

# Conservation and Cultural Survival through Coexistence

**The democratisation of national parks  
in Western Australia**

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Keynote address to public forum

"The Reform of CALM: Are the proposed new  
conservation laws adequate?"

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Thank you to the organisers of today's important public forum, and for the invitation to address you all.

I'd like to pay my respects to the Noongar people, Traditional Owners of the land on which we meet today. I pay these respects to acknowledge the existence of people who have rights and responsibilities as owners and managers of their country.

For it's important that we challenge the dominant politic that sees Aboriginal people as an important part of the scenery, but not part of the landscape.

Nowhere can this view of us as 'emblematic natives' be seen more clearly than in last weeks Federal Court decision in the Miriuwung Gajerrong case.

The Court recognised that the Miriuwung and Gajerrong peoples are the native title holders of their traditional lands in the east Kimberley—but the majority of the Full Bench also said that native title has been widely extinguished in the claim area. It's a decision that says "you're the right mob, but you got no rights".

We thought that this *terra nullius* of spirit had been forever challenged with the Mabo decision—but sadly that's not the case.

The WA Government continues to treat the legal position of Aboriginal people as "unworkable and uncertain", they refuse to afford legal protection to Aboriginal relationships with country, and they fight every recognition of our rights through the Courts.

This ideological position is reflected in the administration of conservation management in WA. This is the only State in Australia where Aboriginal people are not mentioned in national park legislation.

For a State that attracts tourists through its promotion of Aboriginal culture—and even wins international awards for its promotion of joint management—it should be a matter of public outrage that Aboriginal people are not visible in WA's Conservation and Land Management Act .

This invisibility in the law translates into a practical absence.

You can visit the rock art sites and story places at Keep River National Park in the Northern Territory, reading the signs about Aboriginal culture as you walk. Then drive 40 kilometres west, into Western Australia.

You'll quickly hit Mirima, or Hidden Valley, National Park in Kununurra - Miriuwung Gajerrong country. Last week's court decision held that native title had not been extinguished in this park (or in Keep River, for that matter).

However, as you put your coins in the slot at Mirima, you could be forgiven for thinking that Aboriginal people have no interests in that place. Traditional Owners here don't have the same opportunities to express and practice their culture as their customary brothers and sisters just across the border.

This absence is repeated across the Kimberley.

Many tourists are attracted by the Aboriginal dimensions of our Purnululu, Mitchell Plateaus, and Windjana Gorges, but they are disappointed because of a lack of formal partnership and participation of the Traditional Owners. If tourists don't see what they expect, then they won't come back.

For Traditional Owners, this absence strikes at the heart of their existence.

Imagine that you are a Wunambal elder responsible for the power of Mitchell Falls, a senior traditional owner of Purnululu, or a Bunuba woman from Windjana Gorge.

Imagine how you would feel if your country, which your family has looked after for hundreds of generations, is taken over by a government department that excludes you from decisions about its management, brings thousands of tourists to camp and drive on it, charges people to visit, and then keeps the money for itself?

Such is the experience of Aboriginal people in the Kimberley when CALM assumes control of their country for National Parks and Nature Reserves. It is an experience of anger, frustration, constant worry, and marginalisation.

The opposition of the State Government to native title, combined with a lack of statutory recognition of Aboriginal people in the CALM Act, creates a standoff which will prevent new national parks being declared.

There are easier ways to go than the corrugation road we are on now. Today I would like to outline two strategies for a more cooperative relationship.

Firstly, the CALM Act must be improved and updated.

Changes to CALM's legislation need to be more than the mechanical ones separating forestry from conservation.

The CALM Amendment Bill currently before Parliament is exactly the same as the existing Act in that it does not provide for Aboriginal joint management initiatives.

The International Union for the Conservation of Nature—of which CALM is a proud member—sets a global standard for “protected areas”.

A key feature of this standard is the establishment of legal partnership and management arrangements, reflecting the rights, interests and obligations of the Aboriginal owners of a protected area, as well as those of the relevant government, acting on behalf of the wider community.

The management priorities of Aboriginal and government interests may on occasion differ, but best-practice—developed here and overseas - recognises that conservation management should also allow for cultural management.

Cultural and natural management practices must be brought together - Aboriginal people must

be heard as well as seen.

