

Taming wicked problems: towards a resolution of tourism access to Traditional Owner lands in the Kimberley region, Australia

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This paper names and describes the longstanding issue of tourism access to the Kimberley coast region in northwest Australia. Tourism access is a problem because it occurs without appropriate permissions from the Traditional Owners. The granting of access permission is a fundamental component of the local Traditional Owner ontology, or concept of being. Tourism activities cannot be culturally sustainable without appropriate Traditional Owner permissions. We argue that this seemingly simple issue is a “wicked problem” and must be recognised as such to facilitate its “taming” to create a culturally sustainable local tourism industry. The paper first examines the cultural and historical context, establishing a more nuanced understanding of the problem. Framed in Rittel and Webber’s definition of a wicked problem, it then describes its complex and intercultural nature, highlighting repeated and continuing efforts and failures by key parties to address it, linked to an ingrained lack of political will. We conclude that operators could take ownership of the wicked problem and contribute to taming it by proactively engaging in a direct relationship with Traditional Owners based on transformational learning. The paper contributes to tourism planning studies, to the concept of the Just Destination and to indigenous tourism understanding.

Keywords: visitor management; Aboriginal; saltwater country; permission; indigenous; expedition cruise tourism

Introduction

To the Aboriginal Traditional Owners¹ of the remote Kimberley coastal region, tourists and tourism operations have, for decades, created a persistent problem with a seemingly simple solution. The problem is that visitors (i.e. tour groups, free independent travellers [FITs] and recreational users) are accessing Traditional Owner country without the permission of Traditional Owners, causing cultural impacts on a scale that overshadows any site-based amelioration remedies (Scherrer & Doohan, 2011; Smith, Scherrer, & Dowling, 2009). The context is a remote setting, a complex political and historical background, and a clash of two world views – the western settler perspective and the Traditional Owner perspective. The key participants are Traditional Owners of the area, expedition cruise tourism operators (as the primary facilitators of access for tourists) and the Western Australian (WA) State government (and its representatives/agencies). The Traditional Owners say that the solution to the problem of unsanctioned visitor access is to ask them for permission to visit and to recompense them for access granted. The

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tourists and/or tour operators indicate that they do not know how to do this, have no pathway for doing this or are unaware of the requirement. The government, which under current legislation is responsible for management of visitor activities through various agencies, claims to recognise the problem though continues to, as this paper will show, follow a path of either erasing Aboriginal contexts or, with the same consequences, inaction.

Scherrer and Doohan (2011) argue that tourism along the Kimberley coast cannot be *culturally sustainable* unless the issue of visitor access is resolved. Their argument and research findings reflect repeatedly expressed Traditional Owner sentiments about unauthorised tourism activities as highlighted later in this paper. Given this argument and the apparent impasse of the visitor access situation, how can the industry move towards a resolution that could contribute to making tourism a culturally sustainable economic activity and a viable alternative to higher-yielding, but more environmentally invasive, extractive industries?

This paper names and systematically describes this longstanding problem which has created extensive debate, consideration, action and inaction focused around Aboriginal people, tourism, Native Title², access and cultural impacts in the Kimberley coastal region for at least three decades. We argue that this apparently simple problem is indeed what Rittel and Webber (1973) would call a wicked problem, particularly because of its apparent intransigence and its complex historic and political contexts. Recognising this problem as “wicked” is in our view fundamental to clarifying how it might be “tamed” and what a multi-party, or at least mutually beneficial, resolution might look like.

Wicked problems

According to Rittel and Webber (1973, p. 160), problems of “open societal systems” cannot be solved by traditional linear analytical approaches common to classical science. They suggest that problems are inherently wicked when they are located within social processes and constantly evolving social relations (Rittel & Webber, 1973). Brown, Deane, Harris, and Russell (2010, p. 4) describe wicked problems as complex issues that defy complete definition and have no final solution, “since any resolution generates further issues, and . . . solutions are not true or false or good or bad, but the best that can be done at the time”. In short, key characteristics of wicked problems include that they are: socially complex; unstructured and difficult to clearly define; ever-evolving; cross-cutting; intricately connected to other problems and issues; and essentially unique (Australian Public Service Commission, 2007; Rittel & Webber, 1973; Weber & Khademian, 2008). As Brown et al. (2010) suggest, the latter characteristic means that wicked problems are grounded in their place and time. Hence thinking about them and finding ways to tame them cannot easily be generalised outside that specific context. Nonetheless, there are a number of common barriers to the resolution of wicked problems that have been identified in the literature. Wicked problems are not confined to tourism, or to Australia: they can occur in tourism management in many countries, especially in indigenous contexts. In that latter context, the issue of wicked problems is an important aspect of the growing discussion about the Just Destination (Jamal & Camargo, *in press*).

Common barriers

Some problems are so complex that you have to be highly intelligent and well informed just to be undecided about them. (Peter, 1982)

The first and foremost barrier to the resolution of wicked problems is the recognition that the problem has societal components and thus is indeed wicked. In Australia, examples abound of natural resource management bodies, scientific organisations and government departments ignoring the societal aspects of what they perceive to be largely environmental issues to be solved through scientific approaches. The *Guide to the Proposed Murray–Darling Basin* released in October 2010 (Murray Darling Basin Authority, 2010), and the *Kimberley Marine Research Program Science Plan* released in December 2011 (Simpson, 2011) are documents illustrating organisations and their processes that have ignored or significantly underestimated the socio-cultural contexts in which they operate. This can generate community backlash, politicisation of the issues and further negative community sentiment towards perceived external powers.

