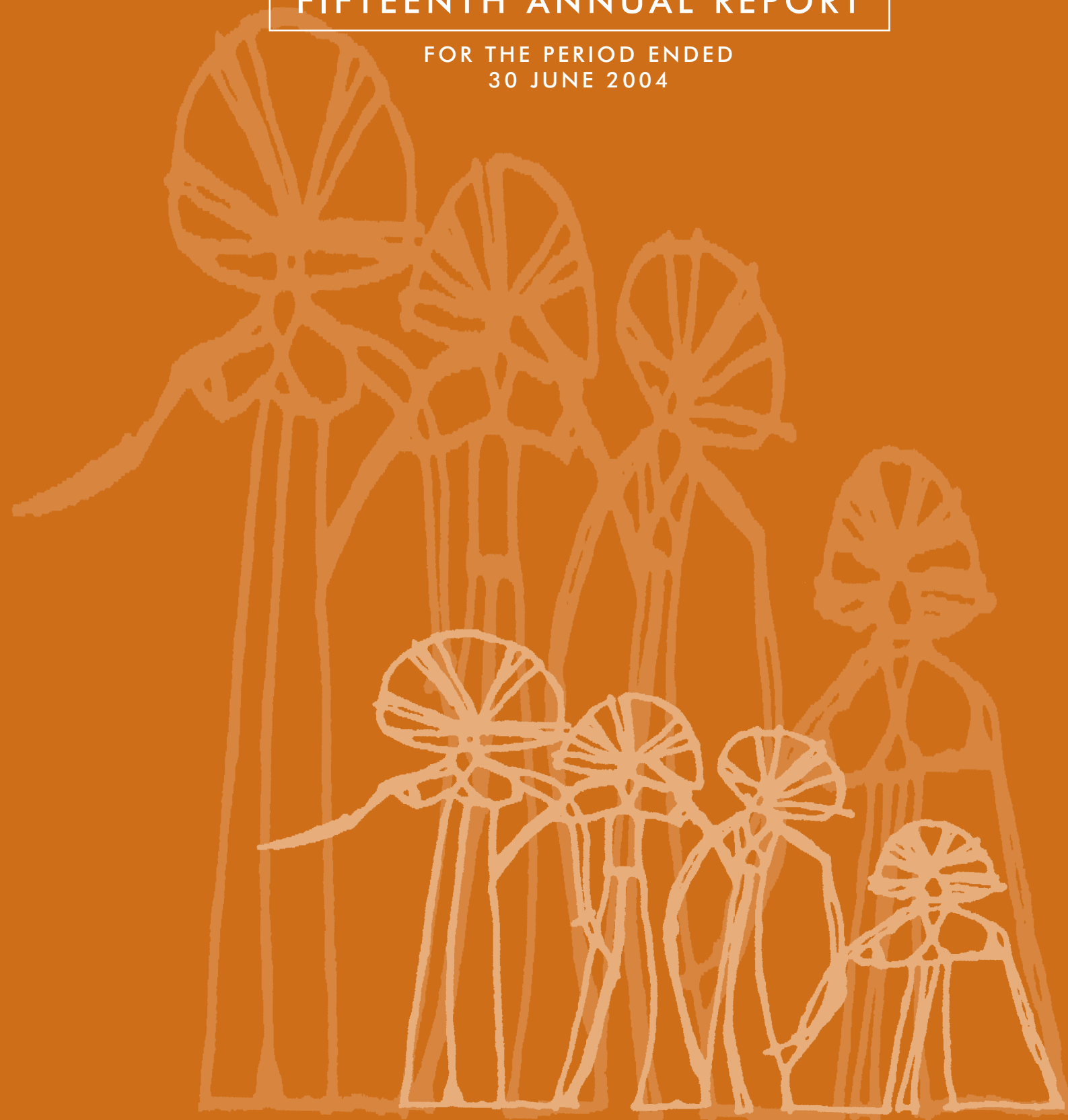


NORTHERN TERRITORY OF AUSTRALIA
ABORIGINAL AREAS PROTECTION AUTHORITY

FIFTEENTH ANNUAL REPORT

FOR THE PERIOD ENDED
30 JUNE 2004





ABORIGINAL AREAS PROTECTION AUTHORITY

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10 November 2004

The Hon John Ah Kit MLA
Minister assisting the Chief Minister on Indigenous Affairs
DARWIN NT 0800

Dear Minister

I have the pleasure to submit to you, in accordance with the provisions of Section 14(1) of the *Northern Territory Aboriginal Sacred Sites Act 1989*, the Annual Report for the Aboriginal Areas Protection Authority for the financial period 1 July 2003 to 30 June 2004.

The Report refers to the fifteenth year of operation of the Aboriginal Areas Protection Authority.

Yours sincerely

Roy HAMMER

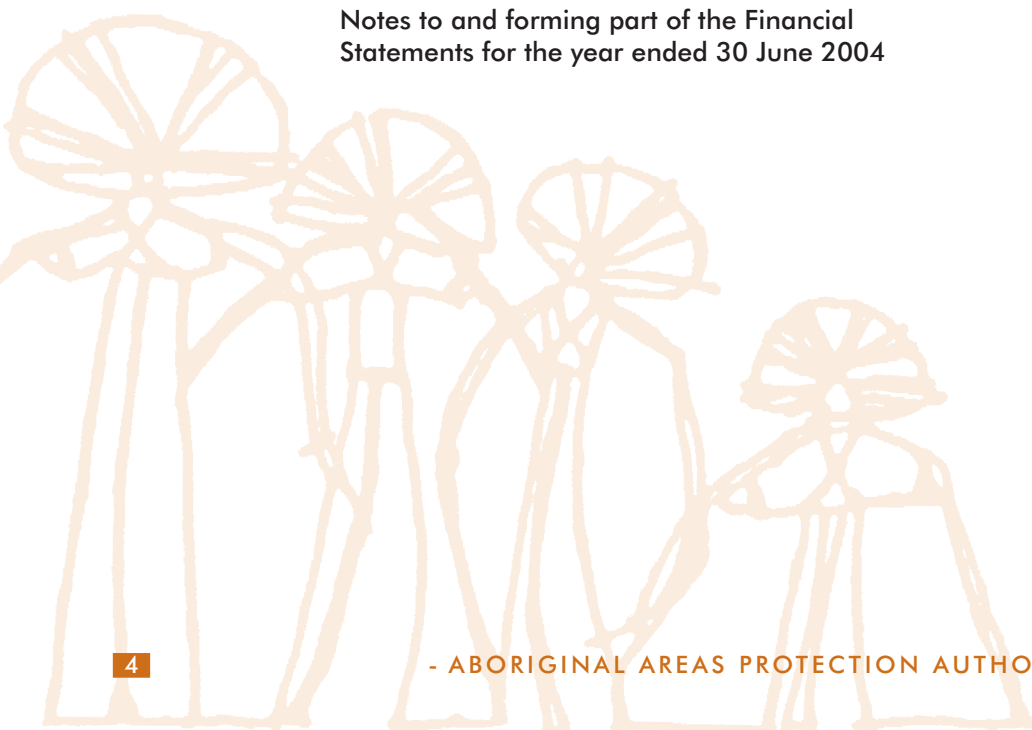
ROY HAMMER
CHAIRMAN

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INTRODUCTION

FROM THE CHAIRMAN

This year there have been important changes to the administrative staff of the Aboriginal Areas Protection Authority at senior levels. A new Chief Executive Officer, Mr Jeffery Stead, was appointed in November 2003. Mr Stead has had twenty-three years experience in applied Anthropology and over thirty years working and living in the Northern Territory.

I wish Dr John Avery, the Acting Chief Executive Officer for most of the last two years, all the best with his new position in Canberra. Dr Avery was employed by the Authority for over fourteen years and in that time contributed significantly to the Authority's research as Principal Anthropologist.

One of the highlights of the last year was Minister Ah Kit's attendance at the Authority's Fifty-ninth meeting in Darwin. His attendance allowed important issues to be discussed.

During this year, considerable Authority effort was placed into the issue of seventeen Authority Certificates for the Xstrata proposed mine expansion at the McArthur River mine. This complex research allows for the proposed mine expansion to go ahead and yet enables the protection of important sacred sites.

Another highlight of the year was the commencement of discussions with the Northern Land Council and Central Land Council on the development of protocols on issues of concern.

This year I was re-appointed by the Administrator for a new three-year term. I look forward to continuing working with my fellow Authority members in ensuring sacred sites through the Northern Territory are protected according to the wishes of custodians.



Roy Hammer

ROY HAMMER
CHAIRMAN

INTRODUCTION



FROM THE DEPUTY CHAIRMAN

My position as Deputy Chair of the Authority is very important to me. We all need to be strong to protect our land and culture, including our sacred sites, ceremony and law. People need to stay strong enough not to throw away their culture. Not only our men, but also our women need to be strong so that our culture is strong.

Our law, our ceremony and our sacred sites are constant. We have had the same law since Dreaming. All the Dreamings, like the goanna, turtle, snake, kangaroo and big birds, gave us our law for the songs we sing, how to dance, and how to teach our children about our culture. While our boss is the ceremony man, he does not make any decisions to change our law. We all sit with our law and culture and we have the same sacred ceremonies for men and women at the same sites every year. We teach our children at these ceremonies so they can carry on our culture when the old people pass away.

White law must understand Aboriginal law. We are still learning about white law and white people are still learning about our law. All of us are almost there and this process is helped by the work of the Authority. Our Minister listens and understands and the Authority staff help our Minister to understand. I believe in what white people do and the decisions they make for their law. We have understood and picked up the white people's law while keeping our own law at the same time.

I am very happy with all the people who work for the Authority. They really understand our culture and that it has to stay strong. All the staff in Darwin and Alice Springs continue to learn about our culture and fight for us. They are always sensible and do a good job. The Authority staff make sure that all the Board members learn about the information they collect through our Authority meetings. We need to keep on letting the Authority know more about our culture and our law so they can continue to understand us and protect our sacred sites.

All of us from different groups are happy to be together in our communities. All the women from different groups have ceremony together and all the men from different groups have their ceremony together. The Authority meets with all of us in the communities who are affected by developments. We are straight and strong, white and black together, all over country. The Authority is helping us keep strong for our culture and that is why we all need to support the Authority.

Nellie Camfoo

NELLIE CAMFOO
DEPUTY CHAIRMAN

INTRODUCTION

HOW TO CONTACT US

The Aboriginal Areas Protection Authority maintains a central office in Darwin and a regional office in Alice Springs. Normal office hours are 8.00am-4.30pm Monday to Friday.

DARWIN

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ALICE SPRINGS NT 0871

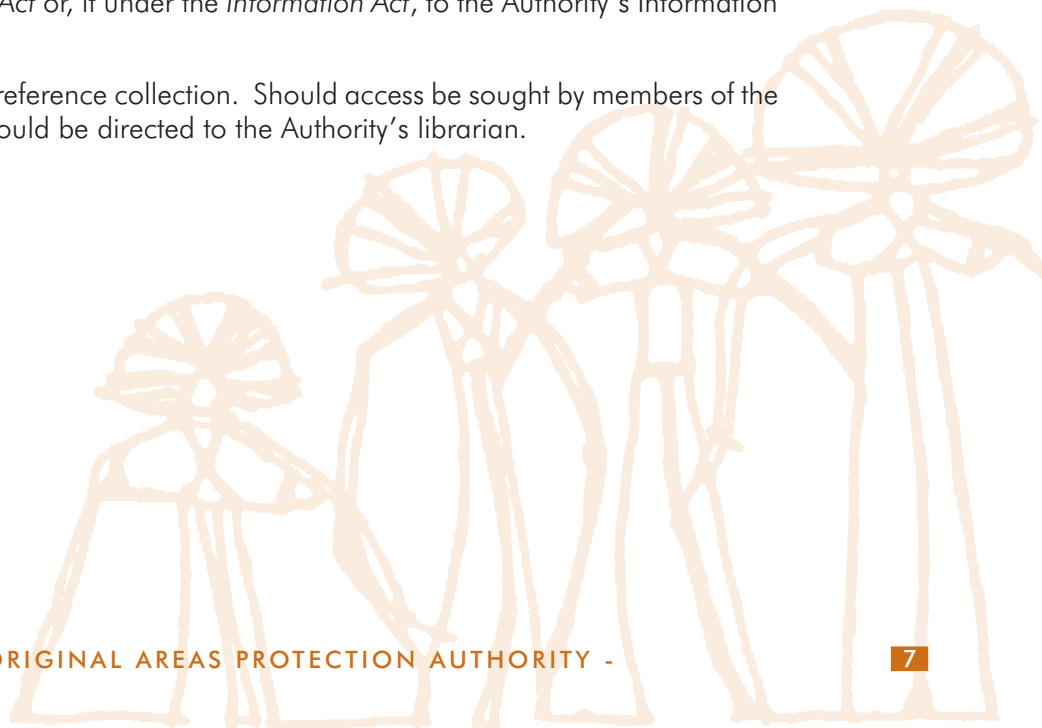
ACCESS TO INFORMATION HELD BY THE ABORIGINAL AREAS PROTECTION AUTHORITY

The Authority has two public Registers, a Register of Sacred Sites and a Register of Authority Certificates. These Registers may be inspected by the public at the Authority's offices in Darwin and Alice Springs by application to the Registrar in Darwin or the Regional Manager in Alice Springs. Access to either Register is subject to fees as set down in the *Regulations to the NT Sacred Sites Act*.

Access to other information on sacred sites is restricted by both the Secrecy Provisions (Section 38) of the *NT Sacred Sites Act* and the Secrecy Provisions (Section 48) of the *Information Act*.

The Authority also holds other administrative records that are potentially protected by the same provisions. Requests for access to any Authority records, other than the public Registers, should be made either directly to the Chief Executive Officer under the *NT Sacred Sites Act* or, if under the *Information Act*, to the Authority's Information Officer.

The Authority has a reference collection. Should access be sought by members of the public, a request should be directed to the Authority's librarian.



OVERVIEW

OVERVIEW

This is the fifteenth Annual Report of the Aboriginal Areas Protection Authority pursuant to Section 14(1) of the *Northern Territory Aboriginal Sacred Sites Act 1989* (hereafter the *NT Sacred Sites Act*). This is a report on the administration and operation of the Authority for the 2003-2004 financial year. This report includes the Authority's Financial Statements and shows compliance with standards of internal control in accordance with the reporting requirements of the *Financial Management Act 1995*, the Treasurer's Directions and the Northern Territory Government's Working for Outcomes policy.

