

# A review of the *Conservation Legislation Amendment Act 2011*: How are Western Australia's joint management arrangements working? July 2020



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Cover images:

**Main** Yawuru Rangers and Parks and Wildlife Service staff in Broome.

**Inset top** Miriuwung and Gajerrong (MG) Rangers repairing an all-terrain vehicle.

**Inset centre** Joint management planning, Yawuru country.

**Inset bottom** Clearing a proposed walk trail with Ngarda-ngarli elders and Murujuga Land and Sea Unit (MLSU) Rangers.

**Back cover** Fencing in Miriuwung-Gajerrong country.

*Photos – DBCA*

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## Introduction

The *Conservation Legislation Amendment Act 2011* enabled Aboriginal groups to have a formal role in the management of Western Australia's conservation estate and recognised the intrinsic connection that Aboriginal people have with the land and sea. Specifically, the 2011 amendments to the *Conservation and Land Management Act 1984* (CALM Act) provided for:

- formal joint management of CALM Act lands and waters, private and other land with traditional owners
- Aboriginal people to carry out customary activities on lands and waters managed by the Department of Biodiversity, Conservation and Attractions' (DBCA's) Parks and Wildlife Service
- a management objective to protect and conserve the value of the land to the culture and heritage of Aboriginal persons.

These amendments provided a statutory framework for the implementation of existing native title agreements, including the Burrup and Maitland Industrial Estates Agreement (2003), the Ord Final Agreement (2005) and the Yawuru agreements for Broome (2010), and negotiation of future agreements. Since the bill came into force, a further seven Indigenous Land Use Agreements (ILUAs) and joint management agreements (JMAs) have been negotiated in the Kimberley, and an ILUA agreement with the Gnulli Native Title group in the Pilbara is being implemented. As part of the South West Native Title Settlement, DBCA will enter into joint management arrangements with the Noongar people. Joint vesting and joint management are also key components of the Yamatji Nation Southern Regional Agreement in the Geraldton area. In February 2019, the State Government announced Plan for Our Parks, a new initiative to secure five million hectares of new and expanded national parks, marine parks and other conservation reserves over the next five years (Government of Western Australia 2019). Through the initiative, the State Government will work with traditional owners to create and jointly manage additions to the conservation estate.

Further legislative changes in 2015 provided for the joint vesting of national parks, conservation parks and nature reserves with Aboriginal people, which provided additional recognition of traditional owners on the title of land. Existing Government election commitments include negotiation of joint management arrangements for existing and proposed conservation estate in the Fitzroy River region and the Buccaneer Archipelago (proposed new parks are now part of the Plan for Our Parks initiative), and the joint vesting of marine parks (WA Labor 2017).

Under Section 143 of the CALM Act, Ministerial review of the operations of the 2011 CALM Act amendments is required as soon as practicable after five years from the date the amendment Act received Royal Assent (13 September 2011). This will consider whether the policy objectives that the amendments were based on remain valid, and whether the amendments remain appropriate to achieve those objectives. The key outcomes of the amendments are discussed below.

This report has been informed by a comprehensive review process undertaken by DBCA on the implementation of the *Conservation Legislation Amendment Act 2011*. The DBCA process was focussed on formal joint management arrangements (i.e. those for which a JMA under the CALM Act has been negotiated by the relevant parties) in the Kimberley and the Pilbara and involved a desktop analysis of relevant policies and guidelines, JMAs, management plans and communication material; face-to-face discussions with traditional owners and government staff involved in the implementation of the CALM Act amendments; and participation in joint management body (JMB) / park council meetings.

This review finds that the 2011 amendments to the CALM Act are appropriate to achieve the policy objectives to facilitate joint management of CALM Act lands and waters; to enshrine the rights for Aboriginal customary activities and traditions on these lands and waters; and to protect and conserve the values of the land for Aboriginal culture and heritage. Furthermore, the 2011 amendments have assisted with the effective resolution of competing demands for establishing a comprehensive, adequate and representative national reserve system in WA in accordance with Australia's international treaty obligations, together with the recognition and determination of native title in favour of Aboriginal traditional owners.



**Above:** Yawuru rangers sampling for benthic invertebrates, Yawuru Nagulagun / Roebuck Bay Marine Park. *Photo - DBCA*

## Results and discussion

### Joint management of CALM Act lands and waters, private and other land

#### Existing joint management arrangements

As of 1 June 2020, 34 existing and proposed parks and reserves in WA, totalling more than 2.6 million hectares, are jointly managed through formal arrangements with Aboriginal people. This area equates to 10 percent of the State's conservation reserve system. The majority of the formal management partnerships are in the Kimberley Region (Maps 1 and 2).

The Ord Final Agreement established six conservation parks, which are held by Miriuwung and Gajerrong (MG) under freehold title and leased back to the State at a peppercorn rent for up to 200 years. Currently six MG rangers are directly employed by DBCA.

The Yawuru conservation estate comprises four areas with varying vesting and joint management arrangements. The Yawuru Birragun Conservation Park ('out of town areas'; conditional freehold to Yawuru) and the Yawuru Nagulagun / Roebuck Bay Marine Park (vested with the Conservation and Parks Commission) are jointly managed under the CALM Act by Yawuru and DBCA. The Yawuru Minyirr Buru Conservation Park ('in town reserves'; management order placed jointly with Yawuru and the Shire of Broome) is reserved under the *Land Administration Act 1997* (Land Administration Act) and jointly managed by Yawuru and the Shire of Broome with assistance from DBCA. The Guniyan Binba Conservation Park ('Cable Beach intertidal area'; management order placed jointly with Yawuru, the Conservation and Parks Commission and the Shire of Broome) is reserved under the Land Administration Act and jointly managed under the CALM Act by Yawuru, DBCA and the Shire of Broome. Six Yawuru people are employed in the joint management program with DBCA, including four rangers, an operations officer and a trainee ranger.

