GBRMPA is seriously under-resourced for its responsibilities. Whether it proceeds at broad or localised scales, co-management will require either additional resources or a shifting of resources to accommodate Indigenous participation. This may entail some creative thinking.

CONCLUSION

The concept of co-management for the GBRWHA is becoming recognised, formally and informally, through a history of dialogue, the initiative of Sea Forum (1999) in proposing negotiation of a framework agreement and agency discussions towards such negotiations (Appleton 2000), current initiatives by several Traditional Owner groups on a range of issues, and GBRMPA’s renewed focus on the co-management of marine hunting. Whether or not government decisions are ever made to adopt co-management formally, native title claims and other expressions of traditional owner interest are likely to keep it on the agenda.

Key themes for the design of co-management are

- Spatial factors and scale
- Laws
- The parties which should participate
- Catering for different paradigms of management
- Issues
- Decision-making structures and processes
- Information management
- Operational mechanisms
- The parties' respective capacities.

Co-management will be a more complex matter for the Great Barrier Reef than for terrestrial national parks, because of the vast area involved, the number of Traditional Owner groups involved, the complex relationships among the State and Commonwealth interests, and the variety of activities conducted in the World Heritage Area. If pursued on an estate-by-estate level each agreement need be no more complex than the management of terrestrial parks, but over time there is a risk of a highly complex and uncoordinated set of arrangements growing, which could prove difficult for GBRMPA to navigate. Co-management is not a concept to be nervous of, however. It is well established, for over 20 years in Canada and in Australia's terrestrial national parks. It is a flexible strategy, well suited to reconciling different interests in land or sea, and to bringing different parties talents efficiently and effectively into an enriched management process.

INTRODUCTION

Co-operative management (known as 'co-management') offers flexible possibilities for combining Indigenous common property rights and responsibilities with private property and resource rights of other stakeholders in environmental management. It can work well where the resources in question are primarily common pool, as in fisheries (Pinkerton 1989), or in situations where combinations of common, private and public (government-managed) property rights apply. The essence of co-management arrangements is that they are negotiated among the stakeholders - hopefully to mutual satisfaction - so that arrangements can be customised to each circumstance.

This report is designed to inform Indigenous, government, and other parties about the issues which would be involved should they proceed to negotiate any form of co-operative management over the GBRWHA. Its purposes are to

- explain the concept of 'co-operative management' and how it relates to other terms such as 'joint management'
- give background to the discussion of potential future co-management of the GBRWHA between Indigenous people and the GBRMPA
- introduce key issues which are involved whenever co-management arrangements are designed.

This report will be followed by a report offering three case studies of Indigenous aspirations towards co-management and a framework to guide the design of co-management for the Great Barrier Reef area.

What's in a name: the concept of 'co-management'

Origins of terms

Over the years various terms including *co-operative management*, *collaborative management* (both often shortened to *co-management*), and *joint management* have been used to describe the involvement of Indigenous peoples in Australia and overseas in decision making and management activities, on matters of direct concern and

relevance in natural resource management. Essentially all of these terms are about the *sharing* of management:

Sharing of power and responsibilities between government and local resource users (Berkes et al. 1991).

The terms *joint*, *co-operative* and *collaborative management* have not been adequately defined and mean different things to different people. The range of interpretations is from full involvement in and equal authority to make policy and management decisions, through to ensuring that consultation occurs and that some consideration is given to Indigenous (and other parties) needs when making decisions.

Some confusion arises within Australia because the terms, 'joint management' and 'co-management' came into use in different countries at similar times. Australia's first initiatives in sharing management of natural resources between Indigenous people and governments was the *joint management* of national parks, beginning with Kakadu National Park in 1979 (Lawrence 2000, Woenne-Green *et al.* 1994). Meanwhile in Canada, a set of arrangements known as *co-management* were introduced in which Indigenous people, governments, and sometimes also recreational hunters and fishers, jointly managed migrating wildlife (such as caribou) and fish (Osherenko 1988, Usher 1996). The term co-management also became common in the USA, where by the 1980s it was being applied to a wide variety of arrangements in which government shared the management of natural resources with any non-government party, particularly non-Indigenous fishermen (Pinkerton 1989) and Indigenous people (Ross 1999). The community of Kowanyama in the Cape York Peninsula largely draw their experience and use of the term *co-management* from the Native American experiences, particularly proponents of the Timber-Fish-Wildlife Agreement in Washington State, and were the first to promote it in Australia from the mid-1980s.

The International Union for the Conservation of Nature (IUCN) prefers the term *collaborative management*, which it uses to refer to multi-stakeholder management

(Borrini-Feyerabend 1996). The IUCN usage is not specific as to the degree of equity sought in the management arrangements.

Within Australia there are two main views on these terms:

- That *joint management* and *co-management* are the same. The ideal in each is that the partners have equal decision-making, although this is not always achieved.
- That the term *joint management* represents an equal arrangement between the Indigenous and government parties, and *co-management* is used where the government party is not prepared to enter an equal relationship with its Indigenous partners.

We understand that the second view has arisen from interpretation of practical experience, particularly in Queensland, where some discussions by government, using the term *co-management*, have been clearly in terms of an unequal arrangement.

Further confusion is possible because some authors use the term *co-management* very broadly across the spectrum of possible partnerships between Indigenous people and government, so that at one end of the scale *co-management* can refer to what Australians would call community-based management (eg Robinson 1999, Robinson and Mumumguritj 2001). This view focuses on community-based management of natural resources while recognising elements of partnership with government, for instance through the government's role in funding support. At the other it can include consultation without real decision-making power (Berkes et al. 1991). Treseder and Honda-McNeil (1999, citing Murray) point out that not all Canadian jurisdictions have the same understanding of the term, and the amount of shared decision-making varies widely. Berkes et al. (1991) describe a continuum of arrangements possible, ranging from limited Indigenous participation within government controlled and inspired management plans and operations, to examples where the local community holds most of the management authority.

In this report and project, we use the term 'co-operative management' to refer to *equitable partnerships in management* (McKay and Jentoft 1996), synonymous with the

Australian term 'joint management' (*cf* Lawrence 2000; Pizzey and Robinson 1999). We choose 'co-operative management' over the similar 'collaborative management' as the more familiar term in Australia and more extensively analysed in the international literature. We acknowledge that the term 'co-management' has also been used to refer to consultative arrangements, in which one party clearly retains control, and also to community-based management where a community has the main control and initiative, but relies on another partner (usually government) for some resources. We say *equitable* rather than *equal*, to promote the idea that co-management arrangements can be agreed mutually and fairly, yet the allocation of roles between the parties may differ and may or may not easily be described as 'equal' since each is doing what it is best suited to¹. The essence is that the partners have balanced power relationships in decision-making, while contributing in possibly different ways according to their interests, priorities and capacities. In a situation in which either party needs to build up capacity over time, we see no reason against the role allocations being negotiated to take effect or build up in stages, as the parties achieve readiness.

Co-management is an ongoing *process* requiring constant clarification of issues, explanation, negotiation and understanding of the various needs of participants. Co-management is an imprecise term meaning different things to different people. In essence it is about entering into a partnership or cooperative venture or agreement with responsibility sharing and with attendant arrangement in place for practical involvement in day-to-day management (Appleton 2000).

There does not appear to be any 'blueprint model' that can be used for all co-management situations. Pizzey and Robinson (1999) point out that there are many

¹ For instance, Bentrupperbaumer and Reser (2000, p32-33) document Aboriginal aspirations for management of the Mossman Gorge National Park, listing the different strategic planning, coordination and liaison and on-ground management roles sought by different members of the community. A similar concept was followed by South Australia's Aboriginal Housing Board in the 1970s, in which the state agency and Aboriginal Board each specialised in the roles for which they were well equipped, and were glad to have the other party take responsibility for other roles (O'Donohue 1977).

types of models or arrangements that share many similar aspects. These involve various degrees of power sharing in decision-making (p5). It is important however to remember that each has arisen in response to a particular situation or set of circumstances. In their view 'management arrangements reflect the varying cultural, political and geographical contexts of each region or local area' (p47).

Lane (2001, p663) argues that the concept of cooperative management was originally devised as a means of reconciling the competing imperatives of ecosystem protection and Indigenous rights and cultural heritage. Osherenko (1988, p13) explains co-management as: 'an institutional arrangement in which government agencies with jurisdiction over resources and user groups enter into an agreement covering a specific geographic region and spelling out:

1. a system of rights and obligations for those interested in the resource
2. a collection of rules indicating actions that subjects are expected to take under various circumstances; and
3. procedures for making collective decisions affecting the interests of government actors, user organisations and individual users.'

She emphasises that co-management does not require government agencies to relinquish or transfer their legal responsibilities, but to share their decision-making power with other groups. Jull (1993) and Treseder and Honda-McNeil (1999) emphasise that Indigenous people are not merely user groups, but have distinct legal rights to use of wildlife, as well as legal rights to management in many areas (in addition to their customary law). Further definitions and descriptions of co-management are given in box 1.

In Canada, co-management marks a transition in wildlife policy from purely biological approaches to more comprehensive approaches (Treseder and Honda-McNeil 1999, p11).

Box 1: definitions and descriptions of co- management

Co-operative management

'Co-management describes an institutional arrangement in which the government shares the management power and responsibility with the local Indigenous community' (Pizzey and Robinson 1999).

'A process which involves partnerships in which government agencies, Indigenous peoples, local communities and resource users, non-government organisations and other interest groups negotiate the authority and responsibility for the shared management of a specific area or set of resources (Piro, Meynell and Elder 2000).

