



A PROPOSAL FOR

# A WORLD CLASS ABORIGINAL OWNED NATIONAL PARK AND MARINE NATIONAL PARK IN THE NORTH KIMBERLEY

MIND 'EM THIS COUNTRY  
WITH PLENTY BUSH.  
LONG TIME HE BIN MIND ME.  
I BIN ALWAYS HAVE PLENTY  
MAYI AND KUWI

KARRMAKA, ELSIE WHITE



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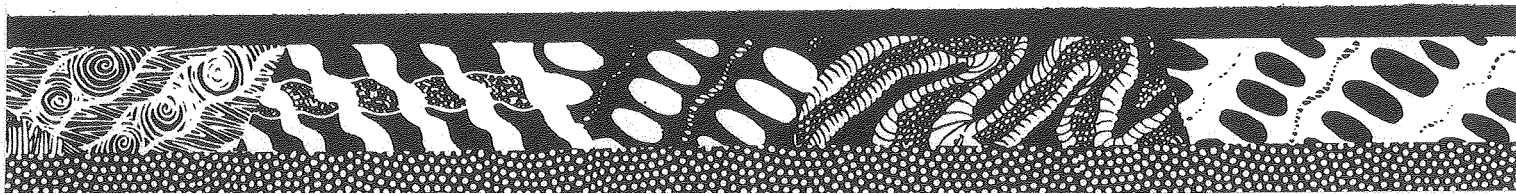
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ENDORSED BY:

CONSERVATION COUNCIL OF W.A.

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# **A Proposal for the Establishment of a World Class Aboriginal - owned Wilderness National Park and Marine National Park in the North Kimberley Region of Western Australia.**

## **Executive Summary.**

Through this proposal the Wilderness Society calls upon the State government of Western Australia to create, through the passing of a Special [enabling] Act of Parliament, a World Class Aboriginal-owned Wilderness National Park and Marine National Park in the north Kimberley region of W.A.

[ Note: These two Parks, to be created simultaneously under the same Special Act, will hereafter be referred to as 'WCAWNP'.]

This proposal takes as its starting points the models provided by the Aboriginal-owned national parks of the Northern Territory - Kakadu, Uluru, and Nitmiluk [Katherine Gorge], and also the models provided by the passage of special legislation in South Australia returning substantial areas of land to the Aboriginal traditional owners e.g. Maralinga.

Through the creation of WCAWNP one of the world's great remaining natural areas, centred on the north Kimberley's 2500km long wilderness coastline, with its associated marine and terrestrial environments, would be protected and managed for the future wellbeing of the biological and physical environment, and for the wellbeing of present and future generations of humans.

The creation of the proposed WCAWNP would provide:

- \* a unique opportunity for the secure, comprehensive and systematic conservation management, with appropriate levels of funding, for one of the world's most important remaining natural-cultural regions and;
- \* long-term socio-economic and cultural benefits for all Kimberley people, and indeed all Australians.

This proposal has been developed out of an extensive and detailed study and consultation process. Many options were considered before arriving at this particular form of proposal, but no other option was found which had the combined benefits of: Aboriginal ownership; existence of constructive precedents; security of purpose; provision for comprehensive and co-operative management; legislative clarity; community standing; ability to attract funding and economic development opportunities.

Alongside the proposal itself, this document presents discussion of such issues as the processes of negotiation necessary for implementation, the structure of the Park Board of Management, and the legislative provisions of the Special Act.

The north Kimberley region of Western Australia offers one of the best opportunities remaining in Australia to provide for the return of substantial lands to the traditional owners, and conserve an extensive array of natural values, whilst minimising conflict with resource extraction industries.

The implementation of this proposal will be a high point in the history of conservation and recognition of Aboriginal people in W.A. It is a step that will be applauded nationally and internationally. The alternative will almost certainly be a continuing steady erosion of the ecological, environmental and cultural values of the region.

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## 1. Introduction.

The Kimberley region is renowned around the world for its extensive and relatively unspoiled beauty, for the richness and variety of its natural, scientific, cultural and economic values.

Western Australian, national and international conservation organisations, government and non-government, have for many years recognised the immense value of the Kimberley region, and of the remote north Kimberley in particular.

The north Kimberley is a large and relatively intact terrestrial and marine wilderness area that contains unique flora, fauna and ecosystems. The biological richness and diversity of the area has barely begun to be studied and is only understood in detail by the Aboriginal traditional owners. Together with its extensive breathtaking landscapes, the north Kimberley is of unsurpassed State, national and international conservation importance [3].

In this context, the creation of a protected area combining Aboriginal traditional land and management within a terrestrial and marine national park is a visionary but wholly realistic idea which would undoubtedly gain State, Federal and International recognition.

The proposed north Kimberley WCAWNP would join Antarctica, Southwest Tasmania, Kakadu, the Great Barrier Reef and the North Queensland rainforests as Australian conservation milestones of the latter part of the 20th Century. It would become one of the world's foremost protected areas.

## 2. Conservation Values.

The WCAWNP would feature:

- \*a unique cultural environment belonging to the Aboriginal people who live a substantially traditional lifestyle;
- \*the longest wilderness coastline in Australia, and possibly anywhere in the world's tropical zone;
- \*one of the three major non-desert wilderness areas left in Australia;
- \*the only major savannah wilderness coastline in the world;
- \*an important part of the world's remaining dugong population;
- \*world-significant turtle populations;

\*most of the remnant rainforest of the Kimberley;

\*most of the Kimberley's unique mangrove communities;

\*the only major drowned river valley (ria) system in the tropics;

\*coral reefs, cays, and over 200 offshore islands of crucial conservation value as biological refugia;

\*The WCAWNP would be an play a major role in the conservation of the region's bio-diversity. The importance of this measure is summarised by the Department of Conservation and Land Management [CALM]: "The north Kimberley has a rich flora and fauna that includes many tropical species, with affinities to the Northern Territory and Queensland, that do not occur elsewhere in WA. It also includes a number of endemic species and is the only district in Western Australia where there have been no documented extinctions of native species during the period of European settlement. The opportunity to protect these intact ecosystems is of international significance and should not be lost." [3]

Because of its natural values, as long ago as the mid-1970's it was proposed that a large part of the north Kimberley be nominated for World Heritage listing. Several areas of Australia are now listed with UNESCO as World Heritage areas including Southwest Tasmania, Kakadu, the Great Barrier Reef, and Shark Bay in WA.