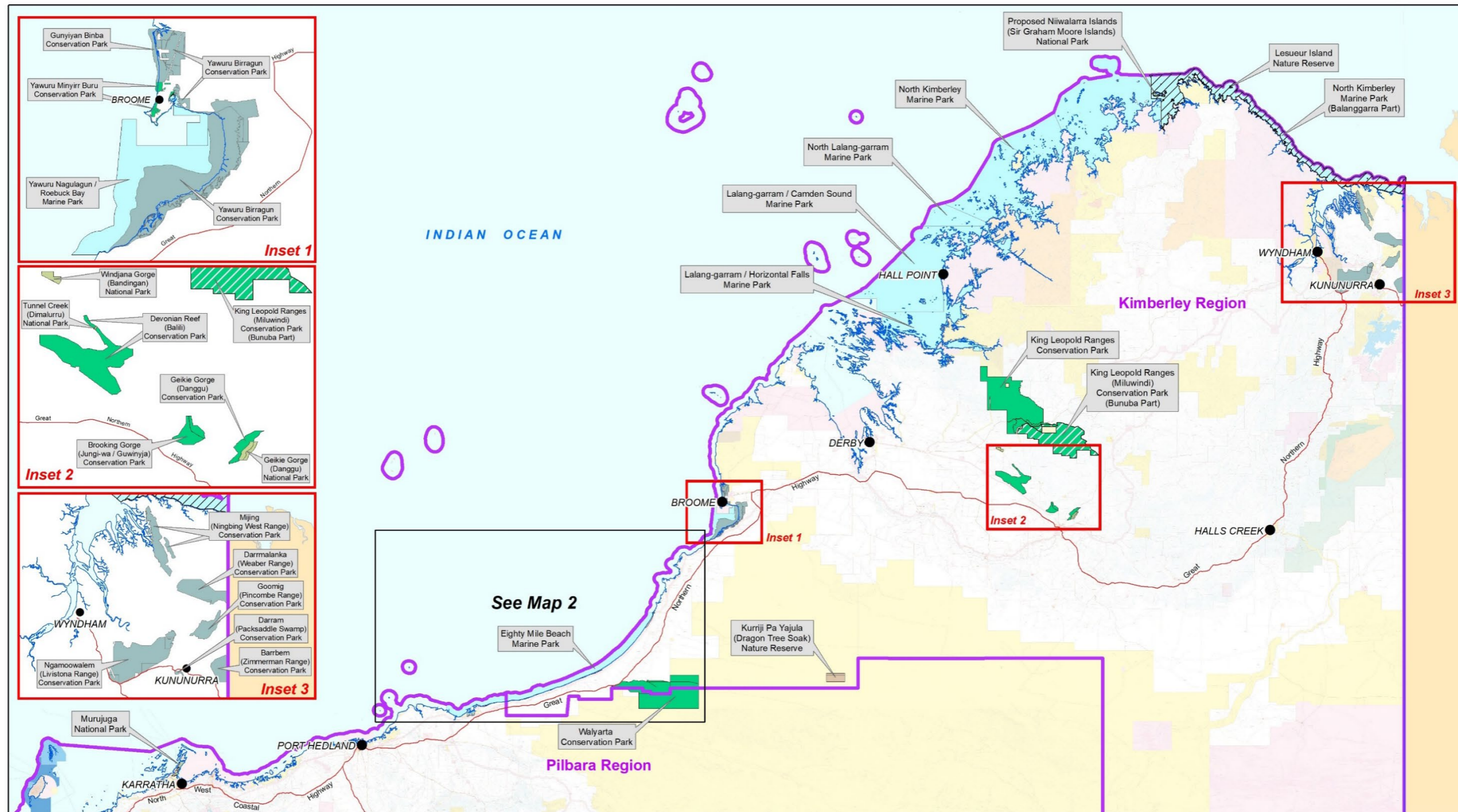
Murujuga National Park is freehold land on the Burrup Peninsula in the Pilbara, owned by the Murujuga Aboriginal Corporation (MAC) and leased back to the State at a peppercorn rent for 99 years, with an option to review for a further 99 years. Six *Ngarda-ngarli* rangers and one ranger coordinator are currently employed under the Murujuga Land and Sea Unit. Their employment is partially funded through the management partnership with MAC. MAC and DBCA are working together to prepare a world heritage nomination document for Murujuga.

A range of other JMAs in the Kimberley, motivated by the need for native title settlements as well as the amendments to the CALM Act, were negotiated under the Kimberley Science and Conservation Strategy. These provide funding (differing amounts for each agreement) for direct employment with DBCA and/or fee-for-service contracts for the delivery of specific projects. Several of these arrangements are still in the early stages of implementation.

Further details of the respective joint management arrangements are included in Table 1.

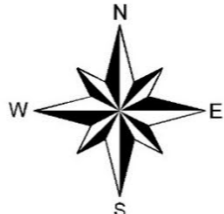


Map 1: Parks and reserves under formal joint management arrangements



**Legend**

 National Park	 Townsite
 Nature Reserve	 Highway
 Conservation Park	 DBCA Region Boundary
 Section 5(1)(g) Reserve	
 Section 5(1)(h) Reserve	
 Marine Park	