'...Traditional outsiders act[ing] in cooperation with each other and with the government agencies that exercise legal mandates...and have traditionally controlled most of the financial resources and information used in management.' (Committee on Protection and Management of Pacific Northwest Anadromous Salmonids, 1996, p333).

'Co-management is more than a strategy. It is an ongoing process that requires management issues to be constantly clarified, explained, negotiated and understood by all stakeholders (Pizzey and Robinson 1999, p.47).

Collaborative management

'A situation in which some or all of the relevant stakeholders in a protected area are involved in a substantial way in management activities. Specifically in a collaborative management process, the agency with the jurisdiction over the protected area (usually a state agency) develops a partnership with other relevant stakeholders (primarily including local residents and resource users) which specifies and guarantees their respective functions, rights and responsibilities with respect to the protected area (Borrini-Feyerabend 1996).

Indigenous perspectives

Some of these definitions and descriptions, most written by non-Indigenous people, imply governments are initiating the sharing of management. Many Indigenous people would view matters differently:

'We have never relinquished our sovereignty or our rights to our traditional estates which includes Sea Country, and includes management rights. We still retain those rights in accordance with customary law and tradition and have done so since time immemorial. As such we are offering Migaloo the opportunity to be joint managers in partnership with us (Darumbal – Noolar Murree Aboriginal Corporation for Land and Culture 1996).

Further, non-Indigenous assumption of sole responsibility for sea country has been damaging to the environment:

The unsanctioned acquisition, control and management of our traditional marine environments by the Crown and its continued management by the Commonwealth, state and territory governments, and their pushing aside Indigenous peoples, is the direct cause of the large-scale degradation of our marine environment seen over the last two centuries (Dillon 2001).

Many Indigenous people would see co-management of land and sea country in a broad context, not as an arrangement that could exist independently of a context of resource and political rights, or of culture, social and economic arrangements. 'Country' is part of personal, social and cultural identity. Cultural heritage and natural resource management are a single concept, in which the management and use of natural resources are intertwined in cultural practice and the exercise of cultural responsibilities:

We have inherited rich traditions, beliefs and customs about the sea from our ancestors. Fundamental to the way we interact with the sea is our belief that we are a part of the sea, and the sea is a part of us, always has been and always will be. This belief is maintained through our stories passed down from one generation to the next. This intimate attachment to the sea affects the way we interact with it. We never abuse it by unnecessarily taking or destroying the creatures and plants that live in it. It is sufficient for us to only take what is needed to feed our families, and share or exchange with neighbouring groups. Our traditions strongly discourage individual greed and the treatment of nature with disrespect. Traditional ways were and are sensible ways for managing the sea and marine resources (Dillon 2001).

Jull (1993, p5) points out that Indigenous coastal peoples 'are not individuals in a fisheries occupation - or part of any collectivity which may be identified by policy-makers - so much as they are part of increasingly conscious political communities defined by Indigenous ethno-cultural identity and committed to shared agendas which seek real ownership and management rights in respect of traditional resource bases of land and sea'. He argues that the management of coasts requires transition from a policy-making which addresses Indigenous needs, to one that responds to

Indigenous rights and considers management in terms of culture and 'socio-politics' rather than in conventional resource management terms.

Co-management is one of a repertoire of ways of managing country, that can be useful where no party has exclusive rights, or where different parties can combine their efforts to offer more effective management than either party could alone. It is not, in Indigenous eyes, usually a substitute for community-based management, but a mechanism for exercising their cultural responsibilities and rights where community-based management may not be possible.

Rodney Dillon, ATSIC Land and Sea Commissioner, argues that:

Government officials, professional fishing operators and scientists need to fully involve Aboriginal and Torres Strait Islander people in their processes, recognise our knowledge of the ecosystem, and involve us in decision-making processes and the management of the oceans. They don't necessarily know more than we do about the marine environment just because they have spent 10 years at university. We have at least 50,000 years of cumulative knowledge about the oceans. It is time professional groups recognise the value of that knowledge and start relying on it to develop sound marine management policies and practices (Dillon 2001).

Co-management and native title

Contemporaneously with initiatives and discussion towards co-management in the Great Barrier Reef World Heritage Area, 14 Traditional Owner groups have lodged claims under the Native Title Act 1993 to areas of land and sea, and others may in future choose to do so. While details of these claims are not publicly available, arrangements for the use of marine resources and potentially for their management are likely to be of interest to the parties. This provides two options for Traditional Owner groups to pursue co-management, either as alternatives or in a mutually reinforcing way.

Co-management in the Great Barrier Reef could be negotiated separately from native title, as 'stand-alone' arrangements with independent status, or become part of the settlement of individual native title claims. This has been the pattern in Canada, where some co-management arrangements were negotiated independently in response to species management crises, and others – while appearing similar in the ways they operate – are enfolded in 'comprehensive land claims' (described in Australia as 'regional agreements', see Richardson et al. 1994, and Harris 1995). Then, the Native Title Act allows independently-negotiated Indigenous Land Use Agreements to be registered – if the parties desire – under the Native Title Act to give them additional legal standing. This places coastal traditional owners in a flexible position – to negotiate towards co-management either within or separately from native title claims, and to include independently negotiated co-management arrangements (or not to) in native title agreements later if they wish. It would, however, be unwise to develop co-management arrangements in ways that could conflict with native title proceedings, or with native title principles. This observation applies to all available forms of co-management, whether of species, or management of areas under regional agreements (see 'types of co-management' below).

The legal status of native title over sea country is an emerging situation. To date, there have been two cases tested within Australia. The Croker Island decision of 2000 and the very recent Lardil Peoples decision of March 2004 confirm native title over sea, while not giving Indigenous people exclusive rights to use sea resources. The rights recognised in the Lardil decision include the right to fish, hunt and gather living and plant resources; the right to hunt and take turtle and dugong for personal, domestic or non-commercial communal consumption; the right to take and consume fresh drinking water from fresh water springs in the inter-tidal zone; the right to access the land and waters seaward of the high water line for religious or spiritual purposes; and to access sites of spiritual or religious significance. Negotiations in resolution of native title claims provide a very flexible vehicle for including and solving sea management issues, though possibly with a focus on the expression of native title rights without necessarily a holistic view of conservation and other needs (such as the needs of species). Native Title in effect gives agencies choices with

respect to negotiating co-management arrangements. They can either wait for a native title determination (preceded by claim negotiations) over areas where claims are lodged, or they can voluntarily enter into negotiations with Traditional Owner groups through existing legislative and legal frameworks whether or not any native title claim is in process and regardless of its stage.

Court judgments such as the Yanner case set precedents for native title law, in that case by taking hunting rights as a 'given' in accordance with native title, and by establishing government ownership in wildlife as a duty of care rather than a right to exploit it. In Washington State, USA, legal precedents concerning rights to fish were extended in a subsequent case to rights to habitat protection, so that fish would remain available to Indigenous people (Ross 1999). The habitat decision gave leverage for negotiation of creative co-management arrangements that both met Indigenous interests and provided effective conservation.

Pizzey and Robinson (1999) found that co-management options currently implemented in Canada, and to a lesser extent in Australia:

- Do not address the content or scope of Native Title;
- Do provide a degree of certainty while the Native Title process is underway;
- Do offer flexible mechanisms to test and develop co-operative relationships between management partners making long-lasting agreements easier to achieve (1999, p4).

We are arguing that the development of co-management in the Great Barrier Reef must be consistent with the spirit and legalities of native title, but there are choices as to whether to link it directly with native title claims. Co-management and native title can in principle be highly complementary. The recognition of native title is extending new legal rights to Australia's Indigenous people that potentially further their aspirations towards greater involvement in natural resource and cultural heritage management, although many are disappointed with limitations to native title and what it has delivered to date. Australia's native title process provides opportunity for negotiation of claims, with legal ratification and legal recourses should it prove

difficult to resolve matters through negotiation alone. Likewise, co-management arrangements need to be developed through negotiation. The existence of native title provisions could prove a useful impetus for parties to negotiate co-management. Meanwhile the native title administrative arrangement of Indigenous Land Use Agreements (ILUAs) can be used within or beyond a native title claim process, and provides a flexible and recognised instrument for expressing natural resource management arrangements. While the early ILUAs were quite limited in scope, there appears no reason against using this mechanism to provide negotiation of and legislative backing for co-management arrangements that extend beyond the somewhat narrow concerns of native title, even quite complex ones in regional agreement form.

Co-management arrangements can easily precede native title claims, or develop where no native title claims are lodged. They can be part of, or linked to, native title claims and their resolution. They cannot afford to be contradictory. Since both need to be founded in Traditional Owner wishes, this is mainly a reminder to the other parties to either arrangement that contradiction between these processes and outcomes should be avoided.

History of co-management discussions concerning the Great Barrier Reef World Heritage Area

Although Aboriginal and Torres Strait Islander people have a significant and long standing cultural, spiritual and economic relationship with the GBRWHA, their interests in the area have only begun to be formally recognised at a national and international level during the last twenty years. It was only during that time the GBRMPA also began to see Indigenous people as having valid interests and a role in contributing to the management of the GBRWHA (Gray and Zann 1988).