The general public, particularly those such as site custodians, landowners and developers who have a specific interest in the operation of the Authority, will find here a summary of the broad scheme of Aboriginal sacred site protection applying to the Northern Territory and the main procedures under the *NT Sacred Sites Act*, namely:

- Registration of Aboriginal sacred sites;
- Sacred site avoidance through Authority Certificates; and
- Inspections of the Register and other Authority archives.



Consulting with Custodians (Lesley Mearns with Biddy Lindsay at Daly River).

LEGISLATIVE CHARTER

ABORIGINAL SACRED SITES PROTECTION IN THE NORTHERN TERRITORY

ABORIGINAL SACRED SITES

Sacred sites are mostly natural environmental features such as hills, waterholes, rocks, trees, having specific meanings and importance in the traditions of Aboriginal communities. There may be rock art and other human artefacts at some of these places. However, it is usually the natural features that are of most significance according to the body of Aboriginal tradition about how the world was shaped. Ceremony grounds and traditional burial grounds are also sacred sites according to Aboriginal tradition.

The protection of Aboriginal sacred sites is an integral part of the Northern Territory Aboriginal land rights package under the *Aboriginal Land Rights (Northern Territory) Act 1976* (hereafter *Land Rights Act*). Under the *Land Rights Act* a sacred site is:

a site that is sacred to Aboriginals or is otherwise of significance according to Aboriginal tradition ...

The *NT Sacred Sites Act* uses the same definition as the *Land Rights Act*.

COMMONWEALTH AND NORTHERN TERRITORY LAWS

Section 69 of the *Land Rights Act* broadly prohibits entry and remaining on any land in the Northern Territory that is a sacred site, except under a law of the Northern Territory. Under Section 73, the *Land Rights Act* gives the Northern Territory Legislative Assembly power to enact laws for the 'protection of, and the prevention of desecration of, sacred sites in the Northern Territory'.

Under this power, the Northern Territory laws can mitigate the broad prohibition under Section 69 to the extent that land can be used in ways consistent with the protection and prevention of desecration of sacred sites. The *NT Sacred Sites Act* was passed under this power.

PURPOSE OF THE NORTHERN TERRITORY ACT

The *NT Sacred Sites Act* declares its purpose to be:

An Act to effect a practical balance between the recognized need to preserve and enhance Aboriginal cultural tradition in relation to certain land in the Territory and the aspirations of the Aboriginal and all other peoples of the Territory for their economic, cultural and social advancement, by establishing a procedure for the protection and registration of sacred sites, providing for entry onto sacred sites and the conditions to which such entry is subject, establishing a procedure for the avoidance of sacred sites in the development and use of land and establishing an Authority for the purposes of the Act and a procedure for the review of decisions of the Authority by the Minister, and for related purposes.

The Authority strives to achieve this 'practical balance' in its operations, by respecting the entitlements of site custodians, landowners and developers. Often custodians, landowners and developers are different people with diverging interests in land, although sometimes there is a substantial overlap between these. This is particularly evident with development on Aboriginal land. In most cases, the Authority's challenge is to accommodate new uses of land with the need to protect sacred sites, preserving and enhancing Aboriginal tradition in a changing social environment.

LEGISLATIVE CHARTER

Section 44 of the *NT Sacred Sites Act* explicitly restores landowners' rights to use sacred site land consistent with the protection of sacred sites. Authority Certificates provide an additional legal instrument to establish the accommodation of land-use to sacred site protection. As well as protecting the fabric of sacred sites in the context of landownership and development, the *NT Sacred Sites Act* provides for Aboriginal people to have access to sacred sites 'in accordance with Aboriginal tradition'.

SACRED SITE PROTECTION

Under the sacred sites laws applying in the Northern Territory, all sacred sites are protected regardless of underlying land title, whether they are registered under the legislation or not, or even if they are not known to the Authority. They are protected particularly by Sections 33 (unauthorised entry), 34 (unauthorised works or uses) and 35 (desecration) of the *NT Sacred Sites Act*, which set out various offences in relation to sacred sites.

Prosecutions may only be brought by the Authority. Custodians' views have to be taken into account whenever the Authority exercises such powers under the *NT Sacred Sites Act*.

SITE AVOIDANCE PROCEDURES — AUTHORITY CERTIFICATES

People proposing to use or work on land may apply to the Authority for an Authority Certificate to cover their proposed activities. An Authority Certificate provides a legal defence against prosecution in relation to the works or uses covered by the Certificate. This is as long as any conditions imposed to protect sacred sites are followed. More than that, the process can be an opportunity for applicants to work with custodians to reach a mutually acceptable resolution of issues, so that the end result reflects the agreement of all involved.

The Authority determines Authority Certificate applications only after it has consulted the relevant Aboriginal custodians and conducted on-ground surveys to identify sites. An Authority Certificate will be issued to the applicant if the works can proceed without damage to, or interference with, any sacred sites on or in the vicinity of the land. There may be conditions imposed within the Certificate to ensure that sites are not damaged. Within the Authority Certificate processes, applicants can ask the Authority to arrange conferences with custodians. This provides an avenue for direct detailed discussions between developers and affected custodians.

Companies and individuals holding Authority Certificates benefit in having certainty about the effect of sacred sites on their projects. They are indemnified against prosecution so long as they comply with the conditions of the Certificate.

The *NT Sacred Sites Act* and the Authority have earned the confidence of the wider community through the Authority's transparent, consistent and timely responses to applications for Authority Certificates.

LEGISLATIVE CHARTER

CONSULTATIONS WITH CUSTODIANS AND SECURITY OF TRADITIONAL INFORMATION

Aboriginal people, who are custodians of sacred sites, are entitled to be consulted about activities relating to Authority Certificate applications and on the details of sacred sites proposed for registration.

Furthermore, in exercising its powers under the *NT Sacred Sites Act*, the Authority is required to take into account the views of relevant Aboriginal people about the extent to which they wish sites to be protected. The operations of the Authority are geared towards consultations with Aboriginal people in all parts of the Northern Territory and for recording these consultations as a basis for Authority decisions.

Under Section 38 of the *NT Sacred Sites Act*, the substance of these consultations and other documents created for Authority purposes may only be divulged by specific exercise of Authority discretion.

It is fundamental to the scheme of site protection in the Northern Territory that Aboriginal custodians have been able to place their trust in these processes, confident that they will be consulted and that their cultural information will be confidential and secure under the legislation.

The requirement to consult custodians about activities on land has benefits incidental to the main purposes of consultation. It serves to inform and engage Aboriginal people at individual, family and community levels, in relation to activities in their region, in all parts of the Territory. Custodians frequently express satisfaction in simply being asked about these issues.

INSPECTIONS OF THE REGISTER AND AUTHORITY ARCHIVES

Members of the public may seek advice on the location of sacred sites by requesting access to the Register of Sacred Sites. The Register of Certificates is also a public Register.

Aboriginal custodians may decide whether the benefits of increased protection afforded to sites entered in the Register of Sacred Sites outweigh any detriment in having certain information about these sites available on the public Register established under Section 10(d) of the *NT Sacred Sites Act*. The Authority also keeps records of sacred sites that have been brought to the attention of the Authority by custodians. These records are separate from the Register and details of these records are available to the public at the discretion of the Authority. Custodians have provided much of this information to the Authority as the basis (and justification) for conditions on proposed works or use of land imposed by Authority Certificates (Section 22).

The public may also request access to other relevant information concerning sites, including records of any agreements or Certificates. However, such access is subject to restrictions to protect knowledge required by Aboriginal tradition to be kept secret and information of a sensitive commercial nature.

When members of the public are provided information about the location of sacred sites, they are informed that they may not carry out works on these sacred sites without an Authority Certificate. Providing sacred site information to members of the public ensures that the sites will not be inadvertently damaged and that any works proposed for the sites will accommodate sacred site protection.

LEGISLATIVE CHARTER

REGISTRATION OF SACRED SITES

Custodians of sacred sites may apply to have their sites registered under Part III Division 2 of the *NT Sacred Sites Act*. When the Authority has reviewed the required traditional information about the site, and has heard from landowners about the impact of the site on their interests in land, this information is recorded on the Register of Sacred Sites.

The Registration process provides an opportunity to discuss many of the practical issues about the site, including the effect of Registration on landowners' interests. However, the Registration process in itself does not confer extra protection on the site, as all sites in the Northern Territory are generically protected under the *NT Sacred Sites Act*.

Registration is relevant to the enforcement of protection in that, under Section 45 of the *NT Sacred Sites Act*, proof of registration is to be accepted by courts as prima facie evidence that a site is a sacred site.

PUBLIC ACCEPTANCE OF ABORIGINAL SACRED SITES PROTECTION UNDER THE ACT

By its nature, any scheme to protect Aboriginal sacred sites in the Northern Territory has to overcome historical and cultural tensions arising from the uninvited settlement of Aboriginal lands and continuing activities on land to which living Aboriginal people retain traditional affiliations. There are few contexts providing greater potential for such tensions to erupt intractably than the protection of sacred sites on land where other interests in the land exist.

There have been major disputes over sacred sites in the Northern Territory. While conflicts attract publicity, the success of the scheme of site protection in the Northern Territory and the degree of public confidence in it is less reported. Over the last eight years, the Authority has processed some 1337 Authority Certificate applications. In only 1.12% of cases were the Authority and custodians unable to accommodate proposed works with site protection (and issue Authority Certificates to the applicants).

The site avoidance process through Authority Certificates is well accepted. Developers and land-users can expect that, under the *NT Sacred Sites Act*, their applications for Authority Certificates will be processed transparently, fairly and in a timely manner. Since 1995 the Authority has charged fees in relation to Authority Certificates and other services. The very high degree of billing compliance in relation to these services is an indication of the value of Authority Certificates and public confidence in these procedures.

Aboriginal custodians continue to be very willing to be involved in Authority consultative processes. This is testimony to their confidence in the value of consultation in effecting site protection and trust in the security of sensitive cultural information. Aboriginal custodians have been overwhelmingly moderate in their identification of sacred sites and largely accommodating of development and land-use. This indicates their confidence that the scheme works to protect their interests in sacred sites.

Public confidence in the established site protection procedures administered by the Authority has been won incrementally. The high level of public confidence that has been earned indicates that the current scheme of site protection can accommodate Aboriginal interests in sacred sites within the framework, allowing development and land-use for the benefit of all Territorians.

LEGISLATIVE CHARTER

RESPONSIBILITIES UNDER THE HERITAGE CONSERVATION ACT 1991

Section 10(j) of the *NT Sacred Sites Act* specifies that one of the functions of the Authority is “to perform such other functions as are imposed on it by or under this or any other Act, ...”. The *Heritage Conservation Act 1991* (hereafter the *Heritage Conservation Act*) places a number of additional duties on the Authority.

Firstly, the *Heritage Conservation Act*, Section 8(d), provides for the Authority to nominate a representative to the Heritage Advisory Council. Senior Anthropologist, Mrs Lesley Mearns, is the Authority’s current representative.

Secondly, Section 29(2) of the *Heritage Conservation Act* states:

The Minister or the Minister’s delegate shall not permit an action in relation to an archaeological object prescribed for the purposes of Part 6 which is sacred according to Aboriginal tradition unless he or she has sought and taken into account the advice, if any, of the Aboriginal Areas Protection Authority established by the Northern Territory Aboriginal Sacred Sites Act given after consultation with those Aboriginals it considers to be the traditional owners of the object.

Lastly, the Chief Executive Officer of the Authority holds two delegations relating to the *Heritage Conservation Act*. The first delegation from the Minister for Conservation enables the Chief Executive Officer of the Authority to make decisions about what may happen on an Aboriginal burial site. The second delegation from the Director for Conservation makes the Authority’s Chief Executive Officer a person who should be advised of the discovery of an Aboriginal burial site or skeletal remains. As a consequence of these delegations the Authority routinely responds to requests from the Coroner’s office for advice on whether skeletal remains found in the Northern Territory are likely to be part of a traditional Aboriginal burial. The Authority also acts as a receiving agency and temporary repository in the Northern Territory for skeletal remains repatriated to Aboriginal communities from museums in Australia and overseas.

The *Heritage Conservation Act* is currently under review and the Authority has participated in that process. The Authority’s concerns have focused on

- increased Aboriginal participation in heritage issues throughout both the consultation and decision-making phases of heritage declarations;
- increased emphasis on the preservation of heritage of local significance;
- the development of a Heritage Registrar’s position;
- a more formally constituted means of maintaining records of serial sites such as archaeological places and lone Aboriginal graves;
- intangible heritage; and
- more culturally appropriate processes in relation to sacred objects.

These issues have potential implications for both the current *NT Sacred Sites Act* and the normal operational processes of the Authority. The final recommendations of the Heritage Advisory Council are awaiting the decision of the Minister for Conservation.

ABORIGINAL AREAS PROTECTION AUTHORITY

THE ABORIGINAL AREAS PROTECTION AUTHORITY

The Aboriginal Areas Protection Authority is established under the *NT Sacred Sites Act* to administer sacred site protection in the Northern Territory. The Administrator of the Northern Territory appoints members to the Authority on advice of the Territory Government following consultations with the Territory Aboriginal Land Councils. The Aboriginal Areas Protection Authority is constituted under Section 6 of the *NT Sacred Sites Act* and therefore administers the Act at arms-length from the day-to-day operations of the Northern Territory Government.

MEMBERSHIP AND MEETINGS

The Authority comprises twelve members, ten of whom are Aboriginal custodians of sacred sites in equal numbers (five) of males and females. To fill vacancies for Aboriginal custodian members, the Land Councils are requested to nominate a panel of twice the number of custodians of the relevant sexes. The Territory Administrator appoints members by notice in the *Northern Territory Government Gazette*.

Custodian members of the Authority have been chosen from different regions of the Territory as follows: two males and two female members from both the Central Land Council region and Northern Land Council region, and one male and one female member from the Tiwi Land Council.

The Administrator also appoints Aboriginal members as the Chairman and Deputy Chairman, who must be of opposite sex, based on nominations from the Authority.

The Authority's main responsibilities are to conduct consultations with relevant Aboriginal people and land-users to reach agreement in relation to the avoidance of sacred sites. It has also to consider and maintain information for the Registers of Sacred Sites and Authority Certificates, among other functions.

The *NT Sacred Sites Act* provides for the Authority to have a Chief Executive Officer to carry out its operations and decisions, with a staff employed by the Authority on terms and conditions as approved by the Commissioner for Public Employment.

The Authority meets at least four times each year, often in different parts of the Territory.