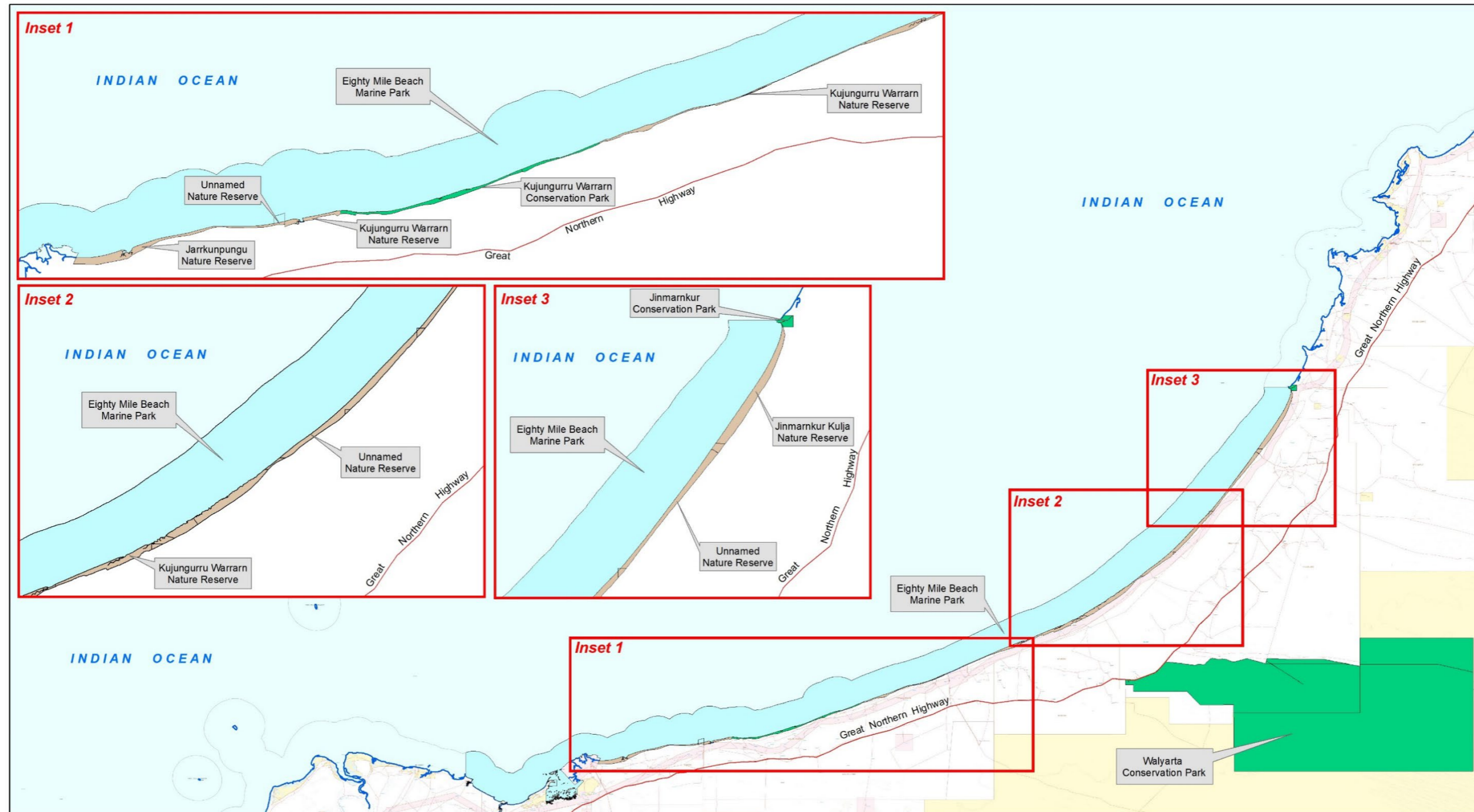


0 50 100 200 300 400 Kilometres

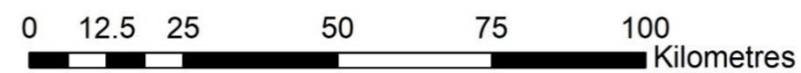
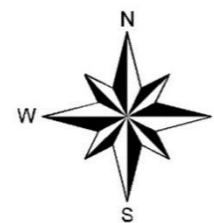
**Map 1**  
Parks and reserves under formal joint management arrangements



Map 2: Parks and reserves under formal joint management arrangements (Eighty Mile Beach)



- Legend**
- Nature Reserve
  - Conservation Park
  - Marine Park
  - Highway



**Map 2**  
Parks and reserves under formal joint management arrangements (Eighty Mile Beach)



Table 1: Overview of existing joint management arrangements

Aboriginal joint management partner	Yawoorroong Miriuwung Gajerrong Yirrgbe Noong Dawang (MG) Corporation	Balanggarra Aboriginal Corporation RNTBC	Bunuba Dawangarri Aboriginal Corporation RNTBC	Dambimangari Aboriginal Corporation RNTBC	Yawuru Native Title Holders Aboriginal Corporation RNTBC		Karajarri Traditional Lands Association RNTBC	Nyangumarta-Karajarri Aboriginal Corporation RNTBC	Nyangumarta Warrarn Aboriginal Corporation RNTBC	Wanparta Aboriginal Corporation RNTBC	Murujuga Aboriginal Corporation
DBCA Region and District	Kimberley, East Kimberley	Kimberley, East Kimberley	Kimberley, West Kimberley	Kimberley, West Kimberley	Kimberley, West Kimberley		Kimberley, West Kimberley	Kimberley, West Kimberley	Kimberley, West Kimberley	Kimberley, West Kimberley	Pilbara, Karratha
Type of JMA	Through Ord Final Agreement ILUA, not yet under CALM Act	Section 56A	Section 56A	Section 56A	Section 56A	Currently under s56A; Section 8A when freehold transfer completed	Section 56A	Section 56A	Section 56A	Section 56A	Section 8A
Jointly managed parks and reserves, tenure, class and vesting	<p>Mijing (Ningbing West Range) Conservation Park<sup>[a]</sup> – Unclassified s5(1)(h) R49691</p> <p>Darrmalanka (Weaber Range) Conservation Park<sup>[a]</sup> – Unclassified s5(1)(h) R49696 and R50329</p> <p>Goomig (Pincombe Range) Conservation Park<sup>[a]</sup> – Unclassified s5(1)(h) R49697</p> <p>Barrbem (Zimmerman Range) Conservation Park<sup>[a]</sup> – Unclassified s5(1)(h) R49694</p> <p>Darram (Packsaddle Swamp) Conservation Park<sup>[a]</sup> – Unclassified s5(1)(h) R50438</p> <p>Ngamoowalem (Livistona Range) Conservation Park<sup>[a]</sup> – Unclassified s5(1)(h) R49678</p>	<p>North Kimberley Marine Park (Balanggarra Part)<sup>[b]</sup> – Class A M20</p> <p>Niiwalarra (Sir Graham Moore) Islands) National Park<sup>[a]</sup> – Class A R53387</p> <p>Lesueur Island Nature Reserve<sup>[a]</sup> – Class A R44678</p>	<p>Brooking Gorge (Jungi-wa / Guwinyja) Conservation Park<sup>[a]</sup> – Unclassified R43101</p> <p>Devonian Reef (Balili) Conservation Park<sup>[a]</sup> – Unclassified R43099</p> <p>Geike Gorge (Danggu) National Park<sup>[a]</sup> – Class A R28401</p> <p>Geike Gorge (Danggu) Conservation Park<sup>[a]</sup> – Unclassified R43100</p> <p>King Leopold Ranges (Miluwindi) Conservation Park (Bunuba Part)<sup>[a]</sup> – Class A R46235</p> <p>Tunnel Creek (Dimalurru) National Park<sup>[a]</sup> – Class A R26890</p> <p>Windjana Gorge (Bandingan NP) National Park<sup>[a]</sup> – Class A R31107</p>	<p>Lalang-garram / Camden Sound Marine Park<sup>[b]</sup> – Class A M15</p> <p>Lalang-garram / Horizontal Falls Marine Park<sup>[b]</sup> – Class A M18</p> <p>North Lalang-garram Marine Park<sup>[b]</sup> – Class A M19</p>	<p>Yawuru Nagulagun / Roebuck Bay Marine Park<sup>[b]</sup> – Class A M17</p>	<p>Yawuru Birragun Conservation Park – Unclassified s5(1)(h) Various reserves (all to become conditional freehold; will not have reserve number or classification)</p> <p>Guniyan Binba Conservation Park<sup>[c]</sup> – Class A s5(1)(h) R51162</p> <p>Yawuru Minyirr Buru Conservation Park<sup>[d]</sup> – Unclassified (proposed Class A s5(1)(h)) Various reserves</p>	<p>Eighty Mile Beach Marine Park (Karajarri Part)<sup>[b]</sup> – Class A M16</p> <p>Jinmarnkur Conservation Park<sup>[a]</sup> – Unclassified R52367</p> <p>Jinmarnkur Kulja Nature Reserve<sup>[a]</sup> – Class A R52364</p> <p>Walyarta Conservation Park (Karajarri Part)<sup>[a]</sup> – Unclassified R52383</p> <p>Kurriji Pa Yajula (Dragon Tree Soak) Nature Reserve<sup>[a]</sup> – Class A R35918</p>	<p>Eighty Mile Beach Marine Park (Shared Nyangumarta-Karajarri Part)<sup>[b]</sup> – Class A M16</p> <p>Unnamed Nature Reserve<sup>[a]</sup> – Class A R53015</p> <p>Walyarta Conservation Park (Shared Nyangumarta-Karajarri Part)<sup>[a]</sup> – Unclassified R53017</p>	<p>Eighty Mile Beach Marine Park (Nyangumarta Part)<sup>[b]</sup> – Class A M16</p> <p>Kujungurru-Warrarn Nature Reserve<sup>[a]</sup> – Class A R52363</p> <p>Kujungurru-Warrarn Conservation Park<sup>[a]</sup> – Unclassified R52362</p> <p>Walyarta Conservation Park (Nyangumarta Part)<sup>[a]</sup> – Unclassified R52387</p> <p>Unnamed 'Gap' Nature Reserve<sup>[b]</sup> – Class A R52366</p>	<p>Eighty Mile Beach Marine Park (Ngarla Part)<sup>[b]</sup> – Class A M16</p> <p>Jarrkumpungu Nature Reserve<sup>[a]</sup> – Class A R52365</p> <p>Unnamed 'Gap' Nature Reserve<sup>[b]</sup> – Class A R52366</p>	<p>Murujuga National Park – Freehold (no reserve number or classification)</p>