Unlike the two other World Heritage Areas (Kakadu and Uluru Kata-Juta) in Australia that are managed under forms of co-management / joint management arrangement where the Traditional Owners of the areas are more localised (Lawrence 2000), the Indigenous peoples of the Great Barrier Reef region are

geographically, socially and linguistically diverse yet share a common heritage and a history of dispossession (Breslin 1992). As such the GBRMPA does not have a homogenous Indigenous population to work with in its management of the GBRWHA, but one that is diverse, largely dispossessed of country, and geographically distributed. A key distinction for the development of co-management is that between Traditional Owners, who hold the customary rights of ownership and decision-making over their land and sea estates, and the so-called 'historical residents', Indigenous people who were located from their own to other areas in Queensland's turbulent race relations history and now live, dispossessed, on other Traditional Owners' land. While they lack customary land and resource rights where they live, their subsistence activities affect marine resources. Many historical residents are active in community councils, whose composition is elected, not dependent on customary governance.

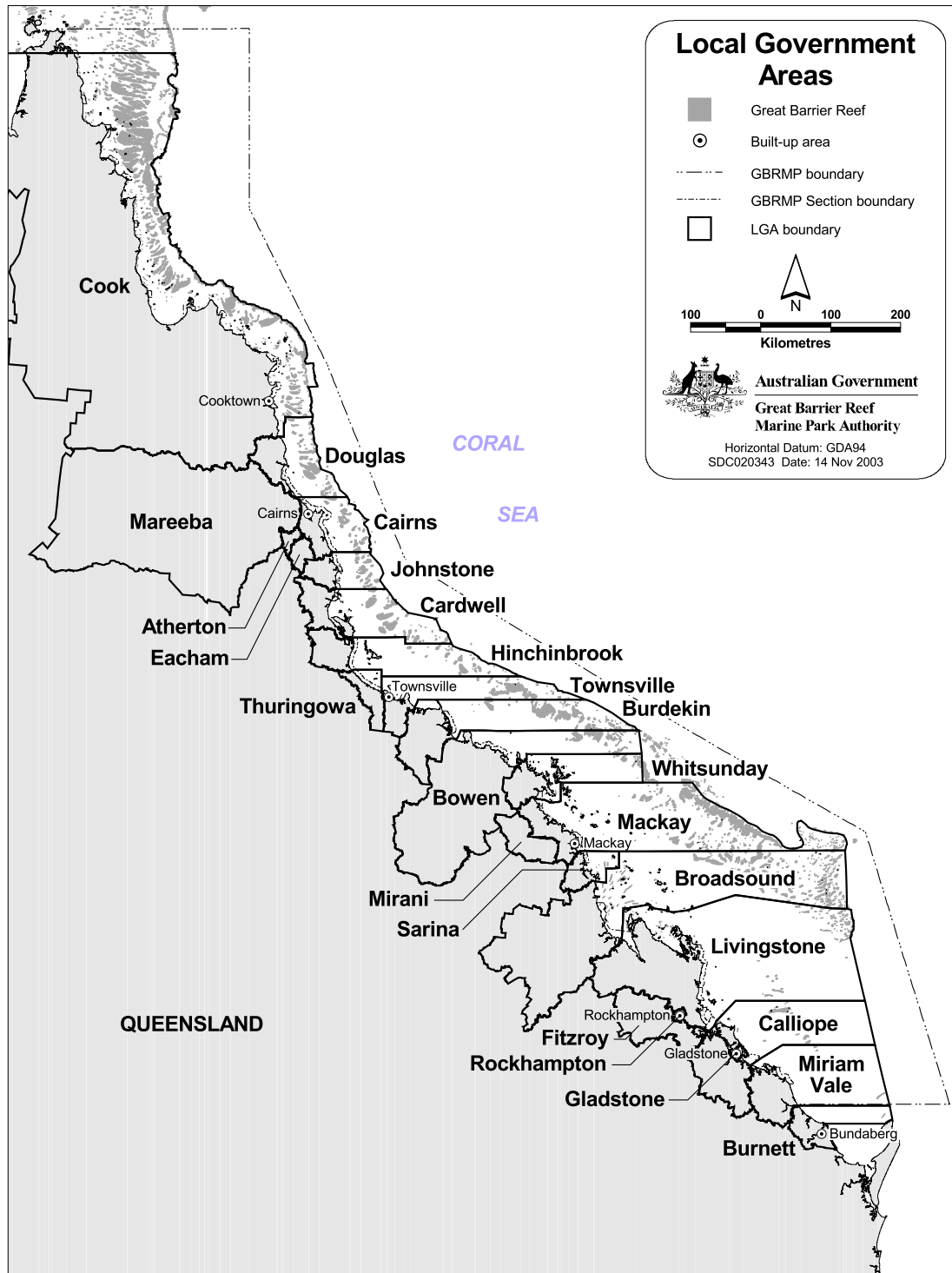
Since the European occupation of Queensland and the development of the colony and then State of Queensland, Indigenous people have been forced to the margins of mainstream community (Reynolds 1990). The population of Queensland² coastal communities³ (see Figure 1) adjacent to the GBRWHA from Bundaberg in the South to the top of Cape York is approximately 721,334 persons with Indigenous people comprising 36,821 of that population or 5.10% of the coastal population with the majority of the Indigenous population occurring in the Cairns area and Cape York Peninsula (ABS 2001). Despite efforts to understand Indigenous use of and knowledge about the Great Barrier Reef environment, Indigenous peoples have for the most part been largely left out of the management of the GBRWHA.

As Aboriginal spokesperson and anthropologist Langton (1996) argued at the IX Ecopolitics Conference in Darwin, European notions of wilderness maintain the invisibility of Indigenous people in the management of natural resources. Langton claimed that such a eurocentric construction of wilderness supports the myth of *terra*

² Queensland Population as at September 2001 was 3,642,390 (ABS 2001).

³ Queensland Coastal Communities are defined as Local Government Areas immediately adjacent to the GBRWHA and includes both shires and cities.

nullius and provides a basis for negating claims made by Indigenous people for land



and their right to actively participate in the management of areas such as the GBRWHA and the Wet Tropics World Heritage Area of North Queensland (1996)⁴.

⁴ See also Cowlshaw (1998) where argument is put that Environmental Management Agencies continue to act as agents of colonial dispossession by limiting people access to land and sea.

Bergin (1993) defines *terra nullius* as a doctrine, which maintains that Australia was land belonging to no one prior to Crown acquisition of sovereignty.

In his report to GBRMPA, Bergin (1993) identified that Indigenous peoples are keen to be involved with the management and use of marine and coastal areas.

Individuals and community groups have developed commercial projects using the resources of their area. The Seisia community, for example, operates a camping ground on the west tip of Cape York and Injinoo community (also at the tip of Cape York) and has obtained a licence to harvest 15 tonnes of trochus a year as part of a total 50 tonne limit shared between other Aboriginal and Torres Strait Islander groups. The Mossman Gorge Community actively works with Queensland Parks and Wildlife Marine Parks Rangers in many active park management activities, while the Hope Vale Community has recently developed a community-based hunting management plan to manage traditional hunting of turtle and dugong (Hope Vale Aboriginal Council and Nursey-Bray 1999; Nursey-Bray 2001). Within many Indigenous communities, there is also involvement with commercial fishing and a desire to be involved with the management of fisheries resources.

The GBRMPA has sought over the last 10 years to work even more closely with Indigenous people in some aspects of the management of the GBRWHA. The *Great Barrier Reef Marine Park Authority Act (C'With) 1975* made no specific reference to Indigenous people but it did provide for public involvement in the operations of the Authority. It was not until 1978 that Indigenous interests were recognised in the first Cairns Section Zoning plan. Traditional hunting and fishing was identified as a category of use and a definition of traditional inhabitant was provided (Benzaken et al. 1997). The workshop on Traditional Knowledge and the Marine Environment in 1985 (Gray and Zann 1988) can be considered however as the first significant move by the GBRMPA to make more visible Indigenous interests in the GBRWHA.

From 1984 to 1993 a number of reports were commissioned by the Authority to investigate Indigenous involvement with and use of the GBRWHA (Smith 1987; Smyth 1992; Bergin 1993). All of the reports noted the lack of involvement of

Aboriginal and Torres Strait Islander people in the management of the GBRWHA. The result of these reports, other comments in the academic literature (eg Smith and Marsh 1990) and internal assessments conducted by GBRMPA has led to the following decisions being made to increase Indigenous involvement in the management of the GBRWHA.

- An Aboriginal person was appointed to the Great Barrier Reef Consultative Committee in 1988.
- Aboriginal and Torres Strait Islander interests were recognised in a special section of the 25-year strategic program in 1992.
- A community ranger program was developed and funded co-jointly with the Australian Nature Conservation Agency for three years.
- An employment strategy was developed and an Aboriginal liaison staff member was appointed in 1992.
- Aboriginal and Torres Strait Islander communities were involved in the preparation of a dugong and turtle strategy and permit arrangements for the management of traditional hunting by Councils of Elders.
- Dr Evelyn Scott, Chairperson of the Cairns and District Aboriginal and Torres Strait Islander Corporation for Women was appointed to the Marine Park Authority to represent Aboriginal interests in the Great Barrier Reef Marine Park in December 1996.
- Since 1996 there have been several initiatives undertaken with individual Indigenous Communities to establish localised management arrangements that build upon lessons learned from earlier attempts to deal with issues such as the management of traditional hunting.
- In 1997 the Great Barrier Reef Ministerial Council directed that co-management arrangements for dugong be developed with Indigenous Peoples.
- Following the Great Barrier Reef Ministerial Council decision Indigenous Peoples initiated a process that led to the development of the Southern Great Barrier Reef Sea Forum in 1998.
- A report was prepared for Great Barrier Reef Ministerial Council on a costed strategy for implementing co-management with Indigenous peoples (Appleton 2000)

- In 2000 the Hopevale Aboriginal Council launched its Turtle and Dugong Hunting Management Plan. This plan was developed in partnership with GBRMPA and QPWS but was a community led initiative.

