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CONVENTION CONCERNING THE PROTECTION OF THE WORLD CULTURAL
AND NATURAL HERITAGE

WORLD HERITAGE COMMITTEE

Third extraordinary session
Paris, UNESCO Headquarters, Room XI
12 July 1999

Information Document: Protection of Kakadu National Park

Background

This Information Document contains a series of additional measures that the Australian Government has developed to:

- Enhance the existing environmental protection regime governing Jabiluka and Kakadu;
- Address the social and economic conditions of the Aboriginal communities living in Kakadu; and
- Provide additional assurance that the cultural values of the Park- including those of the Mirrar-are protected.

Other relevant documents

WHC-99/CONF.205/4	State of conservation of Kakadu National Park, Australia
WHC-99/CONF.205/INF.3A	Report on the mission to Kakadu National Park, Australia, 26 October to 1 November 1998
WHC-99/CONF. 205/INF.3B	Australia's Kakadu – Protecting World Heritage. Response by the Government of Australia to the UNESCO World Heritage Committee regarding Kakadu National Park (April 1999)
WHC-99/CONF.205/INF.3C	Assessment of the Jabiluka Project: Report of the Supervising Scientist to the World Heritage Committee
WHC-99/CONF.205/INF.3D	Written independent expert review of the advisory bodies (IUCN, ICOMOS and ICCROM) concerning the mitigation of threats posing ascertained and potential dangers to Kakadu National Park by the Jabiluka mine.
WHC-99/CONF.205/INF.3E	Review of an Independent Scientific Panel of the scientific issues associated with the proposed mining of uranium at Jabiluka in relation to the state of conservation of Kakadu National Park. Undertaken between 22 April and 13 May 1999
WHC-99/CONF.205/INF.3F	Response to the ICSU Review of the Supervising Scientist's Report to the World Heritage Committee. Supervising Scientist, Environment Australia.

Senator the Hon Robert Hill
Minister for the Environment and
Heritage

8 July 1999

H.E. Mr Matsuura
Ambassador of Japan
Chairman of the World Heritage Committee

Dear Mr Matsuura

As foreshadowed in my statement to the World Heritage Bureau on 7 July 1999 concerning Kakadu National Park, attached is a series of additional measures that the Australian Government has developed to:

- Enhance the existing environmental protection regime governing Jabiluka and Kakadu;
- Address the social and economic conditions of the Aboriginal communities living in Kakadu; and
- Provide additional assurance that the cultural values of the Park - including those of the Mirrar - are protected.

I would be grateful if you could arrange for the attached to be distributed to members of the World Heritage Bureau and Committee.

Yours sincerely

ROBERT HILL

PROTECTING KAKADU NATIONAL PARK

A. Initiatives to Strengthen Protection of the Kakadu Environment

1. *The Timetable for Ranger and Jabiluka – sequential mining*
2. *Implementing the ICSU recommendations*
3. *Enforcement of the Environmental Requirements*
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1. *Monitoring*
2. *Establishment of an Asia-Pacific World Heritage Focal Point in Australia*

SUMMARY

A. Initiatives to Strengthen Protection of the Kakadu Environment

1. The Timetable for Ranger and Jabiluka – sequential mining

The mining company (ERA) has advised the Australian government that the following timetable for mining at Jabiluka will apply:

- full scale commercial mining at Jabiluka would only be reached about 2009 following the scaling down of production at the Ranger mine so that two mines would not be in full production simultaneously;
- construction work on the mine decline has been completed;
- geological proving through core sampling of the ore extent would be completed within approximately six weeks;
- in the near term ERA will be concentrating on seeking consent of the Northern Land Council in accordance with directions of the traditional owners, for the Ranger Mill alternative. Providing that consent is received Jabiluka would operate on a small scale to enable milling of low tonnages (ie. less than 1% of mill throughput, of the order of 1000 tonnes per annum) of Jabiluka ore at the Ranger Mill. In the event that consent is not obtained for the Ranger Mill alternative, the Jabiluka Mill alternative will be progressed in stages so that full commercial production will not occur until 2009;
- apart from these activities, the mine will be put on a standby and environmental management basis from completion of core sampling in approximately six weeks.

The Australian and Northern Territory governments will ensure that these commitments are fully implemented. This will provide a pause, and an opportunity for the building of trust and confidence amongst all parties concerned.

2. Implementing the Supervising Scientist and ICSU recommendations

All of the recommendations made by the Supervising Scientist and the International Council of Scientific Unions on the scientific issues have been or will be fully implemented and incorporated into the design of the Jabiluka mine project.

3. Enforcement of the Environmental Requirements

The security of environmental management at the Ranger and Jabiluka mines will be further improved by amending the legal regime governing enforcement of environmental conditions to strengthen the role of the National government.