Whilst this proposal is not in itself a proposal for World Heritage listing, we believe the area identified more than satisfies the criteria for a World Heritage area and should be duly nominated for listing.

## 3. Wilderness.

For the purposes of this proposal, the Wilderness Society uses the following definition of wilderness:

"A wilderness area is an area that is, or can be restored to be:

- \* of sufficient size to enable the long term protection of its natural systems and biological diversity;
- \* substantially undisturbed by modern technological society;
- \* remote at its core from points of mechanised access and other evidence and impacts of modern

technological society."

Large areas of 'wild' land which remain relatively unchanged by 'western' modes of development and resource extraction are increasingly rare and valuable.

The protection of such areas, wilderness areas, is now recognised by the world's scientific community as being essential if diverse gene pools, individual species, and whole and viable ecosystems are to survive and evolve [2]:

"...the variety of habitats within wilderness supports many different associations of species. Although each association might be protected separately in a system of smaller reserves, their functional combination at a higher level of organisation is not protected...Several levels of biodiversity can be maintained most effectively in large wilderness areas."[4]

Wilderness areas are also recognised as having unique and intrinsic spiritual, recreational and scientific values.

The Wilderness Society believes it is imperative that such areas are protected for both the maintenance of bio-diversity, and to place practical limits on our alteration and exploitation of the planet's landscapes and life support systems.

This imperative does not however preclude the necessity for indigenous peoples to continue to lead active social, cultural and economic lives within 'wilderness' areas. Historically, within the Judaeo-Christian world view, 'wilderness' has meant land that is harsh and inhospitable, and either unpopulated or populated by 'uncivilised' peoples.

In the 19th Century, and even more so in the 20th, 'wilderness' has been re-defined, particularly in North America, to a more positive concept: nature rampant and unaffected by 'industrial man'; a place to visit but still not affected by or inhabited by humans.

In the latter part of the 20th Century, concepts of wilderness that fail to acknowledge the ancient and unbroken occupation and management of land by indigenous peoples, and which fail to change as a result of indigenous people's history, culture and economic wellbeing, are untenable.

Reflecting shifts at the global conservation level, of the ten categories of protected areas

recognised by the International Union for the Conservation of Nature and Natural Resources [IUCN], at least 7 provide for indigenous settlement and resource use.

In recent years in Australia there have been some significant breakthroughs in the recognition of combining Aboriginal ownership and conservation management of Australia's important nature conservation areas, such as Uluru and Kakadu National Parks. Similar outcomes are being actively considered in other Australian states.

In WA, the State Labor Party has a policy recommending Aboriginal ownership and leaseback of national parks. In part it states as follows; "...provide for ownership and joint-management with effective decision making powers over national parks and conservation reserves by Aboriginal groups having affiliation with those lands". The State Labor government has done little to implement the policy in its 8 years of office.

Extensive negotiations have taken place with the traditional owners of Purnululu, Myala, Karijini and Rudall River parks/proposed parks, but little that is definite and in place has come of these negotiations.

It is recognised that the traditional Aboriginal usage - nomadic or semi-nomadic lifestyles using fire, hunting and gathering etc have altered the biophysical landscape of Australia. Yet it is this landscape which we now refer to as wilderness.

With the return of lands to their traditional owners there are a number of paths available in terms of ongoing or renewed Aboriginal social, cultural and economic development. Some may not 'modify' wilderness in the sense of the wilderness definition, others may.

The Wilderness Society recognises that some parts of the proposed WCAWNP are not currently wilderness areas as defined, and does not propose that all of WCAWNP should be zoned or managed for wilderness conservation.

Effective and responsible management planning will be the key to the long term success of the WCAWNP. The Wilderness Society believes that the best interests of conservation, including wilderness protection, and the best interests of Aboriginal people can be achieved through this proposal. As is the case with Uluru and Kakadu,

a careful and mutually respectful process will lead to benefits for all involved.

The Wilderness Society believes that there would be many positive benefits derived from the re-introduction of Aboriginal residence, cultural practice, ethno-ecological knowledge, and management regimes to the lands of WCAWNP.

#### **4. Traditional Aboriginal Land.**

Such is the vitality and resilience of Aboriginal society and culture that strong ties still exist between the many distinct Aboriginal peoples of the region and their land. The Kimberley landscape is an Aboriginal landscape: it has been named, managed and sanctified for millenia by Aboriginal people. It is literally covered by Aboriginal stories and sites. The Aboriginal traditional owners are still responsible, culturally, for their land, even if they have been removed from it and denied access to it.

There are a number of different Aboriginal language group areas in the WCAWNP proposal however they form a closely knit cultural bloc in the region as a whole and are governed by common traditional laws.

Throughout the 20th Century, successive tides of non-Aboriginal land alienation and resource utilisation have taken root in the region. Alongside pastoralism [some 65% of the Kimberley is held in pastoral leases], mining, fishing, militarism, tourism, and the development of townsites and other infrastructure all actively compete, in their present form, with Aboriginal land aspirations - and conservation.

Ever since the first act of dispossession took place in the region, Aboriginal people have been attempting through a variety of means to regain their land, maintain their cultural integrity, and achieve socio-economic self-determination.

At the present time some 15% of the Kimberley is held by Aboriginal people either as Aboriginal Reserve or pastoral lease. Aboriginal people constitute about 45% of the Kimberley population.

