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Corporate governance

The Director of National Parks is responsible, under the *Environment Protection and Biodiversity Conservation Act 1999*, for the management of Commonwealth reserves and conservation zones established over Commonwealth-owned land, Aboriginal land leased to the Director, and Commonwealth marine areas. The Director of National Parks corporation is a Commonwealth authority and is subject to the *Commonwealth Authorities and Companies Act 1997* (CAC Act). The Director is a corporation sole constituted by the person who holds the office that is also named the Director of National Parks.

The Director is responsible to the Minister with responsibility for administration of the EPBC Act. During 2012–13 that person was the Minister for Sustainability, Environment, Water, Population and Communities, the Hon. Tony Burke MP.

Ministerial directions

The EPBC Act requires the Director to perform functions and exercise powers in accordance with any directions given by the Minister, unless the EPBC Act provides otherwise.

During 2012–13 no Ministerial directions were given to the Director and there were no directions continuing from previous years.

The Director is subject to directions given by the Minister responsible for administration of the CAC Act under section 47A of the Act on matters related to the procurement of property or services. The Finance Minister's (CAC Act Procurement) Directions 2012 require the Director to apply the Commonwealth Procurement Guidelines when undertaking a procurement covered by the guidelines.

The Minister responsible for the CAC Act may, under section 48 of the CAC Act, make a General Policy Order specifying a general policy of the Australian Government that is to apply to the Director. No General Policy Orders were made during 2012–13 and there were no orders continuing from previous years.

Funding

The EPBC Act makes provision for funding the Director of National Parks. The department receives the appropriation for the Director of National Parks. In effect, the department purchases services from the Director to manage Commonwealth reserves and to perform the Director's other functions under the EPBC Act, in order to contribute to the department's Outcome 1. The Director is the sole provider of statutory functions and powers for managing Commonwealth reserves under the Act.

The department also has an arrangement to provide corporate services to the Director. The department's Parks Australia division supports the Director's work.

During 2012–13 the department provided \$40.2 million to the Director of National Parks under the purchaser–provider arrangement (see the audited financial statements in Chapter 6 of this report). This arrangement was effective, providing resources to enable the Director to meet the targets set in the Sustainability, Environment, Water, Population and Communities Portfolio Budget Statements 2012–13.

Planning documents

For information about the strategic planning and performance assessment framework see Chapter 4 of this report.

Executive management

The holder of the office of Director of National Parks and four senior executives provide leadership in Parks Australia (see Chapter 3 of this report). The executive team meets regularly to develop and review policy priorities and strategic and corporate goals.

In addition to the Parks Australia executive team, the Director of the Australian Antarctic Division is responsible for managing one marine reserve.

Parks Australia faces a number of specific administration challenges including widely distributed workplaces in remote areas with many in cross-cultural environments. Coordination between area managers, Canberra-based managers and the executive team is vital. Important communication activities include regular phone link-ups and the annual Parks Australia Forum involving all senior managers.

Staff participate in consultative committees in both regional and Canberra-based workplaces to support internal management.

Boards of management and advisory committees

Kakadu, Uluru–Kata Tjuta and Booderee national parks are managed jointly by the Director and the traditional Aboriginal owners, in accordance with the EPBC Act. Each park has a board of management established under the Act, with a majority of Indigenous members who are nominated by the traditional owners of land in the park. Membership of the boards also includes the Director, nominees of the Northern Territory Government (for Kakadu and Uluru–Kata Tjuta national parks) and members representing special interest groups or with particular skills relevant to managing the park. See Chapter 3 of this report for details of board members.

The principal functions of a Commonwealth reserve board of management are to prepare management plans for the reserve in conjunction with the Director and to make decisions about management of the reserve consistent with its management plan. A board, in conjunction with the Director, is also responsible for monitoring management of the reserve and advising the Minister on the reserve’s future development.

Norfolk Island, Christmas Island and Pulu Keeling national parks have non-statutory advisory or consultative bodies that include community representatives and representatives of the Director.

Other consultative mechanisms

The EPBC Act requires public consultation before the declaration of a Commonwealth reserve and in the preparation of reserve management plans.