Aboriginal joint management partner	Yawoorroong Miriuwung Gajerrong Yirrgeb Noong Dawang (MG) Corporation	Balangarra Aboriginal Corporation RNTBC	Bunuba Dawangarri Aboriginal Corporation RNTBC	Dambimangari Aboriginal Corporation RNTBC	Yawuru Native Title Holders Aboriginal Corporation RNTBC		Karajarri Traditional Lands Association RNTBC	Nyangumarta-Karajarri Aboriginal Corporation RNTBC	Nyangumarta Warrarn Aboriginal Corporation RNTBC	Wanparta Aboriginal Corporation RNTBC	Murujuga Aboriginal Corporation
Area jointly managed (hectares)	153,848	349,404	449,912	1,152,000	102,332		58,948	58,797	286,420	55,868	4,913
CALM Act management plan	Yoorrooyang Dawang Proposed Conservation Parks Draft Management Plan 2011	North Kimberley Marine Park Joint Management Plan 2016 (No. 89) Niiwalarra Islands (Sir Graham Moore) Islands) National Park and Lesueur Island Nature Reserve Joint Management Plan 2019 (No. 93)	Jalangurru Manyjawarra Bunuba Muwayi Yarrangu Joint Management Plan 2019 (No. 92)	Lalang-garram / Camden Sound Marine Park 2013-2023 (No. 73) Lalang-garram / Horizontal Falls and North Lalang-garram marine parks Joint Management Plan 2016 (No. 88)	Yawuru Nagulagun / Roebuck Bay Marine Park Joint Management Plan 2016 (No. 86)	Yawuru Birragun Conservation Park Joint Management Plan 2016 (No. 87) Guniyan Binba Conservation Park Draft Joint Management Plan 2019	Eighty Mile Beach Marine Park Management Plan 2014-2024 (No. 80) Parks and reserves of the south-west Kimberley and north-west Pilbara Joint Management Plan 2019 (No. 91)	Eighty Mile Beach Marine Park Management Plan 2014-2024 (No. 80) Parks and reserves of the south-west Kimberley and north-west Pilbara Joint Management Plan 2019 (No. 91)	Eighty Mile Beach Marine Park Management Plan 2014-2024 (No. 80) Parks and reserves of the south-west Kimberley and north-west Pilbara Joint Management Plan 2019 (No. 91)	Eighty Mile Beach Marine Park Management Plan 2014-2024 (No. 80) Parks and reserves of the south-west Kimberley and north-west Pilbara Joint Management Plan 2019 (No. 91)	Murujuga National Park Management Plan 2013 (No. 78)

### Key

<sup>[a]</sup> Jointly vested with the Conservation and Parks Commission and the relevant Aboriginal joint management partner.

<sup>[b]</sup> Solely vested with the Conservation and Parks Commission.

<sup>[c]</sup> Jointed vested with Yawuru Native Title Holders Aboriginal Corporation RNTBC, the Conservation and Parks Commission and the Shire of Broome. Jointly managed by Yawuru Native Title Holders Aboriginal Corporation RNTBC, DBCA and the Shire of Broome.

<sup>[d]</sup> Jointly vested with Yawuru Native Title Holders Aboriginal Corporation RNTBC and the Shire of Broome. Jointly managed by Yawuru Native Title Holders Aboriginal Corporation RNTBC and the Shire of Broome, with assistance from DBCA.

## How joint management arrangements are functioning

A key objective of the 2011 CALM Act amendments was greater involvement of traditional owners in decision-making about the management of the State's protected areas. The mechanism for achieving this is joint management bodies (JMBs), established under CALM Act section 8A or section 56A agreements, or park councils such as the Yoorrooyang Dawang Regional Park Council (i.e. the MG Park Council).

