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CENTRAL DESERT
LAND AND COMMUNITY

Negotiating the shared management of Matuwa and Kurrara Kurrara



August 2015

Tran Tran and Lindsey Langford



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AND TORRES STRAIT ISLANDER STUDIES



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May 2015

Tran Tran

Australian Institute of Aboriginal and Torres Strait Islander Studies

Lindsey Langford

Central Desert Native Title Services

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Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)
GPO Box 553, Canberra ACT 2601

Phone: (61 2) 6246 1111

Fax: (61 2) 6261 4285

Email: researchpublications@aiatsis.gov.au

Web: www.aiatsis.gov.au

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Executive summary

One of the key aspirations of native title holders is the ability to independently make decisions about and take care of country. Indigenous land and sea management enables traditional owners to be back on country and take care of it, to fulfil cultural obligations and to carry out critical environmental services within a formal land management economy. With native title now recognised over 27 per cent of Australia, Indigenous land and sea management will continue to grow as, many Registered Native Title Bodies Corporate (RNTBCs) are increasingly asserting their land management and decision making responsibilities.

One of the key areas in which these aspirations are realised is through collaborative management arrangements such as joint management. Joint management (commonly shared with the state government) is often the only substantive outcome for many native title groups, yet there has been little research into either the planning process or the drivers of land management outcomes. AIATSIS undertook case study research between October 2013 and December 2014 in Matuwa (Lorna Glen) and Kurrara Kurrara (Earaheedy) in partnership with Central Desert Native Title Services (Central Desert) and the Wiluna native title holders — Martu people — to document their land management journey and the critical success factors contributing to positive outcomes for the Wiluna native title holders.

The research identified that building parity in collaborative management relationships needs to be driven by Martu priorities and aspirations. The project's key findings are as follows:

- Federal funding for land management that is consistent with Indigenous cultural governance and decision making has been viewed as one means of realising native title aspirations and creating security for elders to share their knowledge with younger generations, especially through ranger teams and Indigenous Protected Area (IPA) consultation projects.
- Land management opportunities facilitated through legislative reform should enable land access for major infrastructure and land development without diminishing the aspirations and needs asserted by traditional owners.
- The major focus of an operational co-management relationship should be clear and define common interests and benefits as well as positive working relationships that will enable greater cooperation between parties (especially where previously no common ground could be found).
- Developing a physical resource (such as a Martu-only campsite) enables other tangible benefits in terms of creating a Martu space for speaking about and planning for country.

- Country-based planning enables land use identification based on Martu concepts of country. Often Martu conceptions of land and priorities for country significantly overlap with those of other partners, and there are opportunities that should be pursued based on shared values and priorities as opposed to a narrow conservation agenda.
- Continuity as well as familial and personal capacity to perform leadership roles, such as leading working groups, being a part of negotiation teams and performing other decision-making roles, is critical to the success of collaborative management.
- Defined decision-making functions and delegations between Martu and other partners need to be embedded in governance arrangements to ensure that Martu priorities are maintained and respected.
- The Wiluna ranger employment model works because it supports ‘Martu work on country’ through sourcing and implementing funding and projects in a culturally driven manner.
- On-ground relationships between the Martu and other partners have driven the positive achievements of the Wiluna native title holders just as much as have legal and policy events supporting the formal role of the Martu as native title holders.

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Terms and abbreviations

AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
CALM Act	<i>Conservation and Land Management Act 1984 (WA)</i>
CALM	<p>Department of Conversation and Land Management, Western Australia (from 1985 to June 2006), formed after the Western Australian Government amalgamated the National Parks Authority of Western Australia, the Wildlife Branch of the Department of Fisheries and Wildlife and the Forests Department.</p> <p>This term also refers more generally to conservation and land management as an industry, sector or area of study.</p>
CDNTS or Central Desert	Central Desert Native Title Services
DEC	Department of Environment and Conservation, Western Australia (from July 2006 to July 2013)
<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act)</i>	Environmental protection legislation, enacted by the federal government, that supports environment, heritage and biodiversity conservation and applies to nine scheduled Matters of National Environmental Significance.
Parks and Wildlife or DPaW	Department of Parks and Wildlife, Western Australia (formerly known as CALM and DEC)
GERAIS	<i>AIATSIS Guidelines for ethical research in Australian Indigenous Studies</i>
IPAs	Indigenous Protected Areas. These are areas dedicated by traditional owners as a protected area independent of legislation — that is, they do not create new rights and interests. When declared, IPAs become a part of the national reserve system if declared over land. IPAs can co-exist with other conservation regimes and are funded by Commonwealth and other, non-government, sources through partnerships. IPAs can be declared over multiple land tenures with the consent of all tenure holders.
IUCN	International Union for Conservation of Nature
Joint management	Joint management is used to refer to a collaborative management arrangement between the state government and an Indigenous party. As the relationship between the Wiluna native title holders and the Western Australian Government has evolved over time, joint management will be used to refer to a primarily bilateral relationship with Parks and Wildlife; and co-management or collaborative management will be used to refer to multi party arrangements.
Matuwa and Kurrara Kurrara Co-management Plan Framework (the framework)	Draft framework plan developed from a series of IPA consultation trips to Matuwa and Kurrara Kurrara between November 2011 and July 2012. During this time, consultants Dr Bill Kruse and Sally Hodson also prepared a draft of the framework that included the first iteration of a map-based planning tool indicating management zones, locations of significant sites, land types and land use types.
<i>Matuwa and Kurrara Kurrara IPA country management plan</i>	IPA management plan for Matuwa and Kurrara Kurrara
MKK	Matuwa and Kurrara Kurrara
MKK Working Group	Matuwa and Kurrara Kurrara Working Group, formed to lead decision making and report to the community on the progress of the Matuwa and Kurrara Kurrara planning process

MKK IPA Management Team	Formerly the Matuwa and Kurrara Kurrara working group, consisting of key native title holders for the Matuwa and Kurrara area.
MOU	Memorandum of understanding
MWG	Muntjarra Wurgummu Group
Ngaanyatjarra Council	The native title representative body responsible for the Wiluna area until 2007, when responsibilities passed to Central Desert Native Title Services.
NHT	National Heritage Trust
NRS	National Reserve System. This is Australia's collective protected areas, which form a conservation 'safety net'. Indigenous Protected Areas constitute 40 per cent of the NRS.
NTA	<i>Native Title Act 1993 (Cth)</i>
NTRBs	Native Title Representative Bodies
NTSPs	Native Title Service Providers
PBCs	Prescribed Bodies Corporate. See RNTBCs below.
RNTBCs	Registered Native Title Bodies Corporate. These are corporate bodies, comprised of traditional owners, formed after the successful determination of native title to hold and manage native title rights and interests. They are known as Prescribed Bodies Corporate (PBCs) before they are registered with the National Native Title Tribunal.
Tarlka Matuwa Piarku Aboriginal Corporation, or TMPAC	Tarlka Matuwa Piarku Aboriginal Corporation RNTBC
UCL	<p>Unallocated Crown land. A pre-<i>Mabo</i> term used by some government agencies to refer to land that has not been granted to private owners or lessees or claimed for public purposes.</p> <p>Following the <i>Mabo</i> decision it is more accurate to refer to UCL as 'Crown radical title', as Aboriginal and Torres Strait Islander people have native title rights and interests that are a 'burden' on the Crown's interest unless they are extinguished.</p>
Wildlife Conservation Act	<i>Wildlife Conservation Act 1950 (WA)</i> , which lists threatened native plants and threatened native animals that need special protection. It can also list an ecological community as being threatened using International Union for Conservation of Nature criteria for assigning species and communities to threat categories.
Wildlife Regulations	Wildlife Conservation Regulations 1970 (WA).
WoC	Working on Country program that was formerly run by the Department of Environment to support Indigenous rangers. Responsibility for the program was transferred to the Department of the Prime Minister and Cabinet in 2013.
WRPA	Wiluna Regional Partnership Agreement. A collaborative partnership comprising the Australian Government, Western Australian Government, Aboriginal (Martu) community representatives, mining industry partners, Wiluna Shire councillors and Wiluna-based agencies. Formed as a pilot initiative under the 2005 MOU between the Australian Government and the Minerals Council of Australia.

Acknowledgments

This report would not have been possible without the generous support and contributions of the Wiluna native title holders, in particular the Matuwa and Kurrara Kurrara Working Group members: Lena Long, Roxanne Anderson, Victor Ashwin, Ivan Wongawol and Henry Ashwin. Special mention should also be made of the contribution of Robert Wongawol, who has acted as liaison between the researchers and the community. We also acknowledge Ian Kealley from the Department of Parks and Wildlife, Western Australia, who contributed to the research with enthusiasm and honesty, and Rob Thomas from Central Desert Native Title Services, who contributed his time and expertise to the project. We would also like to acknowledge former AIATSIS researchers Gabe Lauder and Bhiamie Williamson for their earlier research and contributions to field work and Tessa Herrmann for her comments and advice. All mistakes and errors are our own.

1 Introduction

Indigenous land and sea management enables traditional owners to be back on country and take care of it, to fulfil cultural obligations and to carry out critical environmental services within a formal land management economy. One of the key aspirations of native title holders is the ability to independently make decisions about and take care of country.¹

Native title rights and interests have been recognised over 27 per cent of Australia² and are administered by over 130 Registered Native Title Bodies Corporate (RNTBCs) in partnership with native title representative bodies (NTRBs), service providers (NTSPs) and federal, state and territory governments.³ The growth of Indigenous land management creates a critical mass of determined native title lands and established RNTBCs who are increasingly interested in asserting their land management and decision-making responsibilities.

One of the key areas in which these aspirations are realised is through collaborative management arrangements such as joint management. Joint management of protected areas is an evolving field which involves complex issues of process and requires effective partnerships among and between native title groups, government agencies and other landholders.⁴ It is often the only substantive outcome for many native title groups and there is significant demand from NTRBs/NTSPs and claimants for practical approaches to negotiating land management to match holistic community aspirations to look after country and culture. Joint management is also influenced by the emergence of protected area management in the international context, which has driven the integration of Indigenous approaches to land and sea management with state and federal government conservation strategies.⁵

¹ Tran, T, Stacey, C & McGrath, P 2013, *Background report on Prescribed Bodies Corporate aspirations*, report to Deloitte Access Economics for the FaHCSIA Review of Native Title Organisations, April 2013.

² Native title now covers almost 43 per cent of Western Australia and 48 per cent of South Australia, 19 per cent of Queensland, 14 per cent of the Northern Territory and 6 per cent of Victoria. There are also determined claims in New South Wales: National Native Title Tribunal, *Determinations of Native Title*, National Native Title Tribunal, Perth, 31 March 2015, http://www.nntt.gov.au/Maps/Determinations_map.pdf.

³ McGrath, PF, Stacey, C & Wiseman, L 2014, 'An overview of the Registered Native Title Bodies Corporate regime', in T Bauman, L Strelein & J Weir (eds), *Living with native title*, AIATSIS Research Publications, Canberra.

⁴ Bauman, T, Haynes, C & Lauder, G 2013, *Pathways to the co-management of protected areas and native title in Australia*, AIATSIS Research Discussion Papers, no. 32, Australian Institute of Aboriginal and Torres Strait Islander Studies, May, <http://www.aiatsis.gov.au/_files/research/BaumanHaynesDP_web.pdf>. It should be noted that there is no universal definition for joint management and the term is often applied loosely in contexts where there are formal or semi-formal shared management arrangements between state and territory governments and a group of traditional owners. Joint management exists independently of land rights or native title.

⁵ A protected area is a 'clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term, conservation of nature with

AIATSIS has been conducting a research project that looks at the disparity between formal arrangements that enable native title holders to participate in joint management and the needs, aspirations and priorities of traditional owners in asserting decision-making authority over their determined native title lands. As a part of this research, AIATSIS undertook case study research between October 2013 and December 2014 in Matuwa (Lorna Glen) and Kurrara Kurrara (Earaheedy) in partnership with Central Desert Native Title Services (Central Desert) and the Wiluna native title holders, represented by a working group consisting of Lena Long, Roxanne Anderson, Victor Ashwin, Ivan Wongawol and Henry Ashwin.

Matuwa and Kurrara Kurrara (Lorna Glen and Earaheedy ex pastoral leases)⁶ are situated approximately 170 kilometres north-east of the township of Wiluna in the mid-west region of Western Australia. The population of the Wiluna township fluctuates between 200 and 300 people, and within the greater Wiluna shire the population exceeds 1000 people, with a large proportion of fly-in fly-out mine workers.⁷

There is an existing memorandum of understanding (MOU) over Matuwa and Kurrara Kurrara, signed in 2004, which originally created a park council structure that provided a consultation mechanism for the activities of the Department of Conservation and Land Management (CALM), as it was then known. Matuwa and Kurrara Kurrara is a critical area of environmental and cultural importance for the Wiluna native title holders, who are developing multiple partnerships with regional mining enterprises and researchers to generate employment and carry out land management activities in the area. As former pastoral leases converted into conservation estates, the area also represents an intersection point of diverse interests and priorities, creating a unique opportunity to articulate shared values as well as demonstrate the critical success factors driving long-term collaborations.

associated ecosystem services and cultural values': Dudley, N 2008, *Guidelines for applying protected area management categories*, International Union for Conservation of Nature and Natural Resources, Gland, Switzerland,
<http://cmsdata.iucn.org/downloads/guidelines_for_applying_protected_area_management_categories.pdf>, p. 8.

⁶ Martu refer to Lorna Glen as *Matuwa*, after a soak near the Lorna Glen homestead, and Earaheedy as *Kurrara Kurrara*, which is the Martu name for the plant dead finish, or prickly wattle, which is found on the property.

⁷ Australian Bureau of Statistics 2014, *Wiluna LGA*, viewed 30 October 2014,
<http://stat.abs.gov.au/itt/r.jsp?RegionSummary®ion=59250&dataset=ABS_NRP9_LGA&geoco ncept=REGION&datasetASGS=ABS_NRP9_ASGS&datasetLGA=ABS_NRP9_LGA®ionLGA=R EGION®ionASGS=REGION>.



Figure 1: A facilitated discussion at the first project workshop in Perth involving Central Desert, Parks and Wildlife and the Matuwa and Kurrara Kurrara Working Group on 15 October 2014

Source: Bhiamie Williamson

To date, there have been very few assessments of collaborative management processes throughout Australia with only limited research carried out in the Northern Territory.⁸ Further, there are very few assessment frameworks for evaluating existing collaborative management arrangements, especially from the perspective of Indigenous partners.⁹ AIATSIS partnered with Central Desert in order to progress the existing Matuwa and Kurrara Co-Management Plan Framework (the framework) into a formal collaborative management agreement in the form of an Indigenous Protected Area (IPA) plan.¹⁰ In particular, AIATSIS worked in partnership with Central Desert to facilitate and support community workshops, provide research into best practice, assist in developing the IPA management plan and document the planning process.¹¹

⁸ Izurieta, A, Sithole, B, Stacey, N, Hunter-Xenie, H, Campbell, B, Donohoe, P, Brown, J & Wilson, L 2011, 'developing indicators for monitoring and evaluating joint management effectiveness in protected areas in the Northern Territory, Australia', *Ecology and Society*, vol. 16, no. 3.

⁹ MERI (Monitoring, Evaluation, Reporting and Improvement) plans are a part of the IPA planning process but there is little information on or review of reporting across all IPAs.

¹⁰ Analysis has also been carried out from background anthropological research carried out between November 2011 and July 2012 into the priorities of the Wiluna native title holders for the Matuwa and Kurrara Kurrara area and articulated in the *Matuwa and Kurrara Kurrara co-management plan framework*: Central Desert Native Title Services & Banarra 2012, *Matuwa and Kurrara Kurrara co-management plan framework*, November 2012.

¹¹ AIATSIS provided in-kind salaries for the project and Central Desert provided travel and logistical support.

This partnership was formalised by a research agreement negotiated with the Wiluna native title holders and Central Desert. The research agreement remained under the stewardship of the working group until the RNTBC, Tarlka Matuwa Piarku Aboriginal Corporation (TMPAC), was formalised in late 2014 (see Appendix 1). As of early December 2014, the TMPAC have begun setting up a permanent subcommittee to oversee this project. The research agreement incorporates the AIATSIS *Guidelines for ethical research in Australian Indigenous studies* (GERAIS) and the project has received approval from the AIATSIS Research Ethics Committee. There are additional provisions to support the transition of the Wiluna claim group into the formal RNTBC structure that go above and beyond the GERAIS requirements. Community approval for the project was sought at key community meetings and workshops between October 2013 and March 2014 (see Appendix 2).

As a part of the research project AIATSIS agreed to publish a research report about the decision-making process involving the Wiluna native title holders and the state government. This research report is aimed at other parties who are in the process of entering or designing collaborative management arrangements and who want to know more about what it involves and how to achieve collaborative management with the best possible outcome.

This report documents land management in Matuwa and Kurrara Kurrara, focusing on the experiences and perspectives of the Wiluna native title holders. It is written from the perspective of the research and planning process undertaken to develop the IPA plan in which AIATSIS was involved. Section 2 is a cultural, social and policy account of the collaborative management relationship between the Wiluna native title holders and primarily the Western Australian state government through Parks and Wildlife up until when the IPA planning began. Section 3 outlines the current challenges and opportunities presented by collaborative management. Section 4 documents how the Wiluna native title holders view their country as a cultural, economic and social resource, identifying their conceptions of land use and planning. Section 5 discusses the role of partnerships and leaders in their successes, and Section 6 focuses on the interrelationship between rights and exercising them on Matuwa and Kurrara Kurrara. The final section offers some tentative conclusions and ideas for future research and focus.

In this report, the Wiluna native title holders are frequently referenced by their named dialect group, Martu. Martu is a general dialect term meaning 'person' and it is frequently used by members of the native title holding group as an individual and group identifier.