It is now recognised that the declaration of national parks and nature reserves [NPNRs], under the existing Lands and Conservation Acts,

resulting in lands being vested in the National Parks and Nature Conservation Authority [NPNCA], has also acted to disenfranchise the traditional owners. It is in part because of the concerns of the traditional owners that many of the NPNRs proposed in the System 7 'Red Book' [1980], and subsequent updates [see below], have never been implemented.

A world class terrestrial and marine national park owned and jointly managed by its traditional Aboriginal owners provides a unique opportunity to combine the interests of both Aboriginal and non-Aboriginal Australians. It would ensure the best possible management and protection and also allow the continuation of Aboriginal law practices and economies while providing suitable areas for eco-tourism.

In seeking the creation of this world class national park and marine national park, we do so with the express purpose that such an area, owned by the Aboriginal people and managed to provide the greatest possible benefit for the rightful owners, will go some way towards redressing past dispossessions and provide a secure base for increased self-determination.

#### **5. Aboriginal Land Claim.**

In 1991 Aboriginal traditional owners of the north-west

Kimberley lodged a claim for the recognition of their traditional lands with the High Court of Australia. The Wilderness Society supports this action and believes the claim and the WCAWNP are mutually achievable.

Based on the similar Mabo case, soon to be decided on by the High Court, and to some extent dependent on the outcome of that case for its chances of success, this land claim covers much of the land proposed here as the WCAWNP.

#### **6. Existing Kimberley Conservation Estate. [see map].**

In 1972, shortly after it was established by Act of Parliament, the Environment Protection Authority [EPA] established the Conservation Through Reserves Committee [CTRC] to recommend a system of nature conservation reserves for WA.

The CTRC divided the state into 12 'systems' and its first report in 1974 made recommendations for reserves in 10 of these. 'System 7', the Kimberley, was the subject of a separate report released in 1977.

The EPA, after considering public submissions on the recommendations for reserves in System 7, made recommendations to State Cabinet, which were published in 1980 in the System 7 'Red Book'.

Although Cabinet endorsed all the EPA Red Book recommendations in principle, it decided that implementation of each recommendation was to be on the basis of separate Cabinet decisions. Consequently, over a decade later, virtually none of the Red Book recommendations have been implemented.

In 1991, the Department of Conservation and Land Management [CALM] published 'Nature Conservation Reserves in the Kimberley'. Referred to as the 'System 7 Update', this report extends the recommendations of the CTRC/EPA to several new areas, and reinforces the call for the implementation of those previously recommended.

At present, a meagre 4% of the Kimberley region is protected within terrestrial national parks and nature reserves. There are currently no marine national parks or nature reserves in the region. Only 7% of the unique wilderness coastline is currently protected in NPNRs.

As a result of the labours of the CTRC, the EPA and CALM, there are now some 30 specific reserve recommendations, including new NPNRs and marine reserves and extensions to existing terrestrial reserves, awaiting implementation.

If all of these were to be implemented, 9% of the Kimberley would be protected within terrestrial conservation reserves. Some important parts of the coastal-marine environment would be protected within marine reserves.

However, even under a best-case scenario with regard to the implementation of EPA/CALM reserve recommendations, substantial sections of the internationally significant coastal-marine region of the north Kimberley would remain unprotected, and conservation management, including wilderness conservation, would continue to be inadequate.

## **7. The Proposal.**

### **7.1 The Proposal.**

**In fulfilment of the Wilderness Society's charter and policies, and as a result of widespread consultations, it is proposed that a special enabling Act is introduced into State parliament for the establishment of a World Class Wilderness National Park and Marine National Park vested in the traditional Aboriginal owners of the north Kimberley.**

In thinking about possible land tenure and management options for the north Kimberley region two considerations have been foremost:

- \*to secure the long-term maintenance of the biodiversity, viability, and dynamism of the north Kimberley's magnificent marine and terrestrial environments;

- \*to maintain the cultural heritage, and promote the interests and aspirations, of the region's rightful owners - the Aboriginal people.

In the course of our thinking we have considered many options in terms of title, vesting, and management for the north Kimberley including: implementation of only the existing proposed NPNR's; Aboriginal freehold title without leaseback and joint-management agreements; 'bio-sphere reserve' status, and; maintaining the *status quo* with the addition of some form of over-arching conservation management. Each of the alternative options were seen to fall short, in one or more crucial ways, of the conservation and Aboriginal principles the Wilderness Society has adopted.

In particular, no other single alternative had the combined benefits of Aboriginal ownership, existence of precedents, holistic title and management, legislative cohesion, community standing, funding opportunities, and clarity and security of purpose.

In our considered judgement, the best solution available to positively address the multi-layered issues confronting the north Kimberley, and to provide a multitude of exciting opportunities for all parties and interests concerned, is the creation of the WCAWNP, through a special Act of [W.A.] Parliament.

The recommended boundary of the proposed terrestrial and marine parks is shown on the



accompanying map. The Wilderness Society also recommends a Stage II incorporating other important areas within WCAWNP [see below].

**We recommend the choice of an appropriate Aboriginal name for the Park.**

## **7.2 Rationale for a Special Act.**

The Wilderness Society believes it is necessary to create the proposed WCAWNP through passage of a Special Act for two main reasons.

Firstly, such a specially drafted Act will be best able to encompass and resolve the particular issues and complexities of the area involved, and establish the necessary vesting, decision-making and management structures.

Secondly, such an Act is necessary because of the shortcomings of existing legislation, specifically the CALM Act [1984] and the Land Act [1933]. Major amendments to both these Acts would be required in order to make possible the form of park recommended in this proposal. Such changes are undoubtedly necessary, but even were they adopted by government there would remain many positive reasons for the use of a Special Act in the case of WCAWNP.

It should also be noted that there is no existing legislative provision for the creation of marine national parks in W.A.

## **7.3 Precedents for the Passing of Special Acts and for Aboriginal Ownership of National Parks.**

Nearly all States and Territories of Australia now either have, or are moving towards one or more of: general land rights legislation; specific land rights legislation, or; Aboriginal ownership of national parks. In terms of precedents for the establishment of WCAWNP, we refer readers to the South Australian special Acts returning the lands of Pitjantjatjara and Maralinga to their respective traditional owners.