For Commonwealth reserves that include Aboriginal-owned land, the EPBC Act provides for both consultation with, and involvement of, representatives of the Aboriginal landowners about management of the reserve. The Director must consult with and have regard to the views of the chair of the relevant land council in relation to the performance of the Director's functions and the exercise of the Director's powers in relation to the reserve. The land council chair must be specifically invited to comment on the preparation of management plans.

Additional consultation with traditional Aboriginal owners of Kakadu, Uluru–Kata Tjuṯa and Booderee national parks takes place through cultural advisers, Aboriginal staff, community liaison officers, Aboriginal organisations and special consultative committees.

The EPBC Act also requires the Northern Territory Government to be consulted in relation to the performance of the Director's functions and the exercise of the Director's powers in relation to Kakadu and Uluru–Kata Tjuṯa national parks, and to be invited to comment on the preparation of management plans for those parks.

Tourism industry interests are taken into account through the tourism consultative committees of the Kakadu and Uluru–Kata Tjuṯa boards of management and through ad hoc working groups.

Control arrangements

Director of National Parks chief executive instructions

The chief executive instructions direct Parks Australia staff in assisting the Director to carry out the Director's functions under the EPBC Act and ensure the corporation and its officers meet their obligations under the EPBC Act and the CAC Act. The instructions draw on relevant corporate governance rules and policies and guidelines of the Australian Government. They are supported by policies and procedures subject to regular review.

Audit

An audit committee is established for the Director in accordance with the CAC Act. During the year the audit committee met four times and addressed corporate governance issues including risk management and financial management.

During 2012–13 internal audits were undertaken on certificate of compliance, cost recovery, fraud control and a review of corporate services. The committee endorsed the process for preparation of the 2012–13 financial statements.

Members of the committee at 30 June 2013 were:

- Paul Hickey, independent member and chair
- Peter Hofer, independent member
- Tony Fleming, independent member
- Peter Cochrane, Director of National Parks.

The assistant secretaries for Parks Australia and the Director of the Business and Financial Management Section were invited to attend committee meetings. Staff from the Australian National Audit Office, the department’s Finance Branch and the internal audit service provider attended meetings as observers.

Risk management

Risk watch lists or risk registers for each reserve or business unit are periodically reviewed in accordance with the Director’s risk management policy. Incidents in all workplaces, categorised under key result areas, are reported regularly to the executive team which monitors higher level risks for each branch and for Parks Australia as a whole. These risks are reviewed quarterly by the audit committee.

The Director has participated in the Comcover Risk Management Benchmarking scheme since 2002–03. This scheme assesses 10 elements of risk management with performance matched against individual agency target risk maturity levels. In 2012–13 the Director scored 8.0 out of a possible 10 compared to an average score of 6.8 for the 143 participating Australian Government agencies. For the past eight years the Director has consistently scored above the average for all agencies.

Figure 4: Risk management benchmarking scores for the Director of National Parks in 2012–13 compared to the average for 143 Australian Government agencies



Source: Comcover 2013

A key element of risk management is the business continuity plan covering all Parks Australia sites. The plan was not called on during the year. In 2012–13 the Director was awarded highly commended in the Comcover Awards for Excellence in Risk Management, in the enterprise-wide category.

Indemnities and insurance

In 2012–13 the Director maintained comprehensive insurance cover for business operations through Comcover, the Australian Government's general insurance fund, including general liability, professional indemnity, and directors' and officers' liability. No incidents generated a major insurance claim during the year.

The Director also manages risk by requiring all commercial operators, contractors and scientific researchers in Commonwealth reserves to indemnify the Director and the Commonwealth and maintain appropriate levels of insurance for their activities.

Fraud control

The Director has a fraud-control plan and in accordance with the Commonwealth fraud control guidelines, conducts risk assessments to prevent and manage fraud within the agency.

External review

Judicial decisions and decisions of administrative tribunals

There were no judicial decisions or decisions of administrative tribunals during the year that had, or may have, a significant impact on the Director's operations.

Commonwealth Ombudsman

There were no formal reports from the Commonwealth Ombudsman during the year.

Reports by the Auditor-General

The Auditor-General issued an unqualified audit report for the 2012–13 financial statements of the Director of National Parks.

Work health and safety

This section is presented in accordance with the requirements of Schedule 2, Part 4 of the *Work Health and Safety Act 2011*. The department’s annual report contains more detailed health and safety information related to departmental employees undertaking the work of the Director of National Parks.