The GBRMPA has continued to make further decisions and support Indigenous initiatives that provide for greater involvement of Indigenous people in the management of the GBRWHA. The GBRMPA has sought to develop a good relationship with the Indigenous people of the GBRWHA through the extensive involvement of its Indigenous liaison officers.

The past 10 years have witnessed Aboriginal and Torres Strait Islander people become more visible in the management of the GBRWHA. This is due in part to the efforts of the GBRMPA but more so to the pro-active approach taken by Indigenous groups in having their rights recognised. The emergence of the Southern Great Barrier Reef Sea Forum (Sea Forum 1999) in 1997 is one such example where Indigenous Traditional Owners for sea country south of Cooktown have begun to shape the negotiating agenda with government as to how the future of co-management arrangements might be formed in the GBRWHA (see below). The recognition of and full participation by Indigenous groups in the management of the GBRWHA is still however a complex long-term process.

The particular issue over the right to use traditional marine resources such as turtle and dugong is one that has recently been dominating relations between Indigenous peoples and management agencies. Through the efforts of Indigenous peoples the broader issue of management of the entire GBRWHA and questions of Governance are being raised for discussion with Government. This can be viewed as an important stage in Indigenous peoples' history of becoming visible in the management of their marine areas and it is but one of the many issues upon which the form and structure of any co-management arrangements will be built.

In concluding, it is relevant to cite remarks made in GBRMPA's Report on the State of the GBRWHA with respect to Indigenous aspirations for involvement in the

management of the GBRWHA and the challenges this poses for GBRMPA and all parties into the 21st century.

“Recent achievements are unlikely to meet Indigenous aspirations for self determination and a meaningful management role as consistently expressed. For the Great Barrier Reef Marine Park Authority, the issue of governance, which is fundamental to the recognition of Indigenous rights and interests in management, is complex. It involves different cultural and legal perspectives of ownership and responsibility for management, consideration of public versus private interest and the need to accommodate Indigenous rights with conservation and a multiple use context” (Wachenfeld et al. 1998, p107)

Southern Great Barrier Reef Sea Forum

The Southern Great Barrier Reef Sea Forum (Sea Forum) was formed by Traditional Owners in 1998 to represent their interests in working toward co-management of the Great Barrier Reef. A key objective of the Sea Forum was to develop a framework agreement with both Commonwealth and Queensland Governments for achieving co-management of the Great Barrier Reef. As a Traditional Owner initiated and led collective of approximately forty Traditional Owner groups, Sea Forum was the first grass-roots Traditional Owner initiative that sought to tackle the task of how Traditional Owners could have management control over their sea country in the Great Barrier Reef. Their area of interest was the coastal and offshore waters from Cooktown to Bundaberg. The definition of this area of interest comes largely from the dugong conservation issue of 1997; the issue that led to the formation of the Sea Forum.

In 1996 an aerial survey data of dugong populations in the Great Barrier Reef revealed a distinct decline in dugong numbers for areas south of Cooktown (Marsh et al. 1996). Decline in dugong numbers was identified as primarily due to gill netting, habitat loss due to run-off, vessel strike and traditional hunting. Both the Commonwealth and Queensland Governments through the mechanism of the Great

Barrier Reef Ministerial Council⁵ sought to halt the decline in dugong numbers by dealing with key threats to dugong. Whilst Governments recognized that traditional hunting was not the primary contributor to the population decline, scientific advice indicated that due to low population of dugong in the southern Great Barrier any level of take for traditional purposes, no matter how small, was not sustainable.

In June 1997, the Great Barrier Reef Ministerial Council issued the first of two “Dugong Communiqués” to the effect that gill netting was to be banned in specific dugong habitat areas and a range of other measures including the decision not to issue permits for traditional hunting of dugong in the GBR waters south of Cooktown. Specifically the Ministerial Council decided with respect to Indigenous peoples and dugong

“not to permit indigenous hunting in the southern Great Barrier Reef and to develop arrangements for cooperative management of dugongs with indigenous people.” (Hill 1997)

The final part of that statement about developing cooperative arrangements for the management of dugong drew Indigenous peoples’ interests. As a consequence of that Ministerial Council decision, the GBRMPA organised a meeting of southern Great Barrier Reef Traditional Owners in Cardwell In July 1997 to discuss the ‘Dugong Communiqué’ and pathways forward for how Traditional Owners might be involved in the cooperative management of dugong. The meeting was attended by approximately 30 Traditional Owners, as well as representatives from ATSIC and Land Councils. At that meeting Traditional Owners expressed a firm view that whilst they appreciated the offer by the Ministerial Council to develop co-management for dugong, for them co-management was an all or nothing option. Traditional Owners were concerned about all issues to do with their sea country and not just dugong. From that meeting Traditional Owners resolved to come back to both

⁵ The Great Barrier Reef Ministerial Council was chaired by the then Commonwealth Minister for the Environment Senator Robert Hill, and included the Commonwealth Minister for Tourism and Queensland Ministers for Environment and Tourism.

Commonwealth and Queensland Governments with an agenda for how they would like to progress the issue of co-management.

The Cardwell meeting was followed by a meeting of Traditional Owners on Magnetic Island in February 1998. This meeting was facilitated by ATSIC through the leadership of the then North Queensland Regional ATSIC Chair Ms Jenny Pryor. Both the GBRMPA and Queensland Government each contributed \$10,000 along with ATSIC's contribution to support the meeting. The outcome of that meeting was the formation of the Southern Great Barrier Reef Sea Forum. The mode of operation of the Sea Forum was not to act as a representative body but to be more like a federal model where each of the Traditional Owners retained rights to speak for their country but the Sea Forum provided mechanism for collaborative action.

The Sea Forum elected from its number a working group. The role of the working group was to undertake a selection of tasks develop by the Sea Forum and then to report to the Sea Forum upon the completion of those tasks or at defined reporting points. The Sea Forum operations were supported by ATSIC and CSIRO provided services as a technical advisor. The working group's first and most important task was to produce a framework document outlining how Traditional Owners and Government could develop co-management arrangements (Sea Forum 1999).

This framework discussion paper and the Sea Forum processes represented a major departure from previous Indigenous initiatives in the Great Barrier Reef. For the first time it was Indigenous peoples that were taking the initiative for how they could be involve in managing the Great Barrier Reef. Previously initiatives came from the various Government agencies such as the GBRMPA. The strategy taken by Sea Forum put both the GBRMPA and Queensland into the position of having to respond to a detailed proposal as to how co-management could be progressed.

Sea Forum provided a mechanism for mobilizing Traditional Owners. It very effectively gave people the opportunity to directly engage with senior public servants of the Queensland and Commonwealth Governments. In 2000 and 2001, the

GBRMPA with Queensland Government formed a senior Officer Working group to consider policy options for co-management and to prepare options for the GBR Ministerial Council to respond to the Sea Forum Discussion Paper. A supporting document by Appleton (2000) was also prepared to present the resource implications of adopting a pathway to co-management.

During the time that the Senior Officer Working Group was considering the topic of co-management and preparing a response to Ministerial Council, Sea Forum continued to progress topics of interest to Traditional Owners. During the period 2000-2002 some straining of the relationship began between Sea Forum and ATSIC. ATSIC was the main contributor to the Sea Forum's operational funding and a withdrawal of support for the continued funding of Sea Forum in 2002 made it very difficult for the Sea Forum initiative to continue. It was also in late 2002 that the GBR Ministerial Council reported that it did support the pathway to achieving co-management presented by the Sea Forum Discussion paper but advocated more "on the ground" type initiative such as ranger programs.

Since the withdrawal of ATSIC financial support for Sea Forum in 2002, the 'bold experiment' has faltered. Whilst there is still enthusiasm and support for the idea of a Sea Forum kept alive by a Sea Forum Working Group, the former dynamism is lacking. Notwithstanding the current situation, the contribution Sea Forum has made to advance the issue of Indigenous co-management of the Great Barrier Reef is very impressive. The collective action that led to the production of the Sea Forum Discussion paper is an exemplary model of how Traditional Owners can present their interests and aspirations to Government. The ideal of the original Sea Forum is not gone. The opportunity for future collective action by Traditional Owners has a very rich legacy to work from due to the achievements of the Southern Great Barrier Reef Sea Forum to date.

Stakeholders and co-management

Although it might be considered that the people who live in the immediate area of the GBRWHA⁶ are the primary persons with an interest in the area, its status as a World Heritage Property and the general iconic significance it has for the Australian people give the region multiple layers of interest (Lucas et al. 1997, p69). Therefore those people who can be considered as having an interest or stake in the region for any number of reasons (people and organisations who affect, or are affected by, the GBRWHA or actions within it, including the managing agency GBRMPA⁷) is far more than the number given above. The challenge in managing this area and considering co-management arrangements is how to understand, respect and involve all the various, multiple and at times overlapping communities of interest in the GBRWHA.

Stakeholders are at the international, national, state and local level. If the multiplicity of stakeholder levels compounds the challenge of managing the GBRWHA, it follows that it provides a challenge for developing any form of co-management arrangement with any party or parties who have interests in the region (Harrington in prep).