Further challenges faced when dealing with wicked problems include the compartmentalisation (and we argue unequal weighting) of knowledge systems, the increasingly diverse contexts in which people live, as well as the “lack of effective collaboration between scientists, professionals and policy makers leading to an ‘applicability gap’ in sectors that deal with both the natural and human-made environment” (Lawrence, 2010, p. 16). Howitt (2001, p. 11), for example, notes that the language of individual groups, such as resource managers or scientists, “renders invisible many things given importance by other people”. He highlights that invisible or intangible aspects in particular are ignored in industrial resource management contexts, aspects especially pertinent to indigenous contexts (Turner, Gregory, Brooks, Failing, & Satterfield, 2008) and a line of reasoning arguably transferable to tourism contexts (see Scherrer & Doohan, 2011). In indigenous contexts in particular, the separation of nature and human and the viewing of resources as “pre-existing substances or things” rather than “in terms of functions and relationships” also causes an immediate ontological barrier between, for example, government and Traditional Owner participants in negotiations or discussions about accessing “nature resources” (Howitt, 2001, p. 3; Scherrer & Doohan, 2011).

Taming, not solving

Because wicked problems cross jurisdictions and the usual established lines of responsibility (Weber & Khademian, 2008), they have no quick fixes or simple solutions. Wicked problems are “highly resistant to resolution” and require innovative and flexible approaches to problem solving or managing (Australian Public Service Commission, 2007, p. iii). Indeed, attempts at resolution of what appears to be “the problem” may lead to unforeseen consequences and a changed understanding of what the problem is – thus a reformulation of the problem. This means that some longstanding (wicked) problems are characterised by chronic policy failure rather than recognition of its true inherent (wicked) nature (Australian Public Service Commission, 2007; Weber & Khademian, 2008). Thus, the aim should not be to solve a wicked problem once and for all. Rather, the aim should be to tame the problem by facilitating the re-conceptualisation of the problem and extending approaches towards the resolution of the problem’s components – thus allowing room for new solutions to surface in these evolving (less wicked) problems (Bruce & Cote, 2002; Weber & Khademian, 2008).

We argue in this paper that the issue of tourism access to the Kimberley coast is a wicked problem made more so because of the intercultural space that it occupies in both geographic and conceptual terms. We believe that recognising the wicked nature of this issue is critical to considering how to tame the problem. Notably, for reasons outlined in this paper, we believe that this assessment holds true even in light of significant recent

developments affecting land tenure and the legal context of land access to the Kimberley coastal regions, such as the declaration of Native Title in the Unguu and Dambimangari determination areas (NNTT, 2012) and the declaration of Indigenous Protected Areas (DSEWPC, 2012) over large sections of the Kimberley coast. This paper outlines how we came to this assessment and calls for a new approach toward addressing what Traditional Owners consider the problem of uninvited access to their country and what the tourism operators consider a messy unclear and inconsistent access issue. The next section introduces the study area, our methodological approach and the key players in this problem.

Study area

The Kimberley coastal area with its ancient and ongoing Aboriginal cultural traditions also includes outstanding wildlife, glorious coastal stretches, spectacular gorges and waterfalls, and pastoral and pearling heritage. It is one of the most extraordinary places in Australia and has recently been included in the National Heritage List (Australian Heritage Council, 2011). This coastal region extends for 1500 kilometres and is the traditional homeland of Aboriginal people who consider themselves members of distinct Aboriginal communities with connections to particular “saltwater country”. The area was subject to five adjacent Native Title claims including areas of mainland, offshore islands, reefs and the saltwater itself (Mayala, Dambimangari, Unguu, Wilinggin and Balangarra – see Scherrer, Smith, & Dowling [2010]) by three distinct Aboriginal communities – Mayala, Wanjina Wunggurr and Balangarra. The Unguu and Dambimangari claims were determined in May 2011, twelve and thirteen years, respectively, after being lodged with the Federal Court of Australia, while the Wilinggin claim was determined in August 2004 after eight years of litigation (NNTT, 2012). Two native title claims are still active.

These Aboriginal communities maintain their traditional connections to their country³ through particular and distinctive laws and customs despite extensive physical dislocation of some Traditional Owners from their traditional homelands (Kimberley Land Council, 2005; Wunambal Gaambera Aboriginal Corporation, 2001). Historical circumstances and difficult access to parts of their country means that many Traditional Owners of this coastal region currently live in Aboriginal communities such as Kalumburu and Mowanjum (Blundell & Woolagoodja, 2005; McKenzie, 1969) which are not within their traditional homelands. Returning to country and regular visits are one of the key aspirations of Kimberley Traditional Owners (Kimberley Land Council, 2000, 2004a, 2004b; Scherrer, Smith, & Dowling, 2008). However, the high cost of remote travel and the increasingly limited health and mobility of some senior Elders have resulted in limited opportunities for return-to-country trips. As such, the study area is largely uninhabited with the exception of one homeland community and four small-scale seasonal tourist camps, some illegal squatters and a former pearling industry camp under consideration for tourism/research use at Kuri Bay. Several conservation reserves have been gazetted⁴ in the study area, namely the Prince Regent Nature Reserve and the Mitchell River National Park as well as three smaller conservation areas further inland on the Mitchell Plateau (Scherrer et al., 2008). Despite concerns expressed by Traditional Owners to further protected area declarations, the WA State is pursuing the declaration of a number of new marine-protected areas along the Kimberley coast, including the recently gazetted Camden Sound Marine Park (Anon, 2010a; Government of Western Australia, 2011, 2012).

Tourism access

Much of the Kimberley coastal area is only accessible by sea or air, which has limited visitor access to this region and aided in the protection of the area's natural and cultural features (Scherrer et al., 2010; Smith et al., 2009). In recent years, the cultural and natural features of the Kimberley region have gained increasing tourism exposure through growth of the local expedition cruise tourism industry, extensive national and international advertising, postings from organised and independent travellers on the internet and through the power of the distinctive Wanjina and Gwion images that comprise much of the west Kimberley Aboriginal art tradition and which featured in the opening ceremony of the 2000 Sydney Olympics (Mowanjum Artists Spirit of the Wandjina Aboriginal Corporation, 2012; Scherrer et al., 2010).

