

# Proposed amendments to the *Conservation and Land Management Act 1984*

## Joint vesting of marine reserves and other amendments to be made by the *Conservation and Land Management Amendment Bill 2021*

### **What is the *Conservation and Land Management Act 1984*?**

The *Conservation and Land Management Act 1984* (CALM Act) provides for the use, protection and management of certain public lands and waters in Western Australia and the flora and fauna within these lands.

### **Why are amendments to the CALM Act proposed?**

The Government is committed to recognising the rights of Traditional Owners through the joint vesting of marine parks as part of Labor's *Plan for the Kimberley* (February 2017). The CALM Act was amended in 2015 to support the joint vesting of national parks, nature reserves and conservation parks between the Conservation and Parks Commission and Aboriginal bodies corporate, but there are no equivalent provisions to support joint vesting of marine parks, marine management areas or marine nature reserves.

Amendments to the CALM Act are proposed to introduce provisions to enable the joint vesting of marine parks, marine management areas and marine nature reserves.

### **What is joint vesting?**

Joint vesting legally recognises a shared responsibility between the Conservation and Parks Commission and Traditional Owners over land or lands and waters by recording this on the title to the reserve.

When a conservation reserve is jointly vested between the Conservation and Parks Commission and an Aboriginal body corporate both parties' interest in the reserve is recognised and both parties have a shared responsibility for the reserve. This effectively makes them joint landowners.

### **How is joint vesting different from joint management?**

Joint management recognises that two bodies have shared responsibilities for management of the land and while it does have a legal basis it is not recorded on the title of the reserve. Joint management is achieved through a legal agreement between the Western Australian Government (represented by Department of Biodiversity, Conservation and Attractions (DBCA)) and one or more other parties to manage conservation reserves in Western Australia and is based on recognition, mutual respect and agreed goals.

### **What do changes to joint vesting mean to joint management?**

Joint vesting and joint management are separate but related arrangements. The changes to the CALM Act that will enable joint vesting will not impact on joint management arrangements that are already in place. For example, a party that has a joint management agreement for a marine reserve may enter into joint vesting for the same reserve, so that their interest is recognised on the title as well as through management.



## Will joint vesting only apply to new marine reserves?

Joint vesting can apply to marine reserves that have already been created or to reserves proposed to be created.

## Are changes proposed to the purpose of marine parks to recognise the culture and heritage of Aboriginal people?

Amendments are proposed to clarify that the purpose of a marine park includes the protection and conservation of Aboriginal cultural and heritage values.

In 2012, the CALM Act was amended to enable joint management of CALM Act reserves (marine and terrestrial) between the State and an Aboriginal body corporate. Joint management is enabled through the preparation and approval of a joint management plan. The proposed management plan must have the objective of protecting and conserving the value of the land to the culture and heritage of Aboriginal persons, provided that this does not have an adverse effect on the protection or conservation of flora or fauna.

The amendment will provide certainty that special purpose areas (referred to as zones in management plans) can give effect to these management planning objectives.

## What will the amendments to section 8C achieve?

A section 8C order can be made by the Governor to place Crown land that is unallocated Crown land (UCL) or unmanaged reserve (UMR) under the management of the Department of Biodiversity, Conservation and Attractions (DBCA). In these circumstances, the *Land Administration Act 1997* (LAA) and the *Land Administration (Land Management) Regulations 2006* continue to apply.

This means that there are there are provisions under the CALM Act and its regulations that could be duplicated by the LAA and its regulations, because both statutes regulate land management activities regulate land management activities.

The amendments will provide that the provisions of the CALM Act and regulations will only apply to the extent specified in the section 8C order. Also, it is not intended that the full suite of CALM Act management activities or statutory functions will apply to section 8C land.

## What other amendments are proposed?

The other amendments that are proposed to be made to the CALM Act will make the legislation more efficient, remove provisions that are no longer valid, or update terminology. The amendments proposed include.

- Amending referencing errors to provisions that are invalid or incorrect.
- Remove the requirement for permits (section 89) and licences (section 90) to be in a form prescribed by the Governor. The form of permits and licences will instead be approved by the CEO and published on DBCA's website.
- Replace the word 'Chairman' (in reference to the Conservation and Parks Commission) with the more inclusive and non-gender biased term 'Chairperson'.