4. *The Environment Protection and Biodiversity Conservation Act*

The *Environment Protection and Biodiversity Conservation Act* (EPBC Act), just passed by the Australian Parliament, contains a number of new provisions which will strengthen protection for National Parks and World Heritage areas, and which promote the rights of indigenous people.

5. *Strengthening the Role of the Supervising Scientist*

The role of the Supervising Scientist, an independent statutory authority that monitors and oversees the regulation of mining on the Ranger and Jabiluka leases, will be strengthened and its powers enhanced.

6. *Best Practice Rehabilitation*

An irrevocable bank guarantee, sufficient to guarantee the future rehabilitation of the Jabiluka lease to a standard that would allow the area to be incorporated in the National Park, will be required. A long term monitoring program will be carried out following rehabilitation.

7. *Limits on Jabiru*

The Government will impose a cap of 1700 on the size of Jabiru over the next 10 years in consultation with the Park Board and traditional owners.

8. *Tourism infrastructure*

The Government will allocate an additional \$3.155 million specifically to upgrade tourism infrastructure in Kakadu National Park to reduce environmental impacts and improve presentation of world heritage values.

9. *Invasive and alien species*

The Government will implement a long-term monitoring and control program in Kakadu National Park, at an annual cost of approximately A\$580,000. The Commonwealth government will provide approximately A\$2 million over three years for mimosa control beyond the boundaries of Kakadu National Park.

B. Initiatives to Address Social and Cultural Issues and Enhance Indigenous Land Management

1. *Implementation of the Kakadu Region Social Impact Study (KRSIS)*

The National government has established a high-level task force, led by the Department of the Prime Minister and Cabinet, to progress implementation of the KRSIS Action Plan. Achievements to date include:

- **Housing and Infrastructure:** A significant upgrade of water and sewerage infrastructure in outstations in the Jabiru area, valued at over A\$3million, will commence this year. Additional housing valued at A\$1.2million will be provided.
- **Health:** The development of a regional coordinated health plan and associated measures for the region, including Kakadu, is expected to be complete by December 1999.
- **Employment:** The Government will fund ten new indigenous trainee positions which will allow ERA to train and employ additional Aboriginal people in its operations. ERA has already increased its direct Aboriginal employment levels from less than 10% to 15% of their workforce.

2. *Cultural Heritage Management Plan*

The Australian Government will ensure the protection of all recognised sites of significance. The Government is committed to seeking the full involvement of the Mirrar in finalising a rigorous Cultural Heritage Management Plan. In order to promote ongoing dialogue, the government:

- proposes to appoint an eminent and independent Aboriginal facilitator to work with the Mirrar people and ERA in the development of the Cultural Heritage Management Plan;
- has invited key stakeholders including traditional owners and ICOMOS to be members on a Reference Group dealing with cultural heritage protection measures, including cultural mapping and the completion of the Management Plan; and
- is undertaking an independent review of the Interim Cultural Heritage Management Plan.

3. *Cultural Landscape Nomination*

The Government will consider and consult with traditional owners on:

- the possible nomination of the existing Kakadu National Park as a cultural landscape;
- a larger World Heritage cultural landscape nomination for land centred on the existing Kakadu National Park but extending considerably further north and south; and
- the potential inclusion of the East Alligator River Catchment in the Kakadu World Heritage property.

C. Additional Commitments from Energy Resources of Australia

1. *Benefits flowing from sequential mining development*

Under the preferred alternative, the extension of the life of the operations at Ranger by the introduction of commercial operations at Jabiluka when Ranger is phased out will guarantee the continued flow of royalties to the Aboriginal community generally and provide a fresh basis for the development of employment and housing opportunities in the area.

2. *Implementation of the Supervising Scientist's recommendations*

The recommendations of the Supervising Scientist made in his report to the World Heritage Committee will be implemented by ERA.

3. *Return of management responsibilities to traditional owners*

With the agreement of traditional owners, the areas of the Ranger and Jabiluka leases that are not required for mining will be transferred to traditional owner management.

4. *Consultation on initiatives and the Ranger Mill Alternative*

The company will work closely with the Government, traditional owners and, through the Government, with the World Heritage Centre.

D. Promoting the World Heritage Convention

1. *Monitoring*

Australia undertakes to submit to the World Heritage Centre by 31 October 1999 a detailed program for monitoring the state of conservation of Kakadu National Park.

2. *Establishment of an Asia-Pacific World Heritage Focal Point in Australia*

Australia will establish an Asia-Pacific World Heritage Focal Point in Australia as a forum for sharing regional management experience, knowledge and resources.

A. Initiatives to Strengthen Protection of the Kakadu Environment

1. The Timetable for Ranger and Jabiluka – sequential mining

The Mission expressed a concern that the world heritage values of Kakadu National Park are threatened by the construction and operation of a mine on the Jabiluka mineral lease. The lease is not in Kakadu National Park or the world heritage property (and has never been in the Park or the world heritage property).