The expedition cruise industry developed in the 1980s and currently provides the main means of access for visitors to the study area⁵. We refer readers to Scherrer et al. (2008) for an overview of the industry and its activities. Few land-based coastal access routes exist and there are scant data about FITs on private vessels (Scherrer et al., 2008), though their numbers are projected to increase with industrial development expanding northwards from Broome (Department of Environment and Conservation, 2009; Kahn & O'Faircheallaigh, 2010).

Thus, for the purpose of this paper, cruise tour operators are viewed as representatives and facilitators of the majority of tourists who access the Kimberley coast. They undertake visitor activities in organised groups with defined travel routes and activities. In this way, cruise tour operators provide a starting point for resolving the issue of seeking permission for visitor access to Traditional Owner country.

Methodology

This is a pragmatic paper with the key aims to: (1) explicitly acknowledge the issue of tourism access to the Kimberley coast as a wicked problem; and (2) stimulate discourse about the implementation of a more sustainable, just and culturally appropriate approach to tourism access and activities. The guiding ethic for the non-Aboriginal authors of this paper is to contribute to decolonising research and implementation processes (see Howitt et al., 2011). The focus is on the stimulation of positive discourse to better articulate and possibly "tame" this problem. We recognise that our understanding of the world, and of the human relationships within it, is partial, provisional and strongly shaped by each participant's contextual position within the problem and their associated expectations and knowledge constructions. We thus seek an open epistemological approach to addressing and engaging with the components of this problem in our attempt to contribute to a more nuanced understanding.

This paper draws on evidence from a diverse range of sources and different ontological frames with the aim to provide a synthesis of the current situation and facilitate collective learning. As key data sources it combines and triangulates the authors' observations, experiences, and reflections from their combined 35 years of professional engagement in the region with secondary and primary information sources such as written documents and reports; observations at relevant forums; and formal and informal communications with individuals and groups (including Traditional Owners and non-Traditional Owners, tourists, local community and industry and government representatives and representatives from specialised interest/knowledge groups). These data sources underpin the analysis and remainder of the paper. Thus, the presented discourse draws collectively on

objective, subjective, internal, sympathetic and empathetic opinions and sources of evidence. The researchers aimed to achieve a relationship of observers in regards to participants (Brown et al., 2010) though recognising the different relationships of relative power between participants to the problem, such as between the Traditional Owners, industry and government representatives.

Key players

For the purpose of this paper, we focus on three key parties to the problem of unsanctioned visitor access arising from tourism: the Traditional Owners as the custodians of the area under Aboriginal Law; the WA State government and its agents as the “assigned” land managers under western law; and tourism operators as the main facilitators of tourism access to the area. This paper recognises that a myriad of other parties are connected with this problem and that the access issue is not limited to the tourism industry alone, but indeed relates to other natural resource development projects and related activities in the region. To achieve the brevity required by academic publications while highlighting the main issues, the scope of this paper was limited to the three key parties.

Aboriginal traditional owners

Aboriginal people comprise at least 47% of the total population of the Kimberley compared to the national average of 2.5% (Australian Bureau of Statistics, 2010). The Traditional Owners of the region retain their identities with, and connections to, their traditional country and their laws and customs regardless of whether they live in local Kimberley towns, pastoral country, Aboriginal communities or more remote homeland communities. As the custodian of a particular geographic area (their country), a Traditional Owner is obliged to care for their country and accept responsibility for the health and wellbeing of that country. These obligations and responsibilities extend to any activities undertaken by strangers to the country and the social, physical and/or metaphysical impacts of those activities on the country and the members of the community belonging to that country (Scherrer & Doohan, 2011; Wunambal Gaambera Aboriginal Corporation, 2001). Thus, Traditional Owners are more than mere stakeholders who should be consulted about matters of access and activity; they have to be involved as the owners of country (in terms of their traditions and now as recognised Native Title holders) and culturally sanctioned decision makers (Johnston & Tann, 1991; Scherrer et al., 2008; Wunambal Gaambera Aboriginal Corporation, 2001). Similar to other geographic contexts such as Arnhem Land (Dhimurru, 2004), two key strategies used by Kimberley Aboriginal people in attempts to control tourism and assert their responsibility to country are Native Title claims and access permits, though a long proposed visitor pass to at least part of the Kimberley coast remains to be implemented to date (Wunambal Gaambera Aboriginal Corporation, 2008).

State Government

The WA State government and its agents are a significant stakeholder with regard to accessing Traditional Owners’ land and sea country and facilitating tourism activities in the Kimberley. They actively, and passively, influence tourism activities through their policies, regulations, legislation and approach to the enforcement thereof. The standing of Traditional Owners in relation to State government agents and processes has a long

and often contested history in which the government has not shied away from using its political and legislative power to control access and impose their management approach over vast tracts of the Kimberley region (Crawford, 2001). Key government agencies in relation to Kimberley coastal tourism activities include the Departments of Environment and Conservation, Fisheries, and Indigenous Affairs. Scherrer et al. (2008) provide a summary of their roles, jurisdictions and associated legislation upon which the current management of tourism activities is based. They highlight the complex cross-boundary nature of tourism activities in the Kimberley and how these “boundaries” of reality do not fit with those of the government administration approach, resulting in a piecemeal approach to managing tourism and tourist access – an important issue to the context of the wicked problem outlined here.

Tourism operators

As indicated earlier, expedition cruise tourism operators are currently the main facilitators of visitor access to the Kimberley coastal area. Expedition cruise operators to this day work largely independently and some claim to have “informal” arrangements with particular Traditional Owners: most do not. Nevertheless, since the formation of the Kimberley Charter Boat Operators Association in 1995, later renamed the Kimberley Marine Tourism Association (KMTA), communication and organisation amongst operators has increased, connecting all but two of the Kimberley coastal operators in 2010 (J. Lowe, KMTA, personal communication 2010). As such the association also provides a platform for outsiders to engage with the industry. It appears, nonetheless, that KMTA has been, and still is, highly dependent on individual champions driving the organisation’s more public face and continuing function.