2 Martu land management

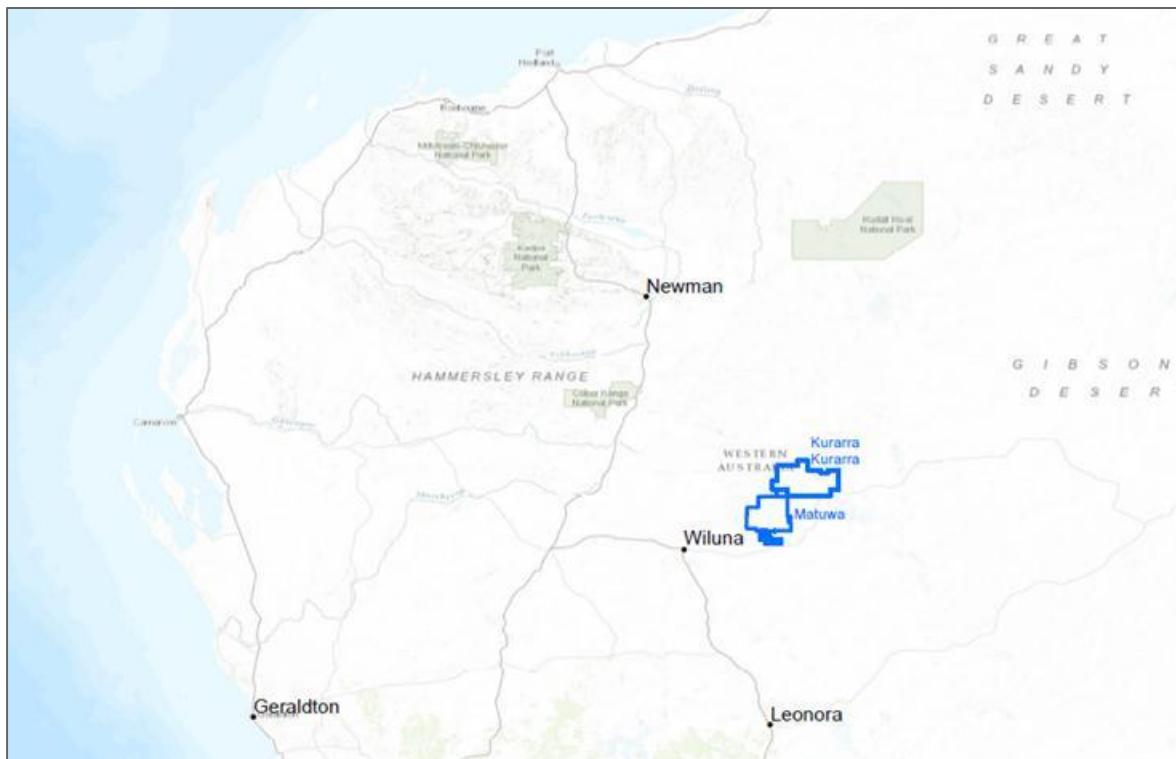


Figure 2: Map of Matuwa and Kurrara Kurrara

Source: Central Desert Native Title Services

Country for Martu is a multi-layered conceptual space. Martu have an ancient and unbroken relationship with Matuwa and Kurrara Kurrara that is bound by custodial responsibility. Managing country is central to this cultural responsibility. The management activities that are mandated for and on certain country by Martu people are focused on creating a range of outcomes that are borne out in the physical and metaphysical worlds as well as in social life. As an example, the use of the term *parada* to refer to a certain piece of country is not simply a description of the physical attributes of a spinifex grassland system. For the traditional owners, *parada* is primarily a *jukurrpa* (Dreaming) landscape that must be understood and managed by the right people in a certain way to optimise multiple natural and cultural outcomes.¹²

Kurrara Kurrara, consisting of 321 818 hectares, and Matuwa, consisting of 244 000 hectares, are located at the confluence of two biogeographic regions: the Gascoyne and the Murchison regions.¹³ The Murchison is the dominant bioregion for Matuwa,

¹² See further Appendix 3.

¹³ See Department of Sustainability, Environment, Population and Communities 2012, *Interim biogeographic regionalisation for Australia, version 7, 1: 10 million*

with low, flat hills separated by alluvial plains, mulga woodlands and occluded paleodrainage channels. Kurrara Kurrara is located in the Gascoyne bioregion where the ancient drainage channels in the east of the properties spill out into sandy washes and salt lakes. Underground water flows are a critical element of the relationships that the Martu have with the region and the area is home to some of the most significant men's and women's cultural sites in the desert region. There is also a diverse and rich range of flora and fauna with over 480 identified plant species and 220 animal species – including a number of 'threatened' and 'vulnerable' species under the *Wildlife Conservation Act 1950* (WA) and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) respectively.

The area is also imprinted with a contemporary relationship narrative, as it contains areas where people first walked out of the desert, camped and made contact with Europeans in the early 1900s.¹⁴ These areas mark the integration of the Wiluna native title holders into the pastoral workforce. The settlement of Western Australia and the imposition of pastoral leases created significant impediments to accessing country for the Wiluna native title holders, who were excluded from their country and lacked control over how it was managed. The Wiluna native title holders witnessed a swift imposition of new decision making structures and authority over their traditional lands. While many of the native title holders took up jobs as station hands, cooks and cleaners, which enabled them to remain on country, fences and locked gates restricted access for the majority of the Wiluna native title holders. Furthermore, new agricultural practices brought almost irrevocable changes in diet, ecosystem function, and hunting and gathering practices.

With the increasing recognition of Indigenous land claims throughout the 1970s in other jurisdictions and the recognition of native title in 1992 nationally, the priorities of traditional owners have become increasingly important in interactions with the state government. The enduring connections of the Martu to Matuwa and Kurrara Kurrara have been recognised in their exclusive possession native title determination over the area¹⁵ and, in particular, increased non-Indigenous focus on the Martu concept of country.

<<http://www.environment.gov.au/system/files/pages/5b3d2d31-2355-4b60-820c-e370572b2520/files/bioregions-new.pdf>> viewed 8 January 2015.

¹⁴ Central Desert Native Title Services & Banarra 2012, *Matuwa and Kurrara Kurrara co-management plan framework*, November 2012.

¹⁵ *BP (deceased) and Others v State of Western Australia* [2013] FCA 760 (3 September 2013) (*Wiluna No. 2*) over the former Earaheedy and Lorna Glen pastoral leases; *WF (deceased) and Others on behalf of the Wiluna People v the State of Western Australia* [2013] FCA 755 (29 July 2013) (*Wiluna*) over the Windida pastoral lease.

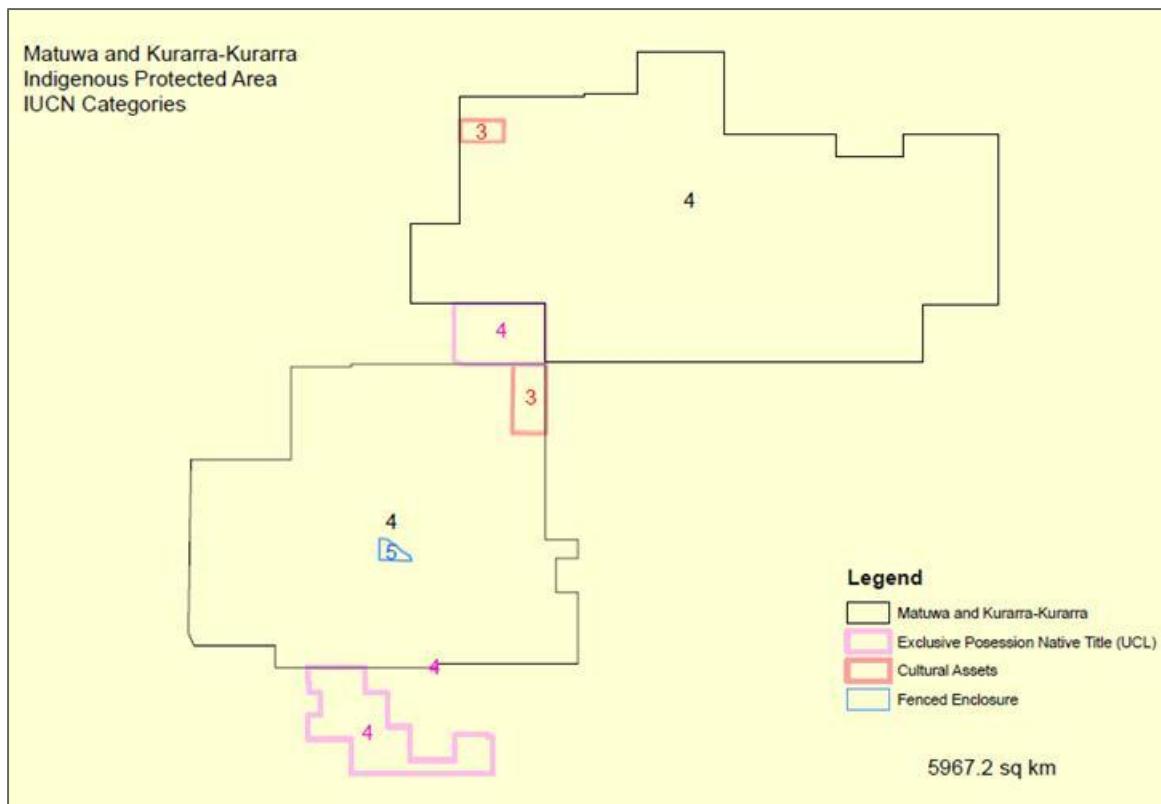


Figure 3: Map of the IPA

Source: Central Desert Native Title Services

2.1 Emergent conservation and land management opportunities

In the past 10 years, land management in the Wiluna native title determined areas has been characterised by the gradual shifting of decision-making power to the Wiluna native title holders, with important key community based, as well as national policy and legal, changes impacting on their evolving management role. A direct result of the growth of the conservation estate has been the increase in opportunities for Indigenous landholders to more actively engage in conservation efforts.

In particular, the transfer of the pastoral leases back to the Western Australian government as part of a strategy to secure 15 per cent of every interim bioregion for conservation purposes enabled greater Martu involvement in the management of their traditional lands.¹⁶ The so named ‘Gascoyne-Murchison Rangeland Strategy’ involved the state acquisition of high biodiversity and multiple land systems for conservation value, with both of the properties purchased by the Western Australian Department of Conservation and Land Management (CALM) as ‘landscape recovery’

¹⁶ Kealley, I 2014, ‘Native title, what native title? A case study from Wiluna, Western Australia’, conference paper, National Native Title Conference, Coffs Harbour, 4 June.

projects in 1998, the same year that the Wiluna claim was filed by the Ngaanyatjarra Council.

At the time of purchase, Kurrara Kurrara mainly held sheep and cattle, with 25 windmills and nine dams, and Matuwa held 42 windmills, sheep, irrigation and cattle, all of which had to be removed, filled in or relocated.¹⁷ CALM implemented a long-term pastoral infrastructure decommissioning project over the two pastoral leases. From 2003 onwards, traditional owners were occasionally involved in collaborative management consultations, surveys and small work programs such as upgrades to existing infrastructure or removal of old fences and windmills.

The signing of the MOU in 2004 led to the establishment of a park council: a joint working group comprised of 12 members of the Wiluna native title claim group and members of the CALM regional operations team. The park council's function was to detail the joint management priorities and aspirations of Matuwa and Kurrara Kurrara and to make operational decisions. Decisions that affected native title, such as major ground disturbing works, would be referred back to the Wiluna native title claim group meetings in accordance with the future acts provisions of the *Native Title Act 1993 (Cth)* (NTA).



Figure 4: The first park council meeting in 2006

Source: Ian Kealley

¹⁷ Ibid.

2.2 The fence — the turning point

From 2004 to 2008 a series of park council meetings were held between CALM (later the Department of Environment and Conservation (DEC)) and the native title claimants. These meetings often coincided with biological surveys / native fauna reintroductions and return to country style trips that were initially facilitated by Ngaanyatjarra Council (and from 2007 Central Desert). It was the case that the majority of the small budget which was allocated through the regional DEC Goldfields office for joint management was spent on funding the park council meetings. The limited budget and the cost of running meetings meant that there was very little joint management funding left over for the implementation of the plans and aspirations that were put forward by park council members at these meetings (see Appendix 4).

A critical turning point for the future of the park council occurred in 2008 when DEC sought to expand the native animal enclosure with an additional 30 kilometres of fencing.¹⁸ While the increase in the size of the animal enclosure was small relative to the size of Matuwa and Kurrara Kurrara, the Wiluna native title holders were once again faced with the possibility of more fenced areas on the properties and thus further restrictions and impediments to their land use aspirations. In addition to the cultural implications, significant debate ensued regarding whether increasing the enclosure's size represented a future act (such as a low impact future act or a public work) and what might be the legal implications of this in the larger context of resolving the Wiluna native title claim. DEC operatives had sought approval for the construction of the fence through the park council meetings. Central Desert, as legal representative of the Wiluna native title claimants, following instructions, contended that authority to construct the fence could only be granted through a full meeting of the Wiluna native title claim group and that, in expanding the enclosure without obtaining this authority, DEC had acted unlawfully. The fencing issue highlighted the weakness of the park council model as a decision-making structure and resulted in its dissolution.

¹⁸ The 'animal enclosure' is a constantly electrified fenced pen that creates an artificial barrier between feral predators such as cats, foxes and dingoes and reintroduced native animals such as boodies, bilbies and mala which are part of a captive breeding program. This is discussed further in Section 4.



Figure 5: Cat tracks outside the fenced enclosure

Source: Mo Pawero

DEC had viewed the park council as the appropriate forum for gaining approval for works that they considered did not need the consent of the full claim group or did not affect the native title claimed. Both parties held contrary interpretations of what decisions might affect native title rights and interests, and how decisions should be made as a result. This difference of opinion threatened to become a major stumbling block in the developing joint management relationship. Further, it became increasingly apparent that over the years, most decisions that were passed through the park council had been based on priorities dictated by the DEC-managed conservation project schedule and state government funding.

While the legal issue of the fence extension stayed on the table, the strong on-ground relationship that had built up between the DEC operations staff and the Wiluna native title holders was put under stress. From the DEC perspective in particular, many of the requests of the Wiluna native title holders in relation to the creation of a small budget for ranger work, the building of the Yimbin shed tank,¹⁹ hand pumps at traditional campgrounds and support for trips back to country had been facilitated and paid for by DEC based on requests that were made through the park council.

While the native title stalemate had the effect of refocusing the joint management decision-making relationship through formal meetings of the Wiluna claim group

¹⁹ The building of the shed tank (a structure for catching rainwater) at Yimbin was one of the first joint management work programs between Parks and Wildlife and the developing ranger team.

(facilitated by Central Desert), the decision was made by both parties to progress less contentious elements of the on-ground working relationship. In any case, the fenced enclosure was constructed by DEC in 2009.

Significantly, in 2013 the Wiluna native title holders were recognised by the Federal Court of Australia as holding the exclusive right of possession, occupation, use and enjoyment of the Matuwa and Kurrara Kurrara determination area as against the whole world, following litigation focused upon the legal effect of the cancellation of the pastoral leases. The implications of the enclosure's expansion, in terms of compensation for loss or impairment of the now-recognised native title, are yet to be determined.

From 2009 to the present day, the major focus of the relationship between DEC and the native title holders became the development of a consistent work and training program for a fledgling Indigenous ranger team who could provide operational support to the DEC work program. Over this period the budget focus has moved away from expenditure on meetings and towards providing consistent wages for ranger work, women's trips and the construction of permanent camping areas.

This ranger program became the new interface between the claimants and the DEC operations staff and has become the essential driver of momentum towards the ultimate goal of collaborative management.

2.3 The ranger team

In 2009, Central Desert attracted funding from the Wiluna Regional Partnership Agreement (WRPA) to develop a trial ranger team for the Wiluna native title claimants (as they were known then). Unlike the majority of ranger programs, initial funding came from multiple regional stakeholders as opposed to the Commonwealth government's Working on Country (WoC) program. One of the first major projects conducted by the ranger team was the construction of a work and community camp on Matuwa for exclusive use by Martu people in August 2010. The Martu-ku Ngurra (Martu home) camp, replete with showers, toilets, running water and shade, has become a critical facility that has supported greater access to country.²⁰ The placement of the permanent camp close to the Parks and Wildlife (or DEC as it was known at the time) operations hub, the old Lorna Glen homestead, was a significant step for both parties in realising a physical symbol of the progression of the collaborative management relationship.

In 2011, Central Desert secured funding through the federal government Indigenous Protected Areas (IPA) program to facilitate co-management consultations and the production of a co-management framework. IPA funding is drawn from the National Heritage Trust and supports Indigenous groups to declare a protected area under

²⁰ The site still lacks power.

one of the International Union for Conservation of Nature (IUCN) categories, which formally becomes a part of the National Reserve System (NRS).²¹ This funding created a new opportunity for the Wiluna native title holders to assert their land management aspirations and for the redesign of decision-making structures. The IPA funding also meant that the Wiluna native title holders were not restricted to legislated joint management arrangements under the *Conservation and Land Management Act 1984* (WA) (CALM Act). With a reinvigorated joint management planning budget, the native title holders were able to ‘get on the front foot’, beginning a series of on country consultations designed to elicit overarching management themes that would inform an eventual IPA management plan.



Figure 6: Rangers fighting a fire near the fenced enclosure

Source: Barry Hooper

With an increase in ranger activity and support for joint management consultations through IPA funding, the Martu-ku Ngurra camp became an important focal point for meetings and relationship building between Parks and Wildlife and the Wiluna native title holders. Community members were returning regularly to the Martu-ku Ngurra camp, spending time talking with the ranger team about the work that they were doing (often cooking for them after the completion of 12-hour work days) and visiting the Parks and Wildlife operations and science teams to learn more about the day-to-day management of the properties. More importantly, they were able to begin the process of reconnecting with their country as traditional owners who now had a

²¹ This is discussed further in section 3.

permanent physical presence — headquarters from which to plan for the management of their country.

Over the period 2009 to 2012, the ranger team were steadily increasing their days of labour and providing services over a number of cultural, conservation and commercial workspaces. In 2012, the Wiluna ranger team secured two fee-for-service contracts. The first contract was to provide one week per month of land management services to Parks and Wildlife at Matuwa and Kurrara Kurrara. The second contract was signed with Newmont Asia Pacific at their Jundee goldmine (now owned by Northern Star), for environmental rehabilitation services. This commercialisation of land management services was a direct result of the continued support of ‘both sides of the fence’ for the development of work opportunities for young working age men and women in Matuwa and Kurrara Kurrara.²²

In the 2013–14 financial year, the Wiluna ranger team recorded 825.5 days of employment, an increase of 20 per cent from the previous financial year.²³ The team’s ability to deliver ever more sophisticated services to a range of partners has seen their business prospects expand to providing additional services to mining and government.²⁴ The contract with Parks and Wildlife is currently in its third year of operation and is worth \$102,000 annually. More importantly, as a result of the ‘kickstart’ which the Parks and Wildlife contract provided, fee-for-service contracts now account for 40 per cent of annual wages paid to the Wiluna based ranger team.

