



Australian Government

Director of National Parks

Dr Ben Scambary
Chief Executive Officer
Aboriginal Areas Protection Authority
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DARWIN NT 0801

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Dear Mr Scambary,

I write to you in relation to the ongoing prosecution of the Director of National Parks for constructing a walking track at Gunlom Falls without having obtained an Authority Certificate.

You would be aware that I have recently taken up the position of acting Director of National Parks.

Coming into this role I am strongly resolved to improve matters going forward and to show a genuine commitment to working closely with traditional Custodians.

In that spirit, I wish to acknowledge that the Gunlom works caused significant distress to traditional Custodians and other members of the community. For this, I am genuinely sorry.

I am prepared to:

1. express contrition and make a public apology or issue a statement of regret acknowledging the importance of sacred sites and shortcomings in the process adopted for the Gunlom works; and
2. provide an assurance that the shortcomings will not be repeated in the future.

I have also, yesterday, provided a written direction to Parks Australia staff to ensure that before any actions are undertaken in Kakadu National Park they:

- ensure that the impact assessment procedures for the Kakadu National Park which are set out in the Management Plan are carried out;
- escalate any proposed actions that may impact a sacred site to the Kakadu Cultural Engagement Park Manager;

- where there is a potential impact on a sacred site, seek an Authority Certificate; and
- if it is unclear whether the proposed action will have a potential impact on a sacred site, the Kakadu Cultural Engagement Park Manager will consult with the Aboriginal Areas Protection Authority as to whether an Authority Certificate is desirable.

This is in addition to committing to rectify the Gunlom works, for which Authority Certificates have been sought and obtained from the AAPA.

I acknowledge that there were concerns surrounding the process that was followed in relation to the Gunlom site and I am sorry for any distress caused.

I am genuinely intent on improving matters in the future.

Constitutional issues

During the directions hearing on Monday, 29 March 2021 our legal representatives stated that certain constitutional issues arise in connection with the prosecution.

I understand these types of matters are likely to arise in any matter where a State or Territory body brings a criminal case against the Commonwealth or a Commonwealth body, due to the generally understood principles of Crown immunity. In this instance these matters are beyond my control.

However, rather than engage in court proceedings around these issues, I strongly believe it would be preferable to work together with all stakeholders to protect and preserve the cultural heritage of Kakadu National Park into the future.

For all of the above reasons, I therefore invite you to consider whether pursuing this prosecution is the best way to meet our mutual objectives of working together to protect sacred sites.

I look forward your consideration of these matters.

In the interests of communicating my commitment to resolving these matters to the Kakadu community, I intend to make this letter publicly available.

Yours sincerely

Jody Swirepik



Acting Director of National Parks

1 April 2021