
**Submission by the Mirrar People, Kakadu, Australia
to United Nations Permanent Forum for Indigenous Issues**

New York, USA 13 – 24 May 2002

In this United Nations International Year of Cultural Heritage 2002, the Mirrar People of the Kakadu (Australia) World Heritage area recommend the following to the United Nations Permanent Forum on Indigenous Issues.

That the Permanent Forum undertake an Independent study of Indigenous Peoples and World Heritage. This study should include:

- 1 an analysis of the effectiveness of the World Heritage Convention in the protection of Indigenous peoples sacred sites and living tradition;
- 2 an analysis of the World Heritage Committee's current review of its Operational Guidelines and the potential impact on Indigenous peoples living in World Heritage areas;
- 3 an analysis of Indigenous peoples representation and input to the World Heritage Committee's decision-making processes;
- 4 the inclusion of case studies from all Indigenous peoples living in World Heritage Areas; and
- 5 include recommendations to ECOSOC regarding the protection of Indigenous Peoples sacred sites and World Heritage areas.

The following study focuses on the impacts of the proposed Jabiluka uranium project on the living tradition of the Mirrar People. Jabiluka is situated in enclave surrounded by the World Heritage listed Kakadu National Park.

Statement by Ms Yvonne Margarula, Senior Traditional Owner of the Mirrar People of Kakadu, World Heritage Area

"The Mirrar People still say no to Jabiluka mine! All the Mirrar are together; we are united against any more uranium mining on Mirrar country.

"No amount of money, no amount of political pressure, no backroom deals, no bribery or blackmail will make us change our mind. We cannot change the law and the law is that we protect our sacred sites.

"Since 1996, the Mirrar have fought against Jabiluka across Australia

and overseas. We have won many friends and our supporters are strong and stand with us. We have traveled a long road. We have been to many meetings in many different places. We will continue to resist more mining on Mirrar country. We have no choice - this is our land and our life, we can never leave, we must protect it."

**JABILUKA URANIUM PROJECT,
KAKADU REGION WORLD HERITAGE AREA, AUSTRALIA**

Location: The Jabiluka uranium deposit is located 250km south east of Darwin in Australia's Northern Territory. Both it and the nearby operating Ranger Uranium Mine are located on the traditional lands of the Mirrar Aboriginal people and within the external boundaries of Australia's largest National Park, the World Heritage, Kakadu National Park, listed for both its Cultural and Natural values.

Name of Mining Company: Energy Resources of Australia (ERA) owns and operates the Ranger Uranium Mine and the Jabiluka deposit, some 22km north of Ranger. London-based mining group Rio Tinto Limited is the majority shareholder in ERA, having acquired 68% of the company in August 2000.

Minerals Mined: Uranium. The Jabiluka deposit contains an estimated 90,000 tonnes of uranium oxide. Construction works on the underground Jabiluka mine commenced in June 1998. Extensive surface works and a 1200 metre underground mine decline have been completed however sustained high profile opposition to the project from the Mirrar traditional Aboriginal owners, the Australian environment movement and the wider community has resulted in the project being stalled since September 1999. In 2001 ERA's nearby Ranger mine produced 4200 tonnes of uranium oxide, around 50% of Australian and 10% of global uranium production.

Mining Process: Underground mining is proposed for Jabiluka. Open cut mining methods are used at Ranger.

Project History and Overview:

In 1971 uranium was first discovered at what was to become the Jabiluka mineral lease. In 1973 Pancontinental mining company discovered the large Jabiluka 2 deposit. In July 1982 a mining agreement was signed between Pancontinental and the Northern Land Council, a federal statutory body charged with representing traditional owner interests. Since 1995 the Mirrar have disputed the validity of the 1982 agreement on the basis that it was entered into under extreme duress and that the Commonwealth and its agencies acted in an unconscionable manner.

The Mirrar maintain that their *informed* consent was absent in relation to the Jabiluka agreement. Despite the fact that such consent was legally required, the Jabiluka agreement was obtained in a climate of duress, misinformation and coercion.