Despite the obvious multiple layers and identities of the various people and groups that can be labeled as stakeholders GBRMPA currently has what can be described, using a literary analogy, as a 'flat' rather than a 'rounded' approach to defining and engaging with the various communities of interest in the GBRWHA. Like 'flat' characters in a work of fiction, GBRMPA tends to see and relate to its stakeholders in a limited way – in terms of their interests in the park - rather than having a 'rounded'

⁶ The Great Barrier Reef World Heritage Area covers an area of 348,000 km².

⁷ The concept of 'stakeholder' does not mean that all these parties have equal status. Some have greater entitlements, or greater effects, than others. Some Indigenous people in Australia and overseas object to being labelled 'stakeholders' (Ross 1999) as they do not wish their needs and entitlements to be considered on the same level as other stakeholders whose legal and usage connections with country may be far less strong. Stakeholders are not quite the same as 'actors'. Several 'actors' eg conservation groups, may make up a single stakeholder category. Stakeholder groups can include abstract concepts such as 'future generations', who cannot be actors. 'Actors' generally affect an issue, but those who are affected by it will only become 'actors' if they take an active role.

appreciation of them as complex entities with multiple facets and interests. As will be briefly discussed in this section such a flat as opposed to a more rounded appreciation of stakeholders is potentially limiting the development of any co-management arrangements that might be developed between government and Indigenous peoples or any other groups.

From a GBRMPA management perspective, Chadwick and Green (2002) define stakeholders into discrete categories and note that these include those from both the private and public sphere: Tourism; Commercial Fishing; Recreational Fishing; Other Recreational Users; Conservationists; Scientific Community; Indigenous Communities; and Local Government. Note that these are GBRMPA's stakeholders, ie. categories of people who have an interest in the managing agency's actions. Stakeholders in the Reef also include GBRMPA.

Chadwick and Green (2002) further note that the GBRMPA operates a network of consultative committees in order to facilitate its consultation with the various communities of interest in the region. The first of these committees is the Great Barrier Reef Consultative Committee (GBRCC). It is the only consultative committee that is established statutorily, by the Great Barrier Reef Marine Park Act 1975. Its role is to act as an independent advisory body to both the Authority and the Commonwealth Minister for Environment and Heritage. Its membership consists of representatives from the above listed categories of stakeholders.

At the level of policy development and to assist with providing strategic direction for GBRMPA's critical issues, each Critical Issue Group⁸ has a Reef Advisory Committee (RAC). These RAC's have as members people with expertise in fields relevant to the particular Critical Issue Group.

⁸ The Authority has identified four critical issues that it needs to address in managing the GBR Marine Park and World Heritage Area: Conservation, Biodiversity and World Heritage; Fisheries; Tourism and Recreation; and Water Quality.

At a more localised level nine Local Marine Advisory Committees (LMACs) operate in regional centers adjacent to the Marine Park. The LMACs advise the Authority on issues that affect local and regional marine and coastal environments. The LMACs also provide a forum for the Authority to provide information to local communities on its programs.

Despite Indigenous peoples being labelled as stakeholders in the GBRWHA, the operationalisation of people into categories of stakeholders is potentially limiting the levels of involvement that Indigenous peoples can potentially have in the context of any co-management arrangement. This notion of being limiting follows from the issues raised by Cowlshaw (1998), Langton (1995) and Fourmile (1995) about how environmental management regimes developed and supported by the Government continue the dispossession of Indigenous peoples from land and sea country. Further and in the context of all other people and or communities at all levels (international, national, state or regional), the assigning of stakeholder categories to people by the managing agency limits their opportunities to create and act in accordance with their own identities, and to present multiple interests. The lack of this opportunity obliges people to conform to the management framework formulated by the managing agency. Hence the managing agency is exerting hegemonic control over all parties with an interest in the region and forcing people to conform to idealised types such as 'tourist operators' and 'commercial fishers'.

As Greer et al. (in prep) note in their report on the cultural heritage of the GBRWHA during the extensive process to develop the 25 Year Strategic Plan for the GBRWHA (GBRMPA 1994), Indigenous peoples and others were primarily identified on the basis of how they *used* the Marine Park, there was no expansion that peoples' (whether Indigenous or not) interests could extend to other modalities of connection with and interest in the GBRWHA.

Processes such as Sea Forum's agenda-building however offer the capacity to challenge the notion of stakeholder as defined by the Government Agency and provide for a more rounded and multi-layered self-formed identity to emerge,

particularly as Traditional Owners seek to have their primacy over marine estates recognised above other interests. Through the evolving definitions of what constitutes Native Title it can be seen that Indigenous people are continuing to take charge over how they define their identity and mediate their relationship with their sea country.

An apt example is the issue of hunting. Annie Ross (1994) presents an argument that the act of hunting is an expression of person's connection to country and a living example of them expressing their cultural heritage through the performance of the hunt. Such a view supports Titchen's (1995; 1996) argument that management of World Heritage areas must dissolve distinctions between natural and cultural values. Views and arguments such as these pose challenges for how stakeholders are currently constructed by GBRMPA for the GBRWHA and expressed through the medium of GBRMPA's consultative processes.

What can be understood from Chadwick and Green (2002) is that there is a dominant discourse established by GBRMPA as to how stakeholders can mediate their relationship with the GBRWHA. The challenge for building co-management arrangements is for agencies such as GBRMPA to give up the assumed role of defining individual and group identities *for* the people who have an interest in the GBRWHA, to allow new identities to emerge, and to respond to how Indigenous peoples and others wish to engage with the GBRWHA. Such a move would be consistent with current developments in approaches to managing World Heritage Areas (Titchen 1996).

Advantages of co-management for the WHA

While we have stressed the potential link with native title claims, it is important that both parties consider the advantages – and any disadvantages – of co-management in their own right. If co-management does not have advantages over alternatives for all parties, it may not be the best strategy to pursue either for management objectives or for the resolution of new combinations of legal rights.

Some of the advantages of co-management noted in the literature are:

- substantial reduction in the negative social and cultural consequences that protected area status can bring (Lane 2001, p664)
- enhancing and informing the management of natural resources, bringing collaboration between Indigenous ecological knowledge and western scientific approaches (Lane 2001, p665)
- efficient and equitable management of wildlife, since governments cannot implement and enforce their regulations without Indigenous cooperation, and Indigenous people cannot protect or guarantee access to their resources without the cooperation of government agencies (Osherenko 1988, p41)
- a mechanism for conflict resolution
- giving recognition and force to Indigenous systems of tenure, management, harvesting and use, as an alternative to long and costly court proceedings which Indigenous people would have a good chance of winning (Usher 1996, p21, referring to Canada)
- enhancing the collection and exchange of information, for instance on wildlife resources, using two bodies of knowledge and their differing research and observation opportunities
- overcoming mutual mistrust between Indigenous people and government representatives
- Increased respect and understanding between the parties (though this remains a challenge) (Treseder and Honda-McNeil, 1999).

As Jull (1993, p6) remarks, overseas experience has shown that arrangements such as native title and co-management are neither unusual nor threatening, and open the way for genuine accommodation of interests.

Types of co-management

The main types of co-management arrangements, worldwide, are

- Shared management of a species, usually migratory, on land or in sea
- Shared management of an area of land (or sea)

- A combination of these (eg management of a species or its habitat, on certain types of land or water).
- Co-management between non-government parties, for instance Indigenous people with an industry.

Shared management of species

Wildlife

Canada's Arctic region has co-management agreements between Indigenous people and governments over single, usually migratory, species including caribou, walrus, migratory geese, salmon, lobster, clams and whales (Osherenko 1988). Here a species may migrate across land (or waters) under different property regimes (Indigenous or government owned, possibly privately owned), but it makes ecological and management sense for the property owners and resource users to co-operate in a unified management and usage arrangement. Each party can contribute different abilities to the arrangement, and has different legal or customary obligations to fulfill. For instance, Inuit whalers contribute both customary knowledge and scientifically recorded monitoring data to the management of bowhead whales, and are conscious that continuation of their subsistence hunting of whales depends on their being able to demonstrate to government scientists that the whales are not overfished (Osherenko 1988).

Some of the Canadian examples of co-management form part of regional agreements negotiated in resolution of comprehensive land claims (see below). In these cases each wildlife agreement becomes a particular arrangement within a larger set of environmental management arrangements (Usher 1996). Other co-management schemes emerged independently of the claims process. Many of the latter responded to real or perceived wildlife management crises, especially when conventional government approaches were inadequate to deal with declining wildlife populations (Roe et al. 2000, p43).

The early agreements described by Osherenko (1988) offered varying degrees of community rights and responsibilities. The arrangements were administered through

management boards or coordinating committees, with representatives from each of the participating parties. While an important initiative, becoming more powerful with their linkage to comprehensive claims, many of these early approaches fall short of later international developments in terms of equity among the parties.

Fisheries

The other common form of shared management of species is in fisheries. In the west of Canada and the USA co-management of fisheries is common between governments and commercial fishermen, sometimes with the participation of recreational fishers (Pinkerton 1989). In Washington State, USA, Indigenous people have a co-management arrangement with government which arranges the division of salmon catch between Indigenous people and other parties, and the distribution of the Indigenous share among Indigenous groups.

Shared management of an area

The main world variations of shared management based on areas is joint management of Australian national parks (now also being explored by Canada).

Joint management of national parks hardly needs description for Australian readers. It arose as a unique arrangement negotiated during the consideration over the land claim over Kakadu National Park (Young et al. 1991). Rather than risk their claim not being granted, the Aboriginal parties offered to lease the park back to the government to continue operation. This meant that the land became owned freehold by Aboriginal owners, while at first its management continued as before. This soon evolved into a scheme of shared management, which was emulated in other parks and states even where the legal basis of landholding differs. The arrangements vary greatly in strength, and have evolved over time (Woenne-Green et al. 1994, Smyth 2001).