2.4 The IPA planning process

Over the years, key Parks and Wildlife staff assigned to operationalizing joint management and the completion of an official joint management plan for the properties left the department or changed roles. Departmental budgetary constraints also cruelled the timely development of any formal management plan. Where there has been limited or insufficient support from state government agencies, typically, IPA funding has been leveraged as a critical element of the continued exercise and demonstration of native title rights and interests.²⁵ Central Desert and AIATSIS

²² Tran, T 2014, telephone interview with Lindsey Langford, Operations Manager, Land and Community, and Rob Thomas, General Manager, Land and Community, Central Desert Native Title Services, 6 August.

²³ Langford, L 2013, *Land and Community Program: employment overview*, Central Desert Native Title Services.

²⁴ Langford, L, Morgan, H & Singleton, G 2013, ‘Indigenous and mining interactions in the third-space: unlocking local labour power’, conference paper, National Native Title Conference, Alice Springs, 3–5 June.

²⁵ Central Desert Native Title Services have made submissions to the National Native Title Tribunal that caring for country is evidence of native title holders carrying out customary community activities in relation to s 237 of the *Native Title Act 1993* (Cth) and cited it in objecting to mineral companies’ applications for access to native title lands that are being managed by ranger teams. For general discussion see Smyth, D 2011b, *Review of the Working on Country and Indigenous Protected Area*

drafted an IPA plan as part of an interim strategy for detailing the land management aspirations of the Wiluna native title holders while awaiting further engagement by the state government in progress towards formal collaborative management.

The IPA plan was drafted from December 2013 to February 2014 using background documentation that included meeting minutes, the Matuwa and Kurrara Kurrara Co-Management Plan Framework and the findings of various community focus groups involving both the working group and the broader community. At a third workshop from 11 to 13 March 2014, the contents and decision-making structure of the draft IPA plan were presented to the community in specific men's and women's meetings. AIATSIS and Central Desert staff discussed the contents of the plan as well as a proposal to extend the plan to areas outside the former pastoral lease boundaries (areas of unallocated Crown land) in order to ensure a match between physical boundaries and key cultural areas. The country types and 'threshold' for collaborative management with the state government were also discussed, establishing key focus areas for progressing the IPA plan.

The dedication of the IPA in 2015 marks an important turning point for the Wiluna native title holders as they formally declare their land management intentions for Matuwa and Kurrara Kurrara. As previously mentioned, over the years that the park council was operating, very few Martu priorities made their way onto the joint management agenda (Appendix 4). With the determination of native title at Matuwa and Kurrara Kurrara and the area being managed under a federal government funded IPA management plan, the Wiluna native title holders' legitimate rights, interests and aspirations in managing land are finally finding their way into the policy and legal conversation that is occurring in broader national and state based contexts.

programs through telephone interviews: final report, Australian Government Department of the Environment, <<http://www.environment.gov.au/indigenous/workingoncountry/publications/pubs/woc-interviews.pdf>>.



Figure 7: Consultation meeting held at the bough shed at Martu Ku Ngurra in 2011

Source: Central Desert Native Title Services

In 2015, much of the Matuwa and Kurrara Kurrara IPA scope of works will be implemented by the ranger team while longer term objectives such as tourism and enterprise development will be facilitated by Central Desert and other external partners. The plan has been heavily supported by Parks and Wildlife. As stated by Ian Kealley, Regional Manager of Parks and Wildlife, Goldfields Region:

The common thread...has been getting on with business and the IPA is a natural progression to allow us to continue without being obsessed about tenure or native title, because this is really coming from a land management perspective. We supported very early on the application for funding to progress an IPA process, and then we've been involved in the process as much as we can to try and come up with a management plan which fits Martu expectations, land management expectations and Parks and Wildlife expectations.²⁶

The success of the IPA plan is interrelated with the strength of successful partnerships that have been developed on the ground. The independence of the Wiluna native title holders is critical, as it has often been the case that the priorities of the Wiluna native title holders are in competition with the Western Australian Government's priority of demonstrating its 'green' credentials in other high-profile project areas. Although Central Desert, the native title holders and Parks and Wildlife have developed a very positive and productive operational relationship, they have generally failed to gain active state political support at the higher level.

²⁶ Tran, T 2014, interview with Ian Kealley, Goldfields Regional Manager, Department of Parks and Wildlife, Coffs Harbour, 4 June.

2.5 The parallel native title journey

Formal rights and interests of the Wiluna native title holders are recognised in three separate determinations, with exclusive native title rights and interests recognised over Matuwa and Kurrara Kurrara as a result of Justice Jagot's findings in *BP (deceased) and Others v State of Western Australia*.²⁷ As of September 2013, Matuwa and Kurrara Kurrara is again part of the estate over which the Wiluna native title holders have ultimate decision-making power, as the area was determined as exclusive possession native title. However, Justice Jagot's decision was appealed by the state government based on its potential precedential value. Section s 47B(2) of the NTA enables native title to be claimed on Crown land based on proof of an intention to return that land to native title claimants as opposed to the general public. The Western Australian Government, as part of its conservation strategy, had acquired a number of pastoral leases, which were now vulnerable to a claim of exclusive possession native title. Exclusive possession native title enables native title holders to make decisions about who accesses their country, which has been viewed as an obstacle to the state government managing its acquired properties and achieving its conservation aims. In particular, the Wiluna native title holders had the legal right to exclude pre-existing activities that were occurring on the former Lorna Glen and Earaheedy pastoral leases, including conservation activities with significant pre-existing investment from the state government.

Victor Ashwin, a member of the Matuwa and Kurrara Kurrara Working Group, highlighted the frustration he felt when he heard of the state government's intention to appeal the decision: 'They recognise you and then they try to take it back.'²⁸ Many of the Wiluna native title holders felt frustrated that while 'DEC mob' had said that they were committed to continuing with joint management the 'lawyers' were looking to appeal the decision. Interestingly, the fact that the outcomes of the appeal decision would have very real implications on the decision-making authority of the Wiluna native title holders was dismissed by Parks and Wildlife as something 'separate' to negotiations with Parks and Wildlife. However, the reality in Matuwa and Kurrara Kurrara is that there is an ongoing relationship of goodwill, with many of the Wiluna native title holders well aware of the existing conservation program in Lorna Glen and the caretaker's compound. Wiluna native title holder and Martu ranger Robbie Wongawol stated, 'We want to be good friends and maintain that friendship but we want it to be two ways', highlighting the need for fair exchange and equity in the government's dealings with the Martu.²⁹

²⁷ [2013] FCA 760 (2 August 2013). Following an unsuccessful appeal to the Full Federal Court by the State of Western Australia, Justice Jagot's determination of native title, made on 3 September 2013, stood in relation to the former Earaheedy and Lorna Glen pastoral leases (*Wiluna #2*). Native title over the Windida pastoral lease was determined by Justice McKerracher in *WF (deceased) and Others on behalf of the Wiluna People v the State of Western Australia* [2013] FCA 755 (29 July 2013) (*Wiluna*).

²⁸ Ashwin, V 2013, discussion at the Matuwa and Kurrara Kurrara Workshop, Perth, 15 October.

²⁹ Tran, T 2013, Interview with Robbie Wongawol, Community Liaison Officer, Wiluna, 12 November.



Figure 8: Lindsey Langford presenting to the Wiluna community at the second workshop workshop held 11 November 2013

Source: Gabrielle Lauder and Bhiamie Williamson

The state government's appeal of the *Wiluna #2* decision was rejected by the Full Court of the Federal Court in August 2014 in *State of Western Australia v BP (Deceased)* [2014] FCAFC 95. In the appeal, the state government made a number of claims related to errors in the trial judge's decision making. The decision of the Full Court upheld the decision made at first instance by Justice Jagot. The recognition of the legal native title rights and interests of the Wiluna native title holders has provided a foundation to support their decision-making authority as equal partners in collaborative management negotiations.

There remains, however, a significant amount of work to be done to bring about a change in perspective where the Wiluna native title holders are seen by Parks and Wildlife as legitimate landholders with recognised legal rights and interests that need to be incorporated into collaborative management planning and decision-making processes. At the second project workshop it was clear from the meeting that there was a disjunct between the expectations of the Wiluna native title holders and Parks and Wildlife as to what would be achieved. It was also clear from this workshop that the Wiluna native title holders were unlikely to be able to progress any joint management arrangements with Parks and Wildlife without greater support and assertion on their part, especially where both parties had become accustomed to working within the historical park council model.³⁰

³⁰ The use of the name 'park council' indicates that Parks and Wildlife had, early on, entertained a vision for the development of the two properties as a conservation park. Up until 2011, the park council had been the primary 'joint management' working group while the Wiluna native title claim was being progressed. All non-native title decisions that affected the management of Matuwa and Kurrara Kurrara were progressed through this forum.

While the focus of the state government was on preparing for the economic and state-wide strategic realities of an affirmative exclusive possession native title decision on former pastoral leases, the Matuwa and Kurrara Kurrara IPA management plan was successfully drafted, funding was secured to bring on a female ranger team, the male Wiluna ranger team have steadily increased their business base, and the native title holders have been working with the Wiluna Remote Community School on the creation of a ‘Bush Ranger’ program at Matuwa and Kurrara Kurrara.³¹ These activities have occurred outside of the formal recognition and contest of native title rights and interests and with little input or recognition from the executive level of Parks and Wildlife, let alone other state government departments who have actively opposed the native title claim over the Matuwa and Kurrara Kurrara areas (see Appendix 5).

³¹ Central Desert Native Title Services 2013a, ‘The Wiluna School Bush Ranger Program’, *Country, Culture, Futures* newsletter, Central Desert Native Title Services, Perth.

3 Collaborative management: challenges and opportunities

Collaborative management moves focus away from rights and boundaries to partnerships and shared values where practices are largely defined by the parties involved in the process. Some common elements include an agreed way of managing country that meets the objectives of all parties; the inclusion of Indigenous knowledge into land management; and being, ideally, driven by strong Indigenous governance and principles. The quality of experiences varies depending not only on those practices but also on the informal and formal institutions that drive the process, such as state government policy, laws and attitudes. Collaborative management arrangements can ultimately be what both parties want them to be,³² but an important element is the need to plan on the basis of the priorities and shared values of all parties involved — as opposed to what is possible under formal arrangements already in place.

The benefits of caring for country flow to individuals, communities and regions³³ and demand for land management opportunities will only increase into the future as traditional owners seek to settle outstanding land claims.³⁴ Regardless of the land tenure involved, Indigenous land management facilitates land justice and potentially unlocks employment and economic opportunities via enabling greater Indigenous decision making and control over country.³⁵ The alignment of Indigenous and national land management aspirations coincides with the growing recognition of native title rights and interests and the formation of RNTBCs to hold and manage native title.³⁶ It is often the case, however, that access to funding and resources for

³² Bauman, T, Haynes, C & Lauder, G 2013, *Pathways to the co-management of protected areas and native title in Australia*, AIATSIS Research Discussion Papers, no. 32, Australian Institute of Aboriginal and Torres Strait Islander Studies, May, <http://www.aiatsis.gov.au/_files/research/BaumanHaynesDP_web.pdf>; Clements, J, Gorring, A & Thomas, R 2010, *Joint management between Kimberley and Central Desert Traditional Owners and State of Western Australia*, Central Desert Native Title Services and Kimberley Land Council.

³³ Weir, JK, Stacey, C & Youngetob, K 2011, *The benefits associated with Caring for Country*, literature review prepared for the Department of Sustainability, Environment, Water, Population and Communities, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

³⁴ Pagsanjan, M 2014, *Evidence for native title compensation claim*, Coffs Harbour, 2 June 2014, <http://www.aiatsis.gov.au/_files/conferences/national_native_title_conference_2014/michael_pagsanjan.pdf>.

³⁵ Smyth, D 2011b, *Guidelines for country-based planning*, commissioned by the Queensland Department of Environment and Resource Management; Weir, JK, Stacey, C & Youngetob, K 2011, *The benefits associated with Caring for Country*, literature review prepared for the Department of Sustainability, Environment, Water, Population and Communities, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

³⁶ Strelein, LM, Tran, T, McGrath, PF, Powrie, R & Stacey, C 2013, AIATSIS submission to the Native Title Organisations Review, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

RNTBCs to manage ecological or cultural concerns on native title lands is not commensurate with land management needs.³⁷

Federal funding for land management that is consistent with Indigenous cultural governance and decision making is viewed as one means of realising native title aspirations and creating security for elders to share their knowledge with younger generations, especially through the ranger teams and IPA consultation projects.³⁸ IPAs currently account for 40 per cent of the NRS and are a significant contributor to satisfying Australia's international obligations under the Convention on Biological Diversity.³⁹ IPAs are dedicated based on their alignment with the IUCN guidelines and acceptance by the Australian Government of a finalised management plan (see Appendix 5 for further categories used in the Matuwa and Kurrara Kurrara planning process).

At a state level, native title has created the impetus for the state government to enable Indigenous land management opportunities in Western Australia via changes to the CALM Act. The CALM Act amendments enabled the delivery of commitments in native title agreements made during the Ord Stage 3 negotiations, Kimberley gas negotiations and, more recently, negotiations for the Single Noongar Claim.⁴⁰ A series of amendments were introduced in 2012 which included 'Aboriginal culture and heritage' as a new management objective and a statutory framework for joint management. Formal joint management in Western Australia can occur over the conservation estate (s 56A) or over land such as freehold, leasehold or otherwise Aboriginal held land (s 8A) and ultimately is a 'tenure blind' approach.⁴¹

These opportunities in Western Australia illustrate the 'policy' catch-up to enable the aspirations and needs asserted by traditional owners and, at the same time, ensure

³⁷ Smyth, D, Kennett, R, Tran, T, Prince-Pike, A & Dulfer-Hyams, M 2014, *Emerging Issues in Land and Sea Management: A workshop to map current and future research and resource needs*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra, August 2014.

³⁸ Smyth, D 2011b, *Review of the Working on Country and Indigenous Protected Area programs through telephone interviews: final report*, Australian Government Department of the Environment, May, <<http://www.environment.gov.au/indigenous/workingoncountry/publications/pubs/woc-interviews.pdf>>.

³⁹ Over 40 per cent of the NRS is made up of Indigenous Protected Areas. The NRS is close to covering 17 per cent of Australia's landmass (or terrestrial area), which is consistent with Aichi target 11 under the Convention on Biological Diversity. See also Altman, JC, Buchanan, GJ & Larsen, L 2007, *The environmental significance of the Indigenous estate : natural resource management as economic development in remote Australia*, CAEPR Discussion Papers, no. 286, Australian National University Centre for Aboriginal Economic Policy Research, Canberra; Hill, R, Pert, PL, Davies, J, Robinson, CJ, Walsh, F & Falco-Mammone, F 2013, *Indigenous land management in Australia: extent, scope, diversity, barriers and success factors*, CSIRO Ecosystem Services, Cairns.

⁴⁰ See further Choo, S 2014, *Co-governance and co-management in the state of Western Australia: an overview of recent developments and strategies*, presented at the co-governance and co-management of governance conference, convened by Parks Forum, Te Papa, Wellington, 16–18 June 2014.

⁴¹ Duff, N 2011, *Managing weeds on native title lands*, workshop report, Australian Institute of Aboriginal and Torres Strait Islander Studies, December.

land access for major infrastructure and land development. The economic imperative driving the settlement of agreements with traditional owners elsewhere in the state, and the commitment of resources to implementing them, has at times disadvantaged the Wiluna native title holders, who lack a clear environmental offset imperative, such as the Kimberley Science Strategy.⁴²

The relative security and independence offered by IPA funding has enabled the Wiluna native title holders to articulate their land management aspirations to support the development of partnerships with the state and federal government and other parties. Within this context, IPAs are viewed as one of the more durable land management options for the Wiluna native title holders, as they have the ‘best of both worlds’.

However, one of the most common challenges of achieving viable collaborative management is the ability of all parties to link aspirations to actions that match the ideals of both Indigenous and non-Indigenous parties involved. In terms of the collaborative management relationship that is still forming at Matuwa and Kurrara Kurrara, the parties have recognised the need to enter into dialogue and action around shared values and commitment to mutually beneficial work plans in the first instance. A major focus of the operational collaborative management relationship has been to develop joint projects and work plans where there are clear and defined common interests and benefits. The areas of disagreement or contention have been ‘left to the lawyers’ in the hope that a positive working relationship will enable greater cooperation between parties where previously no common ground could be found.

⁴² According to Bauman and Smyth, political will is a critical component of successful joint management: Bauman, T & Smyth, D 2007, *Indigenous partnerships in protected area management in Australia: three case studies*, Australian Institute of Aboriginal and Torres Strait Islander Studies, The Australian Collaboration, Canberra.

4 Country as a resource

Indigenous landholdings are often perceived as resources for non-Indigenous Australia, whether they are places for tourism or for mining. However, legislation and policy do not explicitly support Indigenous-held tenures being used as economic resources to benefit Indigenous peoples. Current income-generation activities in the Wiluna area include mining and conservation, from which the Wiluna native title holders receive minimal benefit and income. Similarly, the Operation Rangelands Restoration Project run in Matuwa is predominantly managed by Parks and Wildlife.

Chevron, as part of their environmental offset commitment linked to the development of their gas hub at Barrow Island, committed funding of around \$10 million over 12 years to DEC.⁴³ A central part of this project is the staged removal of native animals from the Barrow Island development site and the reintroduction of the animals into the predator-proof enclosure at Matuwa.⁴⁴ While this project is nationally significant, the long-term benefits of this well-funded conservation resource (the project, the compound and the animals) to the Wiluna native title holders is up for debate, especially as the funding is wound back over the life of the project.