In addition, the Ranger uranium mine has operated on a lease adjacent to the Jabiluka lease for nearly twenty years with no adverse impact on the world heritage values of Kakadu National Park. This demonstrates that a mine can operate adjacent to Kakadu National Park without affecting its world heritage values.

Given the fact that Jabiluka is not in the world heritage property, and in light of the excellent environmental record of the Ranger mine, it is assumed that the Mission was concerned about the cumulative impact of 2 mines operating together on leases that are adjacent to Kakadu National Park.

In order to address this concern, ERA has made commitments to the Government in relation to the commencement of full scale commercial mining operations at Jabiluka. In particular, to facilitate reconciliation and to ensure no negative social impacts from the scale of operations, the company has advised that the Jabiluka ore body is planned to succeed, not supplement, the Ranger ore body as feedstock for the Ranger mill. Full commercial operation at Jabiluka will therefore only be achieved by about 2009. Utilisation of the Ranger orebody will, at that time, have been phased out.

The company has advised the Australian government that the following timetable for mining at Jabiluka will apply:

- full scale commercial mining at Jabiluka would only be reached about 2009 following the scaling down of production at the Ranger mine so that two mines would not be in full production simultaneously;
- construction work on the mine decline had been completed;
- geological proving through core sampling of the ore extent would be completed within approximately six weeks;
- in the near term ERA will be concentrating on seeking consent of the Northern Land Council in accordance with directions of the traditional owners, for the Ranger Mill alternative. Providing that consent is received Jabiluka would operate on a small scale to enable milling of low tonnages (ie. less than 1% of mill throughput, of the order of 1000 tonnes per annum) of Jabiluka ore at the Ranger Mill. In the event that consent is not obtained for the Ranger Mill alternative, the Jabiluka Mill alternative will be progressed in stages so that full commercial production will not occur until 2009;
- apart from these activities, the mine will be put on a standby and environmental management basis from completion of core sampling in approximately six weeks.

The Australian and Northern Territory governments will ensure that these commitments are fully implemented. This will provide a pause, and an opportunity for the building of trust and confidence amongst all parties concerned.

The commitments mean that only one full scale commercial scale mine will be operating at any given time on the Ranger and Jabiluka leases. It should be noted that Kakadu National Park was first inscribed as a world heritage property with a uranium mine - the Ranger mine - operating at the time of listing.

This will ensure that the perceived impacts associated with the simultaneous commercial operation of two mines will not eventuate.

The Mirrar, the traditional owners of the Ranger and Jabiluka leases, have reached an agreement with ERA and the Government which extends ERA's authority to continue operations at Ranger for another 26 years. If the Mirrar agree to mill Jabiluka ore at Ranger:

- the footprint of Jabiluka would remain very small; and
- the rates of production at the Ranger mill would not increase above current designed capacity.

2. Implementing the ICSU recommendations

All of the recommendations made by the International Council of Scientific Unions on the scientific issues have been or will be fully implemented and incorporated into the design of the Jabiluka mine project.

A detailed response to the ICSU review of the Supervising Scientist's report to the World Heritage Committee has been submitted to the World Heritage Centre.

3. Enforcement of the Environmental Requirements

The security of environmental management at the Ranger and Jabiluka mines will be further improved by amending the legal regime governing enforcement of environmental conditions to strengthen the role of the National government.

Primary responsibility for day-to-day regulation of the mine, including overseeing implementation of the environmental conditions, is carried out by the Northern Territory government. The legal regime governing the enforcement of the environmental conditions will be strengthened. Amendments to this regime will increase the role of the Commonwealth government, and enhance its capacity to take action to enforce the environmental conditions.

The amendments to the regime governing enforcement of the environmental conditions will complement existing Commonwealth government powers – for example, the ability to impose strict requirements on the operations through export controls, and through legislation protecting world heritage. Jabiluka will continue to be the most highly regulated and monitored mine in the world.

4. The Environment Protection and Biodiversity Conservation Act

The *Environment Protection and Biodiversity Conservation Act* (EPBC Act), just passed by the Australian Parliament, contains a number of new provisions which will strengthen protection for national parks and World Heritage areas, and which promote the rights of indigenous people.

Protecting World Heritage

The Act greatly strengthens protection for World Heritage properties. Australia is the only nation in the world to have enacted legislation that specifically implements obligations under the World Heritage Convention. However, the existing world heritage legislation (the World Heritage Properties Conservation Act 1983) operates only as a means of 'last resort' and accordingly has applied to only five actions in 16 years. The EPBC Act will require all actions which are likely to have a significant impact on world heritage values to be subject to an assessment and approval process. The EPBC Act expressly prevents approval being granted if that would be inconsistent with Australia's obligations under the Convention.