In northern Canada, a series of Comprehensive Claims Agreements (referred to in Australia as *regional agreements*) have been negotiated over the past 30 years. These

include the James Bay and Northern Quebec Agreement of 1975, the Inuvialuit Final Agreement of 1984, and the Nunavut Agreement of 1999 (Nettheim et al. 2002). They have a particular historical and legal basis unique to Canada, in the settlement of land claims, but have established an interesting precedent for countries such as Australia. They provide a set of negotiated administrative arrangements over large areas of land and sea, which may be held under a combination of Indigenous, government, and other ownership. Nettheim et al. (2002, p433) explain that even where Indigenous rights are recognised by the courts it may be difficult to make these mean anything in practice without further costly court cases, new laws, and political and administrative structures. A regional agreement enables vague legal rights to be transformed into a clear form of organisation and law so that Indigenous people can have tangible benefit from them and – we add - all parties benefit from greater clarity and improved arrangements. *Negotiation* of the arrangements enables all parties to have a say in a robust and workable design.

For our purposes, the interesting feature is that the Canadian regional agreements include environmental management arrangements (such as co-management of particular species) and decision-making arrangements (such as procedures for dealing with new development proposals) that apply across the entire region (Usher 1996). They also provide a mechanism for including economic and self-determination strategies (Nettheim et al. 2002), of great interest to Great Barrier Reef coastal communities.

Other types of co-management

Washington State in the USA has created and attempted multi-purpose agreements including combinations of species management (fish and wildlife) and area management (see Ross 1999). These have been negotiated to create practical solutions to legal situations in which Indigenous and non-Indigenous property rights in land, species and water co-exist. For instance, the private property rights of timber landowners are affected by State and federal government legal responsibilities (established in a legal case revisiting 19th Century treaties) to manage the land so as to conserve fish habitat to meet Indian Treaty Rights (Timber-Fish-Wildlife

Agreement). An agreement involving water allocation (the Chelan Agreement) attempted to solve competing interests in legal rights to water, and the over-allocation of river water and its impact on fish habitat. An interesting feature of these agreements is that leadership came from the Indigenous and industry parties, not from government.

The Timber-Fish-Wildlife Agreement, between five parties (industry, Indigenous, state and local government, conservation) focuses on logging arrangements on privately-owned forest lands across the whole state of Washington, and the ways in which logging practices affect river condition – the habitat of migratory species of salmon and steelhead trout – and the habitat of animal and bird species. The agreement has been relatively successful in the management of fish, but far less so with wildlife as different forest management arrangements favour different species (Ross 1999).

The Chelan Agreement, which lasted four years, dealt with water resources and included eight parties.

Implications for the Great Barrier Reef

The opportunities for solving both Indigenous and non-Indigenous management and access desires in the Great Barrier Reef probably lie in some combination of area, species and multi-purpose agreements. Sea Forum (1999) advocated a combination of a 'framework' agreement, along regional lines, for the Southern Great Barrier Reef and finer-scale localised agreements moulded to local traditional owner and other-party wishes and local circumstances. They also sought (and many Traditional Owners continue to seek) management arrangements for dugong, as an endangered species of very high cultural and economic importance to coastal Indigenous people.

Species agreements allow for specific arrangements to be made for the management of one species and/or its habitat. They are convenient where the species occurs or migrates through wide areas, in that a focused agreement can be made about the needs of that species alone – including its habitat and threats to the habitat. (Co-

management of hunting, though a manageable early step, falls far short of the type of species co-management we are thinking of here). Given that many Indigenous traditional owner groups would be involved in the negotiation of an agreement for say dugong or turtles, it makes sense to make progress on those species' needs in advance of regional arrangements. Awaiting the far more complex task of negotiating area by area would delay conservation initiatives, and also risk inconsistency in priority and strategies for these species from one area to another. There is also a risk that the outcomes to area-by-area negotiations could end up creating inconsistencies in the management of a migratory species between one area and the next – much as a wildlife corridor can stop at a farm boundary if the neighbour does not wish to continue it. Species agreements could include multiple parties whose activities pose some threat to the species or its habitat, such as commercial fishing and recreational boating, without these parties necessarily needing to be included in area agreements. As Canada's arrangements have shown, species agreements can be made part of regional agreements.

Government officials may find the value of sharing management of a species easiest to grasp initially, since it allows government to share management tasks which they find difficult or highly expensive to conduct. Indigenous people may be in a better position than government to manage hunting levels (through local social influence), monitor species abundance (through observation opportunities while hunting), and monitor habitat condition.

The Great Barrier Reef Marine Park Authority (GBRMPA) and Indigenous people would need to consider the benefits of two-party or multi-party agreements for each species considered. For instance, a co-management arrangement for dugong could either involve Indigenous people and GBRMPA alone, or also include other parties with roles in the threats to dugong and their habitat – such as land-based causes of sediment, commercial fisheries, and the government agencies connected with fisheries management.

Regional agreements, over all or parts of the World Heritage Area, are most comprehensive in meeting both Indigenous people's and governments' multiple interests. They are potentially compatible with the resolution of native title claims, which are very likely to lead the negotiation of Indigenous Land Use Agreements (ILUAs). We presume that ILUAs will come to be negotiated over areas of sea and islands also. Indeed, whether or not the Commonwealth and Queensland governments agree to negotiate specifically towards co-management over the Great Barrier Reef, they are highly likely to be required to consider it claim-by-claim through the native title process.

Sea Forum has pressed for a 'framework agreement' (Sea Forum 1999) over the whole of its members' traditional sea country, which would form a basis for subsequent creation of more detailed management arrangements over areas of sea (the regional agreements approach). It is also interested in species agreements, particularly for dugong, and would be open to negotiating these in advance of (and as a step towards) regional arrangements.

Traditional Owners throughout the Great Barrier Reef coast are also interested in developing commercial opportunities for their communities, which may involve sea country resources. Some are talking of joint ventures with non-Indigenous parties. They are interested in the abundance of fish and shellfish for subsistence fishing and gathering, and the extent and impact of recreational and commercial fisheries in their traditional sea country. They are interested in the conservation of species, as Injinoo community has shown with its closure of the jewfish fishery in its area. They are thus likely to want to be part of any co-management developments between the fishing industry and GBRMPA or Queensland Fisheries Management Authority. Box 2 lists management, resourcing, capacity-building and conservation issues that are important for the development and maintenance of co-management arrangements.

Box 2: Current issues in co-management

Management issues

- Recognising the cultural and economic importance of Indigenous land use (in areas of great dispossession such as the Southern GBR, these may be less visible to outsiders).
- Overcoming cultural and institutional barriers to sharing power, and design and implementation of co-management.
- Building relationships between Indigenous, agency and other stakeholders.
- Developing genuinely shared goals, and an ethos of cooperation.
- Achieving consensus on conservation issues, and the meaning of 'conservation'.
- Clarifying relationships between co-management and Indigenous governance (views include co-management as a vehicle for empowerment of Indigenous people, to co-management as an assimilation policy).
- Achieving equality of partnerships, given government and Indigenous parties may share representation in decision-making processes but rarely have equal access to resources to support their participation.
- Generating and maintaining 'ownership' of the process throughout each participating party.
- Deciding the participation and roles of other, non-government and non-Indigenous parties. It may be difficult to represent generalised stakeholders such as the 'general public' and 'industry' effectively even where their interests need to be taken into account.
- Respect for traditional ecological knowledge and contemporary observational knowledge, and their integration with scientifically-produced knowledge to provide the best possible guidance for management.
- Choosing and following a suitable negotiation process, that is comfortable for both parties and enhances dialogue (Ross 1995). Being aware that negotiation processes, like meeting formats, can be culturally biased.
- Information processes, including respect for different forms of knowledge, intellectual property, and differing cultural norms for access to knowledge.
- Co-management's role in community development, including commercial opportunities, social and political processes, autonomy and empowerment.
- Co-management's role in strengthening and maintaining cultural heritage, through exercise of traditional responsibilities and resource management practices.
- Recognising where co-management may not be the most appropriate option.
- Putting as much effort into maintaining a co-management relationship as into creating it.

Resourcing issues

- Financial resourcing. There is little documentation of the costs, and cost-effectiveness, of co-management. Since most of the costs are typically borne by government, co-management is vulnerable to cost-cutting.

Capacity-building

- Need for capacity-building for *all* parties to co-management, to play roles effectively.

Conservation issues

- Commercial harvesting of species and use of sea areas.
- Closure of access to seas by other parties.
- Sustainability of species populations.

Sources: Treseder and Honda-McNeil 1999, Dragon 1999, Ross 1999.

Parties to co-management of the Great Barrier Reef World Heritage Area.

Our section on definitions and descriptions of co-management (box 1) explained co-management as a shared, and preferably equal, arrangement between government and non-government stakeholders, often Indigenous people.

If co-management were formally negotiated (or designed) for the GBRWHA, especially on a wide scale, we envisage the *central* parties would need to be:

- GBRMPA, the inter-government agency legally charged with the administration of the GBRWHA; and
- Indigenous Traditional Owners (TOs) of the sea country estates coinciding with the GBRWHA. Under Indigenous customary law, TOs are the decision-makers and responsibility-holders for the health and use of marine country, and the primary knowledge-holders.