We also cite the return, with freehold title, of the following national parks to their respective traditional owners: Kakadu, Uluru, and Nitmiluk (Katherine Gorge). These initiatives have been universally applauded and there is no reason why W.A. should continue to lag behind.

## **7.4 The Nature of the Special Act: Title, Vesting, and Other Key Provisions.**

The amalgamation of Aboriginal and conservation interests in the WCAWNP area will most likely require a detailed configuration of land tenure vested in Aboriginal title, including a variety of vesting methods depending on the relative importance of Aboriginal and conservation objectives. For example some areas will require absolute protection, including Aboriginal residential areas and law places, endangered animal or plant species habitats, fragile ecosystems and designated wilderness areas. These areas will probably require special vesting arrangements with appropriate management plans.

**With the above in mind, our proposal for the legislative framework of WCAWNP is as follows:**

1. Both the terrestrial and the marine national parks to be established simultaneously through the passing of a Special Act through both Houses of Parliament.

2. Terrestrial National Park:

- \* Includes all lands and islands within the shown boundary, down to the low water mark.

- \* Inalienable freehold Aboriginal title owned by properly constituted Associations of the respective traditional owners responsible for the various and distinct Aboriginal lands within WCAWNP.

- \* The National Park to be "A" Class for the dual purposes of conservation and Aboriginal use and benefit.

- \* Provision within legislation for Agreements to be entered into concerning:

  - lease-back arrangements e.g. rental payment and period of lease-back;

  - designation of certain negotiated areas for 'special purpose vesting' e.g. areas of special significance to Aboriginal people; wilderness areas; economic development areas. These to have specific management plans.

  - formation and operation of Park Board of Management and sub-committees;

  - drafting and implementation of management plans by the Board of Management in conjunction with the National Parks and Nature Conservation Authority [NPNCA];

  - implementation and operation of joint-management;

  - zoning options.





1. **Adele Is.**
2. **Myala**  
(Buccaneer Archipelago)
3. **Defence Dept.**  
lease area for inclusion  
in WCAWNP
4. **Mt Hart**  
ex-pastoral lease
5. **Charnley River**  
ex-pastoral lease
6. **Pantijan**  
lease held by  
C'wealth Gov't.
7. **Walcott Inlet**  
Tidal Power lease
8. **Mitchell Plateau**
9. **Holothuria Reefs**
10. **Carson River**  
Aboriginal pastoral lease
11. **Doongan**  
proposed excision
12. **Cockburn Range**  
El Questro pastoral lease
13. **Ningbing Range**



### 3. Marine National Park:

\* The waters of the proposed Marine National Park to be vested in properly constituted Associations of the respective traditional owners responsible for the various distinct Aboriginal waters within WCAWNP.

\* The Marine National Park to be "A" Class for the dual purposes of conservation and Aboriginal use and benefit.

\* Provision within legislation for Agreements to be entered into concerning:

- lease-back arrangements;
- designation of certain negotiated areas as 'special purpose vesting' areas with specific management plans;
- formation and operation of Park Board of Management and sub-committees;
- drafting and implementation of management plans by the Board of Management in conjunction with the NPNCA;
- implementation and operation of joint-management;
- zoning options.

### 4. The Special Act should contain provisions for:

\* definition of the relationship between the WCAWNP Special Act and other Acts such as the CALM, Lands, and Fisheries Acts;

\* an arbitration process to be triggered should 'irreconcilable' differences arise in the workings of the Board of Management;

\* exclusion of mineral and oil exploration or mining within WCAWNP;

\* the establishment of commercial development opportunities and controls, including ownership of tourism developments.

### 7.5 Proposed Stages of Implementation.

The proposal for WCAWNP contains two interwoven strands. One concerns a process of negotiation, the other concerns an identified area of land and water.

The process of negotiation is the necessary precursor to the final identification of the area of land to be designated as Aboriginal-owned national park, and marine national park.

The process of negotiation with the traditional owners is capable of commencement at any time following government acceptance of the principles outlined in this proposal. Government negotiations would ideally be undertaken by a Cabinet-empowered negotiating team representing the government of the day.

With this in mind, we recommend the following stages:

1. Identify and formally acknowledge the baseline area - the provisional WCAWNP boundary.

2. All this area to be considered for inalienable freehold Aboriginal title and for leaseback for the purpose of national park and marine national park.

3. Negotiations to be undertaken with Aboriginal people to determine the most desirable methods of vesting and management for the various areas within WCAWNP.

These negotiations must include both existing Aboriginal leases - pastoral lease and Aboriginal reserve - as well as other lands within WCAWNP that are under other title/vesting.

4. Negotiations with other landholders within the proposed WCAWNP - e.g. pastoralists, Commonwealth Department of Defence, to gain acceptance of incorporation of those lands and waters within WCAWNP.

5. Instigate processes for the de-vesting of existing tenures.

6. Delineate ownership and management regions - to be based on cultural and ecological boundaries.

7. Passage of the Special Act for the creation of WCAWNP.

8. Leaseback of agreed areas for joint management.

9. Formation of Park Board of Management and Park sub-committees.

### 7.6 The Park Board of Management.

The Wilderness Society recommends that the Board of Management be comprised of: Aboriginal chairperson; one Aboriginal representative each from the area sub-committees; one representative each from CALM and the EPA; one representative each from the Commonwealth Ministers for the Environment and Aboriginal Affairs [e.g. ANPWS and ATSIC]; and one representative from the non-

**government conservation movement.**

Both the overall Park Board of Management and the sub-committees representing cultural sub-regions should have an Aboriginal majority, and Aboriginal Chairpersons. Aboriginal Board-members to be nominated by their appropriate Associations. All members of the Board to be jointly appointed by the Ministers for the Environment and Aboriginal Affairs.