The interaction between Kimberley cruise tourism operators and government agencies relates predominately to compliance with regulatory requirements though, notably, government agencies have scant if any field presence. At a broader government level, the relationship may be better described as one of lobbying on issues of environment and access with view to preserving their current tourism product. Though most of the coast is under Native Title or Aboriginal reserve, unsanctioned tourism activities continue in the area without repercussions from government – a situation that reflects the historical and political context of the area.

The historical and political context

One cannot understand the problem without knowing about its context. (Rittel & Webber, 1973, p. 162)

Troubled settler relations

European settlement came late to the Kimberley region and the experience of Aboriginal people varied depending on the nature of the intrusions; these included pearlers and blackbirders⁶ in the Broome and surrounding areas, pastoralists and explorers in the eastern and central regions and explorers and missionaries in the Dampier Peninsula and northern Kimberley regions (e.g. Akerman & Stanton, 1994; Jebb, 2002). Aboriginal people’s abilities to influence and/or control these incursions were always limited, their attempts met with settler reprisal of massacres, incarceration and various forms of co-existence and incorporation. From the outset, relationships between settlers and the

Kimberley Traditional Owners were fraught and unequal, a situation found in much of Australia and a situation that evolved through time and with each change of policy at the State and Federal level (Reynolds, 1982). Aboriginal people have always been troubled by the apparently changing and unpredictable nature of “white fella law” and continually sought to remedy this fluctuating, unequal and discriminating context within which they lived their lives (e.g. Coombs, McCann, Ross, & Williams, 1989; Kimberley Land Council & Waringarri Resource Centre, 1991).

Formation of Kimberley Aboriginal political platforms

In the late 1970s and the first half of the 1980s, Kimberley Aboriginal people united as a political body in a way that had not happened before. This coming together was stimulated by a range of local factors including increasing pressure from resource developments such as oil exploration at Noonkanbah Station and the establishment of the Argyle Diamond Mine in 1980 (Doohan, 2007). It was also spurred on by political action in other parts of Australia, including the passage of the *Northern Territory Aboriginal Land Rights Act* (1976). The Kimberley Land Council (KLC) was formed in 1978 to achieve social justice, land rights and formal recognition of Aboriginal people as the owners of their traditional lands⁷ (Kimberley Land Council, 2008a). The combination of these developments contributed to pressure on the State government to accommodate Aboriginal interests on issues such as land rights and the establishment and management of conservation reserves. Following the push for political and policy initiatives to create national land rights legislation in the mid-1980s, the State of WA initiated the 1984 Seaman Inquiry into land rights. The findings were significant and far reaching but failed to generate any legislative base.

In 1989, Gulingi Nangga Aboriginal Corporation (GNAC) was formed as a response to pressure from tourism development in the Walcott Inlet area (located within the Dam-bimangarri determination area) as well as pressure from the State government to establish a number of national parks and reserves within the coastal Kimberley region (Conservation Through Reserves Committee, 1978, 1980). GNAC provided a formal and specialised forum and governance structure to negotiate culturally appropriate and politically effective outcomes and to resolve long-standing land and sea access matters (Johnston & Tann, 1991). Around the same time, the National Parks and Conservation Research (NP&CR) and Policy Unit was established in the Aboriginal Affairs Planning Authority with the aim to “facilitate Aboriginal access to a variety of land tenure options and to promote meaningful involvement in the management of conservation lands across the state” (Johnston & Tann, 1991, p. 3).

The State’s persistent reluctance to act on Aboriginal interests

The apparent acknowledgement by government of the urgency and pressure to accommodate Aboriginal interests in the early 1990s did not, however, translate into lasting action. Indeed, the apparently effective communication and negotiation platform established in GNAC was not granted continuing State funding despite explicit recommendations from the Aboriginal Affairs Planning Authority (Johnston & Tann, 1991, p. 44), eventually leading to its demise due to lack of funds (L. Rogge, personal communication, 2010). Similarly, the NP&CR Policy Unit which “promot[ed] Aboriginal interests” and engaged in extensive consultation with Kimberley Aboriginal people about the potential opportunities for accessing their traditional land (Johnston & Tann, 1991, p. 3) was abolished.

Notably, there was no delivery from the State on the matters discussed in the forums created to negotiate these relationships, while emergent recommendations were not followed through in any meaningful manner. Indeed, many of the recommendations were ignored and continue to be so. For instance, the State went on to declare the Mitchell Plateau and Lawley River National Parks without consultation with the Traditional Owners even while the areas were subject to the Uunguu Native Title claim (Crawford, 2001) – events mirrored in current processes surrounding the establishment of Kimberley marine parks.

Another example of the State's reluctance to even grant rights already recognised at the Federal level to Traditional Owners arose in 1995. The High Court found the *Land (Titles and Traditional Usage) Act 1993 (WA)*, proposed by State government in response to the Seaman Inquiry, to be inconsistent with the *Native Title Act 1993 (Commonwealth)*. Thus, unlike other states in Australia, there is no WA State-based Native Title legislation and so Aboriginal people wanting to make a claim to their traditional country do so under the *Commonwealth Native Title Act 1993*. Though a Federal level process, it has been accused of being vulnerable to State level political interference (Anon, 2010b) and there is a common perception among Traditional Owners and workers in Aboriginal organisations of State government reluctance to engage on indigenous issues in good faith. Thus, despite signs for positive change in relations between government and Aboriginal interests more than two decades ago, most of the issues raised in those years were never satisfactorily resolved and many remain the same to this day.