Further, there are broader questions involved with respect to the impact of non-Indigenous conservation initiatives on the rights and interests of the Wiluna native title holders. In Western Australia, Aboriginal customary rights are protected under the CALM Act, the *Wildlife Conservation Act 1950* (WA) (Wildlife Act) and the Wildlife Conservation Regulations 1970 (WA) (Wildlife Regulations) via the creation of a defence for activities that would otherwise be an offence in recognition of the ‘special connection Aboriginal people have to the land and sea, and the existence or otherwise of native title rights of Aboriginal people’.⁴⁵ The accommodation of Aboriginal customary activities are not dependent on joint management, creating opportunities for the Wiluna native title holders to assert customary interests regardless of formal joint management arrangements with the state government.⁴⁶

⁴³ Department of Environment and Conservation 2011, *Gorgon Gas Development Threatened and Priority Species Translocation and Reintroduction Program Annual Report 2010/2011*, <<http://www.robinchapple.com/sites/default/files/2014-10-14%20QON%20Translocation%20Barrow%20Island.pdf>>.

⁴⁴ See also Department of Environment and Conservation, *Operation Rangelands Restoration: a 2020 vision*, <<http://www.dpaw.wa.gov.au/images/operation-rangelands-overview.pdf>>.

⁴⁵ Section 103A of the CALM Act and s 23 of the Wildlife Act provide a defence based on ‘relevant acts’. In a policy document, the Western Australian government has noted ‘the ability to restrict or exclude Aboriginal people from undertaking these activities where required through legislation’: Department of Parks and Wildlife 2013, *Policy statement no. 86: Aboriginal customary activities*, Western Australian Government, <http://www.dpaw.wa.gov.au/images/documents/about/policy/Aboriginal_customary_activities_policy_86.pdf> (5 August 2014), 1.

⁴⁶ These amendments are limited to customary activities such as hunting rather than commercial activities or economic development: Sharp, P 2014, *Customary activities as a mechanism for facilitating collaborative management in the South West of Western Australia*, paper presented at the

Further, as discussed earlier, there are options to declare joint management under s 8A of the CALM Act that will enable the Wiluna native title holders to exercise enforcement rights.

While having substantial benefit for Aboriginal customary practice state wide, there are important questions about how the mechanisms enabling Aboriginal customary activities interact with native title, especially with the determination of *Wiluna* and the fact that s 47B(2) of the NTA applies, enabling prior extinguishment to be disregarded in *Wiluna #2*. Given that there are already exclusive native title rights and interests determined in the area, there is no regulatory power under the CALM Act to enable or restrict Indigenous land management activities unless the Wiluna native title holders explicitly agree to be subject to the CALM Act.

State based rights and interests are additional to protections under s 211 of the NTA. Exclusive possession native title rights and interests would arguably deliver more than Aboriginal customary activities enabled under the CALM Act, potentially creating a disincentive for native title holders to formally engage with the state government in joint management arrangements unless there are reciprocal enforcement rights that are unavailable under the NTA.⁴⁷

Customary rights and interests, especially where recognised in a successful native title claim, cannot be diminished via state based land management regulation, in particular where there has not been prior agreement such as the entering of a valid and appropriate Indigenous Land Use Agreement (ILUA), co-management arrangement or compensation.⁴⁸ Compensation mechanisms also provide the Wiluna native title holders with an opportunity to lock in policy and financial resources to support their aspirations for the management of the two properties.

IUCN World Park's Congress, convened by the International Union for the Conservation of Nature, Sydney, 17 November 2014.

⁴⁷ Native title rights and interests have only been asserted under tort law for trespass, as opposed to a direct mechanism under the NTA.

⁴⁸ See further *Akiba on behalf of the Torres Strait Regional Seas Claim Group v Commonwealth* (2013) 300 ALR 1; [54]. Customary interests can, however, be regulated. For example, there are regulations about the use of firearms on Crown land which our clients would almost certainly be subject to. So they have the right to hunt using guns, but have to do so in accordance with the law.



Figure 9: Third workshop, from 10 to 11 March 2014, where the contents and decision-making structure of the draft IPA plan were presented to the community in specific men's and women's meetings

Source: Bhiamie Williamson

The Wiluna native title holders clearly view Matuwa and Kurrara Kurrara as a diverse resource base, yet want to have opportunities to develop the area based on their priorities and aspirations. In the IPA management plan, traditional owner aspirations for management of the predator-proof native animal enclosure are at first detailed to promote and support a mutually beneficial research partnership:

Develop a policy and business plan to manage existing and expanded research (such as Operation Rangelands Restoration Project) in order to ensure long-term sustainability of project infrastructure and ensure future community benefit.⁴⁹

And they are detailed again in plans for enterprise development:

The idea of a tourism and education focused wildlife sanctuary utilizing the enclosed area will be investigated and evaluated for feasibility.⁵⁰

Further, throughout the park council meetings the Martu have made clear their preferences for enterprise development — for example, there are restrictions such as no tourism during law business — yet to date Martu have not been consulted about tourism or tourism partnerships at all.⁵¹

⁴⁹ *Matuwa and Kurrara Kurrara Indigenous Protected Area Country Management Plan* (review draft 2013.)

⁵⁰ Ibid.

⁵¹ Martu are also looking more broadly for opportunities for enterprise development facilitated through preferred supplier status, although this aspiration has not been explored in further detail or implemented by other parties.

There are broader policy trends recognising the role of native title lands as an economic resource,⁵² yet there has been limited focus on how to facilitate opportunities for economic development, what the practical and legal implications of economic development would be, and what this means if Matuwa and Kurrara Kurrara are declared under the CALM Act and likewise as an IPA. This position is likely to be clarified in future reforms of the NTA with the recognition of the need to support the evolution of native title to include commercial interests,⁵³ however, whether this will have a material impact on areas of already determined lands is yet to be seen. Generally, RNTBCs in Western Australia have higher than average assets despite having a sevenfold lower average income than other Indigenous corporations.⁵⁴ Where Tarlka Matuwa Piarku Aboriginal Corporation will fall in this range and its potential future growth are yet to be seen and arguably need to be planned for. Establishing productive land use opportunities in Matuwa and Kurrara Kurrara is critical to this success in the future, especially in leveraging the Martu asset base in a flexible and culturally appropriate manner

⁵² Under the current Indigenous Advancement Strategy the federal government is specifically seeking to fund projects and programs that provide ‘support for Indigenous land owners who wish to leverage their land assets to create economic development opportunities, including support for those wishing to pursue localised decision making on land use’: Department of the Prime Minister and Cabinet 2014, *Indigenous Advancement Strategy guidelines*.

⁵³ Australian Law Reform Commission 2014, *Review of the Native Title Act 1993*, Discussion Paper no. 82, Australian Law Reform Commission, Sydney, October.

⁵⁴ Government funding still remains one of the critical factors for enabling Indigenous corporations to self-generate income, despite the proportion of government funding decreasing from 47 per cent to 37 per cent over a six-year period. In a cohort of the top 500 corporations, RNTBCs represent about 20 per cent, with the highest ranking corporation having a total income of over \$11 million and the lowest ranking having an income of \$3000. Income wise, of the 108 already determined RNTBCs; only 16 have any source of income: Office of the Registrar of Indigenous Corporations 2014, *Top 500 Aboriginal and Torres Strait Islander corporations 2012–2013*, Commonwealth of Australia, Canberra.

4.1 Getting back on country: ‘Find your shed tank’

There are strong linkages between healthy country and healthy people.⁵⁵ Elsewhere it has been demonstrated that participation in caring for country is linked to better nutrition, more frequent physical activity and fewer chronic disease risk factors.⁵⁶ This earlier research has reinforced the need for further investment in Indigenous land and sea management and the need to ensure ongoing connection to country, especially through Indigenous-led land management.⁵⁷

The Wiluna native title holders often say that getting back on country is a key priority and motivation for claiming native title rights and interests in the first instance. In 2014, during consultations for the Wiluna People and Country Plan, part of the Wiluna PBC planning process, getting back on country and using country to promote health and wellbeing was a central theme. Country is seen as a unifying force and concept even where conflict exists. Traditional owners commented:

‘Land management work in Wiluna is good. It is flexible and people like being on country. They feel happier.’

‘Take ‘em out bush, eat *kuka* [bush tucker], walk around.’

‘Go bush more often, get them [young people] away from sniffing, drinking and fighting.’

‘We want local teachers out on the land sometimes. We got a classroom here too, outside. We can teach them.’⁵⁸

Central to getting back on country is access — not only the legal recognition that supports this access but also some practical elements of having the resources and infrastructure that support people to spend longer durations on country and often in large family groups with the express aims of securing community wellbeing.

⁵⁵ For research focused on Arnhem Land see Burgess, CP, Johnston, FH, Berry, HL, McDonnell, J, Yibarbuk, D, Gunabarra, C, Mileran, A & Bailie, RS 2009, ‘Healthy country, healthy people: the relationship between Indigenous health status and “caring for country”’, *Medical Journal of Australia*, vol. 190, no. 10, pp. 567–72. For research based on Victoria see Kingsley, J, Townsend, M, Henderson-Wilson, C & Bolam, B 2013, ‘Developing an exploratory framework linking Australian Aboriginal peoples’ connection to country and concepts of wellbeing’, *International Journal of Environmental Research and Public Health*, vol. 10, no. 2, <<http://www.mdpi.com/1660-4601/10/2/678#tabs-5>>. For a general overview see Ganesharajah, C 2009, *Indigenous health and wellbeing: the importance of country*, research report, AIATSIS, 2009.

⁵⁶ Burgess, CP, Johnston, FH, Berry, HL, McDonnell, J, Yibarbuk, D, Gunabarra, C, Mileran, A & Bailie, RS 2009, ‘Healthy country, healthy people: the relationship between Indigenous health status and “caring for country”’, *Medical Journal of Australia*, vol. 190, no. 10, pp. 567–72. The methodology for this research was validated in Burgess, CP, Berry, HL, Gunthorpe, W & Bailie, RS 2008, ‘Development and preliminary validation of the “Caring for Country” questionnaire: measurement of an Indigenous Australian health determinant’, *International Journal for Equity in Health*, vol. 7, no. 26, <<http://www.equityhealthj.com/content/7/1/26>>.

⁵⁷ Burgess, CP, Johnston, FH, Berry, HL, McDonnell, J, Yibarbuk, D, Gunabarra, C, Mileran, A & Bailie, RS 2009, ‘Healthy country, healthy people: the relationship between Indigenous health status and “caring for country”’, *Medical Journal of Australia*, vol. 190, no. 10, pp. 567–72.

⁵⁸ Langford, L, notes, Wiluna People and Country Planning consultations, 2014.

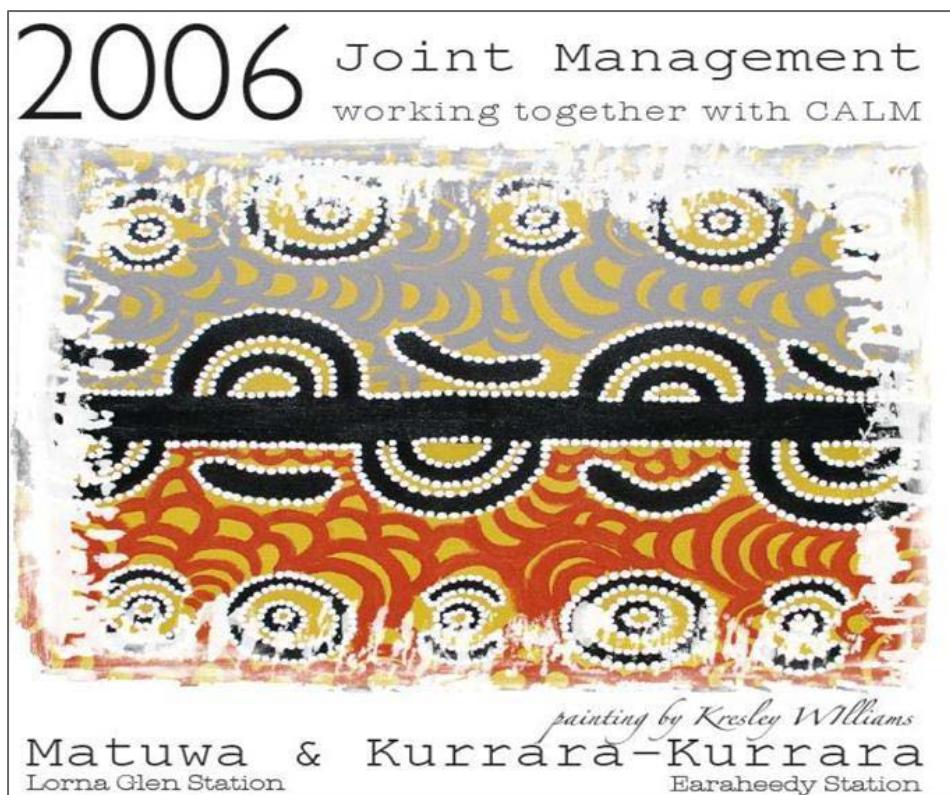


Figure 10: Poster from 2006 advertising the joint management partnership

Source: Ian Kealley

During the early stages of the MOU, when the park council was convened, restoring some of the infrastructure on Matuwa and Kurrara Kurrara was a key priority for both the Wiluna native title holders and CALM. Some of the main turning points in the relationship have revolved around joint work projects to construct camps — that is, the Martu-ku Ngurra home camp — or smaller infrastructure such as shed tanks (which trap and hold rainwater), picnic areas (such as tables or barbecue rings) and shelters. There are further plans to create multi-use camps at Wells 5, 7 and 9 to support Martu access as well as facilitate enterprise development. Getting back on country has a ‘positive effect not only by providing positive focus for claim groups during protracted native title processes, but also assisting in generating leadership, enthusiasm and cohesiveness within the claim group as well as encouraging economic engagements’.⁵⁹ Ian Kealley, the Regional Director of Parks and Wildlife, Goldfields Region, who oversees the operational management of Matuwa and Kurrara Kurrara, has confirmed that ‘icebreaker’ projects are central to relationship building.⁶⁰ They provide a chance to work together to produce mutually beneficial outcomes and enable relationship progression.

⁵⁹ Central Desert Native Title Services 2013b, submission to the Review of Roles and Functions of Native Title Organisations, Central Desert Native Title Services, Perth, paragraph 74.

⁶⁰ Kealley, I 2014, ‘Native title, what native title? A case study from Wiluna, Western Australia’, conference paper, National Native Title Conference, Coffs Harbour, 4 June.

Greater understanding of the aspirations of multiple partners has also enabled marked changes in the relationship with traditional owners. For Parks and Wildlife, the development of campsites and investment in infrastructure is a ‘value add’ for the properties and supports their parks and visitor management aspirations. Parks and Wildlife have also noted how the department’s relationship with traditional owners has evolved under an adaptive management model that has been a ‘learning process’ involving meeting the Wiluna native title holders ‘in the middle’.⁶¹ For both parties, the invaluable contribution of ‘goodwill’ that collaborative infrastructure projects enable is captured in the following statement made by Rob Thomas, General Manager of Land and Community at Central Desert: ‘Find your shed tank and build it.’⁶² This comment highlights the importance of both parties having places on country from which to ‘plan by doing’, using country — not the boardroom — as a common link, a familiar and constructive space (and the obvious place) from which to start discussions about joint management. As native title holder Darren Farmer reiterated recently during consultations: ‘We can’t talk about country in town. If you want to talk about it, you’ve got to see what you are talking about. You have to be on it.’⁶³



Figure 11: Rangers building multi-purpose campsite at Matuwa

Source: Mo Pawero

⁶¹ Kealley, I 2013, *13 years in the making — from pastoral lease to co-management for conservation and heritage*, paper presented at the Matuwa and Murarra Kurrara Workshop, Perth, 15 October.

⁶² Thomas, R, Langford, L & Ashwin, V 2014, ‘Native title, what native title? A case study from Wiluna, Western Australia’, conference paper, National Native Title Conference, Coffs Harbour, 4 June.

⁶³ Langford, L, notes, Wiluna People and Country Planning consultations, 2014.

4.2 Country based planning

Country based planning has been advocated as a methodology that supports traditional owners to develop effective plans for country by focusing on geographical and cultural scales.⁶⁴ These scales are also consistent with Indigenous cultural authority and social norms, including obligations to care for country.⁶⁵ As noted by Smyth, ‘A fundamental rationale for using country as a cultural and spatial planning unit is that Aboriginal people consistently insist that they can only speak for and about their own country.’⁶⁶ He goes further to note that ‘if traditional owners are to have a meaningful voice’ in the future of land management, country should be recognised as ‘the appropriate and enduring scale for engagement and planning’.⁶⁷

Country based planning also uncovers the intersection points between non-Indigenous land management imperatives and Indigenous responsibilities for managing country.⁶⁸ The Matuwa and Kurrara Kurrara IPA planning process has been unique in that it has sought to develop a land management plan based on country types identified by the Wiluna native title holders as opposed to existing land tenures.⁶⁹ This approach is reflected in how the IPA planning process occurred irrespective of the pending appeal of the native title decision.

The IPA management plan was developed from the Matuwa and Kurrara Kurrara Co-Management Plan Framework. The framework was developed following a series of IPA consultation trips to Matuwa and Kurrara Kurrara.⁷⁰ During this time, consultant anthropologists Dr Bill Kruse and Sally Hodson prepared a draft of the framework that included the first iteration of a map based planning tool indicating management zones, locations of significant sites, and land types and land use types.⁷¹ Most of the land use aspirations of the Wiluna native title holders for different country types was consistent with the land use aspirations of Parks and Wildlife, and in some cases significantly overlapped.

Fire is one key area of overlap and potential collaboration. During the IPA consultations in *parada* country (spinifex grasslands) the Wiluna native title holders stated that the reinstatement of traditional fire regimes should be given priority as the key management action. The reinstatement of fire would have the multiple benefits of increasing biodiversity (also a Parks and Wildlife priority in this area), optimising

⁶⁴ Smyth, D 2011b, *Guidelines for country-based planning*, commissioned by the Queensland Department of Environment and Resource Management.

⁶⁵ Ibid.

⁶⁶ Ibid., p. 6.

⁶⁷ Ibid., p. 6.

⁶⁸ Ibid.

⁶⁹ Tenure-blind planning has been cited as being critical to the success of country-based planning as it enables traditional owners to set aside the constraints of tenure changes which do not necessarily reflect or support the land use planning and management asserted by Traditional Owners: *ibid.*

⁷⁰ Central Desert Native Title Services & Banarra 2012, *Matuwa and Kurrara Kurrara co-management plan framework*, November.

⁷¹ *Ibid.* See also Appendix 3.

hunting areas and, more importantly, satisfying cultural obligations. In 2006 Maurice Wongawol, a Martu elder, uncharacteristically spoke up during a park council meeting, stating that 'Martu have responsibility for fire.'⁷² He specifically raised this concern during a DEC led discussion on the development of a fire management plan.