The Director maintains a strong commitment to the health, safety and welfare of Parks Australia workers (employees, contractors and volunteers). Parks Australia was an active participant on the department’s health and safety committee which has oversight of all health and safety issues within the portfolio. Health and safety committees in the three mainland national parks, in the Christmas Island and Cocos (Keeling) Islands territories, at Norfolk Island National Park and at the Australian National Botanic Gardens, considered and addressed local issues, reporting progress to the department’s health and safety committee.

Parks Australia workers face a diverse range of hazards. The main hazards are from fieldwork in remote and arduous locations, plant and machinery, chemicals and hazardous substances, managing and handling unpredictable wildlife, driving vehicles and static posture injuries from using desktop equipment.

ParkSafe, Parks Australia’s integrated occupational health and safety management system, has been in place since 2004 and complies with the Work Health and Safety Act. It is designed to provide a safe and healthy workplace for all workers and all relevant policy and procedural information is available electronically.

Initiatives and outcomes

Table 9: Work health and safety initiatives and outcomes achieved in 2012–13

Initiative	Outcome
Development of the work health and safety project plan to provide systematic upgrade of ParkSafe	Three year plan to ensure Parks Australia complies with the relevant health and safety legislation
Re-development of the ParkSafe health and safety management system	Framework to guide Parks Australia to ensure compliance with relevant work health and safety legislation
Completion of the co-operative compliance program with ComCare	A coordinated approach to a significant upgrade in work health and safety management, focusing on Kakadu and Uluru–Kata Tjuta national parks
Employed a work health and safety professional	Provided greater momentum to work health and safety compliance with relevant legislation
Established an overarching Parks Australia work health and safety committee	Improved safety reporting structure and support to the five local work health and safety committees
Developed and implemented a new internal incident and hazard reporting system	Higher level of reporting and investigation awareness leading to management and staff being able to manage their own risk treatments
Developed and implemented new work health and safety intranet sites	Improved awareness and ability to source information internally, leading to consistent application of work health and safety processes and procedures

Incidents and investigations

No investigations were conducted during 2012–13 relating to the operations of the Director.

Parks Australia recorded 116 work health and safety incidents in terrestrial reserves in 2012–13, a substantial reduction on the number of incidents recorded last year (table 10).

The reduction principally arose from minor incidents previously considered as ‘near misses’ no longer being regarded as work health and safety incidents.

Table 10: Five-year overview of safety incidents in terrestrial reserves

	2008–09	2009–10	2010–11	2011–12	2012–13
Staff, volunteers and contractors					
Minor injury or near miss ^(a)	41	56	67	70	50
Moderate injury ^(b)	31	15	20	14	11
Major injury ^(c)	1	5	7	2	1
Total	73	76	94	86	62
Visitors, permit holders and residents					
Minor injury or near miss ^(a)	60	70	59	101	36
Moderate injury ^(b)	21	26	34	23	13
Major injury ^(c)	7	15	18	4	3
Death	4	2	4	2	2
Total	92	113	115	130	54

(a) Includes near miss, no injury or first-aid treatment only.

(b) Includes treatment by paramedics or at a medical centre/hospital.

(c) Includes significant hospitalisation (more than two days).

During 2012–13 the two highest causes of staff injury were manual handling and slips, trips and falls.

The visitor incidents for 2012–13 included two fatalities. There was one drowning in waters off Booderee National Park and a suspected drowning at Jim Jim Falls, Kakadu National Park. Heat stress and slips, trips and falls remain the predominant risks to park visitors.

Compliance and enforcement under the EPBC Act

The EPBC Act and Regulations prohibit a range of activities in Commonwealth reserves unless authorised in accordance with the Act. Under the regulations, the Director of National Parks may also prohibit, restrict or determine the manner of conduct of certain activities. Failure to comply is a criminal offence and for certain unauthorised actions civil pecuniary penalties may also be imposed.

Wardens and rangers are appointed under the EPBC Act to exercise compliance and enforcement powers in relation to the Act and its regulations. Members of the Australian Federal Police and officers of the Australian Customs and Border Protection Service are *ex officio* wardens by force of the Act. In accordance with the Commonwealth Fraud Control Guidelines and the Australian Government Investigation Standards, Parks Australia’s wardens are trained in Certificate IV in Government (Investigations) and rangers are trained in relevant modules of the certificate.

