



# AUSTRALIA'S KAKADU

**P R O T E C T I N G  
W O R L D  
H E R I T A G E**

**RESPONSE BY  
THE GOVERNMENT OF AUSTRALIA TO  
THE UNESCO WORLD HERITAGE  
COMMITTEE REGARDING  
KAKADU NATIONAL PARK**

APRIL 1999

Environment Australia, part of the Commonwealth Department of the Environment and Heritage

© Commonwealth of Australia 1999

This work is copyright. It may be reproduced in whole or in part for study, research or training purposes subject to the inclusion of an acknowledgment of the source and no commercial usage or sale results. Reproduction for purposes other than those listed above requires the written permission of the Department of the Environment and Heritage. Requests and enquiries concerning reproduction and rights should be addressed to the Assistant Secretary, Corporate Relations and Information Branch, Environment Australia, GPO Box 787, Canberra ACT 2601, Australia.

ISBN 0 642 54622 3

Photography:

*Mark Hallam*

*Michael Preece*

*Parks Australia, Environment Australia*

*Science Group, Environment Australia*

Copies of this document are available on the internet at [www.environment.gov.au](http://www.environment.gov.au)

# CONTENTS

<b>Australian Government Position: Summary</b>	<b>v</b>
<i>Summarises Australian Government case that Kakadu Park is protected not endangered</i>	
<b>Chapter One: World Heritage Values and Attributes of Kakadu National Park</b>	<b>1</b>
<i>Defines and describes the natural and cultural values which give Kakadu National Park its World Heritage significance. The criteria for World Heritage Listings are outlined and, from these, the specific values and attributes of Kakadu are identified. These defined attributes are an important starting point in evaluating claimed threats to these values.</i>	
<b>Chapter Two: Kakadu National Park – The Place and its People</b>	<b>13</b>
<i>Background to the Park, providing a picture of the place and its people. A necessary context to understand the multiple interests and uses for which the Park is managed.</i>	
<b>Chapter Three: Protecting Natural &amp; Cultural Values: The Australian Framework</b>	<b>31</b>
<i>The range of legislative mechanisms in place under Australian law to protect World Heritage values. The Jabiluka project has had to meet strict environmental, cultural scientific and economic requirements, as well as satisfy legislation relating specifically to the World Heritage values of the region.</i>	
<b>Chapter Four: Australia’s World Heritage Record</b>	<b>43</b>
<i>Outlines Australia’s consistently excellent record of achievements in the nomination, promotion, and management of World Heritage Properties. Australia asks that this record be considered when evaluating claims of potential threats to the values of a World Heritage property.</i>	
<b>Chapter Five: Protecting the Values of Kakadu – The Jabiluka Process</b>	<b>51</b>
<i>A review of the extensive, thorough and accountable steps of assessment and monitoring of the Jabiluka project. The values of Kakadu have been protected from potential impacts from outside the World Heritage property.</i>	
<b>Chapter Six: Response to the Mission’s Report and Recommendations</b>	<b>75</b>
<i>Details Australia’s response to the UNESCO Mission Report. Areas where the Mission’s perceptions of threats to World Heritage values differ from those of the Australian Government are addressed. After careful consideration, those recommendations in accord with Australia’s policy framework are being implemented.</i>	
<b>Chapter Seven: List of World Heritage in Danger: Criteria and Benchmarks</b>	<b>101</b>
<i>This chapter outlines the criteria for placing a property on the World Heritage in Danger List, drawing benchmarks from recent State practice. It analyses the threats outlined by the UNESCO Mission, concluding that it would not be consistent for Kakadu National Park to be placed on the List of World Heritage in Danger.</i>	
<b>Chapter Eight: Managing Values into the Future</b>	<b>123</b>
<b>Appendices</b>	<b>127</b>
<i>References</i>	
<i>Appendix 1</i>	
<i>Appendix 2</i>	
<i>Appendix 3</i>	
<i>Appendix 4</i>	
<i>Glossary</i>	

