

26/02/2024 04:59:00 PM

s 22

s 22 @mirarr.net

PM Correspondence - ATT:41934 Jabiluka Lease

Good afternoon,

Please find attached correspondence to Rio Tinto, from senior traditional owner Yvonne Margarula, in regards to the Jabiluka lease.

Kind regards,

s 22

CEO Gundjehmi Aboriginal Corporation



Mr Dominic Barton  
Chairman  
Rio Tinto Limited  
s 22

via email<sup>s 22</sup> [@riotinto.com](mailto:)

22 February 2024

Dear Mr Barton,

**RE: JABILUKA MINERAL LEASE AND REHABILITATION OF RANGER URANIUM**

As the senior traditional owner of Mirarr country in Kakadu National Park in the Northern Territory, I am writing to you to respectfully and urgently seek your company's full support and action, including that of your majority owned subsidiary Energy Resources of Australia Ltd (ERA), to ensure that the Jabiluka mining lease is not renewed and the lands are incorporated into Kakadu National Park, and that the full program and costs of rehabilitation of the Ranger uranium mine will be undertaken by you. Decisions on both appear to be imminent and carry the deep and abiding interests of the Mirarr people and Australian and global publics.

Jabiluka has immense cultural significance to us as traditional owners, and is also where Australia's oldest human occupation archaeological site is located, with dating showing the Madjedbebe site to be at least 65,000 years BCE. This is considerably older than the Juukan Gorge site in the Pilbara. The Jabiluka mining lease, which is held by the Rio Tinto majority owned subsidiary ERA, expires in August of this year, with an option of a ten year extension. With the full support of all my people and the backing of the Northern Land Council, I have been consistent and clear over many years that we do not and will not agree to mining in the Jabiluka lease and want the lands incorporated in Kakadu National Park now. As majority owner of ERA, I seek your urgent, clear, and unequivocal support and action to ensure that the mineral lease is not renewed and the lands are incorporated into Kakadu National Park.

We are appreciative that Rio Tinto has acknowledged the Mirarr's consistent opposition to the Jabiluka Project, as for example in the 2023 Rio Tinto Annual Report. We are deeply concerned and distressed by public and private reports that the Rio Tinto majority own subsidiary ERA may be actively pursuing the lease extension against Mirarr's clearly stated wishes. This is entirely unacceptable to the Mirarr and we have made our views known to the Prime Minister of Australia with the support of our civil society friends across the world, and will continue and increasingly do so. Rio Tinto has previously relinquished mining leases in the Kimberley as an act of social responsibility led by the then Chairman and we stand by to warmly welcome and applaud a satisfactory resolution of the Jabiluka issue.

I also seek your company's support and action to the full program and costs of rehabilitation of the Ranger uranium mine. Mirarr are appreciative of the commitment of Rio Tinto in its 2023 Annual Report that "our utmost priority and commitment is to the rehabilitation of the Ranger Project Area in a way that is consistent with the wishes of the Mirarr People". We are therefore deeply concerned and distressed that the Rio Tinto majority owned subsidiary ERA communicates with us, and apparently others, a sense of uncertainty about this and their future. As the majority owner, we seek Rio Tinto's clear and public commitment to the full program and cost of rehabilitation of the Ranger Project Area to remove any sense of uncertainty and doubt about Rio Tinto's commitment to the rehabilitation of our lands.

My people and our lands have hosted your company's operations for over two decades and we are appreciative of our ongoing interactions with your company. We also appreciate your company's commitment to your four objectives, including 'achieve impeccable ESG' and 'strengthen our social license'. The relinquishment or non-renewal of the Jabiluka mining lease and the addition of these lands to Kakadu National Park, and a commitment to the full program and cost of rehabilitation of the Ranger uranium mine would be a clear and welcome demonstration of your company's commitments to its objectives and to my People. As decisions are now about to be made on these matters of such deep concern to us, I seek your and your Board's support for these requests of my People.

