

## **4. Joint management**

**Joint management is Aboriginal land owners and Parks Australia working together and deciding what should be done to manage the Park with and on behalf of traditional owners and for other interests. Joint management is about working together to enhance and protect Aboriginal rights and interests while looking after the natural and cultural values of Kakadu National Park, and providing opportunities for visitors to experience and appreciate these values safely.**

### **4.1 Making decisions and working together**

#### **Our aim**

Kakadu National Park is managed to the highest standards that meet expectations of the Australian community for protection of natural and cultural values, and of Bininj traditional owners to meet their obligations to country and satisfy their peoples' aspirations for benefits from land ownership. In doing this, the Director and Bininj work together to make shared informed, consistent, transparent and accountable decisions.

#### **Measuring how well we are meeting our aim**

- Level of satisfaction of Bininj and the Board with implementation of this Plan
- Timely completion of actions
- Level of satisfaction of Bininj with involvement in implementation of this Plan
- Proportion of all significant management decisions made in accordance with the decision-making guidelines
- Level of satisfaction of other stakeholders with the transparency and accountability of decision-making for the Park's management

#### **Background**

To manage the Park, decisions must be made about a wide range of matters at many levels. The Director and Aboriginal traditional owners share decision-making and consult relevant stakeholders, in accordance with the prescriptions (policies and actions) in this Section.

The EPBC Act gives the Director the function of administering, managing and controlling the Park and protecting biodiversity and heritage in the Park. The Act and the EPBC Regulations give the Director a number of specific powers to assist in the performance of these functions eg power to determine park entry and use charges, to control certain activities and to issue permits. The Director must carry out these functions and use these powers in accordance with this Plan.

Under the EPBC Act, the Board of Management has the function of preparing the management plan with the Director and making decisions about the management of the Park that are consistent with the plan. The Director will comply with decisions of the Board that give effect to the plan. The Board also monitors management of the Park and advises the Minister, in conjunction with the Director. The Board of Management generally makes high level policy and strategic decisions about Park management. Park staff make day-to-day management decisions and exercise powers on behalf of the Director in accordance with the management plan, Board decisions and the EPBC Act and other legislation.

The Director has a number of obligations under the lease agreements with the Kakadu, Jabiluka and Gunlom Aboriginal land trusts to protect Bininj interests and culture. Together

with the EPBC Act, the leases are key documents for guiding decision-making, and the EPBC Act requires this Plan to be consistent with the Director's lease obligations. The full provisions of the leases as at 2005 are included as Appendix A to this Plan.

The Northern Land Council (NLC), which is established under the Land Rights Act, has broad functions to assist and represent the interests of the traditional Aboriginal owners of land and other Aboriginals. Under the Park leases the NLC has a number of specific roles, including to be consulted regularly about the management of the Park. Under the EPBC Act the Director is required to consult the NLC about park management generally and in relation to preparation of management plans in particular.

While the formal decision-making structures in the Park set the framework for making legal decisions and allow Bininj cultural practices to be included, these structures are not recognised under Bininj cultural protocols and practices. Under Bininj cultural protocols and practices, Bininj landowners are responsible for making decisions about their country and are guided by Bininj customary decision-making structures, seniority and kinship obligations. To help ensure that Bininj are involved in formal decision making processes related to managing and making decisions about their country in the Park, Park staff consult and make shared decisions with Bininj on a range of day-to-day management issues under guidelines developed by the Board in collaboration with the NLC. In carrying out consultations with Bininj, assistance may be sought from the NLC and relevant Aboriginal associations to arrange consultations with, and provide information for, Bininj.

*'Well you got different clan groups – they talk for their land, they talk for their ceremony sites, they talk for their culture way – we talk for ours.'*

*Bessie Coleman, Wurrkbarbar/Jawoyn*

To help the Board make informed decisions, the Board has established the Kakadu Tourism Consultative Committee (KTCC) and the Kakadu Research Advisory Committee (KRAC). The KTCC provides the Board with advice on tourism issues and the views of tourism stakeholders in a structured way. The primary purpose of the KRAC is to provide advice to the Board on research issues and priorities for the Park. The KRAC members are researchers with experience in natural and cultural resource management.

The Director and the Board try to consult stakeholders and provide them with as much advance notice as possible about decisions that may affect them. However, sometimes decisions need to be made quickly, such as where there may be immediate threats to Park values, assets or people's safety. In these situations, where prior consultation or notice is not possible, affected stakeholders are informed of the decision as soon as possible.