The Act introduces heavy penalties (up to \$5.5million) for actions that have a significant impact on the World Heritage values of a World Heritage property. The Act also provides a wider range of monitoring and enforcement tools, and provides for the preparation and implementation of effective management plans for World Heritage properties.

Indigenous interests

In response to submissions from traditional owners, the Government amended the EPBC Act prior to its enactment to retain the position of the Director of National Parks as a separate statutory authority. The Mission had expressed concern about the Government's intention to abolish this position in order to improve administrative efficiency.

The EPBC Act provides for the addition of one representative of the Northern Territory government on the Board of Management for Kakadu (a thirteen member Board, including ten traditional owners). The EPBC Act now provides that the NT government representative can be added to the Board only if the traditional owners on the Board consent. The traditional owners may not unreasonably withhold consent. The Commonwealth Ombudsman, an independent statutory authority, will adjudicate if there is a dispute as to whether the traditional owners have unreasonably withheld consent. This should further strengthen joint management of Kakadu National Park.

The EPBC Act expressly recognises the rights, interests, and knowledge of Australia's indigenous people. For example, the objects of the Act include specific references to the role of indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity. The Act also preserves the right of indigenous people to continue the traditional use of a Commonwealth reserve for hunting, food-gathering, ceremonial or religious purposes.

Under the Act the Commonwealth government is required to work in close partnership with indigenous people. The Act establishes a range of mechanisms to ensure the involvement of indigenous people in management, and requires proper consultation on matters that affect indigenous interests. For example:

- The Act establishes an Indigenous Advisory Committee, the function of which is to advise the Minister on the operation of the legislation.
- The Act provides special rules to protect Aboriginal interests in preparing management plans for Commonwealth reserves including Kakadu National Park. These rules include greater transparency, and greater consultation with indigenous people.
- The Act requires that the Minister must consult with, and take into account the views and interests of, indigenous peoples when preparing wildlife or species protection plans, or when entering into an agreement with States or Territories.

A detailed summary of measures arising from the new legislation appears at Attachment 1.

5. *Strengthening the Role of the Supervising Scientist*

The Commonwealth will strengthen the role of the Supervising Scientist. The Supervising Scientist is an independent statutory authority that monitors and oversees the regulation of mining on the Ranger and Jabiluka leases. It is proposed that an additional senior position will be created to support the Supervising Scientist. Staff of the Supervising Scientist will also be relocated from Canberra to Darwin to support regulatory and research activities.

This strengthened role will be reflected in the mechanisms for implementation of the environmental conditions at the Jabiluka project.

6. *Best Practice Rehabilitation*

The agreement between the company and the Government in relation to the rehabilitation of the Ranger minesite requires the Government to hold in its own trust account an amount of cash (currently \$30million) sufficient to guarantee the future rehabilitation of the Ranger lease. Rehabilitation must be carried out to a standard that would allow the area to be incorporated in the Park when work is complete. The amount held in the trust account is assessed annually and adjusted to ensure that it will cover the costs of rehabilitation.

A similar set of arrangements is in place for Jabiluka with a surety of an irrevocable bank guarantee. The amount of the bank guarantee is to be annually and independently reassessed as the project develops.

7. Limits on Jabiru

ERA has given a commitment that it will not cause the population of Jabiru to increase above 1500 as a result of the Jabiluka development. The Government will impose a cap of 1700 on the size of Jabiru over the next 10 years in consultation with the Park Board and traditional owners.

8. Tourism infrastructure

The Government has just decided to allocate an additional \$3.155 million specifically to upgrade tourism infrastructure in Kakadu National Park. This additional funding, which will supplement the existing budget for Kakadu National Park, will enable a range of important works to be undertaken, including improvements to boardwalks, signage, camping grounds and access roads. The effect of this injection of capital funding will be to reduce the tourism impacts on popular sites in the Park.

9. Invasive and alien species

The recently approved Kakadu Plan of Management contains a commitment that “the current human and financial resources used for controlling mimosa will not be decreased ...”.

The Government has implemented a long-term monitoring and control program in Kakadu National Park, at an annual cost of approximately A\$ 580,000. The program involves visiting all sites where mimosa plants have previously been located, at least three times a year, and physically removing any seedlings. Areas downstream of sites are also checked and if plants are found in new locations, a control program is carried out immediately.

The Commonwealth government also provides substantial funding for mimosa control outside Kakadu National Park. Between 1998/99 and 2000/01, the Commonwealth government will provide approximately \$2 million for mimosa control beyond the boundaries of Kakadu National Park. These initiatives, including assistance to adjacent landholders and Aboriginal traditional owners in Arnhem Land, will make a significant contribution to the protection of world heritage values in Kakadu National Park by helping to prevent the spread of mimosa and its encroachment into Kakadu.