Figure 12: A rare image of Sydney Heads Pass on Kurrara Kurrara filled with water

Source: Ian Kealley

In 2012, the Parks and Wildlife draft fire management plan was developed. It describes natural features, specific habitats and species that will be protected through the use of fire management, especially in spinifex grasslands. This plan was prepared with little, if any, input from the Wiluna native title holders and has no detail on traditional owner rationales and regulations for fire management linked to certain country types.⁷³ In this example, while it is obvious that higher level fire management discussions between Parks and Wildlife and the native title holders must take place, there is a disconnect between Martu duty to manage the relationship between fire and country and Parks and Wildlife's arrogation of responsibility for fire management for more singularly specific outcomes.

While there is significant overlap in the identified need to better manage country, it is clear that the narrow focus of Parks and Wildlife management plans can conflict with the interconnected Martu approach. It is the case that the management rationales

⁷² Wongawol, M 2007, minutes of Matuwa and Kurrara Kurrara Park Council Meeting, 10 May, Kurrara Kurrara and Impin Rockhole.

⁷³ Wongawol, M 2007, *Minutes of Matuwa and Kurrara Kurrara Park Council Meeting*, 10 May 2007 Kurrara Kurrara and Impin Rockhole.

and activities that Martu are compelled to perform with respect to different country types will most often support the management aspirations of Parks and Wildlife. For example, on *pilkillil* (claypans), which on Matuwa have cultural and food harvesting values, traditional owners wish to manage the impact of heavy vehicles cutting tracks through important songlines associated with claypan country. Parks and Wildlife similarly have an interest in protecting the fragile substrates of these drainage systems by prohibiting vehicle use. Through focusing the conversation on overlapping values for country types, both parties are able to come together to discuss their rationales for managing country and develop mutually supportive management methodologies. As a result of this planning process, the Wiluna native title holders have been able to articulate a deeper concept of country that is being 'missed' through a dominantly non-Indigenous mainstream conservation agenda. Through engaging with the holistic view of country, new management agendas can be designed that enable better joint understanding of the overall management imperatives for the properties and the growth of the collaborative management relationship.

5 Getting the right people

Strong leadership is one of the critical elements influencing the ability of the Wiluna native title holders to effectively engage with Parks and Wildlife. In 2015 the Matuwa and Kurrara Kurrara IPA Management Team (formerly the working group consisting of key native title holders for the Matuwa and Kurrara Kurrara area) replaced the ad hoc parks council structure that was in place between 2004 to 2011.⁷⁴ As outlined, the joint management governance structure has been through multiple iterations and has been supported by a significant degree of voluntary commitment on the part of the native title holders. Further, many senior elders who were heavily involved in the management of Matuwa and Kurrara Kurrara have unexpectedly passed away in the last few years. The loss of elders has had a negative effect on group leadership, the passing-on of decision-making responsibility and continuity of representation.

In the past few years, the Matuwa and Kurrara Kurrara working group has become empowered as the chief intermediary between Parks and Wildlife and the native title holders (now the newly formed RNTBC, Tarlka Matuwa Piarku Aboriginal Corporation). The working group composition was decided based primarily on the members' familial and cultural connections to Matuwa or Kurrara Kurrara and variously on their ability to converse at a higher level with a range of stakeholders. This latter quality is increasingly becoming a deciding factor for native title holders in selecting people to lead working groups, negotiating teams and other decision-making bodies that report to the wider group, given the complex fronts on which native title holders are now engaged.⁷⁵ As traditional owner and ranger from Matuwa and Kurrara Kurrara Robbie Wongawol explains: 'It is like an education; like school. As you get more educated, you can move around in the world better'.⁷⁶ The selection of the working group along familial *and* personal capacity lines demonstrates the growing awareness in the community of the need to have leadership qualities that can span Indigenous and non-Indigenous ways of working.

Furthermore, the decision by the native title holders to appoint a small working group (five people) illustrates a significant progression for the joint management relationship. Through the IPA 'on country' consultation and participatory planning process, the Wiluna native title holders have become more confident that their aspirations for the management of the area, articulated in the Matuwa and Kurrara Kurrara Co-management Plan Framework and the *Matuwa and Kurrara Kurrara IPA management plan*, are now much better understood by Parks and Wildlife and other parties.

⁷⁴ Over the course of 7 years there have been 54 native title claimants and traditional owners involved in park council meetings that occurred from 2004 to 2011. Of these 54 traditional owners, a core group of 18 senior elders have been able to attend on average, three out of nine meetings whereas the remaining 36 attended one meeting over the meeting period.

⁷⁵ McGrath, PF 2014, *The work of rights: the everyday sociality of native title corporate activity*, paper presented at the Engaging Indigenous Economy conference, ANU, Canberra, 4–5 September.

⁷⁶ Langford, L, notes, Wiluna People and Country Planning consultations, 2014.

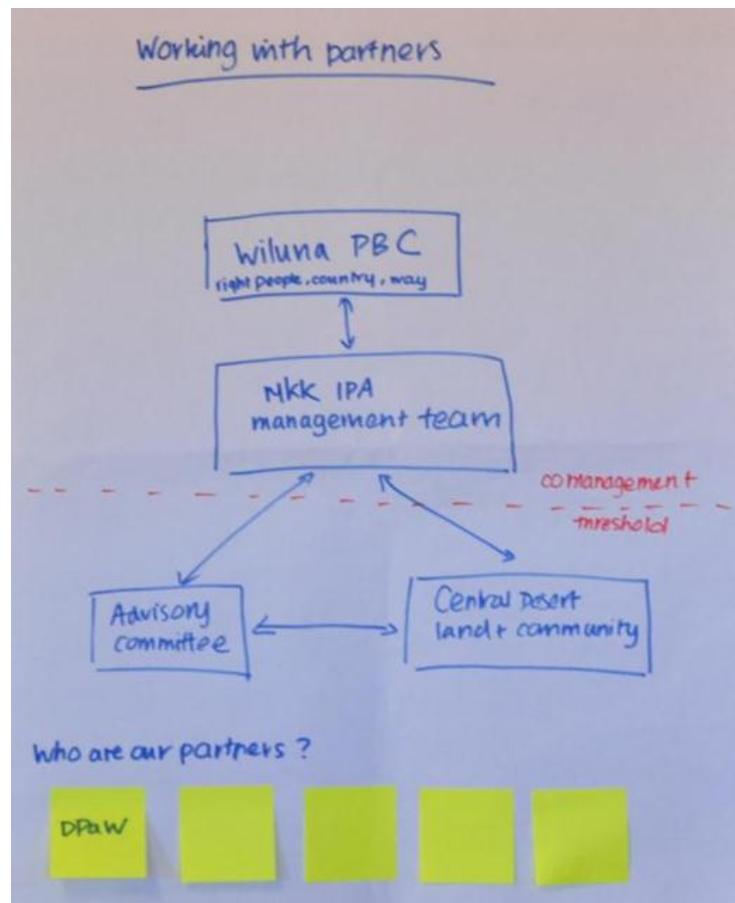


Figure 13: Image of proposed decision-making structures

Source: Tran Tran

In 2015, with the dedication of the IPA, the Matuwa Kurrara Kurrara IPA management team will become the main decision-making body for Matuwa and Kurrara Kurrara. The Wiluna native title holders have also opened up a much wider intergenerational interface with Parks and Wildlife, using the IPA project money for consultation and increasing the workload of the Wiluna ranger team. These measures seek to address the absence of young Indigenous people at meetings or on working groups — a common and long held lament among the Wiluna native title holders.⁷⁷ During the Matuwa and Kurrara Kurrara working group meetings, the problem of succession was addressed through recognition of this new interface in the following manner:

The MKK IPA management team will be comprised of a minimum of 6 members of the Wiluna PBC who will be selected at annual general meetings of the PBC. This will include at least one member from the Wiluna Martu Land Management Unit, which will provide for consistency between on-ground operations and decision-making as well as provide for knowledge transfer, leadership development in and succession to the younger Martu generation.

⁷⁷ People over the age of 35 have historically made up the majority of the membership of Wiluna based negotiation team members.

These measures seek to ensure that future interactions between Martu and others who come on their country are focused on opportunities to develop shared understanding of Martu values for country. Historically, the objectives of Parks and Wildlife, aligned with conservation approaches, have limited the value of Matuwa and Kurrara Kurrara as primarily a conservation resource. As discussed in Section 4, for the Wiluna native title holders, Matuwa and Kurrara Kurrara is a regional resource with broader values, such as tourism, community health and wellbeing, employment and education. The narrow conceptual view of the priorities of the native title holders that has been held by Parks and Wildlife over time has had a flow-on effect in the application of funding and resourcing. In a review of the minutes, the majority of funding allocated after the signing of the MOU was focused on conservation or reserve management activities, as opposed to the design of governance structures or support for the Wiluna native title holders to articulate and expand upon their management vision for the area.⁷⁸

The receipt of IPA funding has enabled the Wiluna native title holders to assert land management priorities from their own cultural framework *before* negotiating with other land interests in the area, including the state government. The IPA planning process has also given the Wiluna native title holders more possibilities for attracting investment with a range of stakeholders than the MOU did, as the MOU was largely contingent on the priorities and investment of the state government. Further, the IPA plan establishes the processes in which the Wiluna native title holders will engage with partners, including the ‘thresholds’ in which there would be a formal collaborative management partnership with Parks and Wildlife.⁷⁹ These governance arrangements are critical elements that will ensure decisions are made by the right people at the right time using Martu aspirations and priorities as a guide rather than the intentions and needs of others. This level of autonomy is consistent with the exercise and reinforcement of native title rights and interests in the area.

⁷⁸ See Appendix 4 for further details.

⁷⁹ Tarlka Matuwa Piarku Aboriginal Corporation 2015, *Matuwa and Kurrara Kurrara IPA Country Management Plan*, report prepared by Tarlka Matuwa Piarku Aboriginal Corporation and Central Desert Native Title Services, Wiluna.

6 Securing rights, resources and opportunities

The aspirations of the Wiluna native title holders to be recognised as the traditional owners of their country and to take care of it has translated into their successful native title claim and the exercise of their rights and interests through carrying out cultural, economic and social activities on their traditional lands. Opportunities for income generation and employment are key priorities and outcomes underpinning the collaborative management process. As mentioned above, one of the critical turning points for the Wiluna native title holders was the signing of the fee-for-service contract with Parks and Wildlife, and later with the Jundee goldmine, for the services of the Wiluna ranger team. The consistent work schedule linked to these contracts has enabled increased training for the ranger team and built capacity and expertise in a manner that was not supported by the earlier funding received from DEC and CALM. In contrast to other ranger groups with IPA projects, the Wiluna native title holders have not been able to access WoC funding to support their activities and have been forced to diversify their funding sources. However, the Wiluna native title holders and Central Desert have argued that, even though they have ‘gotten by’ without the support of the WoC program, they are likely to have achieved more and more quickly if such funding had been available. Further, the exhaustion created by having to lead policy change or wait for funding investment to ‘catch up’ has created unnecessary delays in the development of the Wiluna ranger program.

Employment in land management for the Wiluna ranger team has created sustainable jobs built around community life, aspirations and skills in a way that capitalises on market demand. This strategic approach is reflected in the fact that, in addition to the core group of male workers, 45 men and 50 women have participated in the delivery of various service contracts, which come from a variety of ‘streams’, including state and federal government funding, commercial contracts and philanthropic support. The common threads linking all of these funding sources are partnership and collaborations based on shared value. In the Martu Attitudinal Survey, carried out by the Muntjiljarra Wurgummu Group as part of the WRPA, respondents noted that respecting Martu priorities and understanding Martu people and culture were critical elements of employment success. In the survey, Central Desert was listed as a ‘good boss’ in recognition of the organisation’s role in helping ‘Martu work on Country’.⁸⁰ This perspective is consistent with the approach of Central Desert in its continued search for culturally appropriate funding and implementation style, enabling a greater number of Wiluna native title holders to participate in the Wiluna ranger program.

⁸⁰ Muntjiljarra Wurgummu Group 2013, *Martu Attitudinal Survey, Wiluna Region, WA: Survey Background and Summary*.

As the Wiluna ranger employment model has matured, the retention rate of Indigenous employees has been in the vicinity of 80 per cent, with a core group of 10 Indigenous workers delivering the majority of the work. Through taking part in casual land management work, individuals are moving into permanent full-time positions. An adaptive training program in conservation and land management (CALM) has also been developed with BCA National, who are working with 10 rangers towards a Certificate III in CALM (with six participants achieving their Cert II in 2013). Central Desert expect that in 2015 the Wiluna ranger team can transition into an Indigenous owned and run land management enterprise that will be governed through the newly established Tarlka Matuwa Piarku Aboriginal Corporation.



Figure 14: Mankaltjarra Claypan on Matuwa, aka Pink Lake

Source: Ian Kealley

However, despite its success the Wiluna ranger model has not been adopted by all parties working in the region. Some stakeholders do not engage with Martu and often ‘bring in’ experts from other areas to carry out what Martu view as their traditional roles. More recently, work opportunities such as the capture of pests in the animal enclosure project were outsourced to non-Martu who do not live locally. These decisions deny Martu access to employment opportunities and are largely costly and inefficient for Parks and Wildlife. Further, they openly contradict the reconciliation commitments of the department and work to ‘undo’ the significant gains that have been achieved so far. Unsurprisingly, a key priority for the Wiluna native title holders is to extend and strengthen existing partnerships and foster greater understanding of the employment capacity of the local community. One future vision is to promote understanding of the land management work and priorities of the Wiluna native title holders through developing a resource and knowledge hub in Matuwa, repurposing existing resources and infrastructure and attracting research and training opportunities to the region.

7 Conclusions

This report has documented the collaborative management journey of the Wiluna native title holders, who have a long and unbroken relationship to Matuwa and Kurrara Kurrara. The report also documents the planning process that the Wiluna native title holders have undertaken since 2011 to enable themselves to take care of country and maintain their connection to it. This connection to Matuwa and Kurrara Kurrara was affirmed after a 15-year struggle to have native title recognised in a process that saw a number of the key Wiluna native title claimants pass away. There has been little evidence of the direct gains of the process except where the Martu themselves have been supported to assert their rights and interests and insist in some form of return for their efforts over the journey.

The Wiluna native title holders continue to negotiate and renegotiate their relationship with the Western Australian Government and the departments, people and policies that have a role to play in the future of Matuwa and Kurrara Kurrara. These negotiations occur within broader policy changes that affect the way in which their continuing rights and interests are recognised and protected. On the federal level, ‘native title’ funding has been subsumed into one of the five super programs, the Jobs, Land and Economy Programme, creating imperatives to connect land recognition with the creation of real jobs and economies. This rhetoric plays out on the local and regional level as the Wiluna native title holders seek to assert their exclusive possession native title rights and interests and change the state government’s perspective of Matuwa and Kurrara Kurrara into that of a regional resource. However, finding consistent support for this perspective has been a challenge.

One of the key issues for the Wiluna native title holders is the need to drive the agenda with the corresponding resources and support to do so. As noted by Matuwa traditional owner Robbie Wongawol:

Matuwa and Kurrara Kurrara should be used for the wellbeing of the community. There has been a history of determining what others want to do on Martu land but there needs to be more discussion of “what is on the Martu list”.⁸¹

The successes of the Wiluna native title holders have been driven by on-the-ground community action as much as by key legal events that have created a formal foundation for the assertion of their rights and interests. The focus on land management and tangible outcomes and partnerships has driven the success of the Wiluna native title holders in accessing funding and resources independently of federal and state government sources. At the same time, however, co-investment by these parties is also overdue with respect to the need to ensure parity among all

⁸¹ Tran, T 2013, Interview with Robbie Wongawol, Community Liaison Officer, Wiluna, 13 November.

parties that are contributing to the NRS while also providing community benefit through strengthening culture and wellbeing.

At the time of writing, the IPA plan has not been implemented and there are already outstanding questions of evaluation that need to be considered into the future. In particular, more needs to be understood about what the Martu native title holders see as priorities and important areas to assess the quality of their collaborative management relationship with their partners, particularly the Western Australian Government, which will be one of their most influential and enduring partners for Matuwa and Kurrara Kurrara into the future. The challenge for the future is engaging with other tenure holders (such as the neighbouring pastoralists and mining companies) to negotiate land management priorities for surrounding tenures that will also impact on the management of Matuwa and Kurrara Kurrara.



Figure 15: Lorna Glen Homestead on Matuwa

Source: Ian Kealley

One of the key anxieties of some of the Central Desert staff is how they can develop ‘ways of doing things’ that future proof the collective efforts of the community, including those who have passed on, so that future generations will continue to benefit from and develop their hard-fought and hard-won native title rights and interests. The Wiluna native title holders are now at another critical point in their relationship with the state government and other stakeholders as they assert themselves as decision makers and as native title holders with exclusive possession over Matuwa and Kurrara Kurrara. The next phase of collaborative management for the Wiluna native title holders is gaining greater autonomy and authority over their traditional lands, including the management of Matuwa and Kurrara Kurrara.

Appendix 1: Research agreement

MATUWA AND KURRARA KURRARA JOINT MANAGEMENT PROJECT RESEARCH AGREEMENT

BETWEEN

THE WILUNA NATIVE TITLE CLAIM GROUP

AND

**AUSTRALIAN INSTITUTE OF ABORIGINAL AND TORRES STRAIT
ISLANDER STUDIES**

This deed is made on the day of 20 between
**The Wiluna Native Title Claim Group, executed on its behalf by the Named Persons on
behalf of the Registered Native Title Claimant in the Wiluna Claim** care of Central Desert
Native Title Services Limited ACN 124 921 811 (ABN 53 124 921 811) of 76 Wittenoom
Street, East Perth, Western Australia 6004

and

The Australian Institute of Aboriginal and Torres Strait Islander Studies of Lawson
Crescent, Acton, Australian Capital Territory 2000

WHEREAS:

- A. AIATSIS is currently undertaking a joint management project that aims to support traditional owners in achieving their joint management goals by facilitating meetings with the Working Group, Central Desert and government to achieve the best agreement for both Parties.
- B. The aim of this Agreement is to ensure that both Parties enter into this partnership with informed consent and agree about the nature of the research partnership, and are supportive of the research partnership.
- C. The Wiluna Native Title Claim Group have been determined by the Federal Court, in *BP v State of Western Australia* [2013] FCA 760, to hold native title in the Wiluna Claim Area. The Determination is to take effect immediately upon representatives of the Wiluna Native Title Claim Group nominating to the Federal Court a Prescribed Body Corporate to perform certain functions on their behalf, which nomination will include a statement as to whether or not they also wish that Prescribed Body Corporate to hold their native title in trust on their behalf.
- D. This Agreement seeks the consent of the Wiluna Native Title Claim Group as the traditional owners of the land and waters described in Part 1 of Schedule 1 of the Determination, known as Matuwa and Kurrara Kurrara as represented by the Working Group to participate in an AIATSIS Action Research Partnership.
- E. The Parties intend that the Native Title Claim Group's rights and obligations under this Agreement will pass to the Prescribed Body Corporate as soon as reasonably practicable following the making of a nomination referred to in item C above and in accordance with this Agreement.