A whole-of-government approach is taken to compliance and enforcement in Commonwealth marine reserves, supporting aerial and vessel patrols, vessel monitoring and enforcement investigations. In addition to the role of Australian Federal Police and Customs officers, officers from other agencies, including the Australian Fisheries Management Authority, state and territory police and fisheries and conservation agencies can be appointed wardens under the EPBC Act after the required training. These arrangements greatly improve the Director’s ability to enforce the EPBC Act in remote and infrequently visited Commonwealth reserves.

The following matter was determined by courts during 2012–13:

- On 4 September 2012 the Federal Court of Australia ordered Venture Fishing Pty Ltd to pay a penalty of \$65 000 (plus costs of \$28 000) and Desmond Woodley to pay a penalty of \$13 000 (and costs of \$17 000) for contravention of section 174(1) of the EPBC Act by carrying on commercial fishing operations in a sanctuary zone of the Tasman Fracture Commonwealth Marine Reserve.

Table 11: Compliance and enforcement in terrestrial reserves during 2012–13^(a)

	Members of the public	Tourism operators	Other commercial operators
EPBC Act and Regulation incidents detected	97	19	0
Offenders unknown	15	3	0
Verbal cautions issued	29	12	0
Warning letters issued	11	7	0
Infringement notices issued	66	0	1
Continuing investigations	12	0	1
Permit suspensions	0	0	0
Court cases pending	1	0	0
Cases taken to court	1	0	0
Convictions	0	0	0

(a) Excludes notices of charges payable issued

Table 12: Compliance and enforcement in marine reserves during 2012–13

EPBC Act enforcement actions	48
Investigative actions (requests for information)	15
Warnings notices issued	21
Infringement notices issued	6
Formal investigations commenced	1
Cases taken to court (2 criminal; 3 civil)	5
Court outcomes (civil: successful)	1
Court cases pending at year end (2 criminal; 2 civil)	4

Ecologically sustainable development and environmental performance

All of the Director's activities have an impact on ecologically sustainable development. Commonwealth reserves are managed to conserve and enhance their natural and cultural values for current and future generations. Only development activities consistent with primary management objectives may be permitted.

The provisions of the EPBC Act ensure that management plans for Commonwealth reserves properly integrate environmental, economic and social considerations and that appropriate environmental monitoring and reporting regimes are in place.

The Director's statement under section 516A of the Act relating to the organisation's contribution to ecologically sustainable development and environmental performance is at Appendix C.

Social Inclusion

A number of the Director's responsibilities contribute to the Australian Government's Closing the Gap objectives. Parks Australia jointly manages three parks with their traditional owners and provides job opportunities for traditional owners and supports Indigenous businesses, especially in sustainable tourism. The Kakadu Indigenous rangers program, funded through the Australian Government's Working on Country program, and the Mutitjulu Community Ranger program are also helping to boost Indigenous job opportunities in the parks by providing salaried and casual job opportunities for Indigenous community rangers. At Booderee, outsourcing to the Wreck Bay Aboriginal Community Council continues to provide a range of employment opportunities.

Freedom of information

Under section 8 of the *Freedom of Information Act 1982* (FOI Act), the Director of National Parks is required to publish a range of information online as part of an information publication scheme. This requirement is in Part II of the FOI Act and has replaced the former requirement to publish a section 8 statement in an annual report.

The information required to be published online includes an agency plan that describes how the Director of National Parks proposes to comply with its obligations under the information publication scheme—its structure, functions, appointments, annual reports, consultation arrangements and details of a freedom of information contact officer. Information routinely released from freedom of information requests and routinely provided to Parliament must also be published online. This information is available at www.environment.gov.au/parks/ips.html.

Freedom of information procedures and initial contact points

The department handles requests by the public under the FOI Act on behalf of the Director of National Parks. Contact details for the freedom of information contact officer are:

Phone: (02) 6275 9207

Fax: (02) 6274 2837

Email: foi@environment.gov.au

Formal freedom of information requests must:

- be in writing
- state that the request is an application for the purposes of the FOI Act
- provide information about the document(s) to assist us to process your request
- provide an address for reply.

Requests should be addressed to:

Freedom of Information Contact Officer

Legal Section

Department of the Environment

GPO Box 787

Canberra ACT 2601

or by email to: foi@environment.gov.au