The Commonwealth Government allocated over \$3 million between 1991 and 1996 to the CSIRO to study cane toads and to identify possible control measures. Unfortunately, despite the government’s commitment and expenditure on cane toads, no effective methods have been identified that would enable the broad-scale control of this species.

Recently, scientists from the CSIRO published their findings from a Commonwealth Government funded study on the short-term effects of cane toads. The scientists concluded that there is little evidence to suggest that cane toads have a significant adverse effect in the short-term on the diversity and abundance of native fauna in the Gulf Country of the Northern Territory. The scientists did however acknowledge that there might be possible long-term negative effects on small reptile fauna. The relevant journal paper is: Catling, P.C. *et al.*, (1999). The short-term effect of cane

toads (*Bufo marinus*) on native fauna in the Gulf Country of the Northern Territory. *Wildlife Research*. **26**. pp161-185.

The government intends to continue to allocate specific funding toward finding a method for controlling cane toads. This expenditure is likely to focus on possible biological control techniques.

Initiatives to Address Social and Cultural Issues and Enhance Indigenous Land Management

1. Implementation of the Kakadu Region Social Impact Study (KRSIS)

The National Government has established a high-level task force, lead by the Department of the Prime Minister and Cabinet, to progress implementation of the KRSIS Action Plan. The KRSIS Implementation Team includes representatives of a range of Aboriginal groups from the region.

There have been significant and recent achievements in implementation of the KRSIS Community Action Plan.

Housing and Infrastructure: A significant upgrade of water and sewerage infrastructure in outstations in the Jabiru area, valued at over \$3m, will commence this year. Provision of further housing for Aboriginal people in the Jabiru region will be provided through the Indigenous Housing Authority of the Northern Territory at a cost of \$1.2m.

Health: The current development of a regional coordinated health plan and associated measures for the region, including Kakadu, is expected to be complete by December 1999, valued at over \$300,000. This will be complemented by a proposed new framework to increase the access of Aboriginal and Torres Strait Islander people to improved health care. Coordinated health care trials have been introduced to the NT and, subject to agreement between the NT and the Commonwealth, will be expanded to Kakadu.

Employment: Opportunities will be available under the new Indigenous Employment Program, valued at \$112m nationally, particularly for the development of private sector employment and training opportunities. As an initial step, the Government will fund ten new indigenous trainee positions which will allow Energy Resources of Australia (ERA) to train and employ additional Aboriginal people in its operations. ERA has already increased its direct Aboriginal employment levels to 15% of their workforce.

Other Initiatives to Address Social and Cultural Issues: As a result of negotiations over Jabiluka there is agreement that, as the mine develops, the company and both the NT and Commonwealth governments will seek to ensure that the following benefits flow to the Aboriginal community:

- Contracts to deliver goods and services to the mining operation
- Development of the capacity to own ancillary services such as electricity supply, waste management, rehabilitation, environmental monitoring and mechanical services
- Ownership and operation of the Jabiru town services
- The further development of the housing stock in Jabiru or at the outstations for Aboriginal use.

ERA is also working with the Gagudju and Djabulukgu Aboriginal organisations to maximise indirect employment opportunities arising from the mine. The Commonwealth's Indigenous Employment Program may be used to support these projects.

The Aboriginal and Torres Strait Islander Commercial Development Corporation has invested over \$7m to support the Gagudju investments in the Crocodile Hotel and Cooida Lodge and Yellow Waters cruise.

The Northern Land Council proposes to organise a regional meeting of senior Aboriginal people to discuss a 20 year plan for the region, including the roles and responsibilities of the range of Aboriginal organisations.

2. Cultural Heritage Management Plan

ERA is required to prepare a Cultural Heritage Management Plan for the Jabiluka lease. The Plan will provide a framework for protecting the fabric of agreed heritage places at Jabiluka.

An Interim Cultural Heritage Management Plan has been prepared by ERA. However, although the traditional owners gave consent to the Jabiluka mine in 1982 and in 1991, the current senior traditional owner has declined to participate in the preparation of a Cultural Heritage Management Plan. For this reason, it has not been possible to complete the final Cultural Heritage Management Plan at this stage.

The Australian government regrets that it has not yet been possible to finalise a Cultural Heritage Management Plan for the Jabiluka lease. The Australian Government is committed to ensuring the protection of all recognised sites of significance and is taking a number of steps toward guaranteeing this protection. The Government will continue to seek the full involvement of the Mirrar in finalising a rigorous Cultural Heritage Management Plan, benchmarked against international best practice.

The Government proposes to appoint an eminent and independent Aboriginal facilitator to work with the Mirrar people and ERA in the development of the Cultural Heritage Management Plan for the Jabiluka lease. Discussions have commenced with the Chair of the Aboriginal and Torres Strait Islander Commission, Mr Gatjil Djerrkura, to identify the best person for the job.