These are the parties with the most direct responsibilities for management of sea areas in the GBRWHA, under Australian and Indigenous law respectively. Other parties have potential roles in co-management, as described below, but none have authority specifically to manage the sea country of the GBRWHA. In some overseas examples of co-management, industry is an important partner. The parties to a co-management arrangement should be tailored to the issues to be addressed. The following points will be elaborated in a later report (Ross *et al.* in preparation), which develops a framework for management of the GBRWHA.

GBRMPA co-operators

As a joint Commonwealth-State body whose focus is day-to-day management of the GBRWHA, GBRMPA's policy development and planning processes require cooperation with a variety of other Commonwealth and State agencies, whose responsibilities overlap with GBRMPA's for example with respect to wildlife management, oceans policy and native title. These bodies include the Queensland Environment Protection Agency, which has carriage of day-to-day management of

the park and administers some adjoining marine protected areas not included in the World Heritage Area, and the Commonwealth Environmental Protection Agency.

Indigenous co-operators

Indigenous Traditional Owners (TOs) are networked into a set of statutory and non-statutory Indigenous organisations and umbrella bodies created to represent or coordinate their interests in various ways specific to land and sea issues, or more generally associated with the well-being of Indigenous society. Queensland, like the other states, has a complex set of institutional arrangements for natural resource management (see Orchard et al. 2003). The statutory bodies most relevant to co-management are

- Native Title Representative Bodies (NTRBs), which administer aspects of the native title claims process including the vital role of assuring that the appropriate Traditional Owners are involved in the process.
- The Aboriginal and Torres Strait Islander Commission (ATSIC), the Commonwealth agency based on elected Indigenous Regional Councils and national commissioners. ATSIC represents Indigenous interests generally to the Commonwealth and distributes many of that government's resources to Indigenous service organisations and communities. Historically ATSIC has not developed strong environmental management or marine capacities, its interests having been focused on land (not marine) rights and the welfare issues of health, housing, employment and education. This is changing, with the recognition that land ownership entails land management, and the designation of a Commissioner of Land and Sea Management.

Non-statutory bodies in Queensland include Land Councils (some of which have established as NTRBs), the Queensland Indigenous Working Group (QIWG), a peak body of Commonwealth, State and Indigenous-formed bodies providing coordination and opportunities for a common voice, the Aboriginal Coordinating Council, a body formed originally by State government to coordinate Cape York interests, and the Southern Great Barrier Reef Sea Forum, a voluntary and non-

hierarchical network (or forum) of Traditional Owner groups which formed specifically out of interactions with GBRMPA to specialise in negotiating marine interests collectively without undermining Traditional Owner sovereignty over their estates⁹. (Sea Forum was not formed by GBRMPA, but by the Traditional Owners in response to frustrating interactions with the agency). The authors of this report acknowledge there is lack of role clarity, and some current tension, among some of these parties with responsibilities towards Traditional Owners and coastal communities. This probably arises from the lack of a previous organisation or set of arrangements for dealing with Indigenous marine natural resource management issues (unlike land management, which has clearer though still complex institutional arrangements).

This report cannot propose the boundaries of participation in any future negotiation, and subsequent implementation, of co-management. We can only identify two parties – GBRMPA and Traditional Owners – as central, and other parties as optional further participants. These options will be canvassed in a forthcoming report setting out a framework for potential co-management of the GBRWHA.

Governance

The form of governance for co-management would need to be negotiated, and would hinge on the extent of the parties participating. This section attempts only a brief overview of possibilities (see our forthcoming framework, Ross et al. in preparation).

The challenge for GBRMPA and for the Indigenous parties to co-management is that GBRMPA (like most non-Indigenous authorities) is a centralised body with authority over a very large spatial area of sea and reefs, while Indigenous authority (under customary law) is decentralised, with prime authority being vested in the traditional owners of many clan estates. GBRMPA administers an entire area of some 365,000 square kilometres adjoining over 2,000 kilometres of coast, and under this authority can break down its management units in convenient scales of area (eg the

⁹ Sea Forum is currently without financial support and is having difficulty operating, but has not disbanded.

Whitsunday Islands and other management zones, each with their own Plans of Management) or theme (eg Representative Areas Program). The administration of the marine park is also separated into policy and strategic levels, the focus of GBRMPA, and operational or 'day-to-day management', undertaken in partnership with the Queensland Parks and Wildlife Service.

There is no counterpart to this in customary Indigenous institutional arrangements, nor has such coordination been necessary in the smaller scale terrestrial national parks. For Traditional Owners to act collectively, they can

- Form bodies or networks that enable them to speak collectively, such as the Southern Great Barrier Reef Sea Forum (this is essentially a federal model, like the Australian states cooperating), or
- Allow the organisations created as servicing and advisory bodies on behalf of Indigenous people (ATSIC, Land Councils, Native Title Representative Bodies) to coordinate them in conferring about issues and act as their spokespeople. (Non-Indigenous people often expect such bodies to be capable of making decisions on behalf of Indigenous people, but their charter is most often to represent or act on behalf of Indigenous interests including consulting with their members). No Indigenous servicing organisation owns or otherwise has direct authority over land, sea or marine natural resources in the way that say the Indigenous Land Corporation or the Anangu Pitjantjatjara have over inland areas in other states. Many Queensland communities do own land, particularly on Cape York Peninsula.

There is a national movement by Traditional Owners asserting rights to speak directly on behalf of their areas of country, under the mandate of customary law, independently of the government-funded organisations set up to service Indigenous needs (Southern GBR Sea Forum is one example). This has not been uniformly welcomed by the existing organisations. Since the groupings of Traditional Owners are generally unfunded, or meet under short-term funding, they are at a practical disadvantage in maintaining a 'presence' before governments.

The problem is essentially one of the key levels of authority lying at different scales, centralised in the non-Indigenous system and decentralised under Indigenous customary law. There are models for coping with such differences, including

- Boards, such as the Boards leading or coordinating decision-making for species management in Canada.
- Regional Agreements, specifying management plans and decision-making structures which combine the parties for common action.
- Nested models, in which local arrangements are overseen by a co-ordinating central arrangement. This is the essence of Sea Forum (1999)'s proposal for a Framework Agreement, which would provide an overarching structure for development of customised regional agreements at smaller scales.

Meanwhile, Traditional Owners have the advantage of being empowered to speak on all matters concerning their own traditional estates, though not the estates of others.

This contrasts with government agencies, which specialise on sectoral lines. For instance, the Department of Primary Industries is responsible for fisheries, within and beyond the GBRWHA, while ATSIC (Commonwealth) and the Department of Aboriginal and Torres Strait Islander Policy (State) have policy and program responsibilities in Indigenous affairs. Where a number of agencies are concerned with an issue, strategies available are

- One agency can act as 'lead agency', consulting with the other agencies in doing so
- All relevant agencies can have seats at the table (this can reduce seats available for other parties).

We envisage one or more suitable co-management arrangements can be developed for the GBRWHA. Present indications are that a reef-wide agreement is unlikely in the foreseeable future, but a variety of different localised arrangements are emerging.

Australia is most experienced with the structures of its joint-managed terrestrial parks, which involve Boards of Management, ideally with equal representation for Indigenous people or an Indigenous majority, and additional processes of

consultation to engage the whole set of Indigenous people concerned, at least from time to time.

Experience shows that equal representation or an Indigenous chair, though highly important, does not solve issues of power relations, as Indigenous members may be less confident, less comfortable with meeting formats, and feel less well-informed and able than others to provide critical analysis of scientific and management agency data. Equal representation is a *necessary*, but not a *sufficient*, condition for co-management decision-making to work.

This makes sure that others contribute to the major management decisions and are kept informed about the general management directions – in other words decision-making is not left to the Board alone. It is very important that others be familiar with the management arrangements, to provide a pool of recruitment of new Board members when old ones finish their terms or retire.

Kakadu and Uluru National Parks, for instance, engage the whole Indigenous Traditional Owner and community memberships from time to time, for instance in updates to their five-year plans of management. Increasingly in these parks the Boards of Management ratify decisions made by Traditional Owners through other processes, since their members do not necessarily have customary rights to make decisions their Board roles call for (J. Davies personal communication). There does not seem to be a parallel process for engaging people throughout a government management agency, yet surely this is also important.

There may also be *tiered* structures, such as lower committees answering to a Board, or regional or local committees whose representatives combine to form a peak Board.

For instance, the Timber-Fish-Wildlife Agreement in USA is led by a policy committee consisting of all parties, then has committees for a range of purposes (eg cultural heritage, scientific research and monitoring, training) which report to the policy committee. It also has regional arrangements (in which all parties participate)

for deciding which stands of timber can be cut, and how, which link to the State-wide committees (Ross 1999).

Negotiating and maintaining successful co-management

Every negotiation is unique. Some of the successful ingredients however are listed below.

Develop relationships between and within the parties before meeting at the negotiation table.

If the leaderships of the parties have become familiar with one another, and know what to expect of each other, they are off to a good start. They may or may not be more comfortable communicating together than they would have been without introduction, but they will know what to expect of one another and a greater degree of trust will be possible.

It is very important that the whole memberships of the parties understand and support the idea of co-management. It is pointless for the leaders, or delegates at a negotiating table, to negotiate a co-management arrangement that the members do not support, feel no 'ownership' over, and have no intention of carrying out their parts.

Design the negotiations carefully.

For instance who should the parties be? How many people should represent each party? How can the rest of the membership be involved too? How should the discussions take place? What negotiation philosophy (eg win-win) should be used? Should there be an external facilitator, or better still a facilitation team that combines process skills with understanding of the issues? Some agreements have begun with 'pre-negotiations' to resolve these issues. Many agree on 'ground rules' before the negotiations start. 'Respect' for everyone participating is a very useful ground rule.