Experiences in other parts of Australia show that real joint management involves ownership on the part of Traditional Owners, lease back to government, the power to make decisions, and the power to implement those decisions.

If there is one take-home message today, then it is this: there is no joint management in operation in WA National Parks.

Purnululu is often held up by CALM as an example of joint management. This is wrong.

There is no recognition of traditional ownership, no reflection of a landlord and tenant relationship between Traditional Owners and the State, and no Aboriginal majority on a Board of Management.

The Purnululu Management Plan has been in place for four years but matters of importance to Aboriginal traditional owners - involvement in the management of the Park, the provision of Aboriginal living areas and the development of appropriate ranger training programs - all of these are still to be realised.

The Management Plan provides for a Purnululu Park Council to be established, with representation from Traditional Owners. CALM has made this contingent upon the resolution of a dispute over traditional ownership of the Park.

Since 1992 CALM has rejected the outcomes of all Aboriginal attempts to resolve this issue. At the same time CALM has not come up with an alternative resolution.

The proposed Purnululu Park Council is still not operational four years after the gazettal of the Management Plan. It seems CALM is content for the so-called 'dispute' to continue.

Without changes to the CALM Act which recognise Aboriginal people, CALM will remain shackled to short-term political directives, rather than long-term policy objectives to advance biodiversity conservation.

Attempts to work cooperatively with Aboriginal people will be undermined by the political pretence that Traditional Owners are fine to have around for the tourists to see, but are not to be involved in strategic partnerships.

We have seen too many good ideas for cooperative conservation management sacrificed in the name of maintaining some political line from distant Perth.

For the government to maintain the line that native title is unworkable, it must perversely make sure that its agencies don't demonstrate that Aboriginal issues and concerns can be resolved through negotiation and cooperation.

An Aboriginal initiative in 1991 to establish a jointly managed marine park in the Buccaneer Archipelago was endorsed by the EPA, CALM, the former Aboriginal Affairs Planning Authority, and the former Aboriginal Sites Department.

However, the proposal was vetoed when Cabinet refused to approve the legislative amendments necessary to allow the park's establishment.

KLC's current efforts to attract Federal funding for a coastal planning project in the North-west Kimberley needs CALM's support.

Traditional Owners and two Shire Councils are proponents of the project, and they have the endorsement of Fisheries WA and the Ministry for Planning.

Our invitation to CALM to join the project remains open, particularly as most of the Kimberley proposals for marine reserves are in this region. Traditional Owners are keen to work with other agencies to resolve potential conflicts and to improve coastal management.

The second strategy is to negotiate a regional agreement about conservation management in the Kimberley.

What Aboriginal people gain in the courts is either stripped away by the Parliament, as we have seen with the Native Title Act and its subsequent amendments, or vigorously opposed in the courts, as we see in the Miriuwung-Gajerrong case. There must be security for all stakeholders.

The State Government must adopt an approach based on negotiation, as advocated by the WA Native Title Working Group.

A negotiated framework agreement about conservation management would establish principles of coexistence and co-management between Aboriginal people and the Government.

This would allow CALM to stop trying to second-guess the political masters in the Premier's Native Title Unit, and start negotiating with Aboriginal people as land owners, rather than consulting us as fauna.

In many cases, CALM is managing lands where the native title rights and interests of Aboriginal people are traditionally practised but yet to be legally recognised. The reverse is also true. Aboriginal people already hold title to land in pastoral leases and reserves that CALM has earmarked as protected areas.

Currently, there are 16 CALM protected areas gazetted in the Kimberley. There are 34 proposals by CALM for new or extended land and sea protected areas in the region. In order to establish a comprehensive, and representative protected area system in the Kimberley, new national parks will need to be declared. The total area of existing and proposed protected areas on land constitutes about 10 percent of the Kimberley.

These 50 areas are overlapped by strong native title claims.

The CALM Act requires CALM to prepare management plans for each of their protected areas. Apart from two areas, Purnululu and the Lower Ord, there are no management plans in operation for the 16 CALM reserves in the Kimberley.

The funding arrangements for CALM also strongly influence its relationship with Aboriginal land holders.

The need to raise operational funding from tourist fees — in the Kimberley, from the boat tours at Geikie Gorge, and entry fees at Purnululu — forces CALM to act in competition with Traditional Owners as an entrepreneur in tourism development, rather than as a public agency for conservation management.