### **Issues**

- The Board, Director and Park staff need to make decisions and manage the Park in accordance with the EPBC Act, the lease conditions, this Plan, the EPBC Regulations and other Balanda laws but must include Bininj and use Bininj cultural protocols, practices, laws and customs (including clan based decision-making) to the greatest extent possible.
- At the time of preparing this Plan not all of the land in the Park was Aboriginal land under the Land Rights Act but management to date (including composition of the Board, and previous management plans) has been based on the principle of managing the whole Park as if it is Aboriginal land.
- Values important to Bininj, as well as other recognised values, need to be understood and protected.
- People involved in decision-making should have equal access to accurate and relevant information.

- The Board needs adequate resources to carry out its functions under the EPBC Act.
- How the NLC carries out its broad role in relation to decision-making, particularly day-to-day decisions by Park staff, needs to be made clear.
- Stakeholders should be consulted in structured and timely ways as far as possible.
- Consultation and decision-making processes need to be clear and consistently followed. Records of consultations and decision need to be properly kept.

## **What we are going to do**

### ***Policies***

- 4.1.1 Decision-making will be based on protection of the Park's natural and cultural values and be consistent with:
- the IUCN protected area category 'national park', and applicable management principles for that category, as prescribed by Section 3 of this Plan
  - where relevant, the Director's obligations under leases of Aboriginal land in the Park
  - the processes in Table 1 on page 32 .
- 4.1.2 Decision-making will take into account the impact assessment process for a proposed action as set out in Section 8.3, Assessment of proposals.
- 4.1.3 Bininj will be actively involved in decision-making and implementation of this Plan, including in the joint development, implementation and review of work plans, programs and projects.
- 4.1.4 Bininj cultural protocols and practices will be used in decision-making and management where consistent with this Plan and other legal requirements, including by:
- recognising that clans want to guide decision-making related to the management of their country in the Park
  - using these protocols when working on country.
- 4.1.5 The Park will be managed as if all land in the Park is Aboriginal land under the Land Rights Act. Where traditional ownership of land is unclear, the assistance of the NLC will be sought.
- 4.1.6 The Director will provide the Board with resources reasonably necessary for it to carry out its functions under the EPBC Act.
- 4.1.7 Subject to the Director's lease obligations, opportunities will be provided to involve Bininj in staff selection processes, which may require the involvement of Bininj from different clan groups.
- 4.1.8 Consultation guidelines developed by the Board and the NLC, and reviewed from time to time, will be used when consulting with Bininj.
- 4.1.9 The Director will provide appropriate assistance to the NLC to carry out its functions in the Park.
- 4.1.10 The KTCC will continue and will perform functions determined by the Board in consultation with the tourism industry.
- 4.1.11 The KRAC will continue and will perform functions determined by the Board.
- 4.1.12 Where stakeholders' interests will be affected they will, as far as practicable:
- be consulted in a timely and structured way
  - have the opportunity to make comments on the development of strategies and guiding documents
  - have their views taken into account

- be provided with the reasons for decisions
- in the case of major decisions that may adversely impact on the tourism industry be provided with 12–18 months notice prior to implementation of the decision (except where immediate action is warranted).

***Actions***

- 4.1.13 Negotiate and implement agreements with the NLC to assist it to carry out its functions in relation to the Park.
- 4.1.14 Provide induction programs for new Park staff which include:
  - two-way cross-cultural training and development
  - joint management and Park governance information
  - relevant government policy and job and site specific information.
- 4.1.15 Develop public communication strategies to help explain Park decisions where there is or may be strong public interest in an issue.
- 4.1.16 Maintain a central database that records all decisions made in consultation with traditional owners.