## List of Appendices

---

<b>References</b>	<b>129</b>
<b>Appendix 1</b> Further examples of Agreements and programs	<b>130</b>
<b>Appendix 2</b> Extracts relating to mining operations from the Kakadu nomination documents	<b>132</b>
<b>Appendix 3</b> Analysis of properties included on the List of World Heritage In Danger	<b>133</b>
<b>Appendix 4</b> Kakadu Statistical Data	<b>136</b>
<b>Glossary</b>	<b>137</b>

## List of Figures

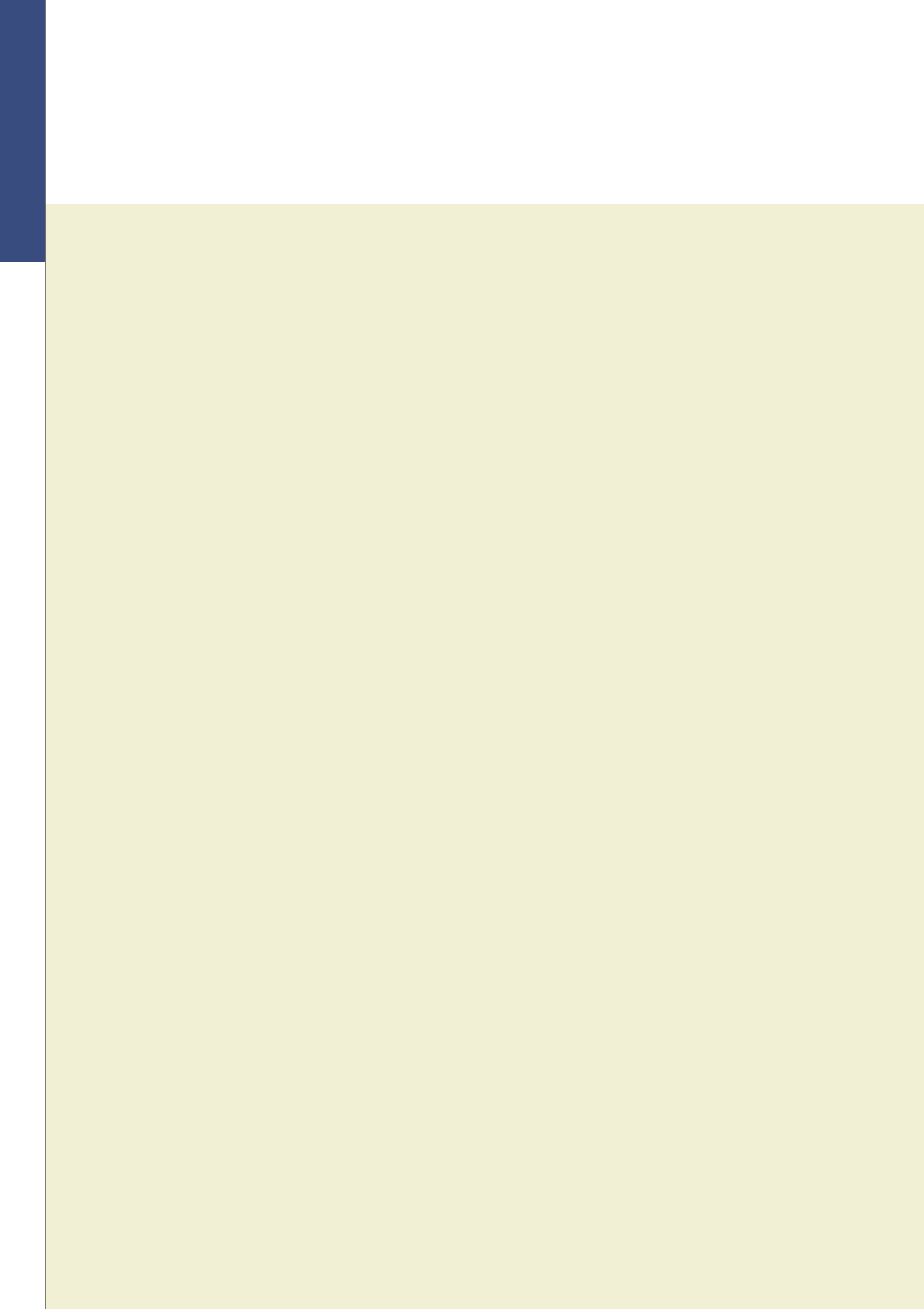
---

<b>Figure 1:</b> Relative size and location of Kakadu National Park, Jabiluka and Ranger Mineral leases	<b>5</b>
<b>Figure 2:</b> Kakadu National Park showing major features and lease areas	<b>16</b>
<b>Figure 3:</b> Aboriginal Land Trusts in Kakadu National Park	<b>20</b>
<b>Figure 4:</b> Clans in Kakadu National Park	<b>30</b>
<b>Figure 5:</b> Ranger and Jabiluka Lease Area—Landsat Image	<b>55</b>
<b>Figure 6:</b> Jabiluka Mine Site within Jabiluka Lease Area	<b>57</b>
<b>Figure 7a:</b> } Chronology of Boiwek and Almudj sites*	<b>65</b>
<b>Figure 7b:</b> }	<b>66</b>
<b>Figure 7c:</b> }	<b>67</b>
<b>Figure 8:</b> Catchment of the East Alligator River	<b>92</b>
<b>Figure 9:</b> Koongarra, Ranger and Jabiluka Leases, and the township of Jabiru	<b>99</b>

\* Note that the orthography used in spelling place and people names varies considerably. 'Boiwek' is generally accepted spelling for the site 'Boyweg' referred to in the Mission report.

# SUMMARY OF REPORT

**Australian Government Position: Summary**



## Australian Government Position: Summary

### KAKADU NATIONAL PARK: PROTECTED NOT ENDANGERED

#### INTRODUCTION

At the twenty second Session of the World Heritage Committee in Kyoto, Japan, it was decided that:

‘the Australian authorities be requested to provide, by 15 April 1999 a detailed report on their efforts to prevent further damage and to mitigate all the threats identified in the UNESCO Mission report, to the World Heritage cultural and natural values of the Kakadu National Park, Australia.’

- This report is the Australian Government’s response to the claims made in the mission report.
- After independent, expert international review, the report will be discussed by the World Heritage Committee in an extraordinary session in Paris in July 1999.
- The Committee will then decide whether Kakadu National Park could be placed on the List of World Heritage in Danger.
- This report in response to the UNESCO Mission should be read in conjunction with the Supervising Scientist Report, available separately.