Consider having a preparation and training day before the negotiations start.

While a day is no substitute for extended preparation and capacity-building, this helps everyone to start on a similar basis, in terms of understanding what to expect, sharing the ground rules, and learning techniques of successful negotiations. Less powerful parties, such as Indigenous people, may benefit from preparatory meetings and extra training to boost their confidence. Most environmental negotiations use the 'win-win' approach, which tries to find new and inventive solutions to meet all parties needs (this is not necessarily possible). Training time is important to share this philosophy and develop a culture of cooperation.

In the negotiations

Understand that both parties may have long histories of difficult relationships, so may have negative perceptions of one another, reluctance to communicate, and inability to 'hear' what the other party is saying, which need to be recognised and moved beyond.

Allow break-outs so that members of each party and discuss matters among themselves. Also allow enough time between meetings for the negotiators to consult their members.

Don't be afraid of periods of overt conflict – these can help in moving towards solutions. They can also help people get resentment 'off their chests' before getting down to business, although one needs to be careful that this does not escalate tensions and alienate the other party (it is common in some Aboriginal cultures for people to air grievances before conducting business, but this conflicts with non-Indigenous meeting protocols). Facilitation can help to manage and derive advantages from conflict. Breaking off for 'cooling off' periods or caucus discussions within each party can be useful if matters become too heated for productive discussion for periods.

Form of agreement

Some successful agreements are signed, others are not. The parties need to agree which suits them.

Should the agreement be a 'framework' one, that establishes outlines to be filled in later (the approach sought by Sea Forum for the Southern GBR), or should all details be worked out in the one set of negotiations? Many framework agreements establish procedures, rather than state exactly what should happen. This allows flexibility for local variations and long-term futures.

Resourcing.

Since Indigenous people have few financial resources, need to meet among themselves to build consensus on approaches, and may lack technical expertise and office supports, it is important that they be funded in the preparation, negotiation and implementation phases of co-management. They are at a considerable disadvantage compared to the levels of organisation and staffing in the government and industry bodies with which they meet. They also need strong continuing governance, which requires sustained resourcing, not merely the stop-start short-term funding which prevails for natural resource management. The funds may come from the party they will co-manage with (eg a conservation body) or another party, and the source may change between the preparatory and implementation phases. Lack of resourcing in preparation and negotiation stages can seriously jeopardise the success of the process, either because the Indigenous party may be less well organised, or its broader membership may never develop support for the process and its outcomes due to lack of involvement in its development or support for the decisions of leaders. Considerable investment is desirable to support Traditional Owners and other members of their communities in developing their collective views, understanding the process to be followed and forming a negotiation strategy, as well as establishing and maintaining clear accountabilities within their groups.

Resourcing for implementation of a co-management arrangement is equally important. The Indigenous parties must be in a position to carry out their roles, and

maintain communication to consult their members and keep their support. This usually involves office support for organising the people and process, funds for actual tasks (such as ranger salaries and their transport), and funds for community communication. Communication is also a vital part of succession planning. As skilled participants inevitably need to move on, it helps to have a pool of people who share the philosophy and know the background of the arrangements, avoiding the process having to wait while they familiarise, yet can bring in new approaches and ideas (Ross 1999).

Information management

During and after the negotiations, information is critical. The parties may contribute different types of information in designing their co-management arrangement, and need to develop trust in one another's data and knowledge for its effective implementation. Indigenous and non-Indigenous people have different protocols for collecting and using information, and embed their information in culturally different knowledge systems. Issues of intellectual property, control of knowledge, validity and trust, often apply.

Less well recognised, but crucial, are issues of integration of knowledge. One type of information cannot be allowed to drive policy on its own, such as when low species numbers lead some people to leap to hunting bans as a solution. Other information from other domains will always be relevant in cross-cultural management, such the contribution of hunting and existence of other threats to the species, the likelihood of compliance with a government ban (will it drive hunting 'underground' or even exacerbate it), and the cultural and subsistence importance of marine hunting and fishing.

Some communities, including Kowanyama and a number of northern and western Canadian communities, are developing computer-based information management tools using Geographic Information Systems, and websites to log and give access to monitoring data.

Maintaining the relationship¹⁰

Like a marriage, a co-management arrangement starts, rather than finishes, when the agreement is reached. The cooperative arrangements need as much work to *keep* as they did to create. The parties therefore need to keep goodwill in working together, and to work hard at resolving problems as they arise. This can be helped by:

- shared goals, shared commitment and a belief that cooperation offers better prospects than political or legal conflict.
- a fair and efficient decision-making structure (eg Board) and processes
- adequate resourcing.
- a sense of progress, through successful implementation steps. Celebrating successes and successful steps is useful here.
- maintaining positive personal relationships – disagree over issues, but in the spirit of positive relationships leading to problem-solving for combined benefit. Recognise the pressures the other parties, or particular members, are under, for instance both sets of leaders may be under political pressure from their constituents.
- design regular review periods, to check how the arrangements are working (both in terms of process and outcomes).

Capacity and resourcing

Capacity is more than cash. It is necessary for both parties to co-management, and for their relationship. For instance, if either or both parties lack communication or negotiation skills, or do not share familiarity and respect, their progress will be harder. It may be helpful to consider ‘capacity’ in several dimensions:

- Individual skills
- Social (interaction) skills
- Flexible world views
- Supportive organisational arrangements
- Financial and staff resources
- Time and patience.

¹⁰ Many of these observations are recorded in Ross (1999).

We intend expanding on these points in our forthcoming framework report.

Resourcing will be a particular challenge both for developing and for implementing co-management in the GBRWHA, since Indigenous people have few *financial* resources of their own to contribute, and GBRMPA like most Australian protected area management agencies is seriously under-resourced for its responsibilities and given their value to their state and national economies. Appleton (2000) estimated the cost of negotiating a whole-of-GBR co-management framework agreement (as envisaged by Sea Forum) at \$452, 000, consisting of \$272,000 for Sea Forum and its support staff, and \$180,000 for the agencies (including salaried time). This allowed for 10 negotiating meetings between the parties, supported by two full meetings of Sea Forum (40 Traditional Owners) and six meetings of Sea Forum Working Group, and meetings of the Queensland/Commonwealth Agency Reference Group and Executive Group, Ministerial Council involvement and a Cabinet Submission. Support allowed for a coordinator and part-time project officer for Sea Forum, agency operational costs and specialised consultants. These are not entirely 'new' costs. Much of the estimate includes the annual level of support Sea Forum was then receiving from ATSIC, and the salaried time of State and Commonwealth staff. Appleton (2000, p19) appeared to assume that ATSIC would be the source of the funding for Indigenous participation, perhaps since it was financing Sea Forum at the time, and observed the uncertainty of ATSIC obtaining such funds.

Later stages envisaged were negotiation of priority issues (estimated cost \$2.15 million), a regional agreement, capacity building, and local or estate level agreements (Appleton 2000, after Sea Forum 1999). Appleton (2000) noted that development and implementation of a co-management strategy would depend on agencies being able to obtain adequate resources to do so, and that funding for Indigenous co-management had been ad hoc and inadequate, reliant on short-term funds from a variety of sources, a situation not conducive to ongoing and effective co-management processes.

In the event, the concept of a reef-wide framework agreement is not currently proceeding and more local, focused initiatives such as hunting co-management and marine rangers are to be pursued. Whether it proceeds at broad or localised scales, co-management will require either additional resources or a shifting of resources to accommodate Indigenous participation. This may entail some creative thinking, such as adapting the current Environmental Management Charge (a levy on tourism) and reapplying much of the expenditure towards enabling effective Indigenous participation in co-management.

CONCLUSION

This report is intended as a brief guide to important issues in understanding and developing co-management. The references provide opportunity to find greater detail on some of the points. Our research project will expand on the issues raised here in another report outlining a framework for designing co-management (Ross et al. in preparation), and a set of case studies illustrating how co-management could evolve at local and sub-regional scales with the GBR (Ross et al. in preparation). Key themes for the design of co-management are

- Spatial factors and scale
- Laws
- The parties which should participate
- Catering for different paradigms of management
- Issues
- Decision-making structures and processes
- Information management
- Operational mechanisms
- The parties' respective capacities.

The concept of co-management for the GBRWHA is becoming established, formally and informally, through a history of dialogue, the initiative of Sea Forum (1999) in proposing negotiation of a framework agreement followed by a regional agreement and local and estate level agreements and agency discussions towards such negotiations (Appleton 2000), current initiatives by several Traditional Owner groups on a range of issues, and GBRMPA's renewed focus on the co-management of marine hunting. Whether or not government decisions are ever made to adopt co-management formally, native title claims and other expressions of traditional owner interest are likely to keep it on the agenda.

Co-management will be a more complex matter for the GBR than for terrestrial national parks, because of the vast area involved, the number of Traditional Owner groups involved, the complex relationships among the State and Commonwealth

interests, and the variety of activities conducted in the World Heritage Area. If pursued on an estate-by-estate level each agreement need be no more complex than the management of terrestrial parks, but over time there is a risk of a highly complex and uncoordinated set of arrangements growing, which could prove difficult for GBRMPA to navigate (this is the situation regional agreements try to avoid). Co-management is not a concept to be nervous of. It is well established for more than 20 years in Canada and in Australia's terrestrial national parks. It is a flexible strategy, well suited to reconciling different interests in land or sea, and to bringing different parties talents efficiently and effectively into an enriched management process.

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