Yours sincerely,  
s 22

Yvonne Margarula  
Senior Traditional Owner

C.c. Hon Anthony Albanese MP, Prime Minister of Australia  
Jakob Stausholm, CEO, Rio Tinto  
Kellie Parker, Chief Executive Australia, Rio Tinto  
Joe Martin-Jard, CEO, Northern Land Council

09/04/2024 02:59:00 PM

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@mirarr.net

PM Correspondence - ATT:61621 Letter to NT Chief Minister RE Jabiluka Mineral Lease from Gundjeihmi CEO

Dear Prime Minister,

Please see attached letter sent earlier today to Chief Minister Lawler

Kind regards.

s 22

Executive Assistant  
Gundjeihmi Aboriginal Corporation



09 April 2024

The Hon Eva Lawler  
Chief Minister  
Parliament House  
DARWIN NT 0800

Dear Chief Minister,

## **JABILUKA MINERAL LEASE EXPIRY 12 AUGUST 2024**

I refer to my previous correspondence sent 14 March 2024.

As you are aware, Energy Resources of Australia Ltd has now applied for a ten-year extension of the mineral lease granted by the Northern Territory in respect of the Jabiluka land. This has occurred despite the explicit objections of the Traditional Owners and the lack of support from the major shareholder Rio Tinto.

My previous correspondence sets out reasons the application for an extension of the mineral lease should not be entertained and I refer again to those.

In addition, the reasons announced by ERA for the extension demonstrate the application itself is disingenuous. ERA has made clear it has no plans to mine at Jabiluka. Consequently, there is no economic benefit or prospects of increased employment on offer. The Mirarr do not accept ERA's mistaken argument that a mineral lease under the *Mineral Titles Act (NT) 2010* (MTA) can be characterised as a legal mechanism for the protection of globally significant cultural heritage.

Protection of the globally important archaeological site of Madjedbebe, extensive rock art and sacred sites at Jabiluka is more appropriately the province of the *Heritage Act NT, Northern Territory Sacred Sites Act 1982*, the *Commonwealth Aboriginal Land Rights (Northern Territory) Act 1976*, *Environmental Protection and Biodiversity Conservation Act 1999* and now, as a result of this ill-advised application, the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* as well as pursuant to international heritage obligations.

The position of the Mirarr is that the Commonwealth should have commenced preparations for the inevitable expiry of the mineral lease and inclusion of Jabiluka in Kakadu National Park well before now. Had that occurred, the sole focus of ERA and its major shareholder would now be on funding rehabilitation at Ranger rather than on this attempt to manipulate speculation over uranium in the full knowledge that the deposit will never be mined. We understand the major shareholder Rio Tinto supports the wishes of the Mirarr for inclusion of Jabiluka in Kakadu National Park.

Meanwhile, the dire financial status of ERA has worsened. The recent announcement by the company that its major shareholder, Rio Tinto, will take over management of the Ranger Rehabilitation Project reflects the seriousness of the situation. While this announcement responds to the crisis at Ranger, it does not address the vulnerability of the Jabiluka site to a further term of mineral lease in the hands of a moribund company.

On behalf of Mirarr Traditional Owners, GAC now urgently requests the Northern Territory to seek the advice of the Commonwealth Minister to refuse the extension and end this irresponsible speculation. Separately, and more urgently given the financial circumstances of ERA, the Northern Territory should now advise the Commonwealth that the Territory will or has given notice of a special reservation pursuant to s.114 *Mineral Titles Act (NT) 2010* (MTA). The reasons for this course of action were set out in my previous correspondence.

GAC acknowledges that the Commonwealth is the primary decision-maker in relation to the mining of prescribed substances in the Northern Territory and that Territory decision-making on this issue is circumscribed and conditional on compliance with the Northern Territory (*Self-Government Regulations*). Further, we note the explicit requirement at section 187 (1)(b) of the MTA for the Territory Minister to act in accordance with the advice of the Commonwealth pursuant to the agreement referred to in the regulations. See attached brief of legal advice for further details.

We now have advice that questions whether the Northern Territory has authority to exercise any powers under the MTA with respect to prescribed substances due to limitations imposed by the inter-governmental agreement entered between the Commonwealth and the Territory on 17 November 2000. Our advice is that should the Territory seek to rely on MTA section 43 to grant the extension of the current mineral lease or seek to rely on section 68 for the mineral lease to continue past the expiry date pending the decision of the relevant Minister, these actions would be beyond the scope of the current agreement.

Therefore, Mirarr Traditional Owners would be very concerned if the Territory delayed its response to the application for an extension in the mistaken assumption that the *Mineral Titles Act* would operate as a de facto extension via s.68.