FUNCTIONS

Functions of the Authority prescribed in Section 10 of the *NT Sacred Sites Act* relate to the protection of Aboriginal sites in the Northern Territory. They may be reduced to the following:

- Receive requests for site protection from Aboriginal custodians, document information provided by custodians in support of their requests, execute protection measures for sites and maintain confidential records of traditional information.
- Establish and maintain a Register to be known as the Register of Sacred Sites and such other registers and records as required by or under the *NT Sacred Sites Act*.
- Carry out surveys to determine the constraints, if any, imposed by the existence of sacred sites on work on land anywhere in the Northern Territory (the Authority consults with custodians and proponents of work to reach a mutually acceptable agreement and issues a Certificate setting out the conditions under which the proposed works may proceed).

ABORIGINAL AREAS PROTECTION AUTHORITY

- In the event of an appeal against a decision or action of the Authority, convene, review and report on matters arising from the appeal. In these circumstances the Authority must notify all parties affected by the review and invite written representations. When the resolution of the matter is not possible the Authority must provide the Minister with a report and recommendation. Such appeals are rare - there have been none in the last six years.
- Make available for public inspection the Register and records of all agreements, Certificates and refusals, except to the extent that such availability would disclose sensitive commercial information or matters required by Aboriginal tradition to be kept secret.
- Enforce the *NT Sacred Sites Act*.

APPOINTMENTS TO THE AUTHORITY

The term of the Chairman, Mr Roy Hammer, expired on 10 January 2004.

The Administrator re-appointed Mr Hammer for a further three-year term commencing 3 March 2004.



*Authority Board Meeting, Alice Springs 2003 l-r:
Max Kerinaiaua, Roy Hammer, Pepy Simpson, Nellie Camfoo, Clementine Puruntatameri,
Jeannie Egan, Jeannie Devitt, Josie Jones, George Campbell, Tex Camfoo, Dick Kimber.*

ABORIGINAL AREAS PROTECTION AUTHORITY

MEMBERS OF THE ABORIGINAL AREAS PROTECTION AUTHORITY

MR R HAMMER	Chairman and Northern Land Council nominee, Borroloola, re-appointed 3 March 2004
MRS N CAMFOO	Deputy Chairman and Northern Land Council nominee, Bulman, re-appointed 28 February 2003, re-appointed as Deputy Chairman, 4 June 2003
MRS J JONES	Member and Northern Land Council nominee, Timber Creek, appointed 28 February 2003
MR G CAMPBELL	Member and Northern Land Council nominee, Yarralin, appointed 28 February 2003
MS J EGAN	Member and Central Land Council nominee, Yuendumu, re-appointed 28 February 2003
MS L PULA	Member and Central Land Council nominee, Utopia, re-appointed 28 February 2003
MR P SIMPSON	Member and Central Land Council nominee, Tennant Creek, re-appointed 28 February 2003
MR B ABBOTT	Member and Central Land Council nominee, Wallace Rockhole, re-appointed 28 February 2003
MR M KERINAIUA	Member and Tiwi Land Council nominee, Nguiu, appointed 28 February 2003
MS C PURUNTATAMERI	Member and Tiwi Land Council nominee, Nguiu, re-appointed 28 February 2003
DR J DEVITT	Member and NT Government nominee, appointed 4 June 2003
MR D KIMBER	Member and NT Government nominee, appointed 4 June 2003



ABORIGINAL AREAS PROTECTION AUTHORITY

AUTHORITY MEETINGS

Section 12 of the *NT Sacred Sites Act* provides that the Chairman "shall call such meetings of the Authority and committees of the Authority as are necessary for the performance and functions of the Authority" and that "the Chairman shall call not less than four meetings of the Authority in each full calendar year of its operation".

Below is an outline of dates, venues and attendances at meetings called by the Chairman for the 2003-2004 financial year under report:

September 17	2003	Borrooloola
December 3-4	2003	Tennant Creek
March 3-4	2004	Darwin
June 1-3	2004	Darwin

SUMMARY OF ATTENDANCES AT MEETINGS OF THE AUTHORITY BOARD

Mr Roy Hammer (Chairman)	4	Mr Tex Camfoo (seconded Member)	3
Mrs Nellie Camfoo (Deputy Chairman)	4		
Mr Bernard Abbott	4	Dr John Avery (non Board Member)	1
Mr George Campbell	4	Mr Jeffery Stead (non Board Member)	3
Ms Jeannie Egan	1		
Mrs Josie Jones	4		
Mr Max Kerinaiva	4		
Ms Lena Pula	4		
Ms Clementine Puruntatameri	3		
Mr Pepy Simpson	2		
Dr Jeannie Devitt	3		
Mr Dick Kimber	4		



ABORIGINAL AREAS PROTECTION AUTHORITY

CEO AND STAFF

The Authority employs a staff headed by a Chief Executive Officer to administer the *NT Sacred Sites Act* and the Authority's decisions. An outline of the operational structure appears below:

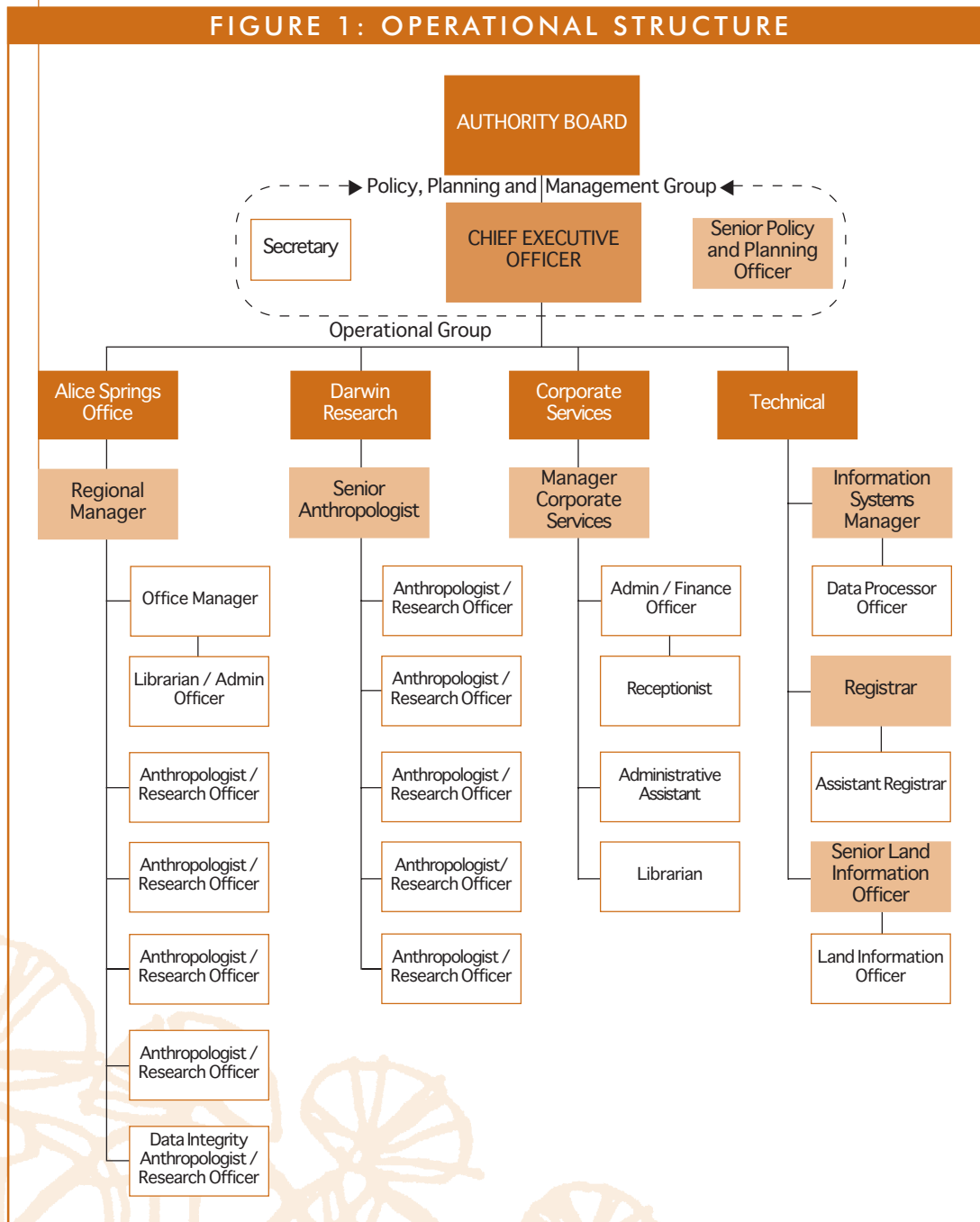
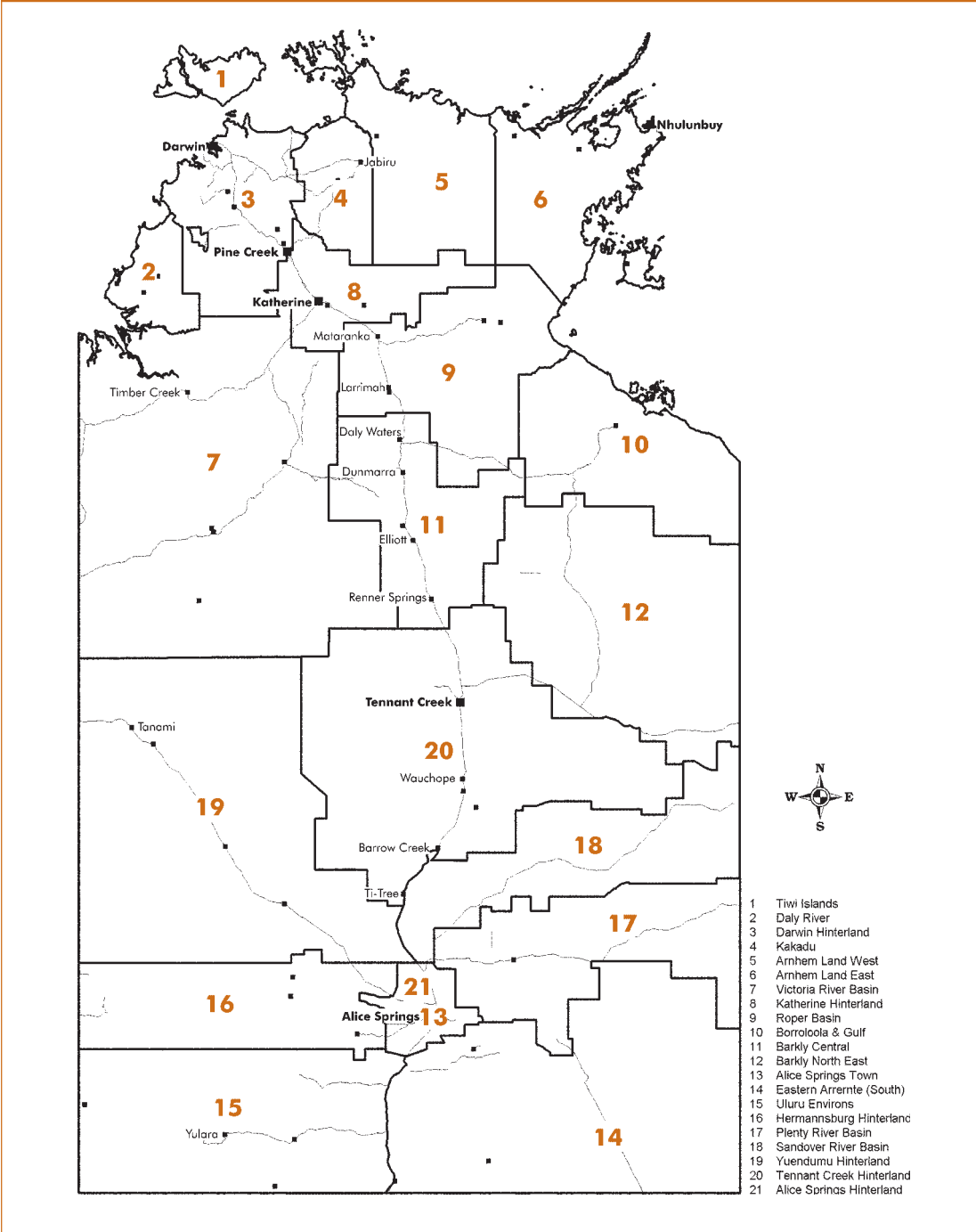


FIGURE 2: ADMINISTRATIVE REGIONS USED BY THE AUTHORITY



REPORT OF THE CHIEF EXECUTIVE OFFICER

In 2003-2004 major issues of significance to the effective implementation and promotion of sacred sites protection in the Northern Territory were progressed by the Authority. While there were also staffing and operational changes, the Authority continued to effectively meet the needs of Aboriginal custodians for sacred sites protection and provide support for major project development across the Territory.

STAFFING AND OPERATIONS

CHANGE TO AUTHORITY AND STAFF

As detailed previously, the Chairman's tenure as a member expired on 10 January 2004 and he was re-appointed by the Administrator on 3 March 2004.

There were no resignations from the Authority and membership remained the same as at 30 June 2003.

There were changes in the Authority's staff at senior levels.

Mr Jeffery Stead was appointed as Chief Executive Officer by the Administrator on 10 November 2003. Dr John Avery, the Authority's Principal Anthropologist since November 1989 and Acting Chief Executive Officer from October 2002, resigned in February 2004. In April 2004 the Manager Corporate Services, Mrs Helen Rostedt, resigned and was replaced by Mr Clive Naylor in May 2004.

After the resignation of the Principal Anthropologist, a decision was made to abolish this position, as its role was no longer current. It is planned to replace it with a senior position that deals with policy and strategic planning issues, the Senior Policy and Planning Officer. This position was advertised in May 2004. The selection process was incomplete at the end of the financial year.

With the Authority's Principal Anthropologist in the role of Acting Chief Executive Officer for half the year and the Senior Policy and Planning Officer position not being filled, the operational capability of the Authority was reduced throughout the financial year. This was compounded by other staff changes with training periods required for new staff.

New site recordings have increased since the previous year, and the sum of reported consultations with custodians, reports on Authority Certificates and Site Registrations and responses to landowners and developers, has also increased since last year.

KEY ISSUES

TESTING OF THE SECRECY PROVISIONS OF THE NT SACRED SITES ACT

During the Uluru Native Title Compensation Claim heard in the Federal Court (Johnny Jango and Others v the Northern Territory of Australia) in October 2003, a subpoena for the production of Authority documents was initiated. In hearing an application by the Authority to set aside the subpoena for the production of the documents, His Honour determined that the confidentiality provisions of Section 38 of the *NT Sacred Sites Act* (Secrecy Provision) did not extend to prohibit the production of Authority documents or records to a court.