**Table 1 – Guide to decision-making**

Category	Example	Decision-making process
<p><b>Routine actions</b></p> <p>Actions that have no impact, or no more than a negligible impact, on the Park’s environment and natural and cultural values; on the interests of Bininj and/or stakeholders; and/or on visitor use or changes to existing facilities and services in the Park</p>	<ul style="list-style-type: none"> <li>• Minor capital works eg maintenance, replacement, repair or improvement of existing infrastructure in its present form</li> <li>• Regular/routine ongoing operations to implement prescriptions in this Plan eg patrols, weed control, fire management</li> <li>• Minor new operations to implement prescriptions in this Plan</li> <li>• Seasonal opening/closing of visitor areas</li> <li>• Issuing permits for regular activities in accordance with this Plan eg land-based tours, camping and research</li> <li>• Employment for day labour and seasonal programs</li> </ul>	<ul style="list-style-type: none"> <li>• Process accords with management plan policies, prescriptions and procedures and the Park’s Manual of Procedures.</li> <li>• Bininj are consulted where necessary and in accordance with Board/NLC consultation guidelines.</li> <li>• Decision is made by an appropriate officer.</li> </ul>
<p><b>Non-routine actions</b></p> <p>Actions that have more than a negligible impact, or have a significant impact, on the Park’s environment and natural and cultural values; on the interests of Bininj and stakeholders; and/or on visitor use or changes to existing facilities and services in the Park</p>	<ul style="list-style-type: none"> <li>• Moderate or major capital works eg new infrastructure or expansion/upgrade of existing infrastructure such as outstations, realignment of roads, new campgrounds</li> <li>• Rehabilitation of heavily eroded sites and mines</li> <li>• Major new operations or developments to implement prescriptions in this Plan</li> <li>• Developments for approved existing tourism activities that require major works eg safari camps</li> <li>• Major/long-term changes to existing visitor access arrangements</li> <li>• Expansion of the Jabiru township</li> <li>• Tour operator accreditation system</li> <li>• New types of commercial activities</li> <li>• Issuing of leases/licences</li> <li>• Employment of Park management staff</li> </ul>	<ul style="list-style-type: none"> <li>• Process accords with management plan policies, prescriptions and procedures.</li> <li>• Bininj are consulted where necessary and in accordance with Board/NLC consultation guidelines.</li> <li>• KTCC and/or KRAC are consulted as necessary.</li> <li>• Relevant stakeholders are consulted/informed.</li> <li>• Decision is made by Board of Management.</li> </ul>

## **4.2 Opportunities for Bininj from country**

### **Our aims**

- Bininj assume more responsibilities related to the administration, control and management of the Park and have more opportunities to earn income and gain jobs on country.
- Young Bininj learn about their culture and participate in the management of the Park.

### **Measuring how well we are meeting our aim**

- Number of Bininj and Bininj businesses employed directly or indirectly in Park management activities
- Type, level and location of positions filled by Bininj, directly or indirectly, in Park management activities
- Number and type of Park management programs provided for young Bininj and level of engagement

### **Background**

Kakadu National Park contributes tens of millions of dollars to the Northern Territory economy each year through tourism and purchase of significant quantities of goods and services from local suppliers. However, the Kakadu Region Social Impact Study (1997) highlighted the fact that, despite the economic activity generated in the region, Aboriginal people in the Kakadu region are not greatly benefiting from regional economic development.

The Park lease agreements require the Director to provide a range of social and economic benefits for Bininj, including promoting Aboriginal administration, management and control of the Park and subject to this Plan, engaging as many Relevant Aboriginals as is practicable to provide services in and in relation to the Park. During the life of the 4<sup>th</sup> Plan, numbers of Bininj employed in the Park increased, and some support mechanisms such as training were established to assist Bininj staff members. Paying an annual rent and a percentage of the charges collected in the Park and providing a range of employment, enterprise and training opportunities related to the Park are also requirements of the lease agreements.

Under the leases, the Director is also required to encourage the maintenance of the Aboriginal tradition of Bininj. In this way, the lease agreements support the wishes of Bininj to apply their knowledge and skills and to learn new skills by participating in programs that incorporate Bininj and Balanda ways of looking after and using country, and passing this knowledge on to younger generations. A description of the lease provisions at the time of preparing this Plan is at Appendix A.

### **Issues**

- Bininj want to benefit more from the economic activity associated with the Park, either through direct employment or by developing their own or joint enterprises.
- Bininj want to develop the skills they need to work in a range of positions related to the administration, control and management of the Park and to ensure that Bininj land management skills are maintained.
- Senior Bininj would like young Bininj to learn about their culture, country and park management so they can be actively involved in the management of the Park in the future.

### **What we are going to do**

#### ***Policies***

- 4.2.1 The Director will work with Bininj and relevant stakeholders to develop partnerships and other ways of increasing benefits for Bininj, related to implementation of this Plan. This may involve linking Bininj with, and providing support for, people who can provide relevant skills development, advice and appropriate development opportunities.
- 4.2.2 The Director will seek to engage as many Bininj as possible to implement this Plan. Ways to do this will include but not be limited to:
- providing Bininj with a range of permanent, contract and flexible employment opportunities and associated learning and development support
  - designing jobs to incorporate Bininj land management skills and knowledge
  - regularly reviewing the delivery of Park management services with a view to contracting services to Bininj and to Bininj organisations
  - encouraging external contractors to employ Bininj, including providing apprenticeships where practicable
  - where practicable, subject to the Director's other legal obligations, engaging Bininj and Bininj organisations to provide services in and in relation to the Park.
- 4.2.3 During the day-to-day management of the Park, Park staff will work with Bininj in ways that help Bininj to develop their capacity to progressively assume more responsibilities related to the administration, control and management of the Park.
- 4.2.4 Where practicable, subject to other legal obligations, the Director will provide Bininj and Bininj organisations with a range of training and employment opportunities related to management of the Park.
- 4.2.5 Processes will be implemented to assist Bininj to relay issues or concerns to the Board for consideration.
- 4.2.6 The Park Manager will report to the Board quarterly about Bininj employment and learning and development outcomes.