Formal JMBs have a strategic management role, rather than undertaking day-to-day operational management. Parks councils operate in a similar fashion. The role of JMBs is outlined in the respective agreements, and generally includes:

- making management decisions consistent with the management plan
- assisting in the preparation of policies, programs and other management instruments
- monitoring the management of the land, including the implementation of the management plan
- providing advice to the Chief Executive Officer (CEO) of the department and the Conservation and Parks Commission on the use, management and development of the land, including the value of the land to the culture and heritage of Aboriginal people, the conduct of customary activities, expenditure of annual operational budget, employment of staff, and any proposed new management plan or proposed amendments
- providing advice to other State Government agencies
- working cooperatively to obtain additional funding for joint management.

As part the agreements, some JMBs have the role of making decisions about the conduct of research in jointly managed parks and reserves (e.g. the provision, use and publication of data) and making recommendations relating to the granting of CALM Act leases, licences and permits.

DBCA staff and joint management partners interviewed as part of the review conveyed that traditional owners are consulted on many aspects of park management, including management planning, operational planning, proposals for new infrastructure, approvals of leases, licences and research proposals, and signage and interpretive materials.

*“This mob [DBCA] knows they work closely with us, with all the traditional owners of the parks actually. Nothing goes ahead, they don’t decide anything unless they consult with the right Dawang for the area.” (MG representative)*

The group interviews also explored the type of documents or proposals sent to JMBs and park councils for approval. Responses ranged from high level documents such as management plans (MG Park Council, JMBs at Eighty Mile Beach), licences, infrastructure proposals and plans (Murujuga Park Council), to briefing papers prepared by a working group (Yawuru JMB and Yawuru Park Council) and media stories (Balanggarra JMB). This variation reflects the organisational capacity and the priorities of joint management partners, relations with respective prescribed bodies corporate (PBCs), and the working relationship with DBCA.

Joint management partners have the majority of voting members in seven of the 11 formal arrangements. Decision-making in JMBs and park councils is framed to support consensus decision-making, with decisions required to be made unanimously, or with the support of the majority of traditional owner and majority of departmental representatives. This enables decision-making which is supported by both parties. JMBs and park councils are also chaired by a traditional owner representative. The Murujuga Park Council includes a representative from another government agency (i.e. Department of Planning, Lands and Heritage) as a voting member. DBCA staff strongly supported this approach and suggested it be more widely considered and explored in other locations.

JMAs specify that DBCA provide administrative and secretarial support for JMBs and park councils, including preparing and circulating meeting notices, agendas and papers. Some Aboriginal joint management partners such as Dambimangari and Bunuba are funded to deliver the secretariat role. Joint management partners were generally satisfied with the support provided, though Yawuru representatives commented that initially, further support was required for the administration and coordination from DBCA. This has recently improved and Yawuru has opted to employ a support officer using joint management funding “to ensure things are getting done, issues are being dealt with and someone is communicating with the department and the Shire” (Yawuru representative).

The frequency of JMB and park council meetings specified in the agreements varies, but in practice most partners meet three to four times a year. Joint management partners and DBCA staff in East Kimberley and the Pilbara felt this was often enough, though staff in West Kimberley, where there are eight formal arrangements, explained that staffing and resourcing to meet these commitments, was significant. Joint management of Eighty Mile Beach Marine Park and adjacent terrestrial reserves for example, involves four JMBs and at least six DBCA staff with meetings held between 200-600km south of the district headquarters in Broome. The implementation of JMAs entails a fundamental shift in the way the DBCA undertakes its business in the area.

Respondents felt that JMB and park council meetings were fairly well run and generally productive. Staff comments and observations indicated that meetings can

be dominated by department priorities, particularly in partnerships in the early stages of implementation. Some JMAs include a clause that the JMB or park council may appoint sub-committees to investigate, consider or advise on matters, or make recommendations. Only the Yawuru JMB and Park Council seem to have adopted this approach, with working groups meeting to consider particular issues and reporting back to the JMB and Park Council with their recommendations.

Some JMB or park council meetings are held on country which helps strengthen relationships and has the benefit of providing an atmosphere where traditional owners are more comfortable talking, compared with a conventional meeting room setting. DBCA staff and joint management partners both indicated a desire to facilitate more on-country meetings, emphasising that they also helped JMB and park council members to spend time in the parks and reserves that they are jointly managing. However, on-country meetings are costly and organising them can take substantial time and the logistics can be difficult to arrange. Organisational and logistical responsibilities generally rest with the department.



**Above:** Murujuga Joint Management Officer making a presentation to Elders at an on-country meeting, Murujuga National Park. *Photo - Matthew Verdouw/DBCA*

JMAs usually include a dispute resolution clause which outlines the process if a majority of JMB or park council members cannot agree the outcome of an agenda item at three consecutive meetings. The clause stipulates that if a dispute cannot be resolved, it should be referred to the CEO of the department and the PBC, then to

mediation, and then to the Minister for Environment. The dispute clause has not yet been triggered in any of the joint management arrangements and decisions are usually made through discussion and by consensus. The decision-making process encourages agreement and compromise on decisions to ensure that the outcome is one that both parties find acceptable.

### **Activities undertaken on country together**

Through joint management arrangements, traditional owners and Aboriginal rangers undertake a wide range of activities on country with non-Aboriginal staff from DBCA, including aerial and ground burning, weed control, feral animal monitoring and control, crocodile management, biodiversity and threatened species surveys, building and maintaining visitor infrastructure, collecting litter, and management planning.

Undertaking work in the field together has the effect of binding team members and partners together. Haynes (2017) refers to this as the 'common discourse' and regards such shared experiences as an important but under-recognised component of joint management. Common work and common discourse requires participants to devolve power, share knowledge and capacity, and to demonstrate a preparedness to be in the field, taking notice of the issues Aboriginal people consider important, and vulnerable to the weather conditions, insects, and other elements that make fieldwork challenging (Haynes 2017). While these common work activities do occur, there is the opportunity to expand the interactions between non-Aboriginal DBCA staff and Aboriginal rangers on a day-to-day basis. DBCA will expand common work opportunities that promote cohesion and camaraderie, and can be further incorporated into operational management.