Proactive Aboriginal engagement in the western paradigm

Despite the State government's reluctance to commit to addressing issues of Aboriginal interest, Kimberley Traditional Owners have continued to proactively engage in government-derived western bureaucratic approaches and processes in relation to land and visitor management. The formation of the KLC and later GNAC are examples which highlight this proactive approach to have their ownership of their country and their sites of particular significance as well as their standing as more than mere stakeholders formally recognised. Resilience and continued efforts on the part of the Traditional Owners are further demonstrated in government and other reports (Johnston & Tann, 1991) and particularly documents such as the Land of Wandjina and Wunggurr – Ngauwudu Management Plan (Wunambal Gaambera Aboriginal Corporation, 2001) and the North Kimberley Saltwater Country Plan for Balanggarra, Uunguu, Dambimangari and Mayala Saltwater Country (North Kimberley Saltwater Country Steering Committee, 2010). The latter is the latest in a range of “western style” documents aimed to (re)insert the Traditional Owners into management processes and directed to particular government agencies who are considered responsible for these matters. Nonetheless, the situation has, in real terms, changed little despite Native Title determinations in some areas. Thus, Traditional Owners and their representative organisations continue their proactive tradition of the past 40 years and are still demanding that their cultural rights and practices be taken seriously⁸. The consistent and persistent message regarding unsanctioned tourism access examined below is a case in point.

The problem of unsanctioned tourism access – a consistent message

The message from Traditional Owners regarding tourism activities and visitor access to Kimberley coastal country has been consistent and well documented, particularly in the last three decades: “this is our country and we want to be asked for permission to access

our country” (e.g. Johnston & Tann, 1991; Scherrer et al., 2008). The seemingly simple request is a reflection of the continuing struggle for basic respect and recognition of the Traditional Owners’ cultural rights and responsibilities. Visitors accessing country without Traditional Owners’ permission constitutes a breach of the local Aboriginal Laws and customs and indicates to them that their fundamental rights are being ignored and their autonomy over their traditional country is undermined. Documented concerns (see ‘Johnston & Tann, 1991; Kimberley Land Council, 1998, 2000, 2004a, 2008b, 2010; Scherrer et al., 2008; Wunambal Gaambera Aboriginal Corporation, 2001, 2008) include the following:

- Tourism has been occurring uninvited.
- Presence of uninvited strangers on Traditional Owners’ country poses threats to the integrity of their country, their community wellbeing and themselves.
- Tourism results in physical and metaphysical threats to Aboriginal sites.
- Tourism exposes visitors to potentially dangerous (physically and metaphysically) areas/situations.
- Tourism does not provide revenues to the Traditional Owners as recompense for accessing their country and using it as a commercial resource.
- There was a lack of government policies and State legislation with regard to the management of tourism (and other) issues, or existing policies/legislation was inappropriate or underutilised.
- There was a lack of coordination between relevant government agencies to deal with tourism activities that frequently crossed cultural and administrative boundaries.
- Appropriate and effective engagement with Traditional Owners did not occur, or occurred without any apparent influence or occurred after the course of action was set as a rubber stamping exercise.

Yet to date, the issue of access without consent persists as a key concern for Traditional Owners. As Donny Woolagoodja, a Senior Dambimangari Traditional Owner explains: “One problem we are facing is that people going to these [sacred] sites, and we don’t have protection. . . . How can we stop the tourists from going there? Unless they are coming to us?” (Kimberley Land Council, 2008b, p. 2). As Scherrer and Doohan (2011) highlight, access without consent also remains the overarching cultural impact of tourism and an obstacle for achieving culturally sustainable tourism in the region. It further creates uncertainties for tourism operators and Traditional Owners alike, as well as management and policy headaches for government agencies and politicians, while Traditional Owners are also denied economic benefits from tourism activities, highlighting the social injustice of current tourism and other visitor activities.

Wicked problem characteristics

So why, after almost 30 years of repeatedly seeking to be asked, is access consent still not achieved and continues to hinder positive relations between Traditional Owners and the tourism industry in the Kimberley? The following discussion refers to Rittel and Webber’s (1973) 10 characteristics of wicked problems to systematically elucidate the problem and its “wicked” nature.

There is no definite formulation of a wicked problem.

Every wicked problem can be considered to be a symptom of another problem.

From a Traditional Owner perspective, the problem may seem clear and straightforward: visitors are not asking for permission to access Traditional Owner lands. However, if you are part of the Kimberley cruise tourism industry who has had unsanctioned access for decades, the access issue is not really a big issue as (1) it can be ignored without (apparent) consequences as continues to happen; or (2) it may be perceived to be a government responsibility that they should fix but are unlikely to do anything about. Thus in examining the historical and political context, it becomes obvious that the problem is not simple and contains many sub-contexts which reflect not only relative positions of power between the participants but also contrasting ontologies and contradicting risk management strategies. For example, some tourism operators have indicated that they are reluctant to ask for permission to access specific sites or areas, as it would not only reveal in detail the areas/sites they have been accessing already (without permission), but more importantly, they fear that permission may be refused or made (overly) conditional (e.g. with regard to management practices, visitor activities, remuneration/compensation for access, period of access and so on). Thus, engaging in respectful communication presents perceived “risks” and “costs” to their operations, while the current operational realities of illegal access remain without penalty and are not enforced by government. Hence, the problem actually can be seen as one where the tourism operators have been allowed to have unsanctioned access for decades; which could be further reframed as a problem arising from a lack of resources for enforcement; which may actually be more a problem of lack of political will. . . and the problem (re)formulation goes on and on depending on who is defending or asserting their position and interpretation of events and consequences.

The Traditional Owners of the area are not actually opposed to tourism in the area *per se*, but are particularly concerned about the risks – ontological, epistemological and other, that unsanctioned activities (i.e. activities without permission from Traditional Owners) have on their country, their communities and themselves as well as the *visitors* for whom they are responsible when in their country (Johnston & Tann, 1991; Scherrer & Doohan, 2011; Smith et al., 2009). Therefore, yet another aspect of this multifaceted ever difficult problem is “who is responsible for the safety and wellbeing of those visiting the Kimberley coast?”

Wicked problems have no stopping rule.