Overall Board of Management to co-ordinate management plans and practices within and between sub-regions. Each sub-region, based on Aboriginal cultural boundaries, to be represented by a Park Board of Management sub-committee.

The Park Board of Management would also be responsible for developing policies and accepted principles regarding such issues as: the appropriate conservation management of lands, waters, and wildlife; Aboriginal usage of lands, waters, and wildlife; tourism and other commercial activities and; appropriate zoning measures.

An additional Advisory Body, to service the Board of Management, should be considered. Such a body to be made up of representatives from local government, CSIRO, NPNCA, and the State Tourism Commission.

**Sub-regions and Committees.**

The following are possible sub-regions within WCAWNP for the purposes of title, sub-committee formation, and management:

Myala (Buccaneer Archipelago)  
King Leopold Range area  
Walcott Inlet area  
'Kunmunya' Aboriginal Reserve  
Prince Regent area  
'Mt Anderson' Aboriginal Reserve  
Mitchell Plateau area  
Kalumburu/Drysdale River Mission/ Cape Londonderry area  
Oombulgurri Aboriginal Reserve  
Cambridge Gulf area including Cockburn Ra., Ord River NR, and Ningbing Range.

**7.7 Preparation of Management Plans.**

\* The process for the preparation of management plans to be detailed in the Special Act following negotiations with traditional owners.

\* Management plans to be prepared for each sub-region, through the relevant sub-committee,

and approved and implemented by the Park Board of Management.

\* An overall Park management plan to be produced by and through the Park Board of Management.

\* The Act to ensure a formal role for the NPNCA, and provision for public comment period.

\* Management plans to draw on existing 'Wilderness Code of Management' policy documents - State and Commonwealth.

**8. Provision for Commonwealth Involvement.**

The Commonwealth government is already heavily involved in many ways in the Kimberley. From the conservation stand-point, the three major aspects of this involvement are:

\* the listing of areas of natural and cultural value on the Register of the National Estate. Currently 6 areas within WCAWNP are listed on the Register for their natural values;

\* the funding of the National Wilderness Inventory survey of the Kimberley;

\* the funding of the regional rainforest survey as part of the National Rainforest Conservation Programme.

In addition, the Commonwealth has committed itself to a comprehensive system of marine reserves, and a marine conservation strategy for Australia.

From legislative, management, and funding viewpoints, a substantial involvement of the Commonwealth government in the establishment and ongoing operation of WCAWNP would be both necessary and desirable.

There are many examples around Australia of the co-operative involvement of State/Territory and Commonwealth governments in the establishment and ongoing management of conservation areas e.g. Great Barrier Reef and Wet Tropics Rainforest Management Authorities.

The following are some mechanisms for Commonwealth involvement:

\* Representation on the Park Board of Management;

\* Parallel or complementary legislation e.g. in

marine areas;

\* "Heads of Agreement" document to be signed by State and Federal governments outlining respective roles and commitments, including funding agreements for conservation management and Aboriginal enterprise;

\* Excision from, and complimentary management of, Department of Defence lease;

\* World Heritage nomination in concert with State government;

\* National Estate listing of WCAWNP.

## **9. Reintroduction of Aboriginal Management Practices and Culture.**

The Wilderness Society believes that most aspects of ongoing or renewed Aboriginal presence in WCAWNP, including residence, ceremonial and law, and hunting and harvesting of natural resources will be compatible with nature and wilderness conservation.

In the cases of permanent residence in established living areas, hunting with guns, roading, establishment of tourism or other commercial infrastructure, and use of vehicles, we believe that there is sufficient scope within the various stages of the implementation of WCAWNP to minimise impacts on the biological/ecological and wilderness values of the region.

There are several areas within the boundary of the proposed WCAWNP which have already been substantially modified in terms of their wilderness/natural values e.g. Mitchell Plateau. The Wilderness Society recommends that such locations be, wherever possible, the first-choice areas for further infrastructure development.

## **10. Existing Land Tenure Within Proposed WCAWNP.**

There are several forms of land tenure within the boundary of the proposed WCAWNP. Such lands would need to be divested before incorporation within WCAWNP - except in the case of vacant crown land [VCL]. We have given an approximate figure for the proportion of the terrestrial WCAWNP constituted by each tenure:

Existing NPNR - 25%  
Department of Defence 'Training Area' lease -

2%

Vacant Crown Land - 30%

'Government Purposes' [Wyndham, Mt Hart, Walcott tidal power land] - 5%

Pastoral leasehold land [Pantijan, Charnley, Carlton Hill, El Questro] - 5%

Aboriginal Reserve - 33%

[Approximate area of WCAWNP National Park: 4,500,000 ha.

Approximate area of WCAWNP Marine National Park: 3,500,000 ha.]

## **11. Existing and Proposed National Parks and Nature Reserves Within WCAWNP.**

All existing and EPA/CALM-recommended national parks, nature reserves, and marine reserves which fall within the boundary of the proposed WCAWNP should be incorporated in their entirety within WCAWNP.

Within the boundary of the WCAWNP proposed in this report, there are 3 existing terrestrial conservation reserves: Prince Regent Nature Reserve, Drysdale River National Park, and the Ord River / Parrys Lagoon Nature Reserves.

There are, within the proposed WCAWNP boundary an additional 16 EPA/CALM-recommended NPNRs including : Walcott Inlet NP, Mitchell River NP, Lawley River NP, a very recent CALM Mitchell Plateau 'conservation reserve' proposal, Cape Londonderry NP, Prince Regent NR extension, King Leopold Range NP\*, Buccaneer Archipelago [Myala] NR, Ord River NR extension, several island NR's including islands of the Admiralty Gulf, Bonaparte Archipelago and Collier Bay areas.

There are, additionally, several areas recommended by CALM for 'investigation' including Cape Bougainville, Cockburn Range, Ningbing Range, and West Cambridge Gulf.