REPORT OF THE CHIEF EXECUTIVE OFFICER

The Authority, in order to perform its statutory functions, must collect from Aboriginal people, culturally significant information relating to sacred sites. Thus the Authority must be able to give assurances to those supplying the information that it will be kept confidential. If these assurances are breached by the Authority because of a court order, Aboriginal people may become increasingly reluctant to provide the Authority with the information it requires to carry out its statutory functions. Also, the custodians providing the information to the Authority may be held personally accountable by other Aboriginals in the event that cultural secrets or other sensitive information is provided to a third party.

Such potential repercussions reinforce the argument for legislative amendment to protect that information from disclosure to a third party through a court process.

SACRED SITE AVOIDANCE ON ABORIGINAL LAND

NEGOTIATION OF PROTOCOLS WITH THE LAND COUNCILS

The Northern Territory Government and Territory Land Councils have agreed on a package of proposals to enhance the workability of the *Land Rights Act*. One specific reform agreed to was the clarification of powers of Land Councils concerning sacred sites.

Recommendation 12 of the Detailed Joint Submission to the Commonwealth – Workability Reforms of the *Land Rights Act* states:

With respect to the clarification of powers of Land Councils and the Aboriginal Areas Protection Authority concerning sacred sites, a more useful approach at this point is to pursue the negotiation of a set of protocols between the Land Council and the Northern Territory Aboriginal Sacred Sites Protection Authority.

Negotiations with the Central Land Council and Northern Land Council commenced in February 2004. These protocol negotiations are exposing a number of important public policy issues including the issue of Authority Certificates on Aboriginal land, the role of Land Councils in site protection off Aboriginal land and the function of Indigenous Land-use Agreements in site protection. Other protocols being discussed are the sharing of data, research co-operation and membership criteria of the Authority.

PUBLICLY AVAILABLE INFORMATION ABOUT SACRED SITES AND AUTHORITY CERTIFICATES

During this financial year, discussions regarding the implementation of the *NT Sacred Sites Act* were initiated with the real estate industry. Over recent years sections of the real estate industry have expressed concerns about uncertainties and difficulties in the application of the *NT Sacred Sites Act* to residential freehold lots in urban areas. This has been a particular issue in Alice Springs where there have been cases of subdivisions where second generation purchasers were not told about site constraints identified in an original Authority Certificate. The real estate industry expressed a desire for site records to appear with the land title records. It is also desirable that an indication of the presence of sacred sites with Northern Territory land titles be made available to other Northern Territory Government agencies.

REPORT OF THE CHIEF EXECUTIVE OFFICER

Research indicates that the most efficient means of achieving these aims is to include certain Aboriginal Areas Protection Authority data on the Department of Infrastructure, Planning and Environment's Integrated Land Information System. The Department of Infrastructure, Planning and Environment and Authority staff have analysed the technical and administrative issues involved. As of the end of this financial year, they have been successful in replicating a subset of the Authority's site and Authority Certificate data to the Department of Infrastructure, Planning and Environment's server. A program has been written to provide a text message as to which sites and Authority Certificates occur within a title provided by the Integrated Land Information System application.

This message is still being tested and will be displayed within the Record of Administrative Interests for the selected land parcel. The wording of this text message still needs to be approved by the Registrar General's office prior to being placed into production usage. As of 30 June 2004, testing is continuing but it is likely that the new system will be in place by the end of 2004, given no further technical problems and the Registrar General's approval.

PROSECUTIONS

No new prosecutions were pursued in the courts this year. However two prosecutions were finalised by courts in 2003-2004.

Mr Michael Plant was charged previously with offences which took place in August 2001. Due to Mr Plant's non-appearance at a previous hearing, the matter had been delayed until his whereabouts could be established and a warrant issued. The matter was heard on 10 March 2004 before Mr Justice Wallace in the Court of Summary Jurisdiction in Darwin. Mr Plant pleaded guilty to the charge of entering a sacred site (the charge of 'working on a site...' had previously been withdrawn by Police). Mr Plant was convicted of the offence of entering a sacred site and fined \$1000.

Complaints were issued against Sitzler Brothers Pty Limited/Venturin Nominees Pty Limited for damage to a sacred site in Alice Springs in 2002. During 2002-2003 negotiations with the defendant continued. In late June 2003, Mr Michael Sitzler agreed to plead guilty to the charges and apologised to the Board and custodians. On 21 July 2003 Mr Birch SM, upon a finding of guilty, discharged Sitzler Brothers with no conviction, ordering the company to pay a \$5000 fine and a victim's assistance levy of \$40.

REPATRIATION OF SKELETAL REMAINS

For many years the Authority has been receiving and providing temporary storage for Aboriginal skeletal remains in transit between museums elsewhere and their community of origin. These remains have been returned as the result of negotiations between museums in Australia and overseas and the Aboriginal communities from which they were taken in the past.

During this year, the Authority negotiated an agreement with the Museums and Art Galleries of the Northern Territory for the return of remains held by that organisation. The Authority is also in the process of negotiating similar agreements with interstate museums for the return of Northern Territory skeletal remains.



Site Consultations, McArthur River.

MAJOR PROJECTS

In 2003-2004 the Authority undertook a number of major projects which provided significant support to development projects across the Northern Territory.

ALICE SPRINGS TO DARWIN RAILWAY

The Alice Springs to Darwin Railway project was completed in 2003-2004. The Authority's contribution to ensuring the success of this vital Territory development project was most significant.

Commencing site identification and clearance work for this project in 1993, Authority staff spent the equivalent of more than 3 years undertaking hundreds of consultations with custodians, Land Councils and the project proponents.

The success of the Authority's contribution to this project can be measured by the fact that while hundreds of sacred site features were protected as part of the railway corridor and construction, Authority prosecution for site damage has proceeded for only one site. Considerable effort has been expended this year, in consultations with custodians, Land Councils, Government agencies and contractors, in dealing with the alleged site damage along the route on Phillip Creek Station.

EXPANSION OF MCARTHUR RIVER MINE

Xstrata has proposed a major expansion to the McArthur River Mine, near Borroloola and in 2003-2004 applied for 19 Authority Certificates over the area of the proposed works. Seventeen Authority Certificates were issued, of which 8 had site protection conditions imposed, and 2 applications were withdrawn by the applicant. The Certificates were issued after the Authority had facilitated successful consultations between the Company and custodians over protection of sacred sites. Additionally, the Authority took into consideration the Company's request for an extended period of five years prior to actual commencement of works, subject to further negotiations with custodians after five years.

The success of Xstrata's applications for Authority Certificates demonstrates how the Aboriginal sacred sites regime in the Northern Territory effectively balances sacred values of Aboriginal people with land-use and development.

REPORT OF THE CHIEF EXECUTIVE OFFICER

TRANS-TERRITORY PIPELINE (PORT KEATS TO GOVE)

The proponents applied for an Authority Certificate in May 2003 to embark on an initial pipeline route survey. The Northern Land Council and the proponents entered into an Agreement for this survey to take place. An Authority Certificate was issued on the basis of this Agreement under Section 22(1) (b) of the *NT Sacred Sites Act*. In the latter half of the financial year, the Authority and the Northern Land Council commenced negotiations on protocols dealing with site protection on the proposed route.

LARAPINTA SUB-DIVISION

Consultations with custodians were carried out throughout the reporting period for the residential sub-division of the Larapinta Valley in Alice Springs. The land is subject to native title and the Authority assisted native title body Lhere Artepe in marking exclusion areas. The Larapinta Sub-division is estimated to be worth \$12m to the Alice Springs economy.

AMENDMENTS TO NORTHERN TERRITORY ABORIGINAL SACRED SITES ACT 1989

A major project for the year was the improvement of the legislative basis for the protection of sacred sites. In March and April 2004, Amendments and new Regulations came into force to provide for charging for Authority services and for debt recovery.



Custodian with recently registered sacred site – Angas Downs.

HIGHLIGHTS AND FUTURE DIRECTIONS

HIGHLIGHTS 2003-2004

The Authority:

- continued to provide effective protection of Aboriginal sacred sites, through issuing 172 Authority Certificates, reviewing 73 sites for the Register of Sacred Sites and identifying 18 sites for registration.
- issued Authority Certificates in relation to work on or near sacred sites including for:
 - in Darwin, underground power in Nightcliff and the Darwin Waterfront Development
 - Finke Desert Race
 - mining and energy development activity, including for McArthur River Mine, Rio Tinto, De Beers, Anglo-American Mining, Wickham Point LNG Plant, Alcan, Woodside Energy, the Trans-Territory Pipeline and Elkedra Diamonds
 - development and essential services at Aboriginal communities including Lake Evella, Miniyeri, Engawala, Milingimbi, Gunbalanya and Tiwi Pearls
 - numerous urban sites in Alice Springs, including the Larapinta sub-division, channel restoration in the Todd River and landscaping and pedestrian paths along the Todd River banks.
- continued to progress improved public access to sacred sites and Authority Certificates information related to land titles.
- finalised amendments to the *NT Sacred Sites Act* to provide for the cost of Authority services and for debt recovery.
- continued assistance to museums and Aboriginal groups with the repatriation of skeletal remains of Aboriginal origin removed from the Northern Territory.
- provided significant input to the review of the *Heritage Conservation Act 1991*.

DIRECTIONS FOR 2004-2005

- Finalisation of sacred site and Authority Certificate data becoming available through the Northern Territory Government Integrated Land Information System (ILIS).
- Effective issuing of Authority Certificates for major projects, including for Bootu Creek, Olympia Resources, Alcan Gove, the Lee Point Sub-division and rehabilitation of Stokes Hill within the Darwin Waterfront Development.
- Staged issuing of Authority Certificates for the proposed Trans-Territory Pipeline major project and the implementation of protocols with the Northern Land Council for site protection guidelines for the project.
- Consideration of a medium and long-term management plan and strategy for the identification, protection and management of sacred sites in the Alice Springs region.
- Projects to enhance the integrity of site information held by the Authority.
- The development of enhanced procedures to accelerate the registration of sacred sites as requested by custodians.
- Adoption of improved procedures by Territory Government agencies and their clients, for compliance with the need for Authority Certificates in relation to land-use and development.

OUTCOMES

The Authority's overarching responsibility is to protect sacred sites. This is done through the provision of statutory services under the *NT Sacred Sites Act*. These provide for the protection of sacred sites through the Registration of sites and Inspections of the Register of Sacred Sites, and through site avoidance procedures (Authority Certificates) relating to the use and development of land in the Northern Territory. These measures contribute to enhanced relations between Indigenous custodians of sacred sites and the wider Territory population by increasing the level of certainty when identifying constraints on land-use, if any are needed, arising from the existence of sacred sites.

Overall performance in a financial year is quantified by adding together the number of sites registered, the number of inspections of the Register (and other archives) completed and the number of Authority Certificate applications completed. Quality is reflected in the number of statutory appeals on Authority decisions under Part III Division 3 of the *NT Sacred Sites Act* or Section 9 of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Commonwealth). Timeliness is assessed as the average period between application and completion of Authority Certificates.

In the 2003-2004 Budget Estimates the Output Group for the Authority was Protection of Sacred Sites.

PROTECTION OF SACRED SITES

Provision of statutory services for the protection and registration of sacred sites and the avoidance of sacred sites in the development and use of land.

OUTCOME

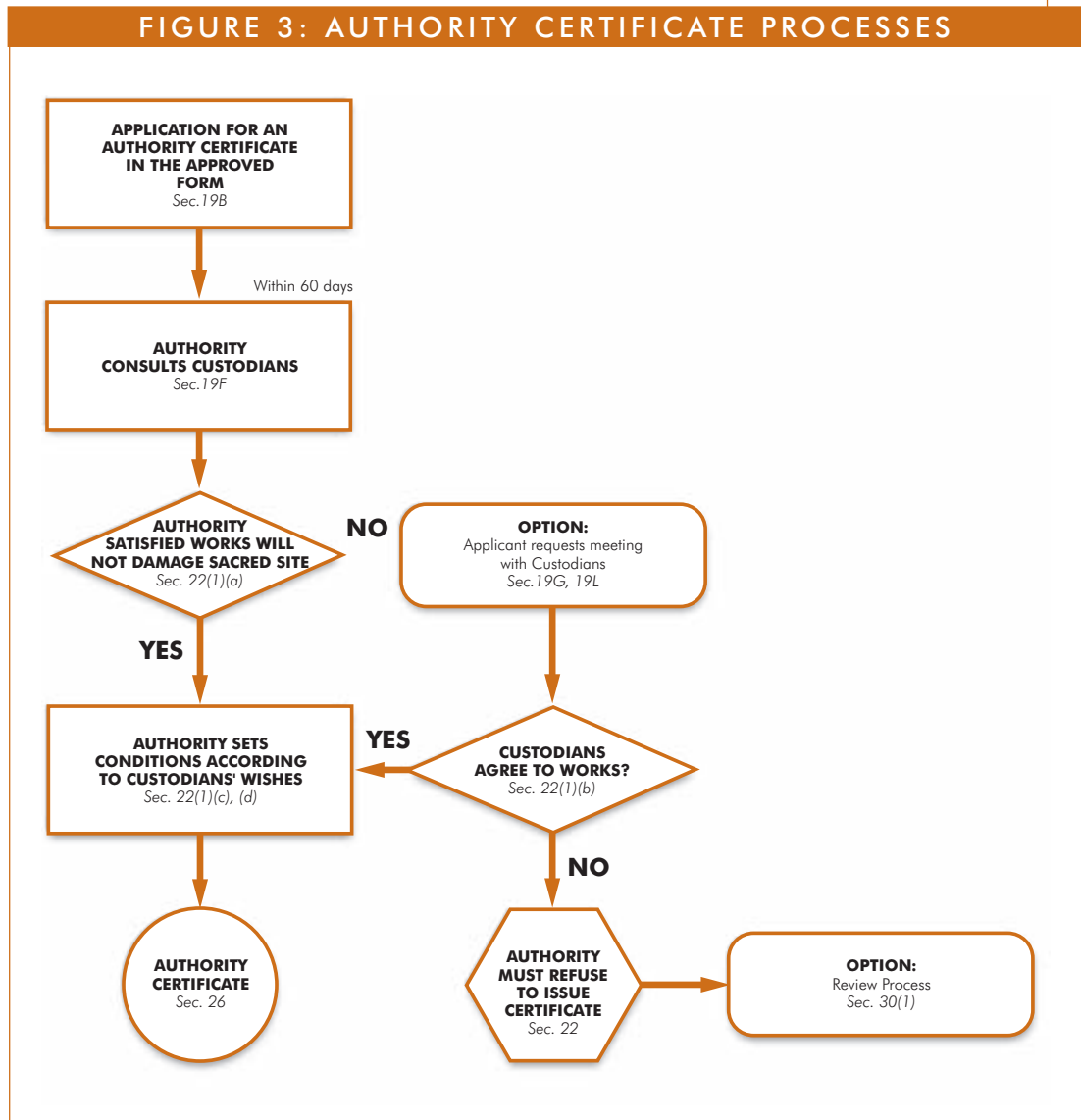
Enhanced relations between Indigenous custodians and the wider Territory population by increasing the level of certainty when identifying the constraints, if any, of land-use proposals arising from the existence of sacred sites.