While being responsive to the views of the UNESCO Mission, the Australian Government strenuously opposes placing the property on the List of World Heritage in Danger. Should the Committee choose to do so, it would be without State Party consent, and also in circumstances where the State Party fundamentally disagrees with the view that the values of the property are endangered and provides objective evidence to that effect.

In this situation, it is necessary to ensure that all decisions taken are consistent with the Convention and that the highest standards of objectivity, transparency and consistency are applied. It is necessary not only to establish that ascertained or potential dangers exist, but also that the threats are of such scale and impact that they will endanger the value of the area as a World Heritage property. To be effective, the Convention needs to be applied consistently across World Heritage properties, and consistently over time in relation to particular properties. This need becomes especially serious when considering placing a property on the List of World Heritage in Danger.

Therefore, the State Party believes it appropriate for the Committee to consider the evidence very carefully. Australia has gone to great lengths to present the evidence in full and wishes to continue to be fully transparent in reporting on its actions in protecting World Heritage values. This report is presented in that spirit.

#### THE AUSTRALIAN GOVERNMENT’S REPORT

The Australian Government’s report provides evidence that the World Heritage values of Kakadu National Park are protected, not endangered. The report defines in objective terms the values and attributes of the World Heritage property; describes the history and context of Kakadu National Park; analyses the legislative framework in place in Australia to protect natural and cultural values; and outlines Australia’s record in upholding the World Heritage Convention. This contextual information is provided before describing in detail the process undertaken to ensure that the Jabiluka uranium mine could proceed in an area, adjacent to but not within the Park, without any damage to the natural and cultural values of the World Heritage property. Each of the threats claimed by the Mission was analysed against benchmarks established by recent practice. The report responds specifically to each of the recommendations put forward by the UNESCO Mission.