The local problem of unsanctioned tourism access to the Kimberley coast could be seen as akin to the outer layer of an onion, which when peeled, reveals another layer – a deeper but no less important layer – which often exposes the complex nature of the problem. To carry the analogy further it is worth considering that the tear-inducing centre of the onion is analogous to the continuing deep colonisation and oppression of Aboriginal rights and interests and that the unwillingness to “ask” demonstrates the continuing impacts of erasure of Traditional Owners’ ontological presence from the Kimberley coast and their epistemological responses to tour operators’ and government’s inaction (see also CERD, 2010; Cross, 2008; Howitt & Suchet-Pearson, 2006; Ross, 1991). Thus, an apparent solution to the “superficial” local access issue may simply uncover a deeper layer of this complex issue of the past and continuing injustice. Alternatively, more broad based solutions may simply act as a semblance of change, thus not resolving the problem but further embedding it into apparent resolutions. The following example highlights some of these elements.

The Wunambal Gaambera Aboriginal Corporation (Traditional Owners connected to the Unguu determination area) has been attempting since about 2005 to implement

(some operators fear impose) a “visitor access pass” to certain areas in the north Kimberley coastal country and specific cultural sites in the Uunguu determination area⁹ (Wunambal Gaambera Aboriginal Corporation, 2008). There is an expectation by some Traditional Owners and elements of representative organisations that the recent determination of Native Title to this region will provide a strengthened platform for this action – a platform that cannot be dismissed as in the past. However, the transition to acceptance, compliance and implementation of this scheme has not been uncontested and almost one year after the determination has not been implemented. There is concern that this action might compound the issue of uninvited access to country and that operators will simply shift their activities to non-listed or non-monitored sites and not advertise where they will take their tourists, creating an almost impossible management and monitoring problem to boot. Thus, a new element of the problem then becomes “how to effectively manage and monitor the visitor pass terms and conditions for each operator?”

Solutions to wicked problems are not true or false, but good or bad.

In a situation whereby the three key participants to the problem – Kimberley Traditional Owners, government and its agents and tourism operators/tourists – operate from positions of different worldviews, knowledge constructions, notions of harm and benefit and ethical behaviour, value judgments concerning potential solutions are likely to differ widely. Reliance on a common notion of the true-or-false approach embedded in western linear thinking and praxis is not appropriate in this value-laden intercultural context of individual and group interests. That is, to simply hope that one party will be able to create, implement, manage and monitor visitor access to Traditional Owners country is not workable. Rather, this approach is likely to generate (within a very short time) even more “problems” for Traditional Owners and operators alike and further entrench existing biases and barriers to engagement.

Wicked problems do not have an enumerable (or an exhaustively describable) set of potential solutions, nor is there a well-described set of permissible operations that may be incorporated into the plan.

There is no immediate and no ultimate test of a solution to a wicked problem.

As the complex context of the Kimberley cruise tourism situation suggests, it is impossible to predict the consequences of any intervention aimed at resolving the problem of how to make visitors ask for permission to access country and how to ask to visit country. We hope, for the benefit of Traditional Owners and the tour operators, that the particular nature of this “wicked problem” is not, as Rittel and Webber (1973, p. 163) caution, one in which the consequences (of changed behaviour) outweigh the intended advantages of changing the behaviour. It would appear from the outside that getting “permission” sorted would actually meet the stated aims of at least two key parties to the problem, the Traditional Owners – being respected and rightfully located as owners and custodians of place; and the cruise tourism operators – gaining standing and credit in the culturally sensitive and eco-tourism industry.

Every wicked problem is essentially unique.

The Traditional Owners and the tour operators and indeed the State government are very clear that their needs, their experiences and their responses are unique. However,

this uniqueness is not so particular that lessons cannot be learned, that comparisons cannot be made and that shifting positions is not possible. For instance, although context specific to parts of Arnhem Land, the Dhimurru visitor pass system and associated management and monitoring strategies and experiences can provide direction and understanding to those in the Kimberley (Dhimurru, 2004). Indeed, some of the tour operators also conduct tourism activities in the Northern Territory and north Queensland where they are already subject to regimes requiring application for permits to access coastal areas (S. Suchet-Pearson, personal communication, 2011).

The existence of a discrepancy representing a wicked problem can be explained in numerous ways. The choice of explanation determines the nature of the problem's resolution.

Rittel and Webber (1973, p. 166) explain that those in the problem often articulate explanations about perceived discrepancies that best suit their (unarticulated) intentions and through this hope to accomplish certain aims which are generated from within their worldview. In the Kimberley context, this is reflected in stakeholders' individual priorities and their assigning of responsibilities. For example, during the course of a "typical" Kimberley expedition cruise which traces the coast from Broome to Wyndham and consists of sea, river, island and land-based activities: (1) DEC officers may be concerned about the visitors' activities *if they enter a conservation reserve*; (2) the Department of Fisheries may be concerned about compliance with fishing regulations *when in State waters*; and (3) the Department of Indigenous Affairs (under delegation from ALT) would be responsible for granting access permits to conduct *land-based activities on Aboriginal Reserve land*. Thus, the temporally limited cross-boundary activities of tourism along the Kimberley coast result in a dissected nature of government agencies' administrative responsibilities. In the context of limited budgets and minimal, if any, on-site presence, the issue of tourism access is effectively rendered a "minor" issue in their individual management portfolios and is commonly shifted onto "other agencies which are better resourced than us" with little interest in seeking and implementing joint solutions. This risk averse intolerance of "messy processes" and deliberate exclusion of beyond-boundary issues is a common approach in traditional bureaucratic structures and contributes to the relentless nature of wicked problems (Australian Public Service Commission, 2007; Lawrence, 2010; Weber & Khademian, 2008). As a result, the frequent but transient and remote tourism activities in the context of this paper are rarely considered core business within relevant government agencies and have to date evaded a collective government approach to their management even though they are a core concern of Aboriginal groups (see e.g. North Kimberley Saltwater Country Steering Committee, 2010; Wunambal Gaambera Aboriginal Corporation, 2008).

Every solution to a wicked problem is a "one-shot operation"; because there is no opportunity to learn by trial-and-error, every attempt counts significantly.

The planner has no right to be wrong.