EPA/CALM proposed marine reserves within WCAWNP: Adele Island, Walcott Inlet, Buccaneer Archipelago, Prince Frederick Harbour, St George Basin, waters adjacent to proposed Lawley River National Park, waters adjacent to proposed Cape Londonderry National Park, waters surrounding Montgomery

Islands, and the Ord River Marine Nature Reserve.

Most of the recommended NPNRs discussed above are at a standstill in terms of implementation. In most cases this is because of the concerns of either the resource extraction industries, or the traditional owners, or both.

In addition to the marine and terrestrial recommended reserves mentioned above, additional reserves within the WCAWNP have been recommended as a result of the rainforest survey and conservation strategy published by CALM in 1991, and further marine reserves are under examination through the inter-departmental marine reserves advisory committee.

\*CALM has recently purchased the Mt Hart pastoral lease, the greater part of which is the magnificent King Leopold Range. Whilst there is a clear commitment that the bulk of the area be gazetted as national park, the mining industry is to be offered first bite. Mining would have a devastating impact on this majestic landscape.

## 12. Existing Conservation Management Within WCAWNP.

There is almost no ongoing conservation management within the boundary of the proposed WCAWNP. This includes the existing national park and nature reserves.

At the same time, there are considerable, and in many cases increasingly severe, impacts on the environment of this area.

A chronic lack of funding is one of the major reasons for the lack of management, as has been the remoteness and relative inaccessibility of the area. However, this 'conservation by default' is not sustainable: particularly in the face of increasing visitor use and degradation by fire and feral animals.

With the creation of the WCAWNP, we would expect that conservation management would:

- \* be better funded, including support from the Commonwealth government;
- \* be placed on a pro-active, comprehensive, and integrated footing;
- \* provide far more opportunity for involving

Aboriginal people in ongoing management programmes - as fully paid guides and Rangers funded through leaseback rental, visitor fees and tourism operator licenses.

- \* be better able to implement the urgently needed feral animal and fire management programmes within WCAWNP;
- \* provide the opportunity to restore many areas of land that have been seriously degraded e.g. Mitchell Plateau mineral exploration scars.

## 13. Threats to Aboriginal Heritage Within WCAWNP.

Many areas of great significance to Aboriginal people are now being accessed by tourist and other visitors without any forms of management or control. Vandalism and theft are widespread. This is an appalling situation which cannot be allowed to continue. Management plans are urgently needed to address the protection of Aboriginal cultural heritage.

## 14. Stage II of WCAWNP.

The Wilderness Society recognises that in drawing the boundary of the proposed WCAWNP, many important areas have, at this time, been excluded. The result is a proposal with minimal potential for conflict with established industry, which should in turn lead to widespread support for the implementation of this very exciting model.

The Wilderness Society recommends that upon implementation of this proposal, investigations and negotiations are undertaken to improve the boundary for implementation as Stage II of the WCAWNP. Additional areas should be incorporated on the basis of improving the ecological and ethno-cultural effectiveness of the boundary.

## 15. Tourism Management.

"The north Kimberley, marine, coastal, and hinterland, needs to be seen in its true context as one of the world's great remaining wilderness areas. Its fragility, rugged nature and inaccessibility truly challenge our existing concepts of tourism, if we are not in our

development of it, to compromise irrevocably its pristine majesty.

Low-impact tourism development is feasible within certain areas of the Kimberley coastline, but it will need to be highly sensitive to environmental considerations and, accordingly, adopt innovative strategies.

The operation of the Kuri Bay pearling settlement has recently pioneered floating accommodation-cum-work barges. These feature innovations such as desalination plants for water supply. The major advantage of these barges is that they can be anchored in sheltered bays in very remote areas with extremely minimal impacts on the surrounding pristine environment. Kuri Bay can be further commended for having pioneered the use of float-planes. In this case, a major negative impact in the form of an airstrip has been completely avoided.

Utilisation of high-tech barges and float planes, instead of land bases and airstrips is in our view the way tourism and other development proposals should be steered for the remote Kimberley coast." [Excerpt from submission prepared by the Kimberley Conservation Group, Broome, 1991]

The Wilderness Society endorses the views expressed above.

Within the past 5 years, at least four proposals have been put forward by tourism entrepreneurs for the development of land-based resorts, usually with associated airfields, in the Kimberley coastal region. These types of development are out of place in this environment, with the possible exception of already developed hinterland locations such as Mitchell Plateau.

Tourism is and will continue to be a large and growing industry in the Kimberley. With the creation of WCAWNP the opportunity will exist to place this industry on a planned and rational footing, thus mitigating its already widespread and potentially disastrous impacts.

The Wilderness Society proposes the following principles in determining the development of tourism within WCAWNP:

- \* tourism operations and developments should be either Aboriginal-owned or leased-out by the appropriate traditional owners;
- \* any tourism requiring physical infrastructure

should occur outside of designated wilderness areas, and should use existing infrastructure or be developed in already disturbed locations e.g. Cockatoo Island and Mitchell Plateau;

- \* tourism should be low-impact, educative, and limited to the determined carrying capacity of the areas concerned;

- \* the emphasis should be on water-based visitation;

- \* limitations should be placed on access points to WCAWNP

- \* no further tourist access roads should be approved, and existing tracks into such places as Walcott Inlet and Prince Regent should be closed;

- \* consideration should be given to an Aboriginal-owned tourist accommodation centre at Mitchell Plateau: low-impact design and operation;

- \* consideration should be given to such eco-tourism opportunities as the development of Heritage trails e.g. from Walcott Inlet to Mitchell Plateau, with Aboriginal guides;

- \* restrictions should be placed on overflights by light aircraft and helicopters;

- \* all tourism development to be addressed within management plans.

## 16. Areas of Specific Negotiation or Resolution.

### 16.1 Adjoining pastoral lands.

For most of its length, the land boundary of the WCAWNP is drawn along the boundaries of the adjoining pastoral leases. The following leases are thus bordering the WCAWNP:

Napier Downs, Fairfield, [Mt Hart - now CALM-owned], Leopold Downs [Aboriginal], Mt House, Beverley Springs, [Charnley River - defunct], Pantjan [Aboriginal], Carson River [Aboriginal], Mt Barnett [Aboriginal], Gibb River [Aboriginal], Mt Elizabeth, Drysdale River, King Edward River, Theda, Ellenbrae, Home Valley, El Questro, Ivanhoe, and Carlton Hill.