To promote effective consultation and participation, the Government has also invited key stakeholders including traditional owners, ICOMOS, the Northern Land Council and the Aboriginal Areas Protection Authority to be members on a Reference Group for the development of cultural heritage protection measures on the Jabiluka lease. This Reference Group will provide a further forum for stakeholder involvement on the development of the Cultural Heritage Management Plan.

As mentioned to the Mission, the Government sought nominations from the Academy of Humanities of appropriate experts to undertake a study reviewing the Interim Plan. The study will assess the effectiveness and adequacy of the Interim Plan and will identify necessary areas of improvement. Dr Andree Rosenfeld, until recently a

Reader in the Department of Archaeology and Anthropology at the Australian National University until her retirement in 1996, is undertaking this study. The Reference Group will review the outcomes of this study.

The Government recently commissioned expert reports on whether vibration and dust from the mining operation would have any impact on rock art and archaeological sites near the Jabiluka mine. The study on vibration concluded that vibration levels from drive blasts are so low that they would not detrimentally affect such sites. The vibration study also recommended standards to ensure there is no risk to nearby significant cultural sites. These standards will be observed.

The study on dust issues concluded that natural dust is more likely to affect significant rock art at Jabiluka than mining activities. Mining activities proposed on the Jabiluka lease are likely to produce extremely low quantities of dust which will pose negligible threat to the rock art in the area surrounding the development.

3. Cultural Landscape Nomination

The nomination of the existing Kakadu National Park as a cultural landscape has been discussed and endorsed by the Kakadu Board of Management. The matter will be discussed with Northern Territory Ministers at the next World Heritage Ministerial Council meeting scheduled to take place on 26 July 1999. This will be followed by further consultation with traditional owners.

The concept of a larger World Heritage Cultural landscape nomination for land centred on the existing Kakadu National Park but extending considerably further north and south was raised at the first meeting of the NT World Heritage Areas Ministerial Council in May 1998. The area involved stretched from Gurig National Park in the north through Arnhem Land to Kakadu National Park and onto the adjoining Nitmiluk National Park. Ministers decided that the area in question should be assessed with a view to progressing such a nomination, subject to the agreement of traditional owners.

Specific reference to the potential inclusion of the East Alligator River Catchment in the Kakadu World Heritage property will be placed on the agenda of the World Heritage Ministerial Council for discussion. A process for more detailed consideration including consultation with traditional owners can then take place.

C. Additional commitments from Energy Resources of Australia

1. Benefits flowing from sequential mining development

As indicated above, it is proposed that the Jabiluka ore body be developed consistent with a timetable that ensures it, in effect, replaces the existing operations to develop the Ranger ore body. The life of the Ranger mill will therefore be extended. This avoids any issues associated with the combined full scale operation of two commercial mines. When operating commercially, Jabiluka will have even less of an impact than the existing Ranger mine, as Jabiluka is a smaller, underground mine.

The extension of the life of the operations at Ranger by the introduction of commercial operations at Jabiluka in approximately 2009 will guarantee the continued flow of royalties to the Aboriginal community generally and provide a fresh basis for the development of employment and housing opportunities in the area.

2. Implementation of the Supervising Scientist's recommendations

ERA has agreed to implement the recommendations of the Supervising Scientist made in his report to the World Heritage Committee.

ERA has also agreed that any ore stockpiled on the surface at Jabiluka will not be exposed to the weather or have any contact with runoff.

3. Return of management responsibilities to traditional owners

The vast proportion of both leases is not required for mining operations. With the agreement of traditional owners, these areas will be transferred to traditional owner management. This could provide a basis on which they are managed under the auspices of the Kakadu National Park Board, if the relevant traditional owners agree.

4. Consultation on initiatives and the Ranger Mill Alternative

The company will work closely with the Government, traditional owners and, through the Government, with the World Heritage Centre on these matters. Should consent for the Ranger Mill Alternative not be obtained, extensive consultation on further developments at Jabiluka are guaranteed. However, the commitments in relation to the successive utilisation of the resources at Ranger and Jabiluka would stand.

The company operates the Ranger mine in accordance with the principles of best practice and continuous improvement, and the mining of Jabiluka will also be in accord with that approach.

D. Promoting the World Heritage Convention

1. Monitoring

In December last year the World Heritage Committee amended the Convention's Operational Guidelines to include a format for monitoring and reporting by State Parties. This includes a requirement to report on the state of conservation of individual World Heritage properties.

To meet the Committee's requirements for state of conservation reporting, Australia has developed a framework for the systematic collection and utilisation of environmental information for its properties. Australia's World Heritage monitoring framework is flexible and adapts well to the unique values of Kakadu National Park. It integrates environmental monitoring information into management planning and decision-making processes.