It is clear that the effects of the actions and inactions of governments and tourism operators matter a great deal particularly to the Traditional Owners of Kimberley coastal areas at the scale of both individuals and communities. The gazetting of the Mitchell River and Lawley River National Parks may have alleviated concerns by the State government conservation agency whilst appeasing mining interests through adjusting reserve boundaries to exclude large ore deposits. However, it ignored the people most affected by

those actions, the Traditional Owners, excluding them from decisions including those relating to tourism visitation. Similarly, the recent announcements concerning the gazetting of Marine Parks in the Dambimangari, Unguu determination areas and the Balangarra Native Title claim areas are examples of this continuing erasure, dispossession and disrespect of Traditional Owners relationships to country. These actions also reinforce past political patterns and contribute to the accumulation of “emotional toxic waste” (Luz, 2000) which has and will continue to affect even positive efforts towards resolution of the access issues.

Chronic policy failure

As evident from the above assessment set against Rittel and Webber’s (1973) criteria, the longstanding problem of unsanctioned visitor access along the Kimberley coast can clearly be characterised as a wicked problem. The lack of recognition of its true inherent (wicked) nature has contributed to what the Australian Public Service Commission (2007) and Weber and Khademian (2008) would call chronic policy failure. We suggest that recognising the wickedness of this problem provides a more realistic framework to guide participants in engaging more effectively with the “real” aspects of the problem. The need for such recognition and for historical accountability and reflective processes within organisations was pertinently illustrated during two meetings of the Saltwater Country Steering Committee (made up of Traditional Owner representatives from the four coastal Native Title groups) and the Technical Advisory Group (made up predominantly of representatives from government agencies) (Kimberley Land Council, 2008b, 2010). At the 2008 meeting, Tourism Western Australia made a commitment to lead a multi-agency approach and tackle the issue of tourism access, with agencies reporting back to the Saltwater Country Steering Committee within three months to then commence a collaborative process to address the issues and concerns raised by the various parties. It did not happen. Two years later, at the 2010 meeting, the Traditional Owners and the same government agencies, though largely represented by different staff, discussed the same issues regarding access and enthusiastically drew up a resolution “that representatives of the relevant licensing agencies (Department of Transport, DEC, DIA, Fisheries WA, DEWHA, Norwest Tourism [sic]) and Traditional Owners, chaired by the KLC, meet as a working group within the next three months to work out how licensing can assist the introduction of a Traditional Owner Permit System to formalise visitor access along the Kimberley Coast” (Kimberley Land Council, 2010, p. 4). Within a month of the meeting, the resolution had already “dropped off the agenda” from all but one agency. In communications with the primary author, the government agency representatives, though apparently enthusiastic at the meeting about tackling this “arising” problem, cited “other priorities”, the “need to focus on core business” and “resource constraints” as the reasons for this lack of response. In short, what has been, is and continues to be the most important issue for Traditional Owners in relation to the operation of the cruise tourism operations – seeking permission – barely ranks on the priority lists of relevant government agencies. Furthermore, the representative organisations who assist the Traditional Owners in this context have been unable to effectively promote their interests.

Evidence drawn upon in this paper further suggests that the resolution of the issue goes far beyond recognising land rights and the implementation of a permit system for visitors/tourists. Indeed, the already existing and legislatively based permit system (Department of Indigenous Affairs, 2006) for visitor access to Aboriginal reserve lands (in which many of the current shore-based activities occur) is a case in point, because, despite this requirement, coastal activities have continued without permits and without

any consequences to perpetrators¹⁰. Indeed, there have been no prosecutions under section 31 of the *Aboriginal Affairs Planning Authority Act 1972* which relates to trespass on reserved land (P. Collier, WA Minister for Energy, Training and Workforce Development, Indigenous Affairs, personal communication, 2012) despite frequent and regular visitor access by commercial operators and their clients. Visitors on organised tours are largely unaware of the permit requirements (Scherrer, Smith, & Dowling, 2011) and in the past, no operators had been granted a permit for any ALT reserves in the Kimberley (Scherrer et al., 2008), though it appears that there had been no recent applications from coastal tourism operators (J. Groves, DIA, personal communication, 2010). This stands in contrast with operator permits from the Department of Environment and Conservation (DEC) obtained by commercial operators accessing the Prince Regent Nature Reserve. This reserve is en route to some of the expedition cruises' areas of interest and is nestled amongst Aboriginal Reserve lands that are also accessed by these tours. This highlights that there may be more to non-compliance with permit requirements regarding access to Traditional Owner lands than being simply an issue of the current system.

Making things come good

It is clear that the problem of unauthorised visitor access to the Kimberley coastal region has not and will not go away. Neither ignoring the issue nor single-sided attempts to "solve" the problem have managed to dissipate the importance of the issue to Traditional Owners or provided a basis for sustainable cruise industry tourism in the Kimberley. It is also clear that the wickedness of the current problem is not a recent phenomenon but rather a continuation and reformulation of outstanding concerns that remain within the lived experience of senior Traditional Owners (although many have died in the intervening years), the oral history of younger Traditional Owners and the archives of various government departments. As Donny Woolagoodja, a Senior Dambimangari Traditional Owner expressed: "We were talking about this in the 1960s and now everyone is still here, but getting older. We tried all this with the government and nothing happened. Now we have to try this before all the old people passed away and are gone" (Kimberley Land Council, 2008b).

Our findings suggest that even the two key strategies pursued by Traditional Owners, their representative bodies and agents, (1) a visitor permit system and (2) land rights through Native Title, are unlikely to solve the wicked problem of visitor access to the Kimberley coast. Time, we believe, was not a limiting factor in this situation, nor was it access to the appropriate Traditional Owners. So what continues to hamper progress towards a resolution? And what avenues should be explored in efforts to breaking the impasse? The following briefly explores avenues to "make things come good".