We are also advised that there are other issues with the terms and conditions of the current mineral lease which need to be addressed before there could be any extension either by way of a decision or by way of continuation under section 68.

Given that there is no legitimate proposal that would justify an extension and given the uncertainty as to whether there is sufficient authority for the Territory to either extend or continue the lease past the current expiry date, it is imperative that both the Commonwealth and the Territory prepare for the expiry of the mineral lease by the making of the special reservation. This would provide a safety net in the event the Territory purported to extend or continue the mineral lease and that decision was later found to be ineffective.

We would be happy to discuss this urgent matter with you and your advisors as a matter of priority.

Yours sincerely,

 s 22

C.C. Hon Anthony Albanese Prime Minister of Australia  
Hon Madeleine King MP Minister for Resources  
Hon Tanya Plibersek MP Minister for Environment  
Hon. Mark Monaghan, Northern Territory Minister for Minin



10 April 2024

The Hon Anthony Albanese MP  
Prime Minister  
Parliament House  
CANBERRA ACT 2600

Dear Prime Minister,

## **JABILUKA MINERAL LEASE EXPIRY 12 AUGUST 2024**

I refer to my correspondence to you dated 10 January 2024 and to recent correspondence addressed to the Chief Minister of the Northern Territory (**attached**). I am disappointed to have received no response to my letter of 10 January 2024 and to have received nothing formal from the Minister for Resources since 27 March 2023.

Over the past 15 months, my staff at Gundjehmi Aboriginal Corporation (GAC) and I have repeatedly written to your government proposing concrete and timely solutions, as well as offering significant cooperation and information. These efforts have largely been met with a flat denial of the Commonwealth's overarching role with respect to uranium in the Alligator Rivers region in the Northern Territory. The legal basis of that role is detailed in a legal brief attached to the correspondence to the Chief Minister.

My purpose in contacting you in December 2022 was to ensure that your government would be well prepared for decisions needed in 2024 in relation to both Jabiluka and Ranger. Unfortunately, circumstances have deteriorated significantly, and precious time and effort is now focussed on a belated and completely avoidable conflict over Jabiluka. This was what I had hoped we could avoid.

In recent weeks, Energy Resources of Australia (ERA) has announced it has applied for the 10-year extension of the Jabiluka Mineral Lease, in the face of the opposition from Mirarr, and without the support of its majority shareholder, Rio Tinto. This was made possible by the failure by government to announce its position on Jabiluka. ERA has also announced that its present funds will be exhausted by September 2024 and more recently that Rio Tinto will take over management of the Ranger rehabilitation project. These announcements reflect both the financial crisis at Ranger and the threat to the Jabiluka site presented by a further term of the mineral lease being held by a company with a highly uncertain future.

There are now four months remaining until the Jabiluka mineral lease expires on 11 August 2024 and before the risk of fresh mineral lease applications arises. I would be grateful if your government could make its intentions in relation to ERA's application transparent by no later than 11 May 2024 so that I and my people have a fair opportunity to seek an urgent protection order from the Minister for the Environment under the *Aboriginal and Torres Strait Islander Heritage Protection Act* or such other legislation as may be available to ensure that Mirarr country is protected.

I acknowledge that it is now unfeasible for the Commonwealth to take the steps I requested in 2022 to achieve inclusion of Jabiluka in Kakadu National Park before the expiry date of the mineral lease. Consequently, the Northern Territory must be encouraged to make the special reservation pursuant to the *Mineral Titles Act (NT)* that will protect the status quo and preserve the option of inclusion of Jabiluka in Kakadu National Park once the uncertain fate of mineral lease extension is resolved. I understand that Rio Tinto would support the status quo being preserved pending a decision by government about inclusion of Jabiluka in Kakadu National Park.

If the special reservation is not made, it is possible that any continuation of the mineral lease permitted by the Commonwealth under Northern Territory legislation could be set aside with the result that there will be nothing in place to prevent fresh applications for a mineral lease for uranium mining from other companies. This will be an extremely difficult outcome that will inevitably re-ignite a campaign against development of Jabiluka at the end of the year.