Ongoing learning is a necessary and crucial component of joint management, which increases understanding and builds the capacities of partners, and enhances management effectiveness (Borrini-Feyerabend 1996). Group interviews asked what DBCA and traditional owners were teaching each other in existing management partnerships. Responses are collated in Table 2 below. Learning opportunities come from formal accredited training courses, on the job training, deployment to other regions, and spending time on country with each other. MAC representatives explained that the training they received from DBCA had enabled the Murujuga Land and Sea Unit to pursue fee-for-service work opportunities and was generating income to help them become self-sufficient.



Table 2: Examples of teachings and learnings between DBCA and Aboriginal joint management partners

What DBCA is teaching to traditional owners	What traditional owners are teaching to DBCA
<ul style="list-style-type: none"> <li>• Knowledge and skills toward Conservation and Land Management (CLM) qualifications for Aboriginal rangers (e.g. fire and prescribed burning, weeds and chemical control, feral animal monitoring and control, fencing, flora and fauna monitoring and handling, operating and maintaining machinery and equipment, four-wheel driving, coxswain)</li> <li>• Governance and administrative systems of the State</li> <li>• Management planning processes</li> <li>• Data collection and data management</li> <li>• Types of research and scientific research methods</li> <li>• Work ethic, professionalism and work standards (i.e. completing work to a high standard)</li> <li>• Literacy and numeracy skills</li> <li>• Recreational planning and design, including specifications about signage</li> <li>• Technology and computer skills</li> </ul>	<ul style="list-style-type: none"> <li>• Cultural safety, zoning and protocols</li> <li>• Cultural values, attachment to country and cultural and spiritual significance of areas and sites</li> <li>• Traditional cultural and ecological knowledge (e.g. of plants and animals, seasonal indicators, natural processes, burning to protect important sites and species and promote habitat diversity, stories and songs)</li> <li>• Relationships with Aboriginal people and avoidance issues</li> <li>• Navigating the land and waters (e.g. knowledge of tides and currents)</li> <li>• Historical knowledge (to detect changes and new pressures / threats on country)</li> </ul>

### Challenges and opportunities

While shared experiences, training and capacity building are obvious successes and benefits of working together, DBCA's review process has also identified several challenges and opportunities in joint management.

DBCA staff identified that training and capacity building was heavily focused on Aboriginal rangers, and that significantly more effort was needed to support higher level decision making within JMBs and park councils. In some arrangements they felt

that there was a lack of shared understanding about the roles and responsibilities of JMBs, and that real joint management outcomes could not be achieved until this was addressed. One staff member commented that governance training for traditional owners on how joint management works, would put everyone on “a level playing field”. Bauman *et al.* (2012) documented that capacity building in negotiation, facilitation, dispute resolution, and consensus building is required for all involved in joint management. DBCA’s corporate guidelines indicate that the department will provide training and skills development for Aboriginal representatives on JMBs on topics such as legislation relevant to joint management, applicable government processes, and the roles and responsibilities of JMBs.

*“We’ve got to think broader than this being a ranger program. Yes, there’s going to be rangers working on the ground and that’s awesome. But it’s only one aspect. There’s a whole heap of different stuff that we need to consider at a higher level. Moving forward, we’ve got a lot of people in JMBs and park councils that do not have the knowledge or understanding of what we are, why we’re here, and where we’re going. And it’s our role to share that and empower them to make decisions based on legislation, based on future aspirations. That’s where we’ve got to be.”* (DBCA, Pilbara Region)

Related to this, some staff felt that there was a need to offer a wider range of Aboriginal employment opportunities, other than just rangers that operate in jointly managed parks and reserves. ILUAs usually specify that financial benefits be spent on employment relating to the management of conservation estate or land management activities. While many Aboriginal trainees have a desire to work on country and gain CLM qualifications, others do not. The provision of other job opportunities, such as administrative work, maintenance of vehicles and vessels, and visitor centre staff, would help to attract a wider range of applicants, including more women.

It is common for Aboriginal and non-Aboriginal staff and traditional owners involved in joint management to suffer from burnout as they operate in what



**Above:** MG Rangers working on a fencing project. *Photo - DBCA*

can be highly stressful work environments. Bauman *et al.* (2012) explained that staff often carry a burden of responsibility to make joint management arrangements work as they go about the business of delivering agreements at the day-to-day level. This was expressed by DBCA staff across the Pilbara and Kimberley regions. Issues included dealing with joint management challenges and frustrations on a personal level; balancing competing value systems and outcomes; accountability to the department; the demands of individual traditional owners; and the demands of other government agencies. Likewise, traditional owners are often meeting-weary, and some can be burdened in wearing the 'two hats' of traditional owner and DBCA staff member.

There is a recognition that joint management needs to be embedded in the way that DBCA conducts its business across all services. To achieve this, there is a need to:

- improve agency-wide awareness and understanding about joint management
- regularly assess and adapt existing frameworks, systems and processes
- address key policy gaps and develop operational guidelines and protocols
- provide appropriate support for Aboriginal employees
- provide adequate time to build relationships and implement agreements
- monitor and assess arrangements and raise community awareness.

Joint management with traditional owners provides one of the few and most enduring relationships that the State has with traditional owners directly at a local level. DBCA has invested significantly in establishing joint management arrangements across the State. A departmental communication strategy, together with specific communication materials, will be important as joint management is progressed through the implementation of the Plan for Our Parks initiative and other agreements.

## Provision for Aboriginal people to undertake customary activities on CALM Act lands and waters

The 2011 amendments provided rights for Aboriginal people to undertake certain activities for customary purposes by providing a defence against certain offences under the CALM Act and the *Wildlife Conservation Act 1950*. This recognises the strong desire of Aboriginal people to continue living on country from time to time, learning about and enjoying important places and using the resources of the land and sea. Aboriginal people can access country for customary purposes such as preparing and consuming food, preparing or using medicine, and practising artistic, ceremonial or other customary activities. Being on country is also the best place for traditional owners to engage with their culture and for intergenerational knowledge transfer.

Examples of the different types of customary activities Aboriginal people are now legally able to do on CALM Act lands and waters include:

- camping for up to 28 days outside designated camping sites and up to three months for ceremonial events
- lighting campfires or fires for smoking ceremonies
- undertaking ceremonial activities, including taking ochre or water, creating or maintaining rock art, moving natural features and disturbing the ground and vegetation
- using boats on rivers and lakes in nature reserves and marine reserves
- hunting and gathering food and medicine
- entering restricted caves
- accessing additional areas with vehicles
- bringing dogs into additional areas.