Negotiations will need to take place with the owners/managers of each lease to ensure that those lands are carefully managed in sympathy with the WCAWNP:

- \* conservation management plans should be drawn up for each lease, with CALM

involvement, to address such matters as 'downstream' impacts, control of feral animals, and the control of other introduced species;

- \* fire management must be rationalised;

- \* no tourist access should be allowed through leases to WCAWNP;

- \* the possibility of 'land swaps' should be investigated e.g. special purpose tourism leases on the pastoral lease in exchange for additions to park;

- \* negotiations should clarify the need for and possible extent of pastoral boundary alterations/rationalisations, and agreement should be reached on the future excision of areas should leases be transferred.

In the case of Aboriginal owned pastoral leases within the proposed boundary of WCAWNP, negotiations with the owners would aim for the inclusion of the lease within the freehold title of WCAWNP.

#### 16.2 Marine Boundary.

For the purposes of demarcation, the following system is in use between the State and Commonwealth governments: a baseline is established, usually at the low water mark but in the case of, say, an archipelago of islands, around those islands also to low water mark. The State then controls those waters from this baseline out to a limit of 12 kilometres. The Commonwealth government controls those waters beyond the 12 kilometre limit.

This proposal seeks the inclusion of all waters under State control within the WCAWNP. We additionally seek the inclusion of features which are under Commonwealth jurisdiction but which are an integral part of the Kimberley marine environment. This includes the Holothuria Reef, Long Reef, and Adele Is. Negotiations would need to be undertaken with the Commonwealth government for the inclusion of these features.

#### 16.3 Myala.

Over the past two years, detailed negotiations have taken place between the Aboriginal traditional owners of Myala [Buccaneer Archipelago], and representatives of various government departments: CALM, EPA, AAPA, and the Department of Aboriginal Sites.

Those negotiations resulted in general support

for the creation of an innovative new model for the vesting and management of Aboriginal and conservation lands in WA: the multitude of islands in the Archipelago, some 100kms north of Derby at the mouth of the King Sound, were proposed to be vested in the traditional owners and managed jointly with CALM for Aboriginal benefit and conservation, while the surrounding waters and sea bed were proposed to be declared a marine park, and also jointly managed for Aboriginal benefit and conservation.

The Wilderness Society recommends that all areas under negotiation through this process be included within WCAWNP.

#### 16.4 Defence Training Area - Yampi Peninsula.

For over a decade a large part of the Yampi Peninsula has been leased by the Commonwealth Department of Defence as a 'training area'.

This country, with its majestic coastline and its rugged ranges, is scenically and biologically important, and is an integral part of the wilderness coastline.

The Wilderness Society recommends that that portion of the lease which forms part of the catchment area of Collier Bay, including the McClarty and High Ranges, the Swift and Humbert Creeks, and the areas around Mts Disaster and Humbert be removed from the Defence lease, and incorporated within the WCAWNP.

#### 16.5 Charnley River Pastoral Lease.

All VCL surrounding the magnificent Walcott Inlet should form a part of the WCAWNP. This area was recommended for national park status as part of the CTRC proposals from the late 1970's.

The Charnley River pastoral lease, at the eastern end of Walcott Inlet, was created from VCL soon after the national park proposal was drawn up. The State government has been negotiating with the owners of the lease for several years for its re-acquisition and incorporation into the proposed national park. This area should be purchased or otherwise acquired expeditiously for inclusion within WCAWNP.



#### 16.6 Tidal Power Station Land.

An area of land at the southern mouth of Walcott Inlet has been set aside for many years for a possible future tidal power station. While fully cognisant of the need for non-fossil fuel energy sources, the Wilderness Society believes that such a station should not be constructed in the magnificent Walcott Inlet wilderness area. The land set aside for this purpose should be incorporated within WCAWNP.

#### 16.7 Pearling/fishing.

Existing pearling operations, e.g. at Kuri Bay, should be excluded from WCAWNP, but managed so as to not degrade the values of the marine and terrestrial parks. Conservation management plans for such excisions to be drawn up with CALM involvement.

Further development of the commercial fishing industry within WCAWNP should be restricted.

#### 16.8 Aboriginal Reserves.

There are 5 substantial Aboriginal Reserves existent within the boundary of the proposed WCAWNP. The Wilderness Society recommends negotiations take place with the traditional owners of those Reserves to determine alternative means of vesting the land in inalienable freehold title as part of WCAWNP.

#### 16.9 Aboriginal "Special Purpose Vestings" Within WCAWNP .

Special Purpose vestings within WCAWNP should be considered in the following cases:

- \* existing and proposed Aboriginal settlements and community infrastructure including roads and economic development areas;
- \* lands already held by the Aboriginal people, or sought by them because of their special significance.

#### 16.10 Mitchell Plateau.

Despite its outstanding and widely acknowledged ecological/conservation values, the Mitchell Plateau, some 3000 sq. kms. in area, has languished for twenty years as a mining lease whilst being subjected to increasing

degradation: mineral exploration, uncontrolled tourism, feral animals, fire, and roading.

The Plateau, bordered on one side by the magnificent Mitchell River and on the other by the Lawley River features:

- \* one of the richest areas of WA in terms of fauna, including at least 39 species of mammals and over 160 species of birds [3];
- \* a unique array of plant communities including monsoon rainforest, palm woodland, riparian forest and mangrove communities. Some 649 individual plant species have been recorded in the area;
- \* some of the most spectacular land forms and scenery of the entire Kimberley region;
- \* rich Aboriginal cultural heritage values.

As of June 1990, CRA and its joint venturers defaulted on the provisions of their Mitchell Plateau Alumina Refinery Agreement Act.