## Australian Government Position: Summary

The report puts all the facts clearly on the table - facts which must be considered before an assessment can be made on the level of threats to the World Heritage property. The same set of facts provides essential contextual information to objectively assess the claims of the UNESCO Mission of severe ascertained and potential dangers to the cultural and natural values of Kakadu National Park.

This report seeks to address the issues raised in the UNESCO Mission's report and is without prejudice to other matters which Australia has raised or may wish to raise concerning the consistency of a listing of Kakadu National Park on the 'In Danger List' with the World Heritage Convention. Those matters include issues concerning the inscription of a property on the 'In Danger List' without the request and consent of the State Party (and against the express wishes of that Party), the consistency of parts of the Operational Guidelines with the Convention and the respective roles of the World Heritage Committee and the State Party in the protection of natural and cultural heritage situated in that State.

### THE UNESCO MISSION REPORT RECOMMENDATIONS

The Australian Government, maintaining Australia's record in upholding the World Heritage Convention, willingly supported the visit to Australia of the UNESCO Mission team in October 1998. It did so despite the fact that it considered the Mission visit unnecessary. In a very short period of time, the Mission team had to absorb, analyse and evaluate a complex and emotive situation in which facts were often disagreed.

The difficult task of the Mission was further complicated by the fact that their report was seen as an opportunity for domestic organisations to project their campaign to an international audience. The issues of uranium, indigenous peoples and conservation - significant in their own right - gained greater momentum when linked with the concept of World Heritage.

### THE AUSTRALIAN RESPONSE

In such a climate it is understandable that there are strong disagreements between the views of the majority of mission members, as expressed in the Mission's final report, and the view of the State Party, as expressed in this response. Those areas of disagreement should not obscure the fact that for the most part, the recommendations of the Mission are compatible with Australian Government policy and programs.

Since the release of the Mission report in December 1998, the Australian Government has continued to take action to ensure the protection of Kakadu. In particular, action has been taken - or was already underway - which is consistent with the intent and direction of most of the Mission's recommendations. These actions are reported in **Chapter Six**. The Government has taken the following actions:

- reviewed all the perceived threats to World Heritage and instituted necessary protective measures (Recommendations 1 & 2);
- undertaken an exhaustive independent review and further risk analysis of all claims of scientific uncertainty relating to the project (Recommendation 2);
- ascertained that any expansion of urban and infrastructure development in Jabiru as a result of the mine will be minimal, with the utilisation of existing housing stock to cater for workers on the project (Recommendation 3);
- ensured that the Interim Cultural Heritage Management Plan is subjected to independent peer review and invited further consultation with traditional owners to protect all sites in the lease area (Recommendation 4);

## Australian Government Position: Summary

- instituted dust and vibration studies to ensure the protection of rock art sites (Recommendation 4);
- ensured that existing extensive records of cultural values are complemented by a cultural mapping exercise along the lines recommended by the Mission (Recommendation 5);
- accelerated the implementation of the Kakadu Regional Social Impact Study at Commonwealth, Territory and local levels with practical projects designed to address local issues of social and economic disadvantage (Recommendation 6);
- sought the views of traditional owners, the Northern Territory Government, and the Northern Land Council on renomination of the Park on cultural criteria (iii) and cultural landscape criteria and extending the boundaries of the Park (Recommendations 8 & 9);
- engaged in high level discussions, commencing at Ministerial level, on outstanding issues relating to joint management of Kakadu National Park (Recommendation 10);
- taken positive steps to confirm Government commitment to consultation and cross-cultural dialogue (Recommendation 11);
- confirmed an ongoing presence of the Environmental Research Institute of the Supervising Scientist (ERISS) in Jabiru (Recommendation 12);
- sought the views of the Northern Land Council, traditional owners and the mining company on potential options for the Koongara Mineral Lease pending the outcomes of negotiations with traditional owners on the lease (Recommendation 13);
- ensured that mechanisms in place will effectively limit the expansion of Jabiru to prevent any threat to the World Heritage property (Recommendation 14); and
- ensured that the impact of introduced species on the wetlands of Kakadu National Park continue to be managed using best practice approaches (Recommendation 15 & 16).