To improve on Australia's already outstanding record in World Heritage management, and in monitoring and protecting Kakadu's values in particular, Australia undertakes to submit to the World Heritage Centre by 31 October 1999, a detailed program for monitoring the state of conservation of Kakadu National Park. The development of this monitoring program will include a detailed consultation process with key indigenous and stakeholder groups. Following this Australia will provide, unless otherwise requested by the Committee, annual reports on the State of Conservation of Kakadu National Park.

The monitoring program for Kakadu will take account of the full range of management issues, including the tourist use of the national park, mining adjacent to the national park, land uses adjacent to the national park and exotic weeds and pests.

2. Establishment of an Asia-Pacific World Heritage Focal Point in Australia

The World Heritage Committee should be aware that in April 1996 Australia hosted the first ever Asia-Pacific World Heritage site managers' workshop, attended by delegates from Fiji, the Philippines, Thailand, Indonesia, Papua New Guinea, New Zealand and Australia. The workshop discussed regional issues regarding implementation of the World Heritage Convention and site management, and issued a statement which proposed the establishment of a Regional Network for Management of World Heritage. It proposed that the network be a forum for sharing regional management experience, knowledge and resources.

Following the success of the 1996 workshop, a second regional managers' workshop was held in Thailand, January 1998. This workshop was also attended by delegates from Japan, Malaysia, Myanmar, Cambodia, Bangladesh, the Solomon Islands and Vietnam. Participants at both workshops requested that Australia investigate establishing in Australia a focal point for the regional network.

Following the Thailand workshop, the then Director of the World Heritage Centre approached Australian authorities seeking support and details for the focal point. Australia has indicated a willingness to take on this task. To this end, a detailed proposal for the focal point, taking into account suggestions from both workshops, is being developed. It is hoped that the focal point can be in operation by the end of this year.

**PROVISIONS OF THE ENVIRONMENT PROTECTION AND
BIODIVERSITY CONSERVATION ACT 1999**

Recognising the Rights, Interests and Knowledge of Indigenous People

The EPBC Act fully recognises the rights, interests, and knowledge of Australia's indigenous people.

Objects of the Act

- The Act specifically states its objects, and these include to:
 - recognise the role of indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity
 - promote the use of indigenous peoples' knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge
- The Act must be administered in accordance with its objects.

Preserving and Recognising Indigenous Rights

- The Act preserves the right of indigenous people to continue, in accordance with law, the traditional use of an area in a Commonwealth reserve for hunting or food-gathering, and ceremonial and religious purposes.
- The land rights of indigenous peoples are not affected by the Act. The Act specifically provides that it does not affect the operation of the *Aboriginal Land Rights (Northern Territory) Act 1976* or the *Native Title Act 1993*.
- The lawful exercise of native title rights which involve the use of biodiversity will not require a permit. The traditional use of biodiversity other than in accordance with a native title right is provided for through permits.

Recognising Indigenous Knowledge

- The Act ensures the maintenance and promotion of indigenous knowledge, innovations, and practices in management of Commonwealth reserves and, where relevant, World Heritage properties and Ramsar wetlands.

Access to Biological Resources

- The Act provides for the regulation of access to biological resources. The Act specifically foreshadows an approach which will promote the equitable sharing of benefits with traditional owners arising from use of indigenous knowledge, innovations, and practices relating to biological resources.

Working with Indigenous People

- Under the EPBC Act the Commonwealth government will work in close partnership with indigenous people on matters that may affect their interests. The Act establishes a number of mechanisms to ensure the involvement of indigenous people in management, and to ensure proper consultation on matters that concern them.

Director of National Parks

- At the request of the Boards of Management, the Northern Land Council, and traditional owners, the statutory position of the Director of National Parks will be retained. The Director's role in managing Commonwealth National Parks including Kakadu will be unchanged.

Boards of Management

- Boards of Management are continued under the Act for Commonwealth reserves that wholly or partly consist of indigenous people's land. The Boards must have a majority membership of individuals nominated by traditional owners.
- The Minister may terminate the appointment of a member of a Board of Management for a Commonwealth reserve if that member has acted in a way that is not in the interest of the Board as a whole. However, the Minister may not terminate the appointment of a Board member if that member was nominated by traditional owners.
- A meeting of a Board for a Commonwealth reserve consisting wholly of indigenous people's land must not start or continue unless the majority of the members of the Board present are persons nominated by the traditional owners.
- A Northern Territory Government representative can not be appointed as a Board member for Kakadu National Park unless the members of the Board nominated by the traditional owners consent to the appointment. If the members of the Board are unreasonably withholding consent to the appointment, the Commonwealth Ombudsman (an independent statutory authority) may consider the circumstances and direct the Minister to make the appointment.