IT IS THEREFORE AGREED:

INTERPRETATION

In this Agreement, unless the contrary intention appears, the following words and phrases have the following meanings:

Aboriginal Object means an object, including Aboriginal remains, of particular significance to the Wiluna Native Title Claim Group in accordance with their laws and customs;

Aboriginal Site means a place of significance to the Wiluna Native Title Claim Group and includes a place that is:

- (a) an 'Aboriginal site' as defined in the Aboriginal Heritage Act 1972 (WA);
- (b) a 'significant Aboriginal area' as defined in the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth); or
- (c) an 'area or site of particular significance' within the meaning of section 237(b) of the Native Title Act;

Agreement means this deed including its schedules;

AIATSIS means the Australian Institute of Aboriginal and Torres Strait Islander Studies;

Case Study Report means the final written record of the joint management experience and any issues that have arisen during the Project Period;

Central Desert means Central Desert Native Title Services Limited;

Commencement Date means the date on which this Agreement has been executed by both Parties;

Community Report means the short report version of the Case Study Report that is provided to the Wiluna Native Title Claim Group in accordance with clause 0 of this Agreement;

Confidential Information includes:

- (a) in relation to the Wiluna Native Title Claim Group, all information, reports, maps and other documents about or relating to their traditional laws and customs, Aboriginal Sites or Aboriginal Objects, including the names of Aboriginal participants, Reports and other documents produced in relation to the Project; and
- (b) in relation to AIATSIS all commercially sensitive information and any information AIATSIS nominates as being provided on a confidential basis;

Determination means the orders of the Federal Court, as reported in *BP v State of Western Australia* [2013] FCA 755;

Matuwa and Kurrara Kurrara means the land and waters described in Part 1 of Schedule 1 of the Determination,

Project means the Joint Management Project of Matuwa and Kurrara Kurrara which is the subject of this Agreement;

Project Participant means those members of the Wiluna Native Title Claim Group selected by the Researcher to be interviewed in accordance with clause 0.

Project Period means the 24 months from the commencement of the Project to the provision of the Case Study Report;

Researcher means those people nominated by AIATSIS from time to time and who at the Commencement Date includes those people listed in Schedule 1 of this Agreement;

Wiluna Native Title Claim Group means the persons who:

- (c) have rights in part or all of Matuwa and Kurrara Kurrara through descent (whether from a parent or grandparent from the area or who dies and is buried in the area), conception and/or birth within the area, long-term residence within the area, high ritual knowledge within the area or responsibility for sites within the area; and
- (d) who are recognised under the traditional laws and customs by the other native title holders as having rights in Matuwa and Kurrara Kurrara,

and includes the persons referred to in item 2 of Schedule 2 of the Determination;

Working Group means the Matuwa and Kurrara Kurrara Working Group on behalf of the Wiluna Native Title Claim Group;

In this Agreement, unless the contrary intention appears:

- (e) a reference to:
- (i) a recital, clause, or schedule is to a recital, clause, or schedule to this Agreement;
 - (ii) this Agreement or another agreement includes any variation or replacement of it;
 - (iii) any statute shall include any amendment, replacement or re-enactment thereof for the time being in force and any by-laws, statutory instruments, rules, regulations, notices, orders, directions, consents or permissions made there under and any conditions attaching thereto;
 - (iv) the singular includes the plural and vice versa;
 - (v) any gender includes all genders;
 - (vi) a person includes a reference to the person's executors, administrators, substitutes, successors and permitted assigns;
 - (vii) a covenant, representation, or warranty in favour of two or more persons is for the benefit of them jointly and severally;
 - (viii) a covenant, representation or warranty on the part of two or more persons binds them jointly and severally;
 - (ix) currency is to the currency of Australia; and
 - (x) "including" means "including, but not limited to".

The headings in this Agreement shall not affect its interpretation.

AIATSIS RESEARCHER

The Researcher will at all times be an employee of AIATSIS and as at the Commencement Date will comprise of those person(s) identified at Schedule 1 of this Agreement.

The Researcher will be subject to the rules governing employees of the Australian Public Services and will comply with the AIATSIS Guidelines for Ethical Research in Indigenous Studies.

AGREEMENT FOR INTERVIEW

The Researcher will consult with the Working Group to select members of the Wiluna Native Title Claim Group to interview as Project Participants for the Project.

The Researcher will ensure that each Project Participant is:

- (f) provided with information about the goals of the Project; and
- (g) fully aware that they are able to withdraw from the Project at any time.

The Researcher will not interview a Project Participant without first obtaining the free and informed prior consent of the Project Participant, such consent to be evidenced by the execution of a separate 'Agreement for Interview' in the form reproduced at Schedule 2 of this Agreement.

The Researcher will ensure that the Project Participant has given their free and informed prior consent mentioned in clause 0 by ensuring that the Project Participant has signed an 'Informed Consent Form' in the form reproduced at Schedule 3 of this Agreement.

The Researcher will ensure that they have the permission of the Project Participant to take notes or record information electronically, such permission to be evidenced by the execution of a separate 'Agreement for Interview' in the form reproduced at Schedule 2 of this Agreement.

The Project Participants will not be paid for their involvement with the Project.

APPROVAL OF THE CASE STUDY REPORTS

AIATSIS will consult with the Working Group to identify and discuss the issues and goals that the Wiluna Native Title Claim Group wish to highlight in the Case Study Report.

Within 18 months of the Commencement Date of this Agreement AIATSIS will provide the Working Group with the Community Report for the Wiluna Native Title Claim Group to review.

The Wiluna Native Title Claim Group will provide AIATSIS with any comments within 60 days of receipt of the Community Report mentioned in clause 0 above.

AIATSIS will respond to any comments that the Wiluna Native Title Claim Group may have in relation to the Community Report within 60 days of receipt of those comments and in any event before the final Case Study Report is finalised.

AIATSIS will provide a draft of the final Case Study Report to:

- (h) the Wiluna Native Title Claim Group;
- (i) the Working Group; and

(j) any Project Participants interviewed in accordance with clause 0 of this Agreement,

for the purpose of giving them the opportunity to comment on the draft of the final Case Study Report and to correct any factual errors.

The Wiluna Native Title Claim Group will provide AIATSIS with any comments within 60 days of receipt of the Community Report mentioned in clause 0 above.

The Working Group will nominate two members of the Wiluna Native Title Claim Group to give approval in writing for the finalisation and dissemination of the Case Study Report.

AIATSIS may publish the report if the approval mentioned in sub-clause 0 is not provided within 60 days of the provision of the draft Case Study Report.

AIATSIS will use best endeavours to provide the Wiluna Native Title Claim Group with a copy of the final Case Study Report within 24 months of the Commencement Date of this Agreement.

DISTRIBUTION OF THE CASE STUDY REPORTS

Subject to this Agreement, the Parties agree that the Project Participants and the Wiluna Native Title Claim Group may distribute the agreed final Case Study Report without limitation.

The Parties agree that AIATSIS will not distribute the agreed final Case Study Report until it has been approved by the Wiluna Native Title Claim Group in accordance with sub-clause 0 of this Agreement.

Upon receipt of the approval mentioned in sub-clause 0 the Parties agree that AIATSIS may publish the agreed final Case Study Report:

(k) on the AIATSIS website; and

(l) in other publications subject to the further approval of the nominated persons in sub-clause 0.

OTHER RESEARCH PARTNERSHIP OUTCOMES AND THEIR DISTRIBUTION

The Parties agree that information from this Case Study Report will be used to inform other traditional owners in the development of general models and in the production of publications and policy documents which relate to the development of broader joint management projects and may be used in books, journals, and on the AIATSIS webpage.

The Researcher and other employees of AIATSIS may also speak about the research contained in the Case Study Report in seminars, conferences and workshops.

AIATSIS will provide copies of any such publications produced as a result of the operation of sub-clauses 0 and 0 to the Wiluna Native Title Claim Group directly or through the Working Group.

The Researcher will provide the Working Group with information about what assistance AIATSIS provides in the joint management of protected areas in other parts of Australia.

PHOTOS AND FILMS

The Working Group agrees that the Researcher may take photographs and make video recordings of (for example) country, meetings and ceremonial performances for use in relation to the Project and for inclusion in the Case Study Report where appropriate, provided that consent is provided by the Working Group.

The Working Group agrees to provide advice to the Researcher and AIATSIS on the collection and use of images and video recordings mentioned in sub-clause 0.

AIATSIS will provide copies of any photographs, tapes and videos mentioned in sub-clause 0 to the Working Group and deposited in the AIATSIS archives, including copies from individual interviews subject to the wishes of the Project Participant as recorded in their 'Agreement for Interview' mentioned in clause 0.

AIATSIS must give the Project Participants the opportunity to elect to have their name withheld from publication.

SENSITIVE INFORMATION AND PRIVACY

AIATSIS will not include secret or restricted information in any report or research product associated with the Project.

The Working Group will advise the Researcher if information obtained is sensitive and identify appropriate ways of dealing with it.

AIATSIS will allow the Project Participants to elect:

- (m) whether their names are to be used in the research including in reporting back to the Wiluna Native Title Claim Group in the Community Report unless their name is a matter of public record in relation to a particular issue; and
- (n) whether to provide their record of interview to the Wiluna Native Title Claim Group.

STORAGE OF INFORMATION

The Researcher will keep information collected in the course of the research partnership under the terms and conditions agreed to by the Project Participant in accordance with their individual 'Agreement of Interview'.

INTELLECTUAL PROPERTY AND MORAL RIGHTS

The Parties agree that all copyright in the Case Study Report will be shared by AIATSIS and the Wiluna Native Title Claim Group.

The Parties agree that all copyright in any documents relating to the broader joint management environment referred to in sub-clause 0 is owned by AIATSIS.

The Parties agree that the Researcher will be able to reproduce information from the documents mentioned in sub-clause 0 in other places or for other purposes (such as on the internet) without asking for new permission, but must make appropriate attribution. The Wiluna Native Title Claim Group agrees that AIATSIS may manage the copyright in the documents mentioned in sub-clause 0 and that AIATSIS will be able to give permission to other people to reproduce that information.

AIATSIS and the Wiluna Native Title Claim Group grant to each other a non-exclusive perpetual license that is royalty free to use the copyright material mentioned in sub-clause 0 for any purpose.

IDENTIFIED TABLE OF RISKS

The Parties acknowledge that there are risks in entering into the Project which have been discussed by AIATSIS and the Wiluna Native Title Claim Group prior to making this Agreement and which are reproduced at Schedule 4 of this Agreement in the 'Table of Identified Risks'.

NO EMPLOYMENT OR AGENCY RELATIONSHIP

This Agreement does not create a relationship of employment or agency between AIATSIS and:

- (a) the Wiluna Native Title Claim Group;
- (b) members of the Working Group; or
- (c) the Project Participants.

CONFIDENTIALITY

A Party shall not:

- (a) subject to clause 0, disclose the other Party's Confidential Information to a third party; or
- (b) use the other Party's Confidential Information unless that use is reasonably necessary for a Party to exercise its rights or comply with its obligations under this Agreement or any law.

A Party may disclose the other Party's Confidential Information to a third party:

- (a) with the prior written consent of the other Party;
 - (b) to the extent required by law;
 - (c) to obtain legal advice or for use in legal or administrative proceedings;
 - (d) where such third party is:
 - one of AIATSIS's Personnel;
 - the Wiluna Native Title Claim Group's officer, employee, agent, consultant, contractor or advisor; or
 - a Party's Related Body Corporate,
- provided that third party agrees in writing to be bound by this clause; or
- (e) to the extent the Confidential Information is already in the public domain, otherwise than by breach of this clause.

The obligations of the Parties under this clause shall survive the termination of this Agreement.

DISPUTE RESOLUTION

If a dispute arises between the Parties in connection with this Agreement or the Case Study Report:

- (a) either Party may give notice in writing to the other Party identifying the nature of the dispute;
- (b) the Parties shall consult with each other to attempt to resolve the dispute;
- (c) if the Parties cannot resolve the dispute within 30 days of service of the notice of dispute, either Party may refer the dispute to mediation;
- (d) such mediation is to be conducted by a person agreed upon by the Parties or, if the Parties are unable to agree, a person nominated by the President or Acting President of the Law Society of Western Australia;
- (e) the cost of the mediator is to be born by the Party that refers the dispute to mediation; and
- (f) apart from the cost of the mediator and unless otherwise agreed by the Parties, the Parties shall bear their own costs of participating in any consultation or mediation conducted pursuant to this clause.

Clause 0 does not restrict the right of the Parties to have recourse to general law remedies.

ADDRESS FOR SERVICE

Notices given by one Party to another pursuant to this Agreement shall be in writing and sent to the address of RHM or the NTP and shall be deemed to be served on the earlier of actual receipt and the following:

- (a) if delivered by hand, then upon delivery;
- (b) if sent by facsimile, then at the time of transmission; and
- (c) if sent by ordinary pre-paid post, then 3 clear working days after posted.

For the purpose of this clause, unless notified otherwise, the address to which notices are to be sent shall be:

(o) For AIATSIS:

Director, Indigenous Country and Governance Research
GPO Box 553
Canberra ACT 2601

02 6246 1161

(p) For the Wiluna Native Title Claim Group:

Principal Lawyer
Central Desert Native Title Services Ltd
76 Wittenoom Street
EAST PERTH WA 6004
08 9425 2000

ENTIRE AGREEMENT

This Agreement represents the entire understanding of the Parties in connection with the subject matter hereof.

COUNTERPARTS

This Agreement may be executed in two counterparts.

If executed in two counterparts, both counterparts together shall be taken to constitute one instrument.

GOVERNING LAW

This Agreement is governed by the laws in force in the State of Western Australia.

INSURANCE

AIATSIS will ensure that the Researcher and any other AIATSIS employee is covered by Professional Indemnity and Public Liability insurance to a value equal to or greater than \$20,000,000 and has Workers Compensation as required by law.

AIATSIS will provide the Wiluna Native Title Claim Group with evidence of the currency of the insurance policy mentioned in sub-clause 0.

TERM

This Agreement shall commence on the Commencement Day and will come to an end on the fifth anniversary of the Commencement Day.

Either Party may terminate the Agreement at anytime by providing written notice to the other of its intention to cease the research partnership.

EXECUTION

Executed by AIATSIS

Executed by Australian Institute of Aboriginal and Torres Strait Islander Studies

DIRECTOR (signature)

DIRECTOR (print name)

RESEARCHER (signature)

RESEARCHER (print name)

Executed by the Wiluna Native Title Claim Group

Executed by NAMED PERSONS in accordance

with a decision of the Wiluna Native Title Claim Group

this day of 2013.

Named Person 1 (Signature)

Named Person 1 (Print Name)

Witness (Signature)

Witness (Print Name)

Named Person 2 (Signature)

Named Person 2 (Print Name)

Witness (Signature)

Witness (Print Name)

Named Person 3 (Signature)

Named Person 3 (Print Name)

Witness (Signature)

Witness (Print Name)

SCHEDULE 1 – Researcher

Tran Tran;

Gabrielle Lauder; and

Bhiame Williams.

Schedule 2 – Agreement for Interview (clause 3.2)

Agreement for Interview

Date:	
Place:	

Interviewee:		Researcher:	
Contact Details:		Contact Details:	

This Agreement for Interview is made between the Interviewee and the Researcher named above.

The following points are agreed between the Interviewee and the Researcher:

1. The Interviewee is a traditional owner and a member of the Wiluna Native Title Claim Group and has interests in the Matuwa [also known as Lorna Glen] and Kurrara Kurrara [also known as Earaheedy] co-management area which are represented by the Matuwa and Kurrara Kurrara Working Group (**Working Group**).
2. The Working Group has indicated its agreement to enter into a research partnership with AIATSIS.
3. This research is for the AIATSIS joint management project which is looking at how traditional owners and governments make shared decisions about how to manage country (**the Project**).
4. Copyright of the content of the interview remains with the Interviewee.
5. The Interviewee give permission to the Researcher to use words and information contained in this interview in the form of direct quotes or paraphrasing to enable the Researcher to formulate concepts and arguments relating to the Project.
6. Acknowledgement will be given to the Interviewee in all written materials and reports produced by the Project where relevant.
7. The Interviewee is free to stop the interview and withdraw consent to this Agreement for Interview at any time, before, during or after the interview and before publication of any reports generated in relation to the Project.
8. A copy of this Agreement for Interview will be provided to the Interviewee upon request.

Interviewees Consent Form

For the Interviewee, please tick:

I give my permission for:	Yes	No
• my name to be included in the research	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• the Researcher to take notes	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• the interview to be tape or video recorded	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
• the Researcher to take photos	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If the interview is recorded, I give permission for:

- | | | |
|---|--------------------------|-------------------------------------|
| • copies of the tape to be provided to: | Yes | No |
| Central Desert Native Title Services; | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| the AIATSIS archives for anyone to listen to; and | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| the AIATSIS archives for only the following people to listen to:
† † | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| • copies of photographs to be lodged with: | Yes | No |
| Central Desert Native Title Services; | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| the AIATSIS archives for anyone to listen to; and | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| the AIATSIS archives for only the following people to listen to:
† † | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

I would like a copy of the _____ returned to me.

If you change any of your decisions in this part please contact the Researcher(s).

Agreement entered into by:

Interviewee:

Name (Print)

(Signature)

(Date)

Researcher:

Name (Print)

(Signature)

(Date)

Schedule 3 – Informed Consent Form (clause 3.4)

AIATSIS INFORMED CONSENT FORM

Joint management project proposal: Matuwa and Kurrara Kurrara Workshops

Researcher(s): Tran Tran, Bhiamie Williamson, Gabrielle Lauder

1 I understand what this project is about.

I have read/or had read to me the Plain English Research Statement which explains what this research project is about and I understand it.