### ***Actions***

- 4.2.7 Develop, implement and regularly review Bininj learning and development strategies linked to implementing this Plan. Where possible strategies will take a collaborative and regional approach and will include provision for;
- accredited training and studies
  - literacy and numeracy development
  - Bininj customary land management skill development
  - ongoing career development, mentoring and coaching, including supervisory and management skill development
  - learning and development opportunities for potential Bininj employees.
  - working with stakeholders to help facilitate Bininj enterprise development
- 4.2.8 With Bininj, develop and implement programs that help teach young Bininj about culture, country and park management, and where possible work with other organisations to do this. These programs may include:
- developing a two-way junior ranger or similar program
  - providing opportunities for school-to-work transition programs and traineeships
  - developing a community ranger program
  - provision of Park career and employment information
  - providing work experience opportunities.

## 4.3 Customary use of resources

### Our aim

Bininj's customary economy continues to contribute to the maintenance of culture and to meeting conservation goals for the Park, in accordance with Aboriginal cultural practices.

### Measuring how well we are meeting our aim

- Bininj are satisfied that people are using country in accordance with traditional law.
- Extent to which species or populations important in the customary economy have a healthy conservation status.

### Background

Bininj have used the land and its resources for many generations and continue to use many of the Park's natural resources for a wide variety of customary uses. These include the use of plants and animals for food, art and craft and other cultural purposes. The contemporary collection and use of plant and animal resources by Bininj involves using a combination of traditional and contemporary methods and knowledge.

Section 359A of the EPBC Act states that the provisions of the Act and Regulations dealing with activities in Commonwealth reserves do not prevent traditional use of land by an Aboriginal person for non-commercial hunting or gathering, provided it is done in accordance with other applicable laws.

More generally, s.8 of the Act provides that the Act does not affect the operation of s.211 of the *Native Title Act 1993* and s.71 of the Land Rights Act which provide for traditional use of land, including non-commercial hunting, fishing and gathering, by Aboriginal people.

Bininj are concerned that from time to time Aboriginals who do not have traditional rights and have not been authorised under Bininj cultural protocols and practices carry on hunting and gathering in the Park.

*'Respect for country – when you visit someone else's country you have to have respect for them and how they manage their country – how they hunt. You're breaking traditional culture if you just go in and do what you want. It's the most important thing and you send a message first to tell them that you're coming.'*

*Goldie Blyth, Minaga clan*

Hunting in the Park by Aboriginal people became a major issue during the life of the 4<sup>th</sup> Plan and one issue of concern continues to be the use of lead shot. Lead is a toxic substance that can harm humans, wildlife and the environment. The most common lead poisoning in wildlife is considered to be the result of ingestion of spent lead shot.

Possession and use of firearms (and other types of hunting equipment) are prohibited by Regulation 12.18 of the EPBC Regulations unless authorised by this Plan or a permit issued by the Director (or where another exemption prescribed by r.12.06 applies).

Commercial use of wildlife by Bininj is dealt with in Section 5.10 of this Plan.

## **Issues**

- There continue to be incidents of taking of wildlife by people who do not have traditional or native title rights to do so.
- Customary harvest can be an important indicator of the success of habitat management programs and status of important species.
- Bininj customary taking and use of natural resources must be ecologically sustainable and not have negative impacts on the health of country or on the long-term availability of resources for Bininj.
- Traditional and native title rights to take native species are subject to laws of general application eg Northern Territory laws about possession and use of firearms.
- The Board, Director and Bininj agree that lead shot should not be used in the Park.

## **What we are going to do**

### ***Policies***

- 4.3.1 Bininj, and other Aboriginals who have been authorised under Bininj cultural protocols and practices, may, with the approval of the Board, take native species of animals and plants and will not require a permit from the Director provided it is done:
- in accordance with traditional or native title rights
  - for non-commercial purposes
  - in accordance with laws of general application, including Northern Territory laws dealing with possession and use of firearms
  - in a sustainable way and that does not impact on the conservation status of a species.
- 4.3.2 The Board may withdraw approval under Section 4.3.1 for the taking of animals by the use of firearms if it is satisfied that any of the prescribed criteria are not being met. If approval is withdrawn the activity may be carried on under a permit issued by the Director under the EPBC Regulations authorising possession and use of firearms. Permit conditions may include restrictions on areas where firearms can be used and numbers of animals that may be taken.
- 4.3.3 Lead shot should not be used in the Park.