PERFORMANCE MEASURES	ACTUAL 2002-2003	TARGET 2003-2004	ACTUAL 2003-2004
- Quantity - Requests for Register inspections, sites recorded and applications for Authority Certificates completed	813	850	843
- Quality - Statutory appeals minimised	<1%	<1%	<1%
- Timelines - Average elapsed time between request and completion of service	60 days	60 days	68 days
- Cost - Cost per request completed	3092	3380	3380

OUTCOMES

AUTHORITY CERTIFICATES APPLICATIONS AND ISSUES

Authority Certificates are instruments of sacred site avoidance under the *Sacred Sites Act*. The processes involved in expediting applications for Authority Certificates is represented in Figure 3.



OUTCOMES

In any financial year the number of applications and the number of Authority Certificates issued are likely to differ because of the time elapsing between the application date and the date of issue. For these purposes, Authority Certificate applications include applications for Custodian Notification Processes (CNP) under Authority Certificates issued for the Darwin-Alice Springs Railway that allow for supplementary procedures similar to Authority Certificate applications.

In 2003-2004 there were 172 Certificate applications. This compares with 153 Certificate applications and 4 CNP applications (total 157) in 2002-2003.

**FIGURE 4:
REGIONAL DISTRIBUTION OF AUTHORITY CERTIFICATES**

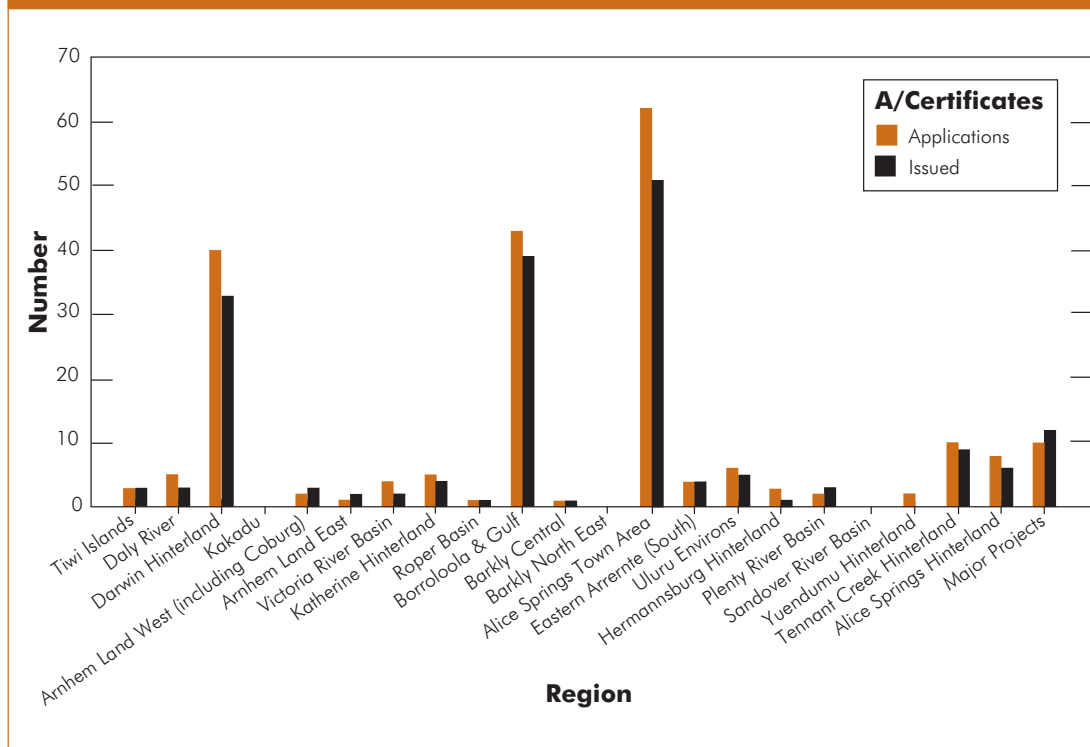


Figure 4 Regional Distribution of Authority Certificates shows the regional distribution of Authority Certificates issued and applied for in 2003-2004. Major projects involve more than one region. Figure 2 provides a map of the Territory indicating the regions used by the Authority.

While the small numbers involved caution against generalisation, the regional distribution of Authority Certificates is a reflection of new land-use activities in the regions and the perceived risk in relation to sacred sites. In a mainly residential and small business development context Alice Springs, Darwin and Tennant Creek and hinterlands have had the largest number of individual Authority Certificates issued.

There were significantly more applications and certificates issued in the Borrooloola & Gulf region during 2003-2004, primarily related to minerals development, with the Darwin hinterland region also showing a marked increase in applications and certificates. Applications and certificates decreased in number in the Alice Springs town and Tennant Creek hinterland regions compared to 2002-2003.

OUTCOMES

While the numbers of Authority Certificates in single remote regions is generally small, these typically involve substantial travel and other operational costs associated with the distance and accessibility of the subject land and custodians.

In 2003-2004 the Authority issued 172 Certificates. Applicants withdrew 21 Certificate applications and in 1 case, the Authority was unable to issue a Certificate. The numbers for 2002-2003 and 2003-2004 show a significant trend upwards in the number of Certificate applications submitted to the Authority. In line with this increase there were also more applications withdrawn by the applicants.

**FIGURE 5:
AUTHORITY CERTIFICATES ISSUED, WITHDRAWN OR REFUSED**

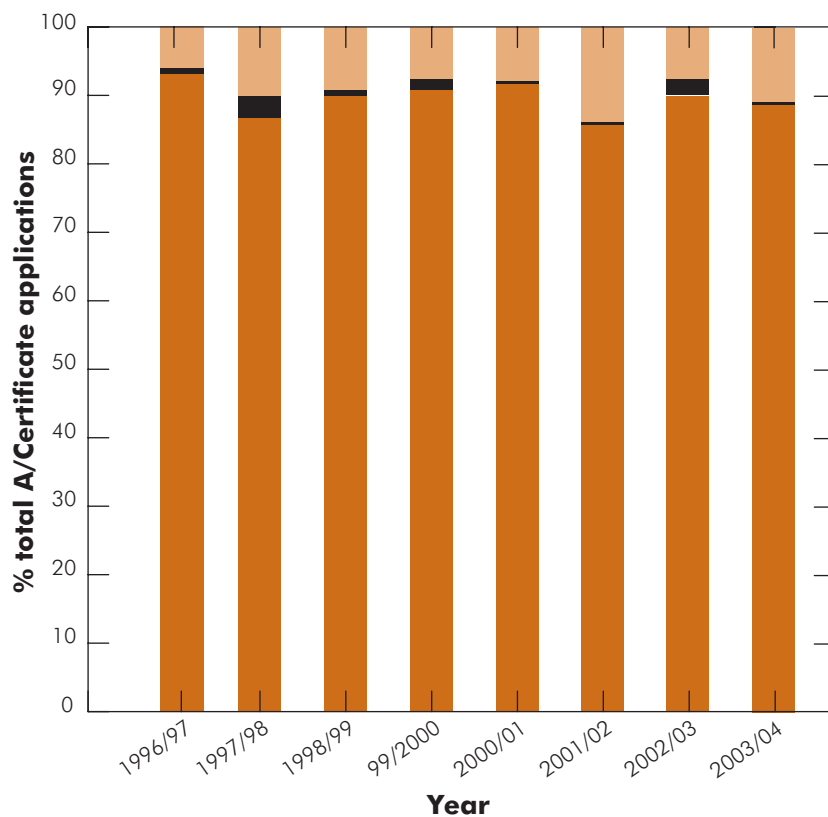


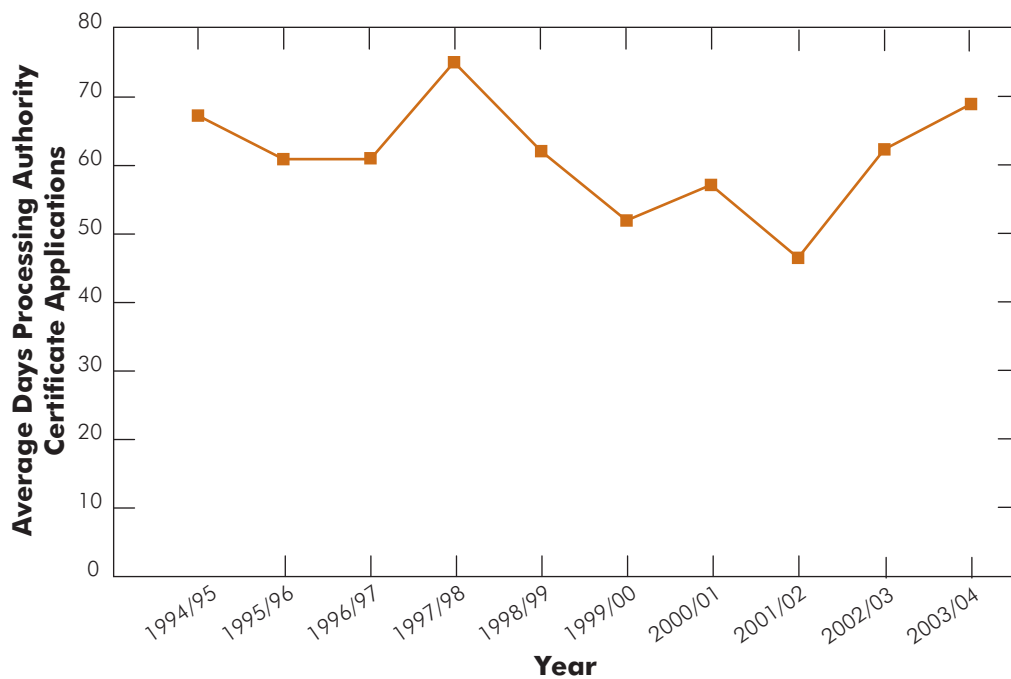
Figure 5 shows that the proportions of Authority Certificate applications that were concluded by issue, applicant withdrawal or refusal was similar in 2003-2004 to previous years with slightly more applications withdrawn. In 2003-2004 89% of Authority Certificates (and CNP) applications processed were issued, 10% withdrawn and 1% refused. This compares with 92% issued, 7% withdrawn and 1% refused in 2002-2003.

OUTCOMES

TIMELINESS

In 2003-2004 it took an average of 68 days to process Authority Certificates compared with 62 days in 2002-2003. Figure 6 shows that while there remains an overall trend towards quicker processing times in the last 10 years, processing times have increased over the past 2 years. Increased processing times have primarily occurred as a result of delays and changes to requests from proponents and third parties.

**FIGURE 6:
TIME TO PROCESS AUTHORITY CERTIFICATE APPLICATIONS**



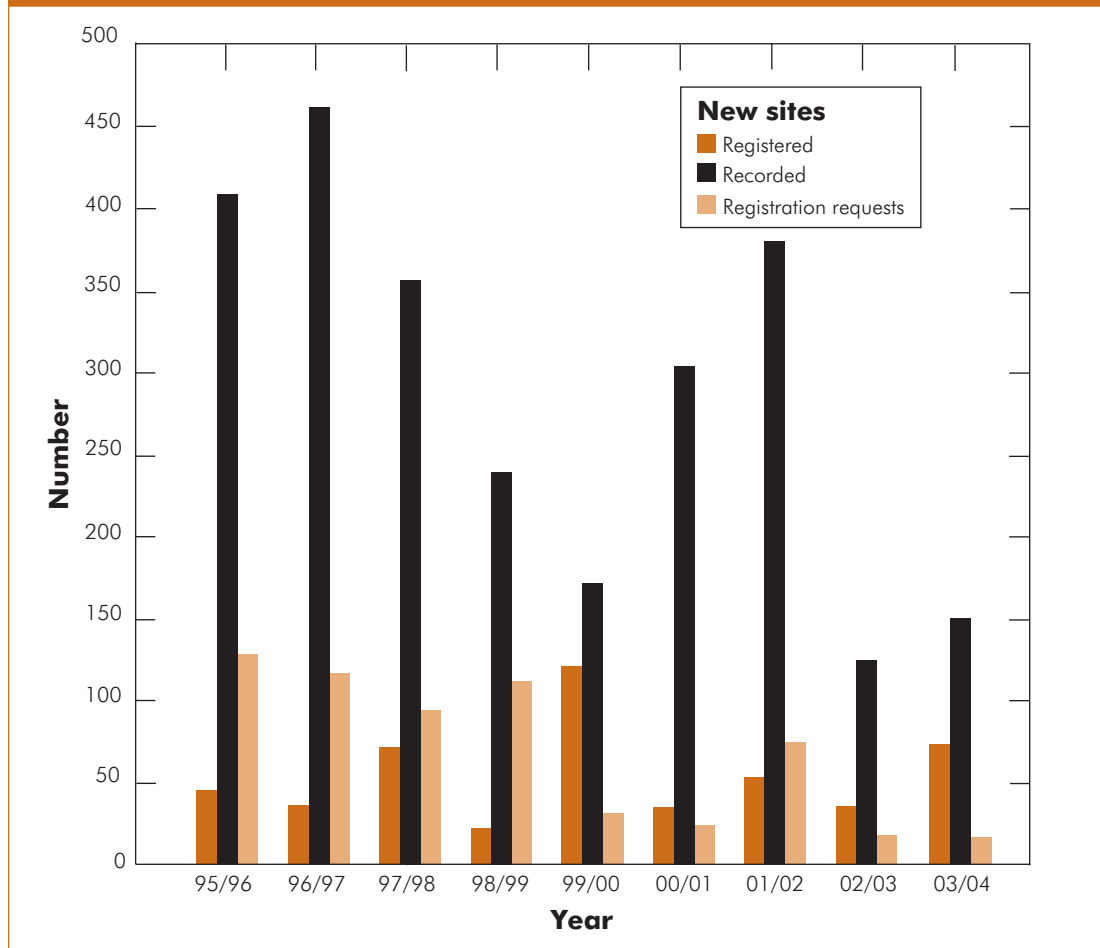
The greatest delays were for the processing of 'Major Project' Certificates, which are generally the most complicated applications to expedite. On average these took 122 days to complete. However, for some of these, completion was dependent on external consultants that slowed processing time.