As you will also be aware, the public announcement that ERA does not have the funds to complete rehabilitation of the Ranger site and that current funds will be exhausted by September of this year have serious consequences for rehabilitation of Ranger that are not solved solely by ERA applying for a third authority (which it has not done) and the Commonwealth granting one. The major shareholder, Rio Tinto, is not under any obligation to contribute further funding to ERA, however it has broadly committed to contributing to rehabilitation work to an extent consistent with its status as a shareholder. My staff are available to brief your office on the options that may exist in these circumstances for securing the full rehabilitation of the Ranger site.

I look forward to a more collaborative approach to these issues than has occurred to date.

Yours sincerely,

s 22

Yvonne Margarula  
Mirarr Senior Traditional Owner

enc.





09 April 2024

The Hon Eva Lawler  
Chief Minister  
Parliament House  
DARWIN NT 0800

Dear Chief Minister,

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In addition, the reasons announced by ERA for the extension demonstrate the application itself is disingenuous. ERA has made clear it has no plans to mine at Jabiluka. Consequently, there is no economic benefit or prospects of increased employment on offer. The Mirarr do not accept ERA's mistaken argument that a mineral lease under the *Mineral Titles Act (NT) 2010* (MTA) can be characterised as a legal mechanism for the protection of globally significant cultural heritage.

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Meanwhile, the dire financial status of ERA has worsened. The recent announcement by the company that its major shareholder, Rio Tinto, will take over management of the Ranger Rehabilitation Project reflects the seriousness of the situation. While this announcement responds to the crisis at Ranger, it does not address the vulnerability of the Jabiluka site to a further term of mineral lease in the hands of a moribund company.

On behalf of Mirarr Traditional Owners, GAC now urgently requests the Northern Territory to seek the advice of the Commonwealth Minister to refuse the extension and end this irresponsible speculation. Separately, and more urgently given the financial circumstances of ERA, the Northern Territory should now advise the Commonwealth that the Territory will or has given notice of a special reservation pursuant to s.114 *Mineral Titles Act (NT) 2010* (MTA). The reasons for this course of action were set out in my previous correspondence.

GAC acknowledges that the Commonwealth is the primary decision-maker in relation to the mining of prescribed substances in the Northern Territory and that Territory decision-making on this issue is circumscribed and conditional on compliance with the Northern Territory (*Self-Government Regulations*). Further, we note the explicit requirement at section 187 (1)(b) of the MTA for the Territory Minister to act in accordance with the advice of the Commonwealth pursuant to the agreement referred to in the regulations. See attached brief of legal advice for further details.

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Therefore, Mirarr Traditional Owners would be very concerned if the Territory delayed its response to the application for an extension in the mistaken assumption that the *Mineral Titles Act* would operate as a de facto extension via s.68.

We are also advised that there are other issues with the terms and conditions of the current mineral lease which need to be addressed before there could be any extension either by way of a decision or by way of continuation under section 68.

Given that there is no legitimate proposal that would justify an extension and given the uncertainty as to whether there is sufficient authority for the Territory to either extend or continue the lease past the current expiry date, it is imperative that both the Commonwealth and the Territory prepare for the expiry of the mineral lease by the making of the special reservation. This would provide a safety net in the event the Territory purported to extend or continue the mineral lease and that decision was later found to be ineffective.

We would be happy to discuss this urgent matter with you and your advisors as a matter of priority.

Yours sincerely,

  
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C.C. Hon Anthony Albanese Prime Minister of Australia  
Hon Madeleine King MP Minister for Resources  
Hon Tanya Plibersek MP Minister for Environment  
Hon. Mark Monaghan, Northern Territory Minister for Minin

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**Brief: Summary of Legal Advice to GAC on Jabiluka Mineral Lease**

This briefing summarises legal advice to Gundjeihmi Aboriginal Corporation (GAC), which represents the Mirarr Traditional Owners of Jabiluka, concerning the Jabiluka Mineral Lease for uranium mining.

Energy Resources of Australia (ERA) Ltd holds the Jabiluka lease under the NT *Mineral Titles Act 2010*. The lease expires on 12 August 2024, but ERA applied to the NT for a 10-year lease extension on 20 March 2024.