Since that default, the State government has been involved in negotiations between the Aboriginal traditional owners and the mining company, and with input from various government departments, to see which parts of the Plateau/mining lease are to be renewed for mining, which areas can be excised for 'living areas', and which areas can be non-controversially managed for conservation.

The Wilderness Society believes that any mining in this area would irrevocably destroy one of the State's and one of the nation's most extraordinary natural areas. Now is the time to secure this extraordinary area in its entirety as Aboriginal land and as part of the WCAWNP.

#### 16.11 Cockburn Range - El Questro.

Negotiations should take place with the owners of the El Questro pastoral lease with a view to their surrendering the spectacular, and pastorally-worthless, Cockburn Range for inclusion within WCAWNP.

This isolated mesa-form range includes important remnant rainforest patches which need protection.

#### 16.12 Ningbing Range.

The Ningbing Range is part of the Kimberley Devonian Reef complex that is best known in the Napier and Oscar Ranges near Fitzroy Crossing.

It is also adjacent to the Ord River Nature Reserve.

Negotiations with the owners of the Carlton Hill station should take place with a view to the inclusion of this range within WCAWNP.

#### 16.13 Pantijan.

Pantijan is a pastoral lease held by the Commonwealth government on behalf of the Aboriginal people. Negotiations should seek incorporation of the area into WCAWNP.

#### 16.14 Carson River.

Negotiations with the Aboriginal leaseholders of this pastoral lease should seek incorporation of at least parts of the lease within WCAWNP.

#### 16.15 Doongan west/King Edward River.

Negotiations with the holders of this pastoral lease should be undertaken to examine the potential for the western portion to be incorporated within WCAWNP.

#### 16.16 Oil Industry Development.

Substantial growth in the development of offshore petroleum resources is expected in the Timor Sea and Bonaparte Gulf regions. It must be ensured that any development of these resources, including shipping and potential land bases, do not impact on WCAWNP.

#### 16.17 Roothing.

The Wilderness Society believes that adequate roading exists within WCAWNP to provide for management needs and tourism.

Accordingly it is recommended that no further roading be allowed within WCAWNP except in the case of Aboriginal requirements and following negotiations to ensure that such roading, if necessary, be of minimal environmental impact.

All existing and proposed roading to be dealt with through the management plan process.

## Appendix.

### The Kimberley Resolution of the International Union for the Conservation of Nature and Natural Resources, adopted at the 18th General Assembly of the I.U.C.N., 1990.

"Recognising that the Kimberley region of Western Australia is the traditional land of an ancient, living Aboriginal culture, and that the Kimberley landscape is an Aboriginal landscape;

Recognising also that the Kimberley region contains within it large wilderness areas, including a unique wilderness coastline, that rank amongst the most beautiful and biologically significant left in the world;

Noting that conservation strategies, environment protection controls, and the system of nature conservation reserves are far from adequate in the Kimberley;

Further noting that although 3.6% of the Kimberley is protected as national park or nature reserve, as much as 30% of the region may be of high wilderness quality and existing reserves may fail to adequately conserve the biodiversity of the region and substantial measures are still required to reverse serious environmental degradation;

Noting that, notwithstanding the announcement at this General Assembly by the Premier of Western Australia that an agreement has been reached with the traditional owners of the Purnululu National Park over Aboriginal involvement in the management of that Park, no satisfactory means have yet been found for promoting and protecting the interests and aspirations of the Aboriginal peoples of the Kimberley, particularly with regard to their land aspirations;

Recalling past recognition by numerous international and national bodies of the potential World Heritage qualities of the Kimberley due to its immense cultural and ecological value,

The General Assembly of the IUCN at its 18th Session in Perth, Australia, November 28th - December 5th, 1990:

(a) Strongly recommends that relevant State and Commonwealth governments give priority to the development of strategies, including conservation reserves owned by the traditional Aboriginal owners, that will ensure the long term maintenance of the wilderness quality and biodiversity of the Kimberley Region;

(b) In particular calls upon relevant State and Commonwealth governments to act to protect those wilderness areas identified in the Kimberley Region as a result of the National Wilderness Inventory of Australia;

(c) Requests the Director General of the IUCN to make available on request advice and expertise on strategies for the involvement of indigenous peoples in nature conservation reserves and programmes."

### References.

1. 'A Critical Look at the System 7 Update', by Dr David Polland, published by the Wilderness Society in "The Kimberley: the Slide Towards Extinction", 1991.
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3. 'Nature Conservation Reserves in the Kimberley', by Andrew Burbidge et al, published by the Department of Conservation and Land Management, 1991.
4. 'What Can Wilderness Do for Biodiversity', by R.F. Noss, published in the Journal of Conservation Biology 5(1), 1991.
5. 'Forward Plan - Developing Policy for Aboriginal Interests in National Parks in Western Australia', prepared by Ross Johnston, published by the Aboriginal Affairs Planning Authority (W.A.), 1991.
6. 'Kimberley Rainforests, Australia', by N.L. McKenzie et al, published by the Department of Conservation and Land Management, 1991.
7. 'Submission to Secure Aboriginal Interests in the Buccaneer Archipelago', by Gulingi Nangga Aboriginal Corporation, 1990.

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## Land grabs not the right path

I WOULD like to point out that the Department of Conservation and Land Management is NOT supportive of a Wilderness Society proposal for a national park in the Kimberley.

I am concerned that a Wilderness Society spokesperson has given an indication that CALM supports the large national park proposal.

Nothing could be further from the truth.

It is true that the Kimberley is a very important area for conservation and CALM will be seeking specific areas for reservation.

But large land grabs which do not provide any way for ongoing management are not the way to achieve conservation.

Conservation objectives will be achieved by working with the local community, to ensure there is equity of access, and to develop procedures to generate the funds to manage the areas.

The Kimberley belongs to everybody and it is unfair to make it only available to a very select elite group who only want a wilderness.

DR SYD SHEA,  
Executive Director  
CALM.