The limits of transdisciplinarity and open critical enquiry

Transdisciplinarity and open critical enquiry are seen as key approaches to deal with wicked problems (e.g. Horlick-Jones & Sime, 2004; Russell, 2010). The generation of transdisciplinary understanding is seen as an antidote to reductionist approaches producing generalised and de-contextualised disciplinary knowledge (Horlick-Jones & Sime, 2004). The complex nature of societal (wicked) problems and their local uniqueness (Rittel & Webber, 1973) could thus benefit from approaches that actively seek to cross disciplinary boundaries as well as incorporate experience and value-based knowledge. Indeed, frameworks such as the "Guiding principles for open and critical transdisciplinary approaches to inquiry" outlined by Russell (2010) provide valuable guidance for problem

participants actively seeking resolution, as well as researchers evaluating a problem. But what if some participants do not seek a resolution?

Our evidence suggests that the wicked problem examined in this study highlights the favoured weighting of western over Aboriginal value and knowledge systems. It continues to exist unabated because the power relationship with Traditional Owners is still grossly imbalanced in favour of government and business and it has been in those parties' interest not to be resolved. Indeed, as Dredge and Jenkins (2011, p. 4) highlight, under the guise of political modernisation, industry and corporate interests are becoming increasingly aligned and intertwined, while "(i)ssues of public interest, social justice, equity, transparency and accountability. . . remain outside the focus (or interest) of planning and policy practice in many cases". As demonstrated in this paper, past and current practice by the WA State government subscribes to this and demonstrates a lack of genuine interest to seek the taming of the problem, rendering a transdisciplinary and critical approach with their involvement futile.

Problem ownership and transformational learning

As our study of the Kimberley access problem documents, this is a problem long overdue for resolution. The issue is continually affecting relations amongst participants, is hampering efforts to develop effective management, monitoring and evaluation tools (Scherrer & Doohan, 2011) and is creating risks to Traditional Owners and also tourism operators and their visitors (Scherrer et al., 2010, 2011). Add to that evidence that the tourism industry is particularly susceptible to public perceptions (Lexow & Edelheim, 2004) and a genuine interest by operators "to do the right thing" (J. Lowe, KMTA, personal communication 2010), we believe that there may be sufficient motivation and indeed a unique opportunity for tourism operators to fast-track the taming of the tourism access problem by bypassing government and engaging in transformational learning through direct engagement with Traditional Owners.

Transformational learning involves three key phases: (1) the recognition and critical evaluation of one's own position in relation to that of others (Brookfield 2000); (2) performative action in a continual process of change that facilitates a shift in one's assumptions and beliefs (Bourdieu, 1997; Friedmann, 1987; Mezirow, 2000), and which ultimately may lead to (3) a dynamic state of "co-experience" – a hybrid or third space in which tolerance and respect facilitates the co-existence of multiple worldviews on an equal basis (Bhaba, 1994; Scherrer & Doohan, 2013).

There is a vast gap of cultural realities and meaning assigned to the Kimberley coastal region between the tourist perspective (represented by tourists, tourism operators and government representatives) and Traditional Owners. To tourism, the Kimberley represents "wilderness" and "glamour" (Scherrer et al., 2008) while the meaning of the area to Traditional Owners, their holistic connection and cultural responsibilities to country are lost to most. We see an opportunity for tourism operators to take ownership of this problem that brings uncertainty to their operations and to seek direct solutions without expecting government to sort things out on their behalf. The situated environment of the Kimberley cruise industry provides an opportunity for an engaged process of transformational learning whereby contrasting cultural realities are exposed and dissected in-situ under the skilled facilitation of cultural interpreters. Scherrer and Doohan (2013) propose a transformational learning framework to overcome ontological barriers between Western and Indigenous world views to which Mezirow's (2000) 10 steps towards a transformed state could contribute appropriate process detail. Engagement of Kimberley tourism

operators with this process may commence a life-long process of transformational learning and has potential to positively transform their business towards achieving cultural sustainability. Reflexive processes as part of a transformational learning approach thus are promising tools for the taming of the wicked problem and provide a positive alternative to assist the tourism industry to become truly culturally sustainable. A newly established Aboriginal cultural tourism venture appears to be providing solid evidence that change is possible – further research over time will provide a greater understanding of these processes in action and transformation.

Notes

1. The term “Traditional Owners” in the Australian context of the Kimberley region has become synonymous with a generalised and unspecified sense of those Aborigines who belong to certain “country” and places and have the right to speak for that country and those places based on their own laws and customs (Doohan, 2007, p. 5).
2. Native title is “the recognition by Australian law that some indigenous people have rights and interests to their land that come from their traditional laws and customs” (NNTT, 2012).
3. The term “country” in the context of Aboriginal Australia refers to a geographic area to which a Traditional Owner is associated with, and bears responsibility for, through Aboriginal law. Country is a complex construction that pervades physical and other boundaries and includes natural features, geological forms, sense of place, meaning and identity (Blundell & Woolagoodja, 2005).
4. Traditional Owners continue to contest the legality and legitimacy of the conservation estates in the Mitchell Plateau area which were declared without appropriate consultation and agreement (Wunambal Gaambera Aboriginal Corporation, 2001) and in the Prince Regent region (a declared Nature Reserve) are demanding to be fully integrated into the planning and management of this region.
5. Expedition cruise vessels range in passenger capacity from 4 to 106 passengers (plus crew).
6. The term “blackbirding” refers to captive workers from the Pacific islands taken forcibly to work as labourers in northeastern Australia between the 1860s and the early 1900s.
7. Even before the formal formation of the KLC, Aboriginal people were attempting to have their connections to and ownership of country recognised. For example, the late Lorrie Utemorrhah together with other senior Kimberley Aboriginal people had been seeking to secure land tenure on the Mitchell Plateau since 1977 and commenced legal proceedings for a common law native title claim (Johnston & Tann, 1991).
8. It is taken as a given that Aboriginal people have since the first incursions of Europeans into their traditional country attempted to secure appropriate behaviours and permission seeking processes.
9. At the time of writing the Uunguu Visitor Pass (UVP) was being finalised as a web based interactive permitting system and expected to be launched and operational in April/May 2013.
10. It is not a requirement for the Traditional Owners to be asked about the granting of these permits.

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