These are significant efforts. It can be seen that the Australian Government has engaged the intent of the Mission recommendations in the context of its ongoing management and protection of Kakadu, considered their applicability and taken appropriate action, in line with the State Party's direct responsibility for the protection of World Heritage values in its sovereign territory.

Where qualifications have been necessary, these are reported in an open and transparent manner (see Chapter Six). In the main, these qualifications relate to the need to ensure that any commitment for action relating to Aboriginal land (as in Recommendations 8,9,10,13,14) has, met all the requirements of Australian law as it defines and protects the rights of indigenous land owners.

Consultation and cross-cultural dialogue on such significant issues is time consuming and complex. While the Australian Government had indicated it is willing to initiate such consultations, the outcome and pace of implementation is in many ways set by the traditional owners, their statutory representative bodies, and the exacting requirements of legislation such as the *Aboriginal Land Rights (Northern Territory) Act 1976*. The fact that some of the traditional owner organisations are not yet willing to cooperate in implementing the recommendations needs to be carefully worked through.

## Australian Government Position: Summary

### RECOMMENDATIONS OF PARTICULAR CONCERN TO THE AUSTRALIAN GOVERNMENT

The Australian Government has an extensive framework of law, policy, program and management arrangements for its World Heritage properties. While elements of some other recommendations also cannot be supported by Australia, Recommendations 1,2,3 & 7 are, in particular, not viewed as consistent with that framework, as discussed below and more fully in Chapter Six of this report.

**RECOMMENDATION 1** claims severe ascertained and potential damages to the cultural and natural values of the Park caused by Jabiluka and recommends that the project not proceed.

This recommendation:

- gives insufficient weight to the three years of extensive environmental impact assessment work, the more than 70 binding requirements, the stringent legislative framework and the independent scientific monitoring necessary for the project to be approved;
- does not reflect the fact that Ranger, a larger, open cut mine has operated for almost 20 years without harming World Heritage values or being raised as a concern by the Committee during three separate nomination processes;
- does not demonstrate objective assessment of any purported threats to a level where the thresholds of 'In Danger' listing could be fairly applied;
- is inconsistent with the treatment of other properties or other threats in the history of the Convention;
- does not acknowledge that it is the State Party that determines the protection regime for World Heritage values within its jurisdiction;
- is inconsistent with repeated recommendations to extend and renominate the property; and
- is inconsistent with the fact that, through the Northern Land Council, traditional owners gave informed legal consent to mining in 1982 and consented to the transfer of those mining rights to Energy Resources Australia in 1991.

After a comprehensive review of the scientific questions raised by the Mission in which he was assisted by expertise from the Commonwealth Scientific and Industrial Research Organisation (CSIRO), the Bureau of Meteorology and the University of Melbourne, the Supervising Scientist has recommended some modest upgrading of engineering works at the mine site. This process of review has added an extra degree of confidence in ensuring that the project will protect natural values. The Supervising Scientist has concluded that "contrary to the views expressed by the Mission, the natural values of Kakadu National Park are not threatened by the development of the Jabiluka uranium mine and that the degree of scientific certainty is very high. There would appear, therefore, to be no justification for a decision by the World Heritage Committee that the natural World Heritage values of Kakadu National Park are in danger as a result of the proposal to mine uranium at Jabiluka."