Native title is a major issue for negotiation in the acquisition, gazettal, management, and development of CALM reserves in the Kimberley, now and in the future. There is a need for a regional agreement between Aboriginal people and CALM which establishes a framework for negotiations on each protected area. We must remove the ‘adhocacy’ of the current system.

This agreement should address:

- recognition of Aboriginal ownership and native title
- lease back arrangements
- operation and membership of Boards of Management
- management plans
- employment and training for Aboriginal people
- economic opportunities for Aboriginal people
- Aboriginal community living areas, and
- public awareness programs

As we have been proposing to the Executive Director of CALM for the last year or more, we stand ready to begin discussions.

## **What we need to do now**

I am as optimistic about the prospects for change as I am convinced about its necessity.

I sense the convergence of two historical forces. One is the importance of reconciling Australia and accommodating the rights of Aboriginal people. The other is the imperative to address deprivation in our regional communities in way that challenges existing relationships between centralised governmental power and the bush.

There is growing potential for indigenous people to carve out partnerships with non indigenous people. National Park management, and natural resource management generally, offers wide scope for strategic partnerships and collaboration.

Over the last year, the KLC Land+Sea Management Unit, supported by the Tropical Savannas CRC, has undertaken field work and research with Traditional Owners involved in the Uunguu and the Balangarra native title applications in the North Kimberley.

One of the aims of the project is to look at how traditional ecological knowledge and scientific perceptions of ‘good’ or ‘appropriate’ land management can work together. Aboriginal people have identified a number of ways that their traditional knowledge and responsibilities can work with non-Aboriginal scientific approaches and contemporary management pressures.

Sacred and significant sites have a range of restrictions associated with access and use of resources. Often there are tight restrictions close to the centre of the site, and less rigid ones moving away from the centres. This has parallels with contemporary western visitor management practices in parks and reserves.

Traditional Owners want to regulate and manage visitors to their homelands, as these visitors are damaging country, littering, scaring and killing native animals, visiting significant sites and even endangering themselves. Traditional Owners feel they have been marginalised from the process of managing visitors.

Traditional owners talk about a need to visit their traditional country to check everything is alright, visit sites of significance and to see what visitors, such as miners, fishermen, and tourists, are doing. This monitoring is critically important to traditional owners, both for the country's well being and for their own spiritual health.

Once again, western science incorporates monitoring as a fundamental of good management. Western scientists generally perceive monitoring to involve objective detailed measurement and quantitative data.

For traditional owners it often involves the observation of key species and gauging the health of country via harvesting of yams, medicines and game. This is a skill developed through growing up with country, and based on long term observation, interdependence and reciprocal obligations to country, plants and animals.

The scope for collaboration is clearly broad.

The role of conservation and other community groups is particularly important in this campaign to improve national park management. I share your concerns about endangered species, forests, marine protection, and the need for accountability and to remove conflicts of interest within CALM.

Likewise, the support of conservation groups is crucial in assisting Aboriginal people to secure changes to CALM's legislation, policies, practice, and funding arrangements.

The ACF and The Wilderness Society have been instrumental in Queensland in supporting Aboriginal initiatives to involve Traditional Owners in park management. Things started to change when key Queensland green groups opposed the gazettal of a National Park in Cape York Peninsula because Traditional Owners had not been properly involved nor had they given their informed consent.

Today the Queensland Nature Conservation Act reflects some principles of joint management.

With the Federation of native title bodies and land councils known as the West Australian Aboriginal Native Title Working Group, we would like to look at ways to introduce legislation to the Parliament to bring the CALM Act up to date—we would welcome the support and input of conservation groups and the Environmental Defenders Office.

It is clear the State Government will continue to attract controversy over its environmental record, particularly in the lead-up to an election.

The cooperative establishment of new national parks and conservation reserves in the Kimberley offers an exciting challenge to any Government serious about pursuing universally recognized best practice.

A revamped and modernised CALM Act, with an inclusive approach to agreements on Aboriginal management of protected areas would be a significant step in the right direction. If we can get it right in a region of such immense cultural and natural significance such as the Kimberley, then we can get it right for Aboriginal people and conservation throughout Western Australia.