Conservation Agreements

- The Minister may enter into a conservation agreement with indigenous peoples or bodies acting on their behalf. In doing so the Minister must take account of articles 8(j), 10(c), and 18.4 of the Biodiversity Convention.

Indigenous Advisory Committee

- The Act establishes an Indigenous Advisory Committee. The function of the Committee is to advise the Minister on the operation of the legislation, taking into account the significance of indigenous peoples' knowledge of the management of land and the conservation and sustainable use of biodiversity.

Biological Diversity Advisory Committee

- The Biological Diversity Advisory Committee established by the Act must include a member appointed to represent indigenous peoples.

Consultation on Plans

- The Minister must consult and take into account the views and interests of indigenous peoples when preparing or entering into any of the following plans or agreements:
 - Bilateral agreements
 - Recovery plans
 - Threat abatement plans
 - Wildlife conservation plans

- Plans for jointly managed reserves are prepared by the Director and the Board for the reserve.
- The Act provides special rules to protect Aboriginal interests in planning processes in relation to preparing management plans for Kakadu National Park. These rules include greater transparency, and greater consultation with indigenous people.

Protecting the World Heritage Values of Kakadu National Park

The Act greatly strengthens protection for World Heritage properties. The EPBC Act will require all actions which are likely to have a significant impact on world heritage values to be subject to an assessment and approval process. The EPBC Act expressly prevents approval being granted if that would be inconsistent with Australia's obligations under the Convention.

The Act introduces heavy penalties (up to \$5.5million) for actions which have a significant impact on the World Heritage values of a World Heritage property. The Act also provides a wider range of monitoring and enforcement tools, and provides for the preparation and implementation of effective management plans for World Heritage properties.

Declaration of World Heritage Properties

- Declared World Heritage Properties are protected by the Act. A declared property includes a property that is on the World Heritage List, or which has been nominated for inclusion on the World Heritage List. A property may also be declared to be a world heritage property for the purposes of the Act if the Minister is satisfied that the property has, or is likely to have, World Heritage values and some or all of those values are under threat.

Actions affecting World Heritage Values

- The Act requires that every action that is likely to have a significant impact on the World Heritage values of a declared World Heritage property must be subject to an assessment and approval regime .
- Taking an action that has a significant impact on world heritage values may attract a fine of up to \$5.5 million.
- Serious breaches may constitute criminal offences and thus be punishable by up to 7 years in prison.
- Under the Act, approval cannot be given for an action which is inconsistent with Australia's obligations under the World Heritage Convention.

Enforcement Measures to Protect World Heritage Values

- The Minister has the power to suspend or revoke approval for a project in cases where the impact on World Heritage values were not accurately identified due to negligence or a deliberate act of omission by the proponent.
- If World Heritage values are damaged through a breach of the legislation, the Minister may order the damage to be remedied and require the person causing the damage to bear the costs.

Monitoring powers in relation to World Heritage Values

- The Act empowers the Minister to order an environmental audit of authorised projects that may be having an unacceptable impact on World Heritage values.
- The Act grants authorised officers search and monitoring powers, which must be exercised with a warrant from a Magistrate in appropriate circumstances, to investigate actions which may illegally damage World Heritage values.
- Under the Act it will be an offence to provide false information in order to gain an environmental authority.

Plans of Management for areas within World Heritage Areas

- The Director and the Board of Management must prepare a plan of management for Kakadu National Park.
- The Act provides for a penalty of up to \$0.5 million for taking certain actions except in accordance with a plan of management. These actions include damage to heritage, and killing, injuring, taking, trading, keeping, or moving a member of a native species.
- Plans of management must be consistent with Australian IUCN management principles (based on IUCN Protected Area guidelines), which will take into account Australia's obligations under the World Heritage Convention.
- A provision of a bilateral agreement, which accredits a State or Territory environmental assessment or approval, does not have any effect in relation to an action in Booderee National Park, Kakadu National Park or Uluru-Kata Tjuta National Park.
- The Act provides that a person must not carry out mining operations in Kakadu National Park.
- The Minister must make plans for managing properties on the World Heritage List that are entirely in Commonwealth areas. The Commonwealth and Commonwealth agencies must not contravene such plans. Plans must be consistent with Australia's obligations under the World Heritage Convention.
- The Minister may only accredit a management plan for the purposes of a bilateral agreement that contains a provision relating to World Heritage property if:
 - The Minister is satisfied that the plan is not inconsistent with Australia's obligations under the World Heritage Convention
 - The Minister is satisfied that the plan will promote the management of the property in accordance with the Australian World Heritage management principles
 - The plan meets the requirements prescribed by the regulations
 - The plan is in force under a law of the State and the State law meets the criteria specified in regulations.
 - The management plans may be disallowed by either House of Commonwealth Parliament.

Note – Bilateral agreements cannot apply to actions in Kakadu National Park.

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