The traditional owners of Kakadu National Park come from a variety of clan and language groups. The Mirrar-Gundjehmi are the traditional owners of the Jabiluka Lease Area, a clan group of some 27 members, and some contiguous land in the World Heritage property. Mirrar-Gundjehmi holdings in the World Heritage property are about 2% of the total Park. The mine works do not affect this land. The cultural values of the Park as a whole are not endangered by a project in a small area outside the Park. Other traditional owners have indicated that they oppose any listing of Kakadu National Park on the List of World Heritage In Danger and have conveyed that view to the UNESCO Mission.

## Australian Government Position: Summary

**Chapter Six** of this report, read in the context of the legislative and management processes outlined in earlier chapters, reviews the areas in which the views of the State Party need to be reconciled with the views of the UNESCO Mission and details the Australian response to the recommendations of the Mission.

**Chapter Seven** analyses, against World Heritage Committee benchmarks, the threats which, according to the UNESCO Mission, were created by changes to the three mines policy, the environmental impact assessment process for Jabiluka, the Jabiluka and Ranger milling alternatives, and the construction of the Jabiluka mine.

*While Australia does not consider Recommendation 1 as appropriate or balanced, as an active participant in the World Heritage Committee and its associated processes, Australia wishes to be transparent in reporting to the Committee annually on how it is dealing with the potential threats that are cited by the Mission.*

**RECOMMENDATION 2** points to concerns expressed by some scientists on scientific uncertainties relating to the Jabiluka mine design, tailings disposal and possible impacts on catchment ecosystems and claims that the Precautionary Principle requires that mining operations at Jabiluka be ceased.

The Australian Government does not consider implementation of this recommendation to be necessary. The Mission's report is not consistent with the assessment of the known scientific data on these issues.

The Supervising Scientist has, for almost 20 years, undertaken a multidisciplinary environmental research program in the Alligator Rivers Region, for the specific purposes of identifying potential environmental impacts of uranium mining, and determining measures to prevent or minimise those impacts. The scope and depth of environmental data and the extent to which operational environmental protection procedures are based on sound science, are unparalleled in any other mining precinct in the world. Under this regime the Ranger Mine has operated for nearly twenty years with no impact on the World Heritage values of Kakadu. The Jabiluka mine will be managed under the same regime and to higher standards in many respects than the Ranger mine. This management will be maintained to world's best practice standards for the life of the mine and throughout the rehabilitation of the minesite after operations cease.

The uncertainties raised by the Australian scientists referred to in the Mission's report, particularly in relation to hydrogeological modelling, water catchment issues, the disposal of tailings in mine voids, and more importantly, the potential environmental consequences of those uncertainties, have not been articulated in detail in the Mission's report. Most of the issues raised by the scientists have already been addressed in the environmental impact assessment process. Where issues have not been examined in the assessment process they have now been rigorously assessed and changes to the design of the project can be implemented to guarantee safety and environmental security.

The Supervising Scientist's report on the review is presented separately to the Committee. The general conclusion of the report was that "the natural values of Kakadu National Park are not threatened by the development of the Jabiluka uranium mine and the degree of scientific certainty that applies to this assessment is very high". The report on the review highlighted a number of areas where some re-design of the proposal would be, from a precautionary approach, appropriate. As in normal practice, the detailed design phase of the project has not yet commenced and these features will therefore be included as the detailed planning proceeds.

As a result of this assessment, the Supervising Scientist concluded that a "detailed review has demonstrated that there were a number of weaknesses in the hydrological modelling presented by Energy Resources of Australia (ERA) in the Environmental Impact Statement (EIS) and Public Environmental Review (PER). Accordingly, a number of recommendations have been made which should

## Australian Government Position: Summary

be implemented by ERA in completing the detailed design of the Jabiluka project. On the other hand, the review has demonstrated quite clearly that, if the design of the water management system proposed by ERA in the PER *had* been implemented, the risk to the wetlands of Kakadu National Park, and the risk of radiation exposure to people of the region would have been extremely low.”