Most customary activities can be carried out without impacting on biodiversity conservation values and public safety. Regulations exist that restrict and exclude the application of the customary activities defence in certain circumstances where there are real and significant risks to public safety, the protection of flora and fauna and other values, uses and users of parks and reserves. However, where there is a regulation in place restricting a customary activity, this can be lifted by a written permission from the CEO of the department. The CEO has delegated the power to issue permissions to DBCA regional and district managers. Written permissions are often issued as outcomes of local area arrangements (LAAs). These are informal negotiated agreements between the department and Aboriginal groups and families to ensure public safety and the protection of both the cultural and environmental values of an area.

Importantly, the negotiation of LAAs provide DBCA staff and Aboriginal communities a forum to discuss land management issues and practices and facilitate joint learning, education and communication. Examples of subjects that may be covered by LAAs include:

- arrangements regarding access to keys for areas past locked gates
- assisting transport to areas that are otherwise inaccessible
- establishing temporary control areas for certain hunting and camping activities, or to facilitate privacy for Aboriginal people
- preventing the spread of dieback disease
- incorporating traditional knowledge into prescribed burning practices

- creation of agreed hunting grounds through prescribed burning.

To date, a small number of LAAs and other informal agreements have been developed for areas in the Midwest, Swan, South West, South Coast and Wheatbelt Regions of the State, where formal joint management arrangements are not yet in place. Local feedback from DBCA staff suggests that these are helping to establish and strengthen relationships between the department and Aboriginal families and communities. DBCA regions and districts are required to monitor and record the frequency and nature of any incidents, issues, public complaints and enquiries associated with customary activities that would otherwise be restricted. There have been no incidents or issues reported since the 2011 amendments came into force, indicating no adverse effects to public safety, the protection of flora and fauna and tourism and recreation values.

The facilitation of customary activities is an important aspect of the complementarity of conservation estate and traditional rights and interests. It provides Statewide access to CALM Act lands and waters for Aboriginal people irrespective of native title rights and interests. This is significant given that native title has been extinguished over many areas of the conservation estate. This amendment has shifted the relationship between the State and traditional owners in such a way that the priorities of each party are now aligned, rather than oppositional. Further, the conduct of Aboriginal customary activities enables traditional owners to play a direct role in conserving and protecting the value of the land and provides other social and cultural benefits (see below).

## Management objective to protect and conserve the value of the land to the culture and heritage of Aboriginal people

One of the key 2011 amendments applies to the development of management plans, requiring that plans have the objective of protecting and conserving the value of the land to the culture and heritage of Aboriginal persons, in particular from any 'material adverse effect' caused by the entry on or use of the land and the taking or removal of the land's fauna, flora or forest produce. The objective of protecting and conserving the value of the land is prioritised in the CALM Act, such that if it conflicts or is inconsistent with the objective of achieving or promoting the purpose for which land is reserved, the former prevails.

In recent years, new management plans, including plans for jointly managed parks and reserves, have had a much greater emphasis on Aboriginal culture and heritage. Examples of relevant objectives in management plans include:

- recognising, protecting and conserving parks as part of living cultural landscapes

- supporting retention of traditional knowledge and its integration into park management, research and monitoring
- supporting Aboriginal people to fulfil their cultural obligations as protectors and managers of country
- recognising and supporting traditional owner rights to continue customary activities and to benefit from country.

Further work is needed to reflect the objective of protecting and conserving the value of the land, by updating management plans prepared prior to the 2011 amendments. Beyond management objectives and strategies, cultural and heritage values have also informed the design of new parks and reserves in WA. For example, Eighty Mile Beach Marine Park was the first in the State to include special purpose zones (cultural heritage), which provide additional recognition and protection of culturally significant sites, and a focus on increased education and interpretation. Similarly, North Kimberley Marine Park also features special purpose zones (cultural heritage).

This amendment has provided the mechanism for enabling the aspirations and priorities in Aboriginal planning documents, to be incorporated and captured in statutory management plans. The MG and Yawuru joint management partners had cultural planning frameworks, which were used by DBCA in the preparation of management plans for jointly managed conservation estate. Other partners such as Karajarri and Balangarra had existing Healthy Country Plans. These documents provided planners with substantially more information, and a richer understanding about cultural and heritage values and connection to country, than what could otherwise be gained from a conventional management planning process. Hill (2011) also concluded that the cultural planning process led by MG helped achieve greater equity in joint management.

*“We think one of the critical things that Yawuru and MG have had is their cultural management plans that have informed the management plans for the jointly managed estate. The format of the Yawuru plans is completely different to others and it puts the Yawuru values right up-front and centre. Having the cultural management plan was fundamental to assisting the department.”*  
(Yawuru representative)

Historically, DBCA’s management focus has been on tangible values such as burial sites and middens, and the broader landscape and intangible values have been overlooked by both planners and operational staff. Importantly, Aboriginal cultural and heritage values are all-encompassing, and include physical, spiritual and social values that are both tangible and intangible. Recent plans now recognise intangible values and concepts such as traditional knowledge and enjoyment of country and customary practices as key performance indicators, and include strategies and targets relating to their management. However, there are challenges in how these

will be implemented, monitored and assessed. The intent is for Aboriginal partners to determine whether the relevant targets in management plans are being met, but there may be a need for DBCA to explore opportunities to engage experts in cultural research for guidance and advice.



**Above:** Balangarra traditional owners, DBCA planners and scientists on country together as part of the planning process for the North Kimberley Marine Park. *Photo - Chris Nutt/DBCA*

There have been demonstrated benefits too, of management planning with Aboriginal people assisting with the successful negotiation of ILUAs. In the Kimberley for instance, several ILUAs were negotiated concurrently with, or shortly after marine park planning processes. On-country planning trips and discussions about managing Aboriginal cultural and heritage values, facilitated the two-way transfer of knowledge and built trust, respect and goodwill. Having established relationships and the presence of familiar faces at negotiation meetings, subsequently helped the State to reach agreements with the Ngarla, Nyangumarta, Nyangumarta-Karajarri, Karajarri, Dambimangari and Balangarra traditional owners. Similarly, the draft joint management plan covering existing and proposed coastal reserves along the Ningaloo coast was prepared at the same time as ILUA negotiations with the Gnulli native title claimants. This provided for ongoing engagement throughout the negotiation period and allowed the Government to show its commitment to identifying management issues and developing solutions together with Aboriginal people.