In 1991 ERA purchased the Jabiluka project from Pancontinental for \$A125m. The company subsequently renamed the project "North Ranger" in an attempt to circumvent federal policy that restricted the number of operational uranium mines to three. This approval was not forthcoming and the project remained at a standstill until the election of the conservative pro-nuclear Coalition federal government in March 1996.

A major national and international campaign commenced in 1996 to highlight the threats Jabiluka posed to both Kakadu's environment and the living cultural tradition of the Mirrar people.

In 1997 the Mirrar and environment groups took their struggle to the UNESCO World Heritage Committee, seeking to have Kakadu inscribed on the List of World Heritage Properties In Danger. In December 1998 a high-level UNESCO World Heritage Committee assessment mission visited Kakadu. In

its report the Mission noted, inter alia, that:

“... severe ascertained and potential dangers to the cultural and natural values of Kakadu National Park posed primarily by the proposal for uranium mining and milling at Jabiluka. The mission therefore recommends that the proposal to mine and mill uranium at Jabiluka should not proceed.”

In January 1998 the European Parliament addressed the Jabiluka uranium mine calling, *“on the Australian Government to respect the status of the Kakadu National Park as a World Heritage site... [and] not to proceed with the project”*.

From March to October 1998 over 5,000 people from across Australia and the world blockaded the Jabiluka mine site in support of the Mirrar and in opposition to the mine plan.

In July 1999, the Environment Committee of the Australian Senate delivered its report on the Jabiluka project. It found that the Jabiluka mine threatens the natural and cultural values of Kakadu National Park and recommended: *... that the Jabiluka uranium mine should not proceed because it is irreconcilable with the outstanding natural and cultural values of Kakadu National Park.*

In 1999 the Mirrar’s effort to protect country and culture gained increasing international recognition when they received both the Goldman Environment Prize and the Friends of the Earth International (FoEI) Environment Award. In September 1999 work on the site was stalled following Mirrar refusal to approve ERA’s preferred development option of processing Jabiluka ore at the existing Ranger mill.

In August 2000 Rio Tinto Ltd became the majority shareholder in ERA following its² acquisition of North Ltd. While Rio Tinto has announced that it does not expect to actively develop Jabiluka “in the short term” the company refuses to commit to either developing or selling the deposit.

In 2002 the Jabiluka project has been formally placed on care and maintenance status. Rio Tinto has indicated the project may remain at this standstill for at least a decade. The Mirrar and environment groups believe it unacceptable that such a significant development should remain unresolved and continue to be a cultural and environmental burden for an extended period.

To date, Rio Tinto has not acted on calls from the Mirrar, Australian environment groups or the International Union for the Conservation of Nature (IUCN) to rehabilitate the Jabiluka site.

Environmental Issues:

The Kakadu region is widely recognised as having outstanding conservation values. The region is home to 21 of Australia’s 29 mangrove species, over 900 plant species, one third of Australia’s bird species, 50 native mammals, 100 species of amphibians and reptiles, one quarter of Australia’s freshwater fish and an estimated 10,000 species of insects.

As well as being extremely rich in range, studies have shown that many of the plants and animals found in Kakadu are found nowhere else in the world.

Kakadu’s extensive wetlands are recognised as containing the world’s richest tropical breeding ground for waterbirds. The wetlands are listed in the Ramsar environment agreement. Kakadu’s river systems have

produced large floodplains, swamps, estuaries, mangroves and mudflats. The sandstone escarpment of the Arnhem Land plateau towers over the floodplains and the cumulative effect is awe-inspiring.

The Mirrar community and the Australian environment movement contend that uranium-mining operations are incompatible with the long-term protection of this magnificent region. There have been over 115 documented leaks, spills and operating breaches at ERA's uranium operations in Kakadu. There are growing problems with water management and contaminant control at the site and environmental impacts and contaminant loads are growing.