OUTCOMES

REGISTER OF SACRED SITES AND SITE ARCHIVES

**FIGURE 7:
SITES RECORDED, REGISTERED AND REQUESTS FOR REGISTRATION**



The number of sites recorded for the first time in 2003-2004 has increased from 2002-2003 but is still significantly less than in previous years.

By way of explanation, the number of Aboriginal sacred sites that will be first recorded in any given year will tend to decline with successive site surveys. The significant divergence from trend in 2001-2002 and 2002-2003 reflects a change in activities when substantial numbers of sites were recorded during Custodian Notification Processes (CNP) for the Alice Springs-Darwin railway, in areas not previously surveyed by the Authority.

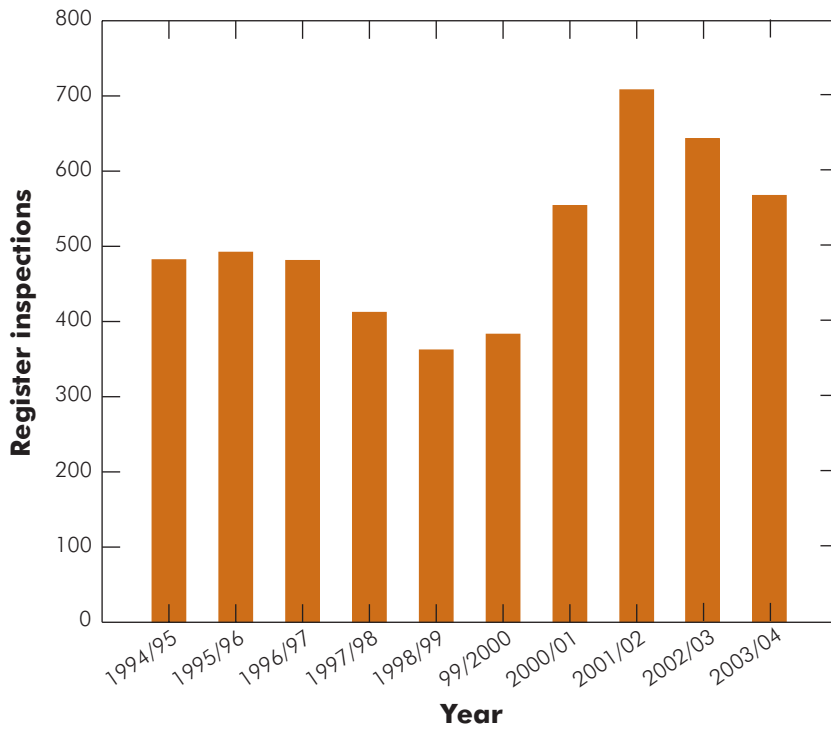
The number of requests for Registration during 2003-2004 increased significantly compared to 2002-2003 but was similar to 2001-2002.

In 2003-2004, 17 sites were added to the Register of Sacred Sites, compared with 35 in the previous year. However, an additional 46 Registered sites were reviewed at Authority meetings and re-entered upon the Register with updated records. The total number of sites reviewed for Registration by the Authority was 63. The review of past Registered sites in 2003-2004 reflects the Authority's increasing effort to improve the quality of its records on the public Registers and in its archives. For the archive of recorded sites this includes increased effort to improve the quality of information and distinguish sacred sites from other kinds of Aboriginal heritage sites (ie archaeological or historical sites), which are protected under other legislation.

OUTCOMES

REGISTER AND ARCHIVAL INSPECTIONS

**FIGURE 8:
ANNUAL INSPECTIONS OF REGISTER OF SACRED SITES
AND SITES ARCHIVES**

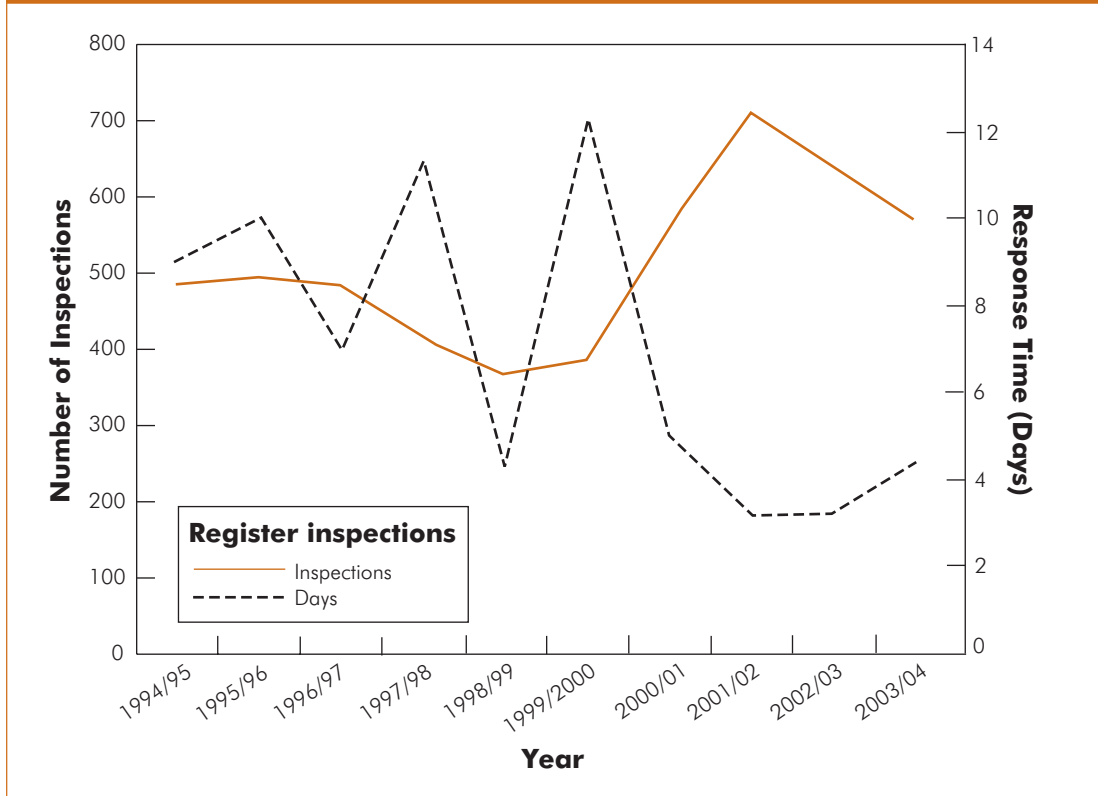


In 2003-2004, the Authority responded to 567 requests for inspections of the Register of Sacred Sites and other Authority sacred sites archives. This compares with 639 requests in 2002-2003, and 708 requests in 2001-2002. The increase in Authority Certificate applications for residential land may partly explain the lower number of inspections this year, as Authority Certificates obviate the need for Register inspections during conveyancing or prior to building. The Authority is also examining its information access procedures, as information from the Register is increasingly sought using telephone and electronic communications.

In 2003-2004, the average time taken to complete inspection requests was 4 days, which is a slight increase on the previous year, as shown in Figure 9.

OUTCOMES

**FIGURE 9:
NUMBER OF REGISTER AND ARCHIVAL INSPECTIONS
AND RESPONSE TIMES**



ADVICE TO CLIENTS AND THE BROADER COMMUNITY

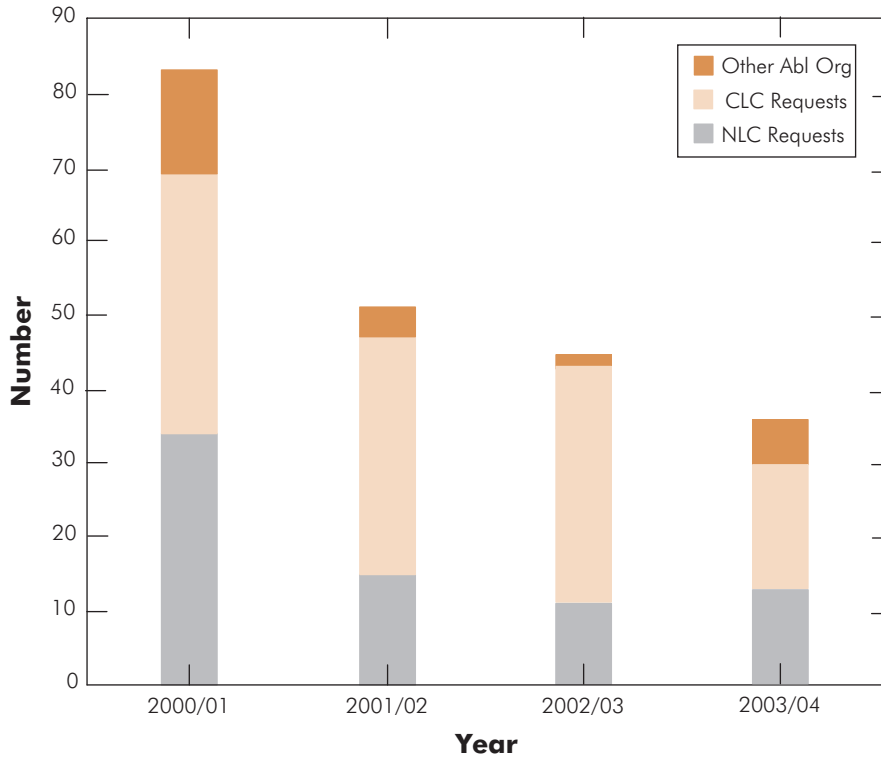
The Authority also provides advice on more general issues relating to the identification and protection of sacred sites in the Northern Territory. Aboriginal organisations acting as the Territory's native title representative bodies have continued to be major beneficiaries of this service (see Figure 10 below). The requests shown in Figure 10 often resulted in representatives of the organisation concerned viewing many reports and receiving many maps. In 2003-2004 the Central Land Council made 17 requests, the Northern Land Council 13, and other Aboriginal organisations 6, a total of 36.

Responsibilities acquired under the *Heritage Conservation Act 1991* (see above) have also resulted in a number of requests associated with both forensic enquiries and the repatriation of skeletal remains (Figure 11). In 2003-2004 the Authority received no requests associated with the repatriation of skeletal remains and 2 requests for forensic assistance.

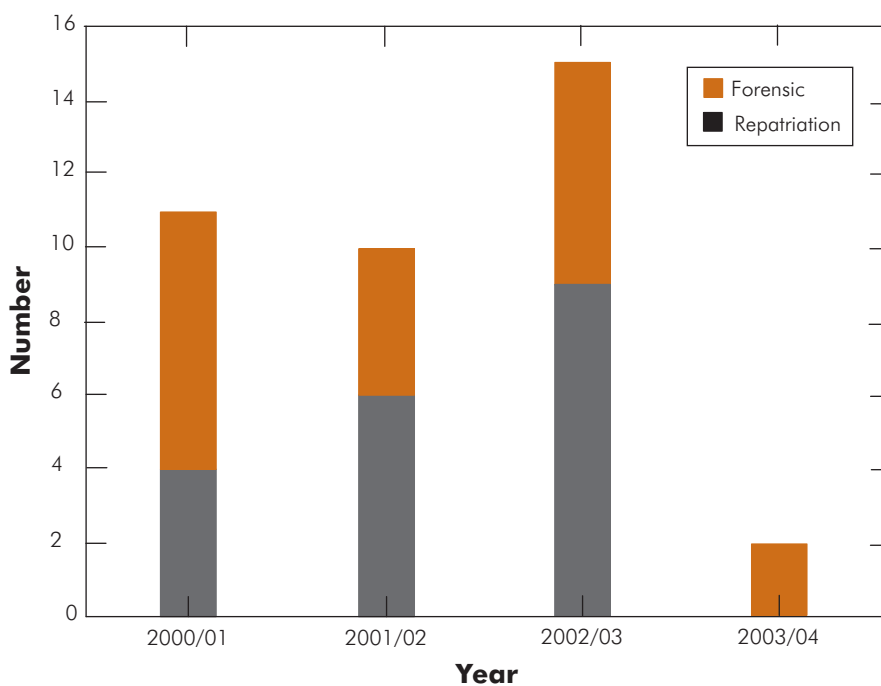
These figures compare with 45 requests for information from Aboriginal organisations and 15 requests for assistance with human remains in 2002-2003.

OUTCOMES

**FIGURE 10:
REQUESTS FOR INFORMATION FROM ABORIGINAL ORGANISATIONS**



**FIGURE 11:
ENQUIRIES RELATING TO SKELETAL REMAINS**



HUMAN RESOURCES—MANAGING OUR PEOPLE

OVERVIEW

The principles of human resource management contained in the *Public Sector Employment and Management Act 1993* (hereafter *PSEMA*) inform the human resource management policy and procedures of the Authority although the Authority is not an ‘agency’ under this Act. The Authority complies with provisions of anti-discrimination legislation, in particular, the Northern Territory’s *Anti-Discrimination Act*. The Authority provides a safe and healthy working environment and safe plant and equipment by maintaining an Occupational Health and Safety Program in which all employees are actively encouraged to participate to ensure compliance with the *Northern Territory Work Health Act*.

TERMS AND CONDITIONS OF EMPLOYMENT

The Authority employs staff under the relevant provisions of the *NT Sacred Sites Act*. As a consequence, the Authority is not a prescribed agency within the meaning of the *PSEMA*. Under Section 17 of the *NT Sacred Sites Act* the Commissioner for Public Employment has approved terms and conditions, such as designations and salaries, and as specified in the By-laws of the *PSEMA*, for staff employed by the Authority, as required by the *NT Sacred Sites Act*.

In May 2004, the Commissioner for Public Employment approved additional terms and conditions for Authority staff. This additional approval had the effect of applying the NT Public Sector Redeployment and Redundancy Award and procedures to the Authority’s staff.

EQUAL EMPLOYMENT OPPORTUNITY

POLICY OBJECTIVES

The Authority’s Equal Employment Opportunity Plan focuses on the following objectives.

The Authority aims to ensure that all staff regardless of sex, race, disability, religion, political belief or marital status are able to fully and equally:

- develop their abilities and potential;
- contribute to the success of the Authority’s objectives; and
- share in the benefits of employment according to their contribution.

The Plan to achieve these objectives includes the provision of Equal Employment Opportunity Awareness Sessions for management and the dissemination of information relating to equality of opportunity and prevention of discrimination to all staff. In addition, the Plan includes a process for resolving any staff grievances as well as specific mechanisms for dealing with incidents of workplace harassment.