In relation to the disposal of tailings in the mine void, the Supervising Scientist concluded that “dispersal of tailings in the very long term will not constitute a hazard for future generations. On the specific issue of potential dispersal of tailings into water catchments, he concluded that “radium and uranium concentrations will remain at background levels in the Magela floodplain”, and that “the contribution of mine tailings to concentrations of solutes in ground water that comes in contact with the surface waters of the region will be negligible.”

*The Australian Government has a policy of being open and transparent on issues of environmental assessment and has subjected the concerns to rigorous, independent peer review. The results of these reviews, as reported by the Supervising Scientist to all members of the World Heritage Committee, show that the concerns were misplaced, or that the project design can accommodate adaptations to ensure that there is a negligible risk to the natural values of the World Heritage Area.*

**RECOMMENDATION 3** identifies threats of visual encroachment on the integrity of Kakadu National Park through uranium mining and the associated incremental expansion of urban and infrastructure development in and associated with the town of Jabiru.

The Mission’s report does not emphasise important issues of scale when comparing the extent of the Jabiluka mine with that of Kakadu National Park. The area of Kakadu National Park is 19,804 square kilometres (approximately the size of Wales or New Jersey, USA). The area disturbed by the Jabiluka development, including the Ranger-Jabiluka haul road, is approximately 1.3 square kilometres or less than 0.007% of the area of Kakadu National Park.

The Jabiluka mine cannot be seen from within the World Heritage property, except from the air. If a development which is only visible from the air is used as a benchmark for a potential World Heritage in Danger listing then this could have major implications for the management of all World Heritage properties.

The Mission’s report gives the impression that Jabiru will be extensively expanded as a result of mining activity at Jabiluka. This impression is false. Jabiru is a small township with a current resident population of about 1480 (in 1998). Even with the Jabiluka development, Jabiru’s population is not expected to exceed 1700. This figure is lower than the town’s population at the peak of Ranger mine’s operations, when the World Heritage Committee listed the Park and congratulated Australia on its management. The nature and development of Jabiru is strictly controlled so that it does not adversely impact on the World Heritage values of Kakadu National Park. It is the administrative and essential service centre for the National Park, tourism, and provides indigenous administrative support for the wider Kakadu region.

*The Australian Government is willing to keep the World Heritage Committee informed on the issue of potential visual encroachment, by supplying satellite photographs and landsat images on a regular basis.*

**RECOMMENDATION 7** argues that the Australian Government should recognise the special relationship of the Mirrar to their land and reconsider the status of the 1982 agreement and the 1991 transfer of ownership to ensure maintenance of the fundamental rights of the traditional owners.

The Australian Government does not support the recommendation that the 1982 agreement should be set aside. The Mirrar gave consent to mining at Jabiluka in 1982. The agreement was signed after exhaustive consultation with traditional owners, as required under the Australian legislative regime, and has not been challenged under Australian law.

## Australian Government Position: Summary

The Aboriginal people of the Northern Territory have a right of veto over mining on their land under the *Aboriginal Land Rights (Northern Territory) Act 1976* that does not apply to land owned by non-Aboriginal Australians. The traditional owners of Jabiluka had the right to veto the mine but instead chose to consent to the mine for the economic and other benefits they negotiated. In addition, the traditional owners later agreed to the transfer of ownership of the lease through comprehensive agreements which set out rights, entitlements and associated payments. Furthermore, they have lobbied senior Ministers of the Australian Government as recently as eight years ago in attempts to ensure that the mine went ahead.

The traditional owners and the NLC have agreed to the Ranger mine continuing under existing terms and conditions for a further 26 years, pending possible future renegotiation and arbitration of those terms. Those terms and conditions include the continued payment of annual rental (\$200,000) and royalty equivalents to Aboriginal interests, including the Mirrar Gundjehmi as the traditional owners.

To set the agreement aside would risk:

- creating a precedent that would unjustly privilege one set of acquired rights over another, to the extent of allowing one party to unilaterally revoke a contract, which was freely given and accompanied by payments, at a later date;
- extending the ambit of the World Heritage Committee, unilaterally and in a manner that is not consistent with the Convention, into questions of mineral rights, property law and indigenous land ownership when the Convention itself expressly recognises that these are matters for the relevant State Party;
- injustice to the Company who have complied with every law, met every requirement, and respected every notified Aboriginal site in managing the project;
- pre-empting any domestic law processes to consider these issues; and
- a decline in the Australian public's support of the Convention and its worthy aims.