NT cannot extend the Jabiluka mineral lease except with Commonwealth consent, for the following reasons:

1. Uranium (and any element having an atomic number greater than 92) located in a Territory is vested in the Crown in the right of the Commonwealth under s 35 of the *Atomic Energy Act 1953*.
2. By s 35 of the *Northern Territory (Self-Government) Act 1978 (SG Act)* (SG Act), NT Government executive powers are listed in the *Northern Territory (Self Government) Regulations (SG Regs)*.
3. Reg 4(1) of the SG Regs lists those powers, but reg 4(2) provides that the list does not include or relate to “the mining of uranium or other prescribed substances within the meaning of the Atomic Energy Act”.
4. However, this in turn is subject to reg 4(5), which gives the NT executive power in respect of the following:
  - (b) *matters in respect of which duties, powers, functions or authorities are expressly imposed or conferred ... under ... an agreement or arrangement referred to in paragraph (f) ...; ...*
  - (f) *agreements and arrangements between the Territory and the Commonwealth..., including the negotiation and the giving effect to any such agreement or arrangement by the Territory by way of enactment ...*
5. Such an agreement was reached in 2000. Clause 4 provides that the NT Executive will continue to have authority in relation to mining, subject to the requirement in relation to uranium that:

*The Territory Minister shall act in accordance with any advice on the matter which is provided by the Commonwealth Minister. The Territory Minister will seek appropriate amendment of Northern Territory Acts to achieve this principle.*

4. Consistent with this agreement, current NT mining law, the *Mineral Titles Act 2010 (NT)*, provides that
  - s. 187 (1) *In relation to a prescribed substance [ie. uranium], the Minister:*
    - (a) *must exercise the Minister's powers in accordance with, and give effect to, the advice of the Commonwealth Minister; and*
    - (b) *must not exercise the Minister's powers otherwise than in accordance with the advice of the Commonwealth Minister.*<sup>1</sup>
5. Consistent with s 187 of that Act, the NT must seek the advice of Resources Minister King in relation to ERA’s application for an extension and must act in accordance with her advice. NT Minister Manison

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<sup>1</sup> There is an argument that the 2000 agreement does not apply to the *Mineral Titles Act 2010*, because the 2000 agreement applied only to the *Mining Act 1980 (NT)*, now repealed, and did not extend to any successor legislation. This briefing does not rely on this argument, but if the argument were correct, the power to approve uranium mining in the NT would lie exclusively with the Commonwealth.

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confirmed to GAC in writing in 2023 that she will do this.

6. ERA has a long-term care and maintenance agreement with GAC over Jabiluka, under which ERA cannot mine without the consent of the Mirarr, consent which the Mirarr say they will never give. ERA argues this agreement would continue to operate if the lease were extended, however current announcements to the ASX by ERA indicate that ERA may be insolvent by September 2024. There is no reliable source of further funding for ERA as it does not trade; the company is dependent on a potential discretionary decision by shareholders for all future funding. Therefore, there is a high risk that an extended mineral lease will be in the hands of a liquidator during the period of the extension.

As a result, even if Minister King were to advise the NT to extend the lease, ERA is unlikely to continue in operation for the term of the extension and, for this and other reasons, has no credible prospect of being able to mine at Jabiluka during the period of the extended mineral lease.



**PRIME MINISTER**  
The Hon Anthony Albanese MP

16 MAY 2024

Reference: MC24-052232

Ms Yvonne Margarula  
Senior Traditional Owner  
Gundjeihmi Aboriginal Corporation  
PO Box 245  
JABIRU NT 0886

Dear Ms Margarula

Thank you for your letters dated 10 January and 10 April 2024 regarding the expiry of the Jabiluka Mineral Lease.

I acknowledge the environmental significance and deep cultural importance of Jabiluka for the Mirrar people. I appreciate representations made to me in February 2023 outlining your concerns around the renewal of the Jabiluka Mineral Lease and ambition for Jabiluka to be included in Kakadu National Park. I note you met with the Hon Madeleine King MP, Minister for Resources and Minister for the Northern Territory (NT) (Minister King), in March 2024.

I understand Minister King has written with an explanation of the process regarding the lease renewal. Minister King will carefully consider her advice to the NT Government on this matter in good faith, ensuring that the process is conducted robustly and with integrity and noting the views of all parties.

Thank you again for bringing your concerns to my attention. I have provided a copy of this letter to Minister King, the Hon Tanya Plibersek MP, Minister for the Environment and Water and the Hon Linda Burney MP, Minister for Indigenous Australians.

Yours sincerely

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ANTHONY ALBANESE