INTERNAL GRIEVANCE PROCEDURES

Procedures for the resolution of grievances arising in the workplace emphasise conciliation. The procedures were adopted after extensive consultation with stakeholders including staff, Unions, the Commissioner for Public Employment and the Office of Anti-Discrimination.

HUMAN RESOURCES—MANAGING OUR PEOPLE

WORKPLACE HARASSMENT

The objective of this policy and procedures is to provide guidance for employees on the prevention and elimination of any form of harassment of employees within the Aboriginal Areas Protection Authority. It also provides procedures for the resolution of both formal and informal complaints. Staff with managerial responsibilities are made aware of the Authority's obligations under the *Anti-Discrimination Act* and the principles of equity and merit which underpin the Authority's Equal Employment Opportunity objectives.

The Authority has in place a Service Agreement with the Employees Assistance Service NT Incorporated (EAS). The service provided by EAS includes the provision of qualified counsellors to assist with the resolution of workplace and family issues that affect the staff of the Authority.

Issues arising during the year with regard to internal grievances and workplace harassment were dealt with according to the Authority's policy and procedures.

OCCUPATIONAL HEALTH AND SAFETY

In accordance with the *Northern Territory Work Health Act* the Authority's Occupational Health and Safety objective remains the prevention of occupational injuries and diseases and has sought to identify, assess and control risks arising in the workplace.

The commitment of the Authority to OH&S is demonstrated by its high emphasis on fieldwork safety and training at its Darwin and Alice Springs offices and the low incidence of work injuries over the past five years. Staff of both offices feel they are free to raise OH&S issues with the nominated OH&S officer and receive a prompt response.

The OH&S unit of the Department of Corporate and Information Services (DCIS) has been engaged to conduct a review of the Authority's OH&S and security procedures in the Darwin office. The Manager Corporate Services is working with the unit to implement a number of recommendations. It is planned to conduct the same review in the Alice Springs office.

WORKER'S COMPENSATION

- There were two worker's compensation claims made within the period of the report.

STAFF TRAINING AND DEVELOPMENT

The Training Policy is designed to ensure that the Training and Development Program focuses on providing the skills and competencies necessary for staff to perform the tasks involved in achieving the desired outcomes of the Authority. The Authority's training policy recognises that training (and hence, learning) is a continuous process integrated with, and running parallel to, work. Work experience is the primary source of learning and therefore the area where most of the Authority's training is focused.

Training and professional development support for staff included specific courses in field skills, four-wheel driving and first aid, and a researchers' workshop.

Currently three of the four Indigenous staff employed by the Authority are being supported by the Authority in post-secondary studies.

The Authority spent \$18,600 on training programs in 2003-2004 representing 1.6% of total salary expenditure.



ABORIGINAL AREAS PROTECTION AUTHORITY

GPO BOX 1890
DARWIN NT 0801
TELEPHONE: (08) 8981 4700
FACSIMILE: (08) 8981 4169

10 November 2004

The Hon John Ah Kit MLA
Minister assisting the Chief Minister on Indigenous Affairs
Parliament House
DARWIN NT 0801

Dear Minister

In accordance with provisions of the *Northern Territory Aboriginal Sacred Sites Act 1989* and the *Financial Management Act 1995*, I am pleased to submit the following Financial Statements for the Aboriginal Areas Protection Authority for the Financial Year 1 July 2003 to 30 June 2004.

The Statements refer to the fifteenth year of operation of the Aboriginal Areas Protection Authority.

To the best of my knowledge and belief, the system of internal control provides assurance that:

- a) proper records of all transactions affecting the Aboriginal Areas Protection Authority are kept and employees under my control observe the provisions of the *Financial Management Act 1995*, the *Financial Management Regulations* and *Treasurer's Directions*;
- b) procedures within the Aboriginal Areas Protection Authority afford proper control over expenditure, receipts and public property consistent with my responsibilities as accountable officer and in accordance with Section 13 of the *Financial Management Act 1995*;
- c) there is no indication of malpractice, fraud, major breach of legislation or delegation, major error in or omission from the accounts records;
- d) financial statements included in the report were prepared from proper accounts and records and were in accordance with Part 2, Section 5 of the *Treasurer's Directions*. All financial statements prepared by the Department of Corporate and Information Services, on behalf of the Aboriginal Areas Protection Authority, were prepared from proper accounts and records; and
- e) all employment instructions issued by the Commissioner for Public Employment were complied with.

Yours sincerely

JEFFERY STEAD
Chief Executive Officer

ABORIGINAL AREAS PROTECTION AUTHORITY

STATEMENT OF FINANCIAL PERFORMANCE FOR YEAR ENDED 30 JUNE 2004

OPERATING REVENUE			
	NOTE	2004 \$'000	2003 \$'000
Grants and Subsidies			
Current		22	26
Sale of Goods and Services			
Output		2 287	2 202
Other Agency Revenue		604	341
Miscellaneous Revenue			
Miscellaneous Revenue		2	3
Total Operating Revenue	2	2 915	2 572
OPERATING EXPENSES			
Employee Expenses			
Employee Expenses		1 621	1 583
Administrative Expenses			
Purchase of Goods and Services		934	916
Repairs and Maintenance		0	2
Depreciation and Amortisation	7	16	12
Other Administrative Expenses		258	2
Total Operating Expenses	2	2 834	2 514
NET OPERATING PROFIT/(LOSS)	13	81	58

The statement of financial performance is to be read in conjunction with the notes to the financial statements.



ABORIGINAL AREAS PROTECTION AUTHORITY

STATEMENT OF FINANCIAL POSITION FOR YEAR ENDED 30 JUNE 2004

ASSETS			
	NOTE	2004 \$'000	2003 \$'000
Current Assets			
Cash and deposits	5	313	263
Receivables	6	36	114
Prepayments		12	1
Other		0	0
Total Current Assets		361	378
Non-current Assets			
Property, plant and equipment	7	59	42
Total Non-current Assets		59	42
TOTAL ASSETS		420	420
Current Liabilities			
Creditors and accruals	8	20	73
Provisions	10	217	282
Total Current Liabilities		237	355
Non-current Liabilities			
Provisions nc		0	0
Total Non-current Liabilities		0	0
TOTAL LIABILITIES		237	355
NET ASSETS		183	65
Equity			
Capital	12	45	7
Accumulated Funds	12	139	58
TOTAL EQUITY		183	65

The statement of financial performance is to be read in conjunction with the notes to the financial statements.



ABORIGINAL AREAS PROTECTION AUTHORITY

STATEMENT OF CASH FLOWS FOR YEAR ENDED 30 JUNE 2004

CASH FLOWS FROM OPERATING ACTIVITIES			
	NOTE	2004 \$'000 (OUTFLOWS) INFLOWS	2003 \$'000 (OUTFLOWS) INFLOWS
Operating Receipts			
Grants and Subsidies Received			
Current Grants and Subsidies Received		22	26
Receipts from Sales of Goods and Services			
Output Revenue Received		2 287	2 202
Other Agency Receipts		512	405
Total Operating Receipts		2 820	2 633
Operating Payments			
Current		(5)	
Payments to Employees		(1 725)	(1 532)
Transfer of Long Service Leave Liability			
Transfer of Long Service Leave			(186)
Payments for Goods and Services		(1 045)	(968)
Total Operating Payments		(2 775)	(2 686)
NET CASH PROVIDED BY/(USED IN) OPERATING ACTIVITIES	13	45	(53)
CASH FLOWS FROM INVESTING ACTIVITIES			
Investing Payments			
Purchase of Assets	7	(33)	(24)
Total Investing Payments		(33)	(24)
NET CASH PROVIDED BY/(USED IN) INVESTING ACTIVITIES		(33)	(24)
CASH FLOWS FROM FINANCING ACTIVITIES			
Financing Receipts			
Equity Injections			
Capital Appropriation		38	38
Other Equity Injections,			186
Total Financing Receipts		38	224
NET CASH PROVIDED BY/(USED IN) FINANCING ACTIVITIES		38	224
Non Cash		0	0
Net Increase/Decrease in Cash Held		49	147
Opening Balance		263	116
CASH AT END OF REPORTING PERIOD	5	313	263

ABORIGINAL AREAS PROTECTION AUTHORITY

WRITE-OFFS, POSTPONEMENTS AND WAIVERS FOR YEAR ENDED 30 JUNE 2004

CATEGORY		\$'000
Write-offs, Postponements And Waivers Under The Act		
Amounts written off or waived by Delegated Officers		0.5
Amounts written off or waived by the Treasurer		NIL
Write-offs, Postponements And Waivers Authorised Under Other Legislation		
Amounts written off or waived by Delegated Officers		NIL
TOTAL		0.5

OUTPUT PERFORMANCE REPORT AS AT 30 JUNE 2004

Output Group: Protection of Sacred Sites

Output: Protection of Sacred Sites

PERFORMANCE TARGET	2003-04 TARGET/BUDGET	2003-04 ESTIMATED	2003-04 ACTUAL	2002-03 ACTUAL	EXPLANATION OF VARIATIONS
QUANTITY					
Requests for Service	850	850	843	813	Portion of work carried out in Northern Region is seasonal. Less than expected carried out in the December quarter.
QUALITY					
% of appeals	<1%	<1%	<1%	<1%	Target Achieved
TIMELINESS					
Within agreed Time frames <60 Days	60 days	60 days	68 days	60 days	Delay due to provision of final reports from external consultants.
COST					
Cost per request Completed	3380	3358	3380	3092	
OUTPUT COST \$'000	2 850	2 855	2 850	2 514	
Agency Revenue	250	250	346	340	Exceeded Target

NOTES TO AND FORMING PART OF THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2004

1: STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

(a) Objectives and funding

The Aboriginal Areas Protection Authority was established as a body corporate on 15th August 1989 by the *Northern Territory Aboriginal Sacred Sites Act 1989*.

The functions of the Authority are:

- Protection of sacred sites.
- Establish and maintain a Register of sacred sites.
- Respond to requests from Aboriginal custodians for site protection.
- With the approval of Aboriginal custodians, issue certificates setting out conditions under which developments may proceed without endangering sites of cultural importance.
- Carry out surveys to determine the constraints, if any, imposed by the existence of sacred sites on works or use of land.

The Authority is predominantly funded by an annual output appropriation by the Northern Territory Government.

(b) Central Holding Authority

The Central Holding Authority is the 'parent body' that represents the Government's ownership interest in Government controlled entities.

The Central Holding Authority also records all Territory items. Territory items are revenues, expenses, assets and liabilities controlled by the Government and managed by Agencies on behalf of the Government. The main Territory item is Territory revenue, which includes taxation and royalty revenue, Commonwealth general purpose funding (such as GST revenue), fines, and statutory fees and charges.

The Central Holding Authority also holds certain Territory assets not assigned to agencies as well as certain Territory liabilities that are not practical or effective to assign to individual agencies such as long service leave.

Territory items

The Central Holding Authority recognises all Territory items, therefore the Territory items managed by the Agency on behalf of Government are not included in the Agency financial statements. However, as the Agency is accountable for the Territory items they manage on behalf of Government, these items have been separately disclosed in Note 21, titled Schedule of Territory Items.

(c) Basis of accounting

The Aboriginal Areas Protection Authority is an agency for the purposes of the *Financial Management Act 1995*.

The financial statements have been prepared in accordance with the requirements of the *Financial Management Act* and Treasurer's Directions.

Except where stated the financial statements have been prepared in accordance with the historical cost convention.

These financial statements do not comply with International Accounting Standards, as Australia is not adopting these requirements until reporting periods commencing on or after 1 January 2005.

The following is a summary of the material accounting policies, which have been adopted in the preparation of the financial statements.

(d) Changes in accounting policies

The accounting policies adopted are consistent with those of the previous year except in respect of services received free of charge.

Currently all agencies receive services free of charge, predominantly from the Department of Corporate and Information Services (DCIS) for various finance and human resource functions. From 1 July 2003 these amounts have been disclosed within the Statement of Financial Performance as revenue under 'Services Received Free of Charge' and under "Purchases of Goods and Services" in Administrative Expenses. Previously these amounts had been disclosed by way of note but not reflected within the Statement of Financial Performance. The financial effect has been to increase both Total Operating Revenue and Operating Expenses by \$257,972 with no impact on the net operating surplus/deficit.

(e) Revenue recognition

Revenue is recognised at the fair value of the consideration received net of the amount of goods and services tax (GST). Exchanges of goods or services of the same nature and value without any cash consideration are not recognised as revenues.

Output revenue

Output revenue represents Government funding for Agency operations and is calculated as the net cost of Agency outputs after taking into account funding from Agency revenue.

The net cost of Agency outputs for output appropriation purposes does not include any allowance for major non-cash costs such as depreciation.

Revenue in respect of this funding is recognised in the period in which the Agency gains control of the funds.

Grants and other contributions

Grants, donations, gifts and other non-reciprocal contributions are recognised as revenue when the Agency obtains control over the assets comprising the contributions. Control is normally obtained upon receipt.

Contributions are recognised at their fair value. Contributions of services are only recognised when a fair value can be reliably determined and the services would be purchased if not donated.

Sale of goods

Revenue from the sale of goods is recognised (net of returns, discounts and allowances) when control of the goods passes to the customer.

Rendering of services

Revenue from rendering services is recognised in proportion to the stage of completion of the contract.

Interest revenue

Interest revenue is recognised as it accrues, taking into account the effective yield on the financial asset.

Sale of non-current assets

The profit or loss on disposal of non-current asset sales is included as revenue at the date control of the asset passes to the buyer, usually when an unconditional contract of sale is signed.

The profit or loss on disposal is calculated as the difference between the carrying amount of the asset at the time of disposal and the net proceeds on disposal.

Contribution of assets

Contributions of assets and contributions to assist in the acquisition of assets, being non-reciprocal transfers, are recognised, unless otherwise determined by Government, as revenue at the fair value of the asset received when the entity gains control of the asset or contribution.

(f) Goods and services tax

Revenues, expenses and assets are recognised net of the amount of goods and services tax (GST), except where the amount of GST incurred on a purchase of goods and services is not recoverable from the Australian Tax Office (ATO). In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense.

Receivables and payables are stated with the amount of GST included.