The Australian Government also recognises that the other clans outside the Jabiluka mining lease, but inside the boundaries of the World Heritage property, have a special relationship to their land. In recent times, groups such as the Jawoyn, traditional owners of the Stage 3 area of the Park and lands outside the World Heritage property, have used this special relationship and the statutory rights that this provides, to develop economic opportunities through mining agreements (outside the Park) and tourism ventures. In their submission to the UNESCO Mission, the Jawoyn Association noted their concerns regarding the possible implications of an In Danger listing on the economic opportunities for their people. In particular the Jawoyn Association noted:

‘..the Jawoyn have since [1996] been actively planning commercial development in the southern region so as to generate income to our people.

Clearly, a significant reason why so many people visit Kakadu National Park is its World Heritage status. If your inquiry finds, as it has in Yellowstone and the Galapagos, that the proposed activities would damage World Heritage values, and you decide the Park should be relegated to “in danger” status, it would be of great concern to the Jawoyn.’

*Again, the Australian Government will be open and transparent on this issue, notifying the World Heritage Committee of any future potential changes to the status of property rights within the excluded mining lease areas, including notification of any relevant court actions and their outcomes.*

## Australian Government Position: Summary

### REQUEST FOR VOLUNTARY SUSPENSION

The Australian delegation at Kyoto made it explicitly clear that, while acknowledging the World Heritage Committee's request to voluntarily halt the mine, there was no basis for requesting a halt or delay when the company had met every requirement under Australian law, including requirements to protect World Heritage values. This view has also been conveyed by the Australian Minister to the Chair of the World Heritage Committee.

The senior traditional owner has, in recent months, asserted that the current progress of the decline to the ore body threatens the sacred site of Boiwek. In making these claims, the Senior traditional owner is asking the Australian government to recognise a significant extension of the boundaries of the site. The extension is not consistent with earlier anthropological evidence or statements by traditional owners. This extension of the site boundary is analysed in detail in **Section 5.6**. The Mirrar have repeatedly and consensually agreed to mining in the area. The Northern Land Council and the mining company stand by that agreement. The Australian Government has guaranteed that the site, as registered and agreed receives full protection. It must be recognised that there are no grounds for the Australian Government to request a halt to the mining. The agreements for site protection are not being breached. The Australian government will ensure the recognised Boiwek site is protected.

*Australia will continue to inform the World Heritage Committee on progress with mine construction and on domestic processes for site protection.*

### IMPLICATIONS FOR OTHER STATE PARTIES

The extent and level of discussion at the Kyoto meeting, and the fact of an extraordinary session of the Committee should indicate to other State Parties, the complexity and seriousness of this issue to the essence of the World Heritage Convention, and the rights of State parties under the Convention.

The inscription of Kakadu National Park on the List of World Heritage in Danger without the request and the consent of the State Party, and against the express wishes of the State Party, could place at risk some of the fundamental principles that underpin the Convention - that is the respect for the sovereignty of the State Party, the safeguarding of the property rights provided for in its national legislation and the primacy of the role of the State Party in the protection of the natural and cultural heritage. Such action also could be at odds with the terms of both the Convention, those relevant parts of the Operational Guidelines which are consistent with the Convention, and the benchmarks of Committee practice. It would represent a significant change to the basis upon which states took the serious step of becoming a party to the Convention and may deter other states from taking that step in the future.

In short, the issue of whether the World Heritage Committee chooses to place Kakadu on the List of World Heritage in Danger is no longer an issue for Australia alone. It is a matter of vital importance to each and every State Party to the World Heritage Convention.

We respectfully submit to the World Heritage Committee, our response to the UNESCO Mission Report.



ROGER BEALE

Secretary  
Department of Environment and Heritage