Similar arrangements will apply as the department and traditional owners progress the Plan for Our Parks initiative to add five million hectares of new jointly managed parks and reserves over the next five years.

## Wider impacts and benefits

The amendments have contributed to a range of social, cultural and societal benefits, and strengthened relationships between Aboriginal people and Government.

Aboriginal rangers employed with DBCA and/or engaged in joint management have described positive personal impacts and changes as a result of working as a ranger. These included increased confidence, self-esteem and pride, increased respect and pride from their families and communities, demonstrated leadership in their communities, improved health and mental health, and increased skills in literacy and technology. This was reaffirmed by senior traditional owners. The employment of Aboriginal rangers through joint management arrangements has also benefitted their families by providing increased financial security.

*“Pride. They’ve got pride. And they’ve got a purpose in life to get out of bed in the morning and go to work. Young people have got to have a purpose. Wearing that Parks and Wildlife uniform gives them that. It’s done a great deal for their confidence and it builds their self-esteem and emotional wellbeing, you know. And they get the recognition from the wider community as well.”*  
(MG representative)

Aboriginal rangers explained that working on and looking after country gave them a strong sense of satisfaction and worth, from meeting cultural obligations and learning about and expressing their cultural identity. The amendments, in particular the provisions for joint management and to undertake customary activities, have facilitated the continuation of culture by providing elders with an avenue to pass on traditional knowledge to the younger generation, and provide guidance, leadership and authority.

*“Working on country most days I feel, is significant. It feels great, you’re out there, you’re amongst it. It’s something that the old people wanted so we can learn from them. And I feel privileged to be a part of that.”* (Murujuga Land and Sea Unit Ranger)

Traditional owner representatives have emphasised the importance to communities of having Aboriginal rangers employed, connecting to country and culture, and acting as community role models. One elder commented that the success of the rangers transformed the local community through cultural and social benefits. Rangers felt that elders and community members were proud of them and what they achieved. The rangers are held up as role models to inspire young people in the community.

*“The old people always say that they’re proud of us. We feel good and proud too. How they feel, we feel the same way.”* (MG Ranger)



*“Taking a step back and focusing on some of these small wins and personal impacts are just as important as the number of rangers employed or the number of hectares jointly managed.” (DBCA, West Kimberley District)*

There are a range of methodologies to track the impact of Aboriginal ranger programs across several portfolios. The Social Return on Investment (SROI) methodology employed by Social Ventures Australia (SVA) is an internationally recognised methodology used to understand, measure or estimate and value the impact of a program or organisation. It is a form of cost-benefit analysis that examines the social, economic, cultural and environmental outcomes created and the costs of creating them. The impacts and benefits of Aboriginal ranger programs associated with DBCA’s formal joint management arrangements are yet to be assessed using this methodology, however the benefits of other programs in WA have been documented.



**Above:** Aboriginal rangers on a visit to East Kimberley District to share information and experiences. *Photo - DBCA*

SVA (2014) provides specific evidence of the Kanyirninpa Jukurrpa (KJ) ranger program in the Martu community having a positive effect in reducing alcohol consumption, primarily through reducing the number of days that young rangers are in town. The SROI of the KJ program identified that an estimated \$55million in social value was generated from a \$20million investment equating to approximately \$3 of social value created for every \$1 invested in the program. The WA Government has

benefitted significantly from a reduction in the number of Martu in jail (estimated at \$3.7million through community orders or reduced sentences) and a reduction of alcohol related crime (estimated at \$4.2million). DBCA works with the KJ ranger program in managing country in and around Karlamilyi National Park and KJ was one of the successful applicants under the first round of the Aboriginal Ranger Program. As well as the diversionary impact of employment on Martu crime statistics, there has been strong engagement through the KJ program with the justice sector, including, two-way learning programs with the WA Police and Magistrates Court and engagement with the Roebourne prison.

Similarly the SVA (2016) study of the Matuwa Kurrara Kurrara program, in which DBCA partners with traditional owners, found that the SROI was \$2.3 for every \$1 invested in the program. These benefits included: direct employment and training; improved engagement with Aboriginal communities; improved governance of Aboriginal corporations; successful engagement in economic opportunities; better health and wellbeing; better cultural asset management; strengthened connection to country; and conservation of culture and language.

## Conclusions

The policy objectives of the CALM Act amendments were to: facilitate the aspirations of Aboriginal people to be meaningfully involved in the management of lands to which they have a traditional connection; provide Aboriginal people with an entitlement to carry out activities for customary purposes on CALM Act lands and waters; provide formal recognition of the importance of land and waters to the culture and heritage of Aboriginal people; and provide a framework for negotiating and implementing native title agreements with Aboriginal people and creating new conservation estate.

As well as meeting these objectives, a range of other ancillary benefits have manifested. These have included strengthened relations between Government and Aboriginal people, the resolution of native title matters, the provision of statutory 'teeth' for Aboriginal planning documents and land management aspirations, and socio-economic benefits such as Closing the Gap outcomes.

The benefits of a well-developed and grounded relationship between traditional owners and the State can be seen through the joint management arrangement with MAC. A collaborative approach is being taken to jointly managing Murujuga National Park, progressing the World Heritage nomination for Murujuga, and implementing the Murujuga Rock Art Strategy to monitor, conserve and protect the broader values of the area. Support for MAC's aspirations to develop a Murujuga Living Knowledge Centre will showcase the extraordinary values of the area and provide tourism and socio-economic opportunities for traditional owners.

Since the CALM Act amendments, joint management and joint vesting has formed an important part of agreement making between the State and traditional owners by delivering on the shared objectives of both groups to care for country. This has helped to shift the relationship between the State and traditional owners, such that it is no longer oppositional. It is almost certain that the Government would not be able to deliver on commitments to establish new parks and reserves in WA without the suite of tools and provisions of the CALM Act amendments. Accordingly, the success of current initiatives such as Plan for Our Parks relies heavily on the ability to negotiate and deliver joint management and joint vesting outcomes with traditional owners, as well as further legislative amendments (i.e. provision for joint vesting of marine parks).

DBCA will progressively implement the learnings from the review to strengthen existing management partnerships and assist the joint management program to expand to other parts of the State.

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