I have had a chance to ask questions about the project, and I am comfortable with the answers that I have been given. I know that I can ask more questions whenever I like.

2 I have volunteered to participate.

I agree to participate in the research. I know that I do not have to participate in it if I don't want to. I made up my own mind to participate – nobody is making me do it.

AND

I know that I don't have to answer any questions I don't like.

The researcher(s) will not write anything down unless I agree that they can.

The researcher(s) will turn off the tape/stop filming etc... if I ask them to.

3 What will happen if I want to stop participating?

I know that I can pull out at any time without getting into trouble with the researcher(s) or anyone else.

AND

If I pull out, the researcher(s) will be allowed to use any information that I have given them before then, and they will be able to write down that I have stopped participating. But they won't be able to make me keep participating if I don't want to.

4 How the research will happen?

AIATSIS will:

- ask questions in meetings with Central Desert Native Title Services (CDNTS) and government to try and work towards the

- best agreement for all parties;
- talk about what is happening in the joint management of protected areas in the rest of Australia; and
 - interview traditional owners about what they want for Matuwa and Kurrara Kurrara.

This research will happen in three meetings between 2013-2014.

Wiluna Native Title Claim Group, CDNTS and AIATSIS will be attending all three meetings. The research will involve Wiluna Native Title Claim Group who are attending these meetings.

I agree that the researcher(s) – or one of them of an appropriate gender if gender restrictions are appropriate can interview me for the research and write down or (video) tape what I say.

I agree to talk about questions which the researcher gives us in a group of people. This is called a workshop. I agree that the workshop can be (video) taped.

AND I understand the research will take place over 2 years. During that time the researcher(s) will interview me when we have workshops and each interview will last for about 20 – 30 minutes. Workshops will be held in November and January 2013 and will take about 1 day.

5 Having my picture taken or being filmed (including when performing).

(select as appropriate)

- I agree to be photographed/videoed for the research project.
- Those tapes/photos/videos/DVDs are just for the researcher to use for this research.
- I don't want other people looking at them (unless I say they can).
- I agree that those tapes/photos/videos/DVDs can be shown to other people.
- I agree that those pictures can be put into a book or magazine or shown on TV or the internet.

6 Getting paid for participating in the research.

I know that I won't get paid for participating in the research project.

7 Risks and benefits of the research.

I understand that the research may have the following benefits:

- learning about how Wiluna Native Title Claim Group and government (the State of Western Australia) can share decisions over how Matuwa and Kurrara Kurrara is run and

- share this experience with other groups; and
- record what Wiluna Native Title Claim Group want for Matuwa and Kurrara Kurrara including what Wiluna Native Title Claim Group want to do to take care of country.

AND

I understand that the research is not guaranteed to achieve these aims and it depends on what the researcher(s) find out or whether the government listens to what the researcher(s) say.

8 Who will be the authors of the research?

I understand that the researcher(s) want to write about the research in a Case Study Report. This will be summarized in a Community Report.

AND

I understand that researcher(s) want to write a Case Study Report with me as a part of the Wiluna Native Title Claim Group. If I agree to become an author my name will be mentioned on the front as an author.

9 Will people find out personal things about me from the research?

I agree that my name and language group will be mentioned in the Case Study Report and Community Report that come out of this research. I don't mind if people find out these things about me from reading the Case Study Report and Community Report.

AND:

The researcher(s) will check with me before they put the Case Study Report and Community Report out and that it only contains accurate personal information. I can choose not to have my name and language group mentioned and will let the researcher know within 60 days.

AND

If the researcher(s) keep a record of what I said during the research with my name on it or which could be used to identify me, they will keep it in a locked filing cabinet in their offices in Acton Canberra or in a secure location on a computer. After two years, the researcher(s) will either destroy this record or give it back to me.

If the researcher(s) keep a record of what I said I want them to

(select as appropriate):

- give it to AIATSIS for safekeeping
- I don't mind if AIATSIS lets other researchers read this record
- I want AIATSIS to let the following people have access to it only:

 - I don't want other people to read it without the permission of my wife/husband, children or grandchildren after I die

10 What about culturally restricted information or things?

I understand that, if the researcher(s) find out secret or sacred information, they won't tell or show them to the wrong people.

I agree that, when the researcher(s) have collected all the information or things they need, they will talk to me and/or whoever else has the authority to discuss them about what to do with any secret or sacred information.

11 Who will have access to the research results?

I understand that anyone can read the Case Study Report and Community Report that comes out of this research, and that even people on the other side of the world might see it, maybe on the internet. That's OK with me.

AND

I agree that the researcher(s) can present information from the research at conferences even if I'm not there. I understand that the researcher(s) can do this without asking me first.

AND: The researcher(s) will give me or CDNTS a copy of the Case Study Report and Community Report they write or produce out of the research.

12 Intellectual property.

AIATSIS (the Researchers) will SHARE COPYRIGHT in the Case Study Report produced as a result of this research with the Wiluna Native Title Claim Group.

AND The researcher(s) and the Wiluna Native Title Claim Group grant each other a non-exclusive perpetual license that is royalty free to use the Case Study Report.

This means that:

The researcher(s) can reproduce the information in the Case Study Report in other places or for other purposes without asking for new permission;

The researcher(s) will be able to let other people reproduce that information without getting permission from the Wiluna Native Title Claim Group first;

13 Complaints.

I know that, if I am worried about ethical issues related to the research project, I can ring up Tran Tran on (02) 6246 1181 and talk to her about it.

I know that I can also complain to:

Director Research Business

Pravin Adip

Email: pravin.adip@aiatsis.gov.au

Phone: 02 6246 1116

Post: PO Box 553, Canberra ACT 2601

or

Chrissy Grant, Chair of the AIATSIS Research Ethics Committee,

Phone 02 6246 1145

I can also write to the Ethics Committee at AIATSIS,

GPO Box 553, Canberra, ACT 2601

This is an independent committee – its members do not work for AIATSIS.

or

If I think there has been a breach of my privacy I can write to the Privacy Commissioner.

I have read this Informed Consent Form and I agree with it.

Signed by the research participant_____

Name of the research participant_____

Date_____

OR

I read this Informed Consent Form aloud to [name of research participant] and I believe that s/he understood and agreed to it:

Signed by witness_____

Name of witness_____

Date_____

AND:

Signed by or on behalf of the researcher(s)_____

Name_____

Date_____

Schedule 4 – Table of Identified Risks (clause 11)

The following ethical risks have been indentified in relation to the Project:

- Unrealistic expectations raised with respect to the project outcomes or process
- Perceived limited benefit to participants
- Potentially inflaming community tensions
- Stakeholders displeased with views expressed by AIATSIS
- Ability to accurately represent cross-section of stakeholders geographically and culturally is limited by project resources and time constraints

These risks have been mitigated with the following actions:

- Early and collaborative agreement on research outcomes and funding contributions; seek guidance from Central Desert to actively develop understanding of community issues. Ensure stakeholder aspirations are moderated through understanding of resource and research constraints.
- Developing research aims in collaboration with the traditional owner groups and ensuring that appropriate communication strategies are adopted; debrief after each workshop to measure perceived benefit of our contribution for traditional owners. Redirect research focus if necessary.
- Engaging community members and traditional owners in the initial stages of the project and involving the local councils/land office in project meetings
- Ensure clear and consistent communication is carried out to clarify roles, responsibilities and expectations
- Ensure analysis involves other jurisdictions to inform case study experiences

Appendix 2: Community report

Matuwa and
Kurarra Kurrrara
Co-Management
15 October 2013
COMMUNITY REPORT

Prepared by AIATSIS

Robbie from the Wiluna Land Management Project team finishing off the work at the Martu Campsite – Martu-ku Ngurra, August 2010. Credit: CDNTS.

ABOUT THIS COMMUNITY REPORT

This community report is about a meeting organised by Central Desert Native Title Services (CDNTS) in Perth on the co-management of Matuwa and Kurarra Kurarra (MKK).

The meeting was about what was working, what could be working better and how to formalise the current memoranda of understanding (MoU) into a co-management agreement.

The meeting was attended by staff from CDNTS, the Department of Parks and Wildlife (DPaW) and the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS).



(Left to right): Leena, Tran Tran, Roxanne, Gabe and Viktor looking at pictures from the Birriliburu IPA dedication. Photos: Bhiamie Williamson.

WHAT DID WE TALK ABOUT?

We talked about:

- The history of the relationship between the MKK traditional owners and DPaW (who used to be called CALM and DEC)
- Potential opportunities from co-management
- The impact of the native title appeal
- The potential role of AIATSIS as researchers
- Examples of challenges other groups face in co-management
- How to move forward with co-management



(Left to right): Tran, Lindsey and Leena discussing Martu and DPaW's respective aspirations for MKK.

THE HISTORY OF LAND MANAGEMENT IN MATUWA AND KURARRA KURARRA

Kealey talked about the history of DPaW involvement in managing MKK. It has been a long process and there are still many things that need to be achieved.



(Left to right): Lindsey, Ian and Nigel during workshop.

OPPORTUNITIES FROM CO- MANAGEMENT

Rob Thomas spoke about different formal and informal approaches to negotiating co-management. He gave the example of Jundee where Newmont is an industry partner and there are more rules about structures and standards that apply such as alcohol and drug testing.

Rob also gave the example of Birrilburu which has an Indigenous Protected Area (IPA) declared and is more organic.

There was also a video of Robbie from Birrilburu who talked about his experiences of co-management.

Rob spoke about how the three management regimes complement each other in terms of cultural economy.

It is most important for Martu to uphold and protect land, law and culture with the overarching objective of delivering Aboriginal health and wellbeing.



(Left to right): Rob and Lindsey during workshop.

THE IMPACT OF THE NATIVE TITLE APPEAL

Viktor asked why the state appealed the September exclusive possession native title determination. He said 'we [Martu] keep having to prove ourselves'.

Peter Sharp said the decision to appeal was made by the Department of Premier and Cabinet (DPC) and Crown Solicitors and that DPaW know and respect that it's Martu country and that the appeal has more to do with legal authority and precedent.

CDNTS asked them directly what financial commitment they could make and Peter said they can make a funding commitment from the co-management budget and that Nigel was committed to writing the plan with CDNTS and the working group. Peter spoke of the government's

further commitment to co-management through joint vesting:

- Land reserved and then management order for land to be jointly vested in Conservation Commission and another body (could be jointly vested with PBC)
- This would apply to land where no native title or Aboriginal freehold



Roxeanne sharing photos of Country with Tran and Gabe.

THE POTENTIAL ROLE OF AIATSIS AS RESEARCHERS

AIATSIS talked about why they were at the meeting. We had spoken to Lindsey at the Alice Springs Native Title Conference about our co-management research and wanted to meet everyone and ask if there is a place for AIATSIS to help with the plan and what our role might look like.

We would like to find out:

- How Martu and the State Government can share decision making and management of country
- What Martu want for MKK
- How Martu and the State Government can work together to achieve the best possible outcome for the management of the land

Research activities over two years will include three meetings and interviews. From these activities:

- AIATSIS will publish a paper about the decision making process involving Martu and the State Government
- This paper will be aimed at people who want to know more about co-management, the processes of how to get there and how to get the best possible outcomes

Next steps:

- AIATSIS builds research relationship with Martu and get their permission to record and write about the workshops



Viktor during lunch break.

WHAT IS CO-MANAGEMENT

Co-management needs strong frameworks and relationships.

Frameworks are the laws, policies and funding that determine the limits of what people can do in a co-management agreement.

Frameworks are important because they:

- Outline scope of possibility
- Outline how power is shared and decisions are made
- Provide certainty
- Safeguard Aboriginal interests
- Protect the cultural legitimacy and authority of traditional owners
- Enable economic sustainability and durable governance

What makes a successful framework:

- It is culturally acceptable
- It is economically sustainable
- It is technically possible
- Good 'fit' with local history, circumstances and community needs
- Matching funding to institutions
- 'Reality-checked' – what are the limitations of government?
- Fluid and flexible enough to accommodate changing aspirations
- Consistent and equitable

Relationships are about how much the state government and traditional owners know, trust and support each other. Relationships include those:

- between and Indigenous people
- with government (State and Federal) and between governments or agencies
- with industry and non-government organisations

What makes a successful relationship?

- Skilful management
- Negotiation is equitable, transparent and inclusive
- Dispute resolution processes
- Strong communication
- Mutual understanding of roles and responsibilities
- Goodwill and trust



EXAMPLES OF CHALLENGES OTHER GROUPS FACE IN CO-MANAGEMENT

- Operational needs
- Will rangers be housed with State Parks or the PBC?
- Will you use traditional names for places and sites? Who decides?
- Negotiating access to the land (public, non-Martu, male/female)
- Cultural awareness for parks staff
- Fencing, mapping, site identification and protection
- Who has decision-making

authority (is it the Board of Management)?

- Who appoints the Board?
- Does Board have TO majority and Chair?
- Do Board members receive sitting fees?



(Left to right): Rob and Ian.

HOW EVERYONE WANTED TO MOVE FORWARD WITH CO- MANAGEMENT

WHAT NEXT?

1. Agree on Vision
2. Meeting in Wiluna on 11 November 2013 with Nigel from DPaW, AIATSIS researchers, CDNTS staff, the current working group and anyone interested
3. Improve consultation between Martu and DPaW
4. Lindsey and Nigel to draft Management Plan
5. Women's representative from DPaW to learn Country from Martu women
6. Establish Joint Management Board or Body (Park Council but re-named)



(Left to right): Leena, Roxeanne and Tran.

CONTACT – ABOUT THE PLAN



Lindsey
Langford

Operations Manager
Land and Community
Central Desert Native Title
Services

(08) 9425 2000

[lindsey.langford@
centraldesert.org.au](mailto:lindsey.langford@centraldesert.org.au)