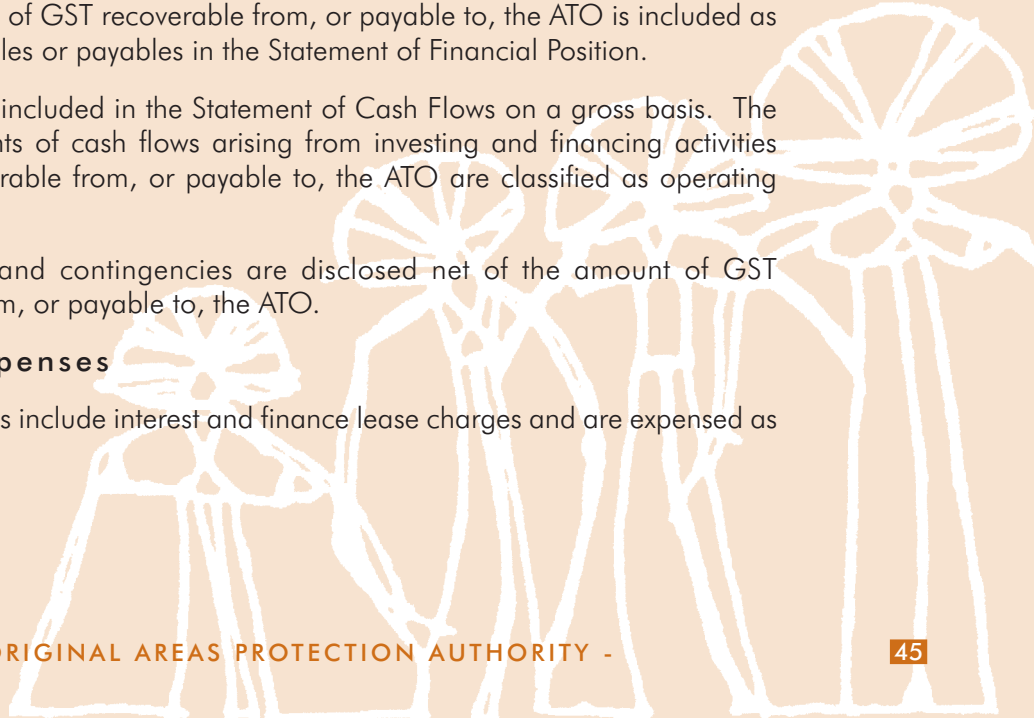
The net amount of GST recoverable from, or payable to, the ATO is included as part of receivables or payables in the Statement of Financial Position.

Cash flows are included in the Statement of Cash Flows on a gross basis. The GST components of cash flows arising from investing and financing activities which is recoverable from, or payable to, the ATO are classified as operating cash flows.

Commitments and contingencies are disclosed net of the amount of GST recoverable from, or payable to, the ATO.

(g) Interest expenses

Interest expenses include interest and finance lease charges and are expensed as incurred.



(h) Cash and cash equivalents

For the purpose of the Statement of Financial Position and the Statement of Cash Flows, cash includes cash on hand, cash at bank and cash equivalent assets controlled by the Agency. Cash equivalents are highly liquid short-term investments that are readily convertible to cash.

Bank overdrafts are carried at the principal amount.

(i) Inventories

Inventories are carried at the lower of cost and net realisable value. Costs have been assigned to different classifications of inventories as follows:

- Raw Materials are valued at average cost.
- Work in Progress is valued using absorption costing with raw materials incorporated at the average cost at time of issue, and the labour and overhead costs are valued using standard costs.

(j) Receivables

The collectibility of debtors or receivables is assessed at balance date and specific provision is made for any doubtful accounts.

Trade debtors to be settled within 30 days and other debtors to be settled within 30 days, are carried at amounts due.

(k) Property Plant and Equipment

Acquisitions

All items of property, plant and equipment with a cost, or other value, equal to or greater than \$5,000 are recognised in the year of acquisition and depreciated as outlined below. Property, plant and equipment below the \$5,000 threshold are expensed in the year of acquisition.

The cost of property, plant and equipment constructed by the Agency includes the cost of materials and direct labour, and an appropriate proportion of fixed and variable overheads.

Complex assets

Major items of plant and equipment comprising a number of components that have different useful lives, are accounted for as separate assets. The components may be replaced during the useful life of the complex asset.

Subsequent additional costs

Costs incurred on property, plant and equipment subsequent to initial acquisition are capitalised when it is probable that future economic benefits in excess of the originally assessed performance of the asset will flow to the Agency in future years. Where these costs represent separate components of a complex asset, they are accounted for as separate assets and are separately depreciated over their useful lives.

Construction work in progress

As part of Stage 1 of *Working for Outcomes*, the Department of Infrastructure, Planning and Environment is responsible for managing general government capital works projects on a whole of Government basis. Therefore appropriation for most capital works is provided directly to the Department of Infrastructure, Planning and Environment and the cost of construction work in progress is recognised as an asset of that Department. Once completed, capital works assets are transferred to the Agency.

Revaluations

Assets belonging to the following classes of non-current assets are progressively revalued on a rolling basis with sufficient regularity to ensure that an asset’s carrying amount does not differ materially from its fair value at reporting date:

- Land;
- Buildings;
- Infrastructure assets;
- Cultural assets; and
- Self generating and regenerating assets.

Fair value is the amount for which an asset could be exchanged, or liability settled, between knowledgeable, willing parties in an arms-length transaction.

Other classes of non-current assets are not subject to revaluation and are measured on a cost basis.

The unique nature of some of the heritage and cultural assets may preclude reliable measurement. Such assets have not been recognised in the financial statements.

Depreciation and amortisation

Items of property, plant and equipment, including buildings but excluding land, have limited useful lives and are depreciated or amortised using the straight-line method over their estimated useful lives.

Amortisation applies in relation to intangible non-current assets with limited useful lives and is calculated and accounted for in a similar manner to depreciation.

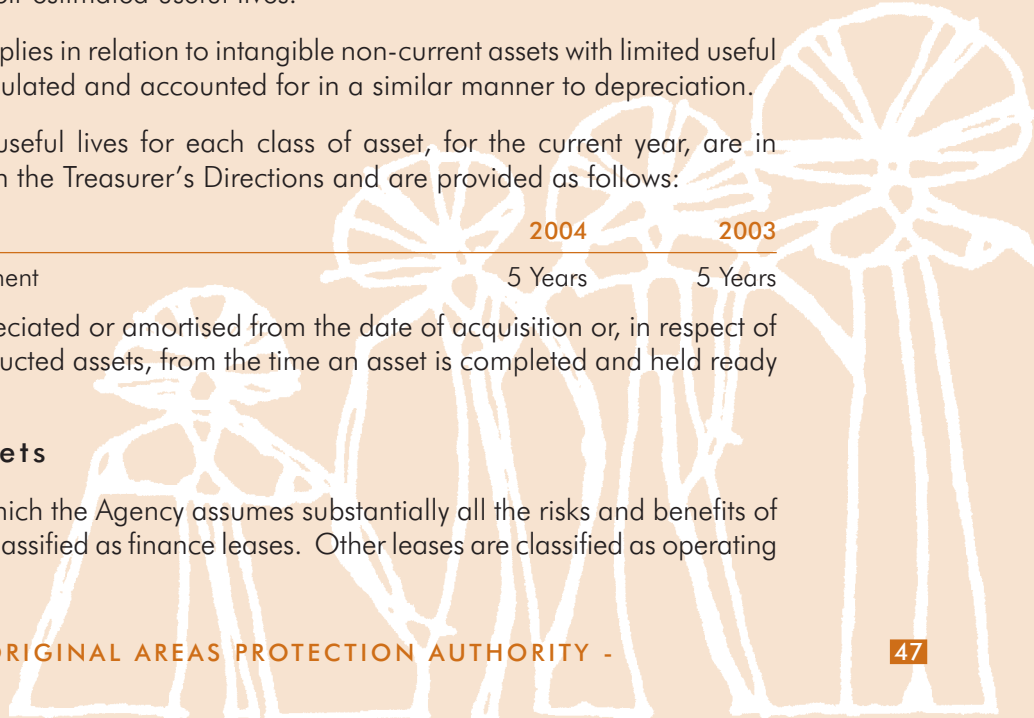
The estimated useful lives for each class of asset, for the current year, are in accordance with the Treasurer’s Directions and are provided as follows:

	2004	2003
Plant and Equipment	5 Years	5 Years

Assets are depreciated or amortised from the date of acquisition or, in respect of internally constructed assets, from the time an asset is completed and held ready for use.

(1) Leased Assets

Leases under which the Agency assumes substantially all the risks and benefits of ownership are classified as finance leases. Other leases are classified as operating leases.



Finance leases

Finance leases are capitalised. A leased asset and a lease liability equal to the present value of the minimum lease payments are recorded at the inception of the lease.

Lease payments are allocated between the principal component of the lease liability and the interest expense.

Operating leases

Operating lease payments made at regular intervals throughout the term are expensed when the payments are due, except where an alternative basis is more representative of the pattern of benefits to be derived from the lease property.

(m) Payables

Liabilities for trade creditors and other amounts payable are carried at cost which is the fair value of the consideration to be paid in the future for goods and services received, whether or not billed to the Agency. Trade creditors are normally settled within 30 days.

(n) Employee Benefits

Provision is made for employee benefits accumulated as a result of employees rendering services up to the reporting date. These benefits include wages and salaries and annual leave. Liabilities arising in respect of wages and salaries and annual leave expected to be settled within twelve months of the reporting date are measured at their nominal amounts based on remuneration rates which are expected to be paid when the liability is settled.

No provision is made for sick leave, which is non-vesting, as the anticipated pattern of future sick leave to be taken indicates that accumulated sick leave is unlikely to be paid.

Employee benefits expenses are recognised in respect of the following categories:

- wages and salaries, non-monetary benefits, annual leave, sick leave and other leave entitlements; and
- other types of employee benefits.

are recognised against profits on a net basis in their respective categories.

As part of the introduction of *Working for Outcomes*, the Central Holding Authority assumed the long service leave liabilities of Government Agencies, including the Aboriginal Areas Protection Authority. The actual liability was transferred from Agency ledgers during 2002-2003.

(o) Superannuation

Employees' Superannuation entitlements are provided through the NT Government and Public Authorities Superannuation Scheme (NTGPASS), Commonwealth Superannuation Scheme (CSS) and non-government employee nominated schemes for those employees commencing on or after 10 August 1999.

The Agency makes superannuation contributions on behalf of its employees to the Central Holding Authority or the non-government employee nominated

ABORIGINAL AREAS PROTECTION AUTHORITY

schemes. Any liability for government superannuation is met directly by the Central Holding Authority and the Agency has and will continue to have no direct superannuation liability.

(p) Rounding of Amounts

Amounts in the financial statements and notes to the financial statements have been rounded to the nearest thousand dollars.

(q) Comparatives

Where necessary, comparatives have been reclassified and repositioned for consistency with current year disclosures.

2: STATEMENT OF FINANCIAL PERFORMANCE BY OUTPUT GROUPS

PROTECTION OF SACRED SITES	Output Group 1	
	2004 \$'000	2003 \$'000
Operating Revenue		
Taxation revenue		
<i>Grants and subsidies</i>		
Current	22	26
Capital		
<i>Sales of goods and services</i>		
Output revenue	2287	2202
Other agency revenue	346	341
Interest revenue		
Miscellaneous revenue	2	3
Profit/Loss on disposal of assets		
TOTAL OPERATING REVENUE	2657	2572
Operating Expenses		
Employee expenses	1621	1583
<i>Administrative expenses</i>		
Purchases of goods and services	934	916
Repairs and maintenance	0	2
Depreciation and amortisation	16	12
Other administrative expenses		
<i>Grants and subsidies</i>		
Current	5	0
Capital		
Community service obligations		
Interest expense		
TOTAL OPERATING EXPENSES	2576	2514
NET OPERATING SURPLUS/ (DEFICIT)	81	58

3: PROFIT/LOSS ON DISPOSAL OF NON-CURRENT ASSETS

	2004 \$'000	2003 \$'000
PROFIT/LOSS ON DISPOSAL OF NON-CURRENT ASSETS	0	0

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	2004 \$'000	2003 \$'000
4: OPERATING EXPENSES		
The net operating surplus/(deficit) has been arrived at after charging the following expenses:		
Administrative Expenses		
Consultants (1)	149	106
Advertising (2)	0	1
Marketing and Promotion (3)	1	2
Document Production	8	10
Legal Fees	29	42
Recruitment (4)	13	22
Training and Study	19	26
Official Duty Fares	31	22
Travelling Allowance	21	15
5: CASH AND DEPOSITS		
Cash on hand	32	32
Cash at bank	281	232
On call or short term deposits		
	313	263
6: RECEIVABLES		
Current		
Trade debtors	27	114
Less: Provision for doubtful trade debtors	6	0
Sundry debtors	0	0
Interest receivable	0	0
Other receivables	15	0
Non-current		
Other receivables	0	0
TOTAL RECEIVABLES	36	114
7: PROPERTY, PLANT AND EQUIPMENT		
Plant and equipment		
At cost	97	64
Accumulated depreciation	-38	-22
TOTAL PROPERTY, PLANT AND EQUIPMENT	59	42
8: PAYABLES		
Trade creditors	20	34
Other creditors	0	39
	20	73
9: BORROWINGS AND ADVANCES		
	0	0

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	2004 \$'000	2003 \$'000
10: PROVISIONS		
Current		
<i>Employee benefits</i>		
Annual leave	170	216
Leave loading	41	39
Other current provisions	0	0
Other provisions	6	27
	217	282

The Authority employed 27 employees as at 30 June 2004 (2003:27 employees)

11: OTHER LIABILITIES		
Current	0	0
Non-current	0	0

12: EQUITY		
(a) Capital		
Balance at the beginning of year	7	0
Equity injections	38	7
Transfer of long service leave to Central Holding Authority Note 1 (n)	0	186
BALANCE AT THE END OF YEAR	45	193
(b) Reserves		
	0	0
(c) Accumulated funds		
Balance at the beginning of year	58	Nil
Current year operating surplus / (deficit)	81	58
BALANCE AT THE END OF YEAR	139	58



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	2004 \$'000	2003 \$'000
13: NOTES TO THE STATEMENT OF CASH FLOWS		
Reconciliation of net operating surplus / (deficit) to net cash used in operating activities.		
Net operating surplus/(deficit)	81	58
<i>Non-cash items</i>		
Depreciation	16	12
Amortisation		
(Profit)/loss on disposal of non-current assets		
<i>Changes in Assets and Liabilities</i>		
Decrease/(Increase) in receivables	79	14
Decrease/(Increase) in prepayments	12	4
(Decrease)/Increase in accounts payable	53	27
(Decrease)/Increase in provision for employee benefits	45	24
(Decrease)/Increase in other provisions	21	22
NET CASH FLOWS FROM/(USED IN) OPERATING ACTIVITIES	45	53
Non-cash financing and investing activities		
<i>Finance Lease Transactions</i>		
	0	0
14: SERVICES RECEIVED FREE OF CHARGE		
Corporate and information services	258	0
Internal audits and reviews	0	0