### ***Actions***

- 4.3.4 The Board and the Director will work with Bininj to develop and implement strategies for managing and promoting the sustainable customary taking of wildlife by Bininj, including the management of visitor access issues that may impact on Bininj customary use of the Park..
- 4.3.5 Investigate ways of incorporating customary use in programs for monitoring the status of important species and landscapes.
- 4.3.6 The Board and the Director will work with Bininj to discourage use of lead shot, prohibit its use if possible, and encourage its replacement with more benign alternatives.

## **4.4 Living on country**

### **Our aim**

Bininj establish living areas in the Park that meet their needs while minimising the impact on Park values.

## **Measuring how well we are meeting our aim**

- Requests are considered and decisions made in timeframes determined by the Board
- Extent of compliance with approval procedures for the development of living areas
- Extent to which impacts on Park values are within acceptable levels

## **Background**

The Park lease agreements provide for Bininj to reside on Aboriginal land in the Park:

- at places Bininj were residing when the leases began (1978 Kakadu Aboriginal Land Trust, 1991 Jabiluka Aboriginal Land Trust, and 1995 Gunlom Aboriginal Land Trust)
- at other locations specified in management plans
- subject to reasonable constraints in this Plan for reasons of safety, security, privacy or protection of the Park.

Bininj living areas have been established in some areas of the Park. It is likely that Bininj will want to establish more living areas over the life of this Plan, particularly in the southern section of the Park. The Board and the Director support the development of appropriate living areas, as it can facilitate greater Bininj involvement in the management of the Park and assist Bininj to maintain links to their culture and country.. However, establishment and maintenance of living areas (and obtaining the necessary resources) are the responsibility of the individuals or organisations concerned. It is not the role of the Director or the Board to commit resources to establish and maintain living areas although non-financial assistance may be provided from time –to time in response to specific requests eg to help with grading an access track, subject to available resources and other Park management requirements.

Advice is required from the NLC on the traditional rights of people to establish living areas and reside in the Park and on the views of relevant traditional Aboriginal owners in relation to living area proposals.

Establishment and maintenance of living areas involves the carrying out of works and, because of s.354(1) of the EPBC Act, can only be done in accordance with this Plan. Approval for a living area may involve the creation of a ‘usage right’ in relation to the land concerned (a usage right is defined in s.350(7) of the EPBC Act as an estate or a legal or equitable charge, power, privilege, authority, licence or permit). Under s.358 of the Act, the Director cannot give a usage right in relation to land in the Park except by granting a lease, sublease or licence in accordance with this Plan.

## **Issues**

- Living areas should only be developed by people with relevant traditional rights in areas approved by the traditional owners of the area.
- Development and management of living areas needs to be properly resourced (including where necessary provision of essential services).
- Development of living areas must not adversely impact on Park values.

## **What we are going to do**

### ***Policies***

- 4.4.1 Development of new living areas will require approval of the Board.
- 4.4.2 Approval may be given by way of lease, sublease, or licence, and may be given subject to conditions.

- 4.4.3 The Director will liaise, and where appropriate work, with relevant organisations (including funding and service delivery agencies) in relation to living area development and management.
- 4.4.4 Proposals to develop living areas (including expansion of existing living areas) will be dealt with as follows:
- proposals to establish living areas will be referred by the Director to the NLC for advice as to the traditional rights of the proponent and proposed residents to reside at the place chosen, and as to the views of the relevant traditional owners
  - on receipt of the NLC's advice the proposal will be referred to the Board to decide whether to give in-principle approval
  - if the Board gives in-principle approval the proposal will be considered in accordance with Section 8.3, Assessment of proposals
  - if the proposal requires environmental assessment under Section 8.3 but is not a controlled action under the EPBC Act, the assessment will be carried out within three months of the proposal being received unless it is not practicable to do so within that period
  - following assessment under Section 8.3, the proposal will be referred to the Board to advise whether it agrees to the Director approving the development
  - if the Board agrees to the proposal the Director may give approval for the proposal to proceed.

***Action***

- 4.4.5 Work with residents to help minimise the impact on Park values from living areas, and to ensure compliance with approval conditions.