CONTACT – ABOUT THE RESEARCH PROJECT



Tran Tran

Indigenous Country and
Governance Researcher
AIATSIS

Lawson Crescent Acton
Peninsula, Acton
ACT 2601

(02) 6246 1181

tran.tran@aiatsis.gov.au



Bhiamie
Williamson

Native Title Research Unit

Lawson Crescent Acton
Peninsula, Acton
ACT 2601

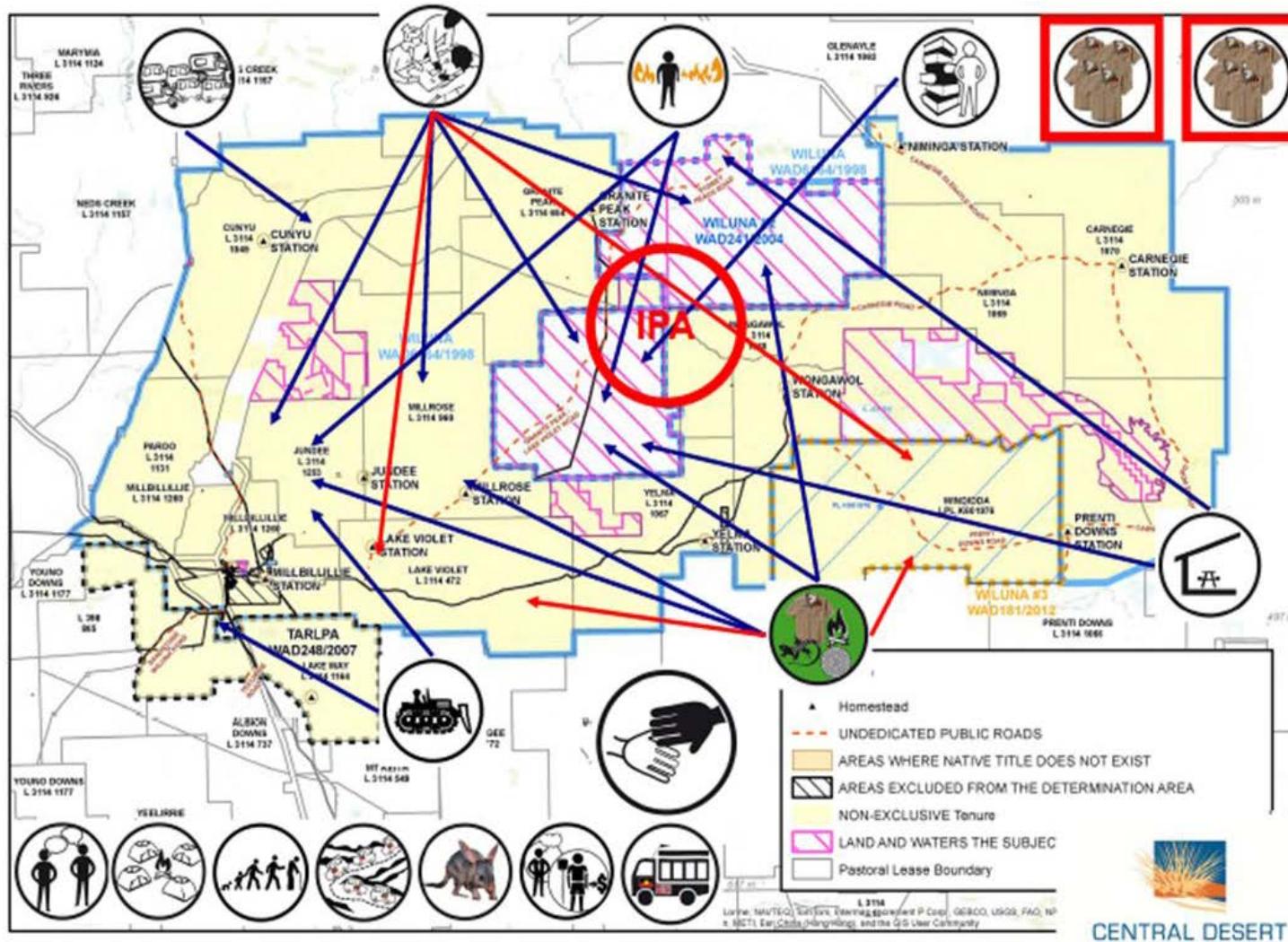
(02) 6246 1148

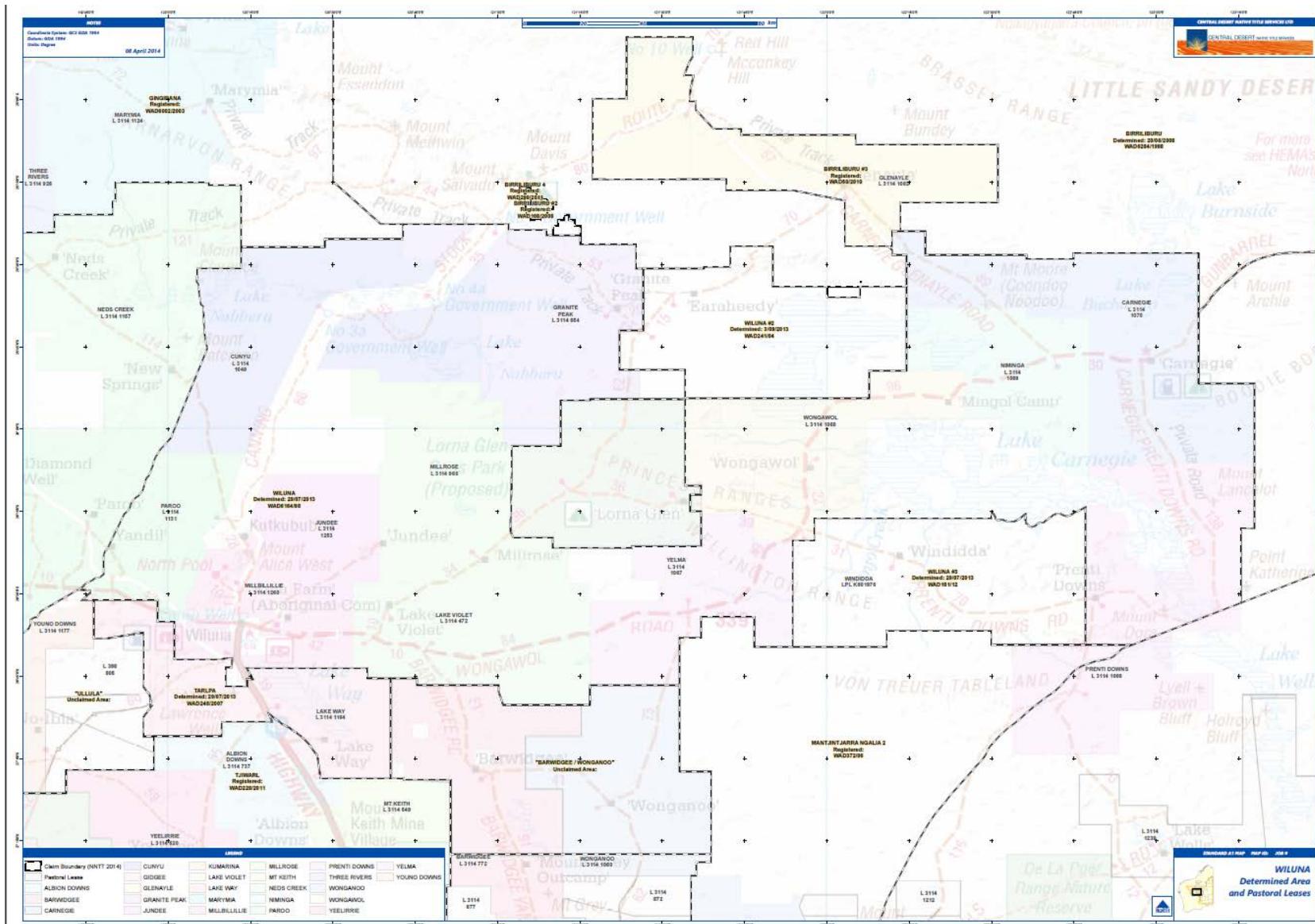
[bhiamie.williamson@
aiatsis.gov.au](mailto:bhiamie.williamson@aiatsis.gov.au)



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Appendix 3: Land use types and surrounding tenures





Negotiating the shared management of Matuwa and Kurrara Kurrara | 84

Appendix 4: Review of aspirations from 2004–2011

Activity area	Discussion reference	Martu aspirations as per minutes	Martu involvement
Facilitating access to country	18 May 2005; 23 November 2005; 26 April 2006; 30–31 August 2006; 10 May 2007; 23 October 2007	<ul style="list-style-type: none"> • Developing infrastructure i.e. camp sites, using existing structures, power at campsite, making camps <i>mulyarr</i> (good). • Create multi-use camps, infrastructure for Martu and tourist use under Martu management. • Campgrounds incl. showers and toilets at wells at 5, 9 and 7 for Martu and tourist use have been put forward at various meetings. • Dam infilling, rock hole cleaning. 	<ul style="list-style-type: none"> • Martu ku Ngurra camp built 2010 but no power connected. • To date, only a few hand-pumps have been installed, i.e. Well 7. • Martu are looking after rockholes as per their cultural obligations.
Visitor Management	18 May 2005; 26 April 2006; 30–31 August 2006; 10 May 2007	<ul style="list-style-type: none"> • Signs for cultural and historical sites (including burial places). • Signage should always incorporate station history and Indigenous cultural history. Example of signage focus: <ul style="list-style-type: none"> ◦ Change the names of properties to Martu names places where first peoples walked out of the desert. ◦ Signs to show what tourists can and cannot do. ◦ Pope's reserve and the identification of old Martu camping grounds. 	<ul style="list-style-type: none"> • Martu consulted about some signage (Yimbin) but not incorporated as a part of a broader land management plan. • Signs recording the pastoral history of the area have been drafted by Parks and Wildlife and prioritized over the Martu history for the area. i.e Earaheedy.
Tourism	18 May 2005; 23 November 2005	<ul style="list-style-type: none"> • Researchers must have a clear planning document outlining access conditions and protocols for obtaining access permission. 	<ul style="list-style-type: none"> • Martu have rarely been involved in planning or consultation on any research programs. First concrete example is 2013 project directed by Neil Burrows and Martu workforce.
		<ul style="list-style-type: none"> • No tourism during law time. • Martu led tourism to be developed. Some Martu tourism ideas: <ul style="list-style-type: none"> ◦ Wages for "clean up" and maintenance of campsites for tourists/holidays. ◦ Wages for Martu to speak to tourists. ◦ Tourists provided with directions about where to go. 	<ul style="list-style-type: none"> • Tourism has been conducted with no input from Martu. Martu have not been consulted about tourism or tourism partnerships at all.

Activity area	Discussion reference	Martu aspirations as per minutes	Martu involvement
Mining	18 May 2005; 23 November 2005; 30–31 August 2006	<ul style="list-style-type: none"> “Resolution: No mining or exploration is to proceed over MKK”. 	<ul style="list-style-type: none"> Martu have been involved in native title negotiations with prospective miners over Lorna Glen and Earaheedy through the native title act.
Enterprise development	18 May 2005; 30–31 August 2006	<ul style="list-style-type: none"> Business tender opportunities to be sent to the Tarlka Matuwa Piarku Aboriginal Corporation RNTBC (including road works, general maintenance, seed collection). Martu should be given first preference for fire burning contracts, tenders for infrastructure maintenance and other proposed works. “Resolution: CALM to give Martu first right of refusal for contracts (contract precedence) with Martu (Wiluna Mob)” 	<ul style="list-style-type: none"> There has been no discussion with claim group about tendering opportunities for local indigenous community.
Employment strategy	23 November 2005; 26 April 2006; 10 May 2007	<ul style="list-style-type: none"> Caretaker role, rangers, contract administration. There should be an employment strategy including more trainees rather than casual work “picking them up when CALM comes to town”. 	<ul style="list-style-type: none"> Coordinator position established for Robbie Wongawol was established. Later replaced by fee for service contract for operational work.
	18 May 2005; 30–31 August 2006	<ul style="list-style-type: none"> Payment rates should be consistent with other fee for services provided by native title holders. 	<ul style="list-style-type: none"> Payment for traditional owner advice and work has been consistent with fee for service contract.
Training	<i>Informal discussions</i>	<ul style="list-style-type: none"> Ranger training needs to be included in a broader planning process in order to be successful with support from partners to provide funding/training. 	<ul style="list-style-type: none"> Martu want on the job training for rangers and mix of units delivered through TAFE or other providers. There has been strong notional support for training. In 2011, Parks and Wildlife helped develop a program that would see rangers transition to a CERT 2 yet the provision of the training was not prioritized. Rangers have achieved CERT 2 at major expense through contracting in Durack TAFE.
Fire management	23 November 2005; 30–31 August 2006; 13 October 2007; 10 May 2007	<ul style="list-style-type: none"> Maurice Wongawol “Martu have responsibility for fire”. Martu should be consulted in the development of a burning program. 	<ul style="list-style-type: none"> CALM fire plan for “everyone to have a look at”. Draft fire management plan developed 2012 and shared with CDNTS. There had been no involvement of Martu in the preparation of this plan. Limited involvement in fire management work at Lorna Glen.

Activity area	Discussion reference	Martu aspirations as per minutes	Martu involvement
Fauna management	18 May 2005; 10 May 2007	<ul style="list-style-type: none"> Martu asked to choose where to place reintroduced animals. DEC should involve the Martu in surveying for endangered species. 	<ul style="list-style-type: none"> Martu have had very limited involvement in biodiversity program. Occasional presence at "events" i.e. translocation weeks. No meaningful engagement with researchers in biodiversity related work or training.
Pest control	18 May 2005; 26 April 2006	<ul style="list-style-type: none"> Ladies should be involved in pest control. Contract work. For example, there is a resourced women's ranger project that has been operating since 2013 with several trips to MKK that could carry out this work. 	<ul style="list-style-type: none"> No involvement in cat baiting. Small involvement of elderly men in trapping a cat inside the enclosure.
Ranger and joint-management exchanges	26 April 2006; 30–31 August 2006; 10 May 2007	<ul style="list-style-type: none"> Martu want to learn from other groups/be involved in learning opportunities (eg Shark Bay field trip). Training and exchanges need to be coordinated with early Martu involvement. 	<ul style="list-style-type: none"> The Shark Bay trip did not eventuate. Future exchanges should form a part of Martu agreement to participate in research activities.
Community	<i>Informal discussions</i>	<ul style="list-style-type: none"> Martu want school children involved in on country trips or bushranger trip to learn from rangers or enable painting. These opportunities can be limited without a facilitator (eg CDNTS) or appropriate female staff to support these trips. There should be a strategy to involve the community equitably in management work that integrates the priorities of women and children, not only the direct land management staff and rangers. 	<ul style="list-style-type: none"> A limited number of community focused trips have been organized i.e. ladies painting trip. Bushrangers program was talked about as tool for engaging the community. No traction on this until CDNTS made contact with the school. Martu community involvement hopefully will increase with addition of female project officer at Parks and Wildlife goldfields.
Management zones	18 May 2005; 10 May 2007; 23 October 2007	<ul style="list-style-type: none"> Fencing, decision making about demarcation of zones. Management zones should be determined by Martu people before the erection of fencing or other physical demarcations in MKK. 	<ul style="list-style-type: none"> Martu were heavily involved in the decision making over the construction of the fence around Mangkurtu. Martu have no real involvement in decision making about the enclosure or the management of the area.

Activity area	Discussion reference	Martu aspirations as per minutes	Martu involvement
Governance	30–31 August 2006; 5 April 2011	<ul style="list-style-type: none"> • There needs to be more opportunities to develop Martu capacity to be active in the governance of MKK. • Darren Farmer “Need a 10 year plan for Martu, DEC has a plan for plants and animals, need a plan for cultural management, JM and where Martu is heading and how to get there. Training of rangers, work, land management, cultural management.” 	<ul style="list-style-type: none"> • Martu were initially involved in ‘co-management through the park council. • The point of the park council meetings were: <ul style="list-style-type: none"> ◦ “to make sure the old people look after sites and to work and manage projects such as the burning one ◦ to manage the land in partnership with CALM and the joint management projects”. • There is limited evidence of formal joint management since the signing of the MOU. • Some activities “involve” the Martu but do not enable decision making. • Park council agendas have reflected Parks And Wildlife operational priorities and have seemingly either not taken into account Martu aspirations for management that were voiced at meetings and recorded in the minutes or have carried forward Martu aspirations for management from year to year. • Park council was not a total governance structure. The native title group is where the big decisions are made. Parks and Wildlife have 5 out of the 70 native title meetings over the last 10 years. • Park council meetings were dissolved in 2011 in favour of co-management money being spent on employing rangers. • Parks and Wildlife asked to attend to claim meetings and Matuwa IPA consultation meetings/ working group meetings to talk about co-management of the areas. • In 2013, an operational scope of works meeting was initiated between Wiluna rangers and Parks and Wildlife in relation to the running of the ranger team.

Appendix 5: IUCN categories

Source: Rob Thomas, Central Desert Native Title Services

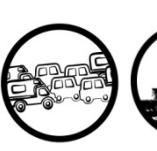
Step 1 – definition okay

What the pictures mean?	
	Okay
	Not okay
	Maybe

A protected area is:
“A clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values”

		Clear boundaries
		Recognised (by government)
		Dedicated (by native title holders)
		Managed (to protect the values identified including non-intervention)
		Legal or other means – voluntary agreement with Government
		Long term – in perpetuity
		Conservation – ecosystems; viable populations of species
		Nature – biodiversity of genetic, species and ecosystem levels
		Ecosystem services – cannot interfere with nature conservation
		Cultural values – cannot interfere with conservation outcomes (pp8-9 Guidelines)

Step 2 – confirm the principles that will apply

MKK	Principles
	   Nature conservation is the primary objective (p10 Guidelines)
	  Eliminate any exploitation or management practice that interferes with the objective (p10 Guidelines)
	  Protection should maintain or increase the level of naturalness
	  75% rule – applies to the primary objective

Step 3 – decide on the main objective

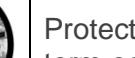
What the pictures mean?

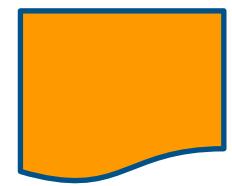
	Okay
	Not okay
	Maybe

	Bigger icons means more focus on this
	Smaller icons means less focus on this

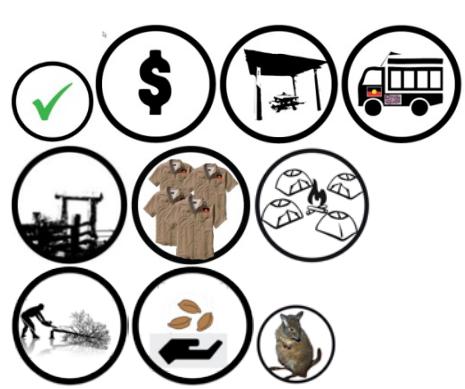
	Town or community
	Station i.e. pastoral lease
	On country exchange and education
	Tourist camps
	Martu businesses and making money
	Martu tourism
	Managing threatened species
	Harvesting trees
	Seed collecting

Step 4 – Which IUCN category?

Category	Description	What you can and can't do	Primary objective	Usual size	Other notes	MKK
1a	Strict nature reserve	         	Protection of outstanding ecosystems or habitats formed by nature; will be degraded or destroyed by anything other than light human impact	Often small 	Limited visitation on foot; generally exclude habitation;	
1b	Wilderness area	         	Protect long-term ecological integrity largely untouched by human activity; free of human habitation; managed to protect natural values for benefit of future generations	Usually large 	Intact – as natural a state as possible; relatively undisturbed; free of modern infrastructure; public access; allow limited traditional customs and use that compatible with conservation objectives	

Category	Description	What you can and can't do	Primary objective	Usual size	Other notes	MKK
2	National park	        	Protect natural biodiversity and ecosystems; promote recreation and education	Usually large 	Focus on natural systems; Protect functioning ecosystems; allow for tourism	

Category	Description	What you can and can't do	Primary objective	Usual size	Other notes	MKK
3	Natural monument or feature	  	Protect specific outstanding natural features and their associated biodiversity and habitats	Usually small 	Protect specific spiritual and cultural values; morphologically or culturally focused <i>Possibly the northeast corner, Earaheedy Hill and others?</i>	?
4	Habitat / species management area	  	Maintain, conserve and restore (nationally significant) species and habitats	Often small 	May require active intervention; generally publicly accessible; public education component <i>Possibly the enclosure area?</i>	?

Category	Description	What you can and can't do	Primary objective	Usual size	Other notes	MKK
5	Protected landscape / seascape	 	<p>Protect and sustain important landscapes and associated nature conservation and other values created through traditional management practices</p>	<p>Usually large</p> 	<p>Recognises long-term interactions of people and nature in modified conditions. May involve more intensive uses such as recreation, agriculture, forestry and tourism</p> <p><i>Possibly the rest of MKK?</i></p>	
6	Protected area with sustainable use of natural resources	 	<p>To protect natural ecosystems and use natural resources sustainably, when conservation and sustainable use can be mutually beneficial</p>	<p>Usually large</p> 	<p>Includes cultural values and traditional natural resource management systems; promote social and economic benefits; low level non-industrial use of natural resources one of the aims. Lower level use of land and natural resources and more 'natural' than category 5.</p>	



About mining

Indigenous Protected Areas (IPAs) do not stop exploration or mining.

What they do say is that Martu themselves don't plan to mine the country and that the best use for this country is to look after the plants, animals and cultural values of the country. Deciding on the IUCN categories for the country also helps to tell everyone that these are the main things that we want to focus on in these areas.

IPAs also say to anyone who wants to explore or mine the country that they need to work with Martu to make sure that the plants, animals and cultural values are looked after and that their priorities are respected and supported. From the Martu side, it is about doing your best to negotiate, educate and influence others to behave the right way on your country so that the country stays healthy.

The government laws about exploration and mining don't change, companies still need to make sure that they comply with native title, aboriginal heritage and environmental laws but with an IPA declaration they will know that this is important country to all Australians and that Martu are looking after it for now and for future generations.

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One of the key aspirations of native title holders is the ability to independently make decisions about and take care of country. This aspiration is often realised through collaborative management arrangements such as joint management. For many native title groups joint management is often the only substantive land management outcome, and until now there has been little research into either the drivers of joint management or its planning process.

Between October 2013 and December 2014, AIATSIS undertook case study research in partnership with Central Desert Native Title Services and the Wiluna native title holders — Martu people — to document their land management journey and the critical success factors that have contributed to positive outcomes in Matuwa (Lorna Glen) and Kurrara Kurrara (Earaheedy). This report describes the research and planning undertaken as a part of the partnership.

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