There are also grave concerns about the severe medium to long term impacts of large volumes of radioactive mine tailings in the region, especially given that these tailings routinely contain around 80% of the radioactivity of the original ore body.

Sacred Sites, Health and Human Rights Issues:

The Mirrar believe that their fundamental rights were denied through inadequate approval and assessment processes and unconscionable conduct on the part of government and mining companies. This reality of marginalisation has contributed to the negative social impacts and cultural erosion experienced by the Mirrar and other Aboriginal people in Kakadu.

Mining and its associated social impacts, including a greater European presence in Kakadu, the mining town of Jabiru and greater availability of alcohol have all taken a heavy toll on the Mirrar community.

The capacity of the Mirrar to take part in cultural life – a fundamental human right – is hindered by the uranium mining activities on their land. In particular:

- Mirrar are prevented from accessing sites of significance;
- Mirrar sacred sites are being desecrated;
- Mirrar are excluded from effective decision-making over the interpretation of what is significant and integral to their living tradition;
- The social impacts of mining have had serious implications for the enjoyment of cultural life and tradition by Mirrar.

The Mirrar are not able to access negotiating processes as a distinct legal entity, their decisions are misrepresented and they are denied natural justice. They have been subjected to government and industry criticism and vilification for their decision to oppose mining. The Mirrar believe that the Australian Government and mining interests have unfairly placed pressure on other Aboriginal people in the region in relation to Mirrar opposition to the development of the Jabiluka mine.

Recommendations for Jabiluka:

1. Rio Tinto to implement active rehabilitation works on the Jabiluka mine site.
2. Rio Tinto to commit to neither develop nor sell the Jabiluka deposit and instead to exit the project and allow the Jabiluka Mineral Lease to be incorporated into the Kakadu National Park World Heritage region under the joint management of the Mirrar people.

3. Rio Tinto to accelerate the phase out of operations at the Ranger mine and implement comprehensive rehabilitation works to the satisfaction of traditional owners.

General recommendations for achieving justice for mine-affected communities:

4. That government and mining industry assessment, approval and review processes include commitment to the principles of ecologically sustainable development and the rights of Indigenous peoples in analysis and implementation. That key assessment processes be separated from industry advocates to avoid such processes being merely project promotion.
5. That informed consent and equity is a requirement of negotiations between mining companies, governments and Indigenous peoples.
6. That mining companies and governments ensure that the perceptions and concerns of Indigenous owners of land affected by mining operations be given equal recognition and weighting as a factor in key operational decisions and any Best Practicable Technology matrix.
7. Mining royalty income must not be used as a substitute for basic service delivery and community infrastructure that governments are usually obliged to provide and would otherwise be expected to provide.
8. That governments establish and use impartial mechanisms, including international instruments, to oversee and facilitate fair and equitable resolutions of Indigenous land and resource claims and the implementation of land agreements.

General recommendations for the United Nations Permanent Forum on Indigenous Issues:

9. That the Permanent Forum undertake an independent study of Indigenous Peoples issues and World Heritage, the study should include:
 - 6 an analysis of the effectiveness of the World Heritage Convention in the protection of Indigenous peoples sacred sites and living tradition;
 - 7 an analysis of the World Heritage Committee's current review of its own Operational Guidelines and the potential impact on Indigenous peoples living in World Heritage areas;
 - 8 an analysis of Indigenous peoples representation and input to the World Heritage Committee's decision-making processes and;
 - 9 the inclusion of case studies from Indigenous peoples living in World Heritage Areas.

Further information and resources:

www.mirrar.net The web site of the Mirrar traditional Aboriginal owners has detailed information on the impacts of uranium mining on culture and country along with extensive documentation on the campaign against Jabiluka. In particular see <http://www.mirrar.net/references.html#international>

www.atsic.gov.au The Aboriginal and Torres Strait Islander Commission submission to the UNESCO World Heritage Committee.

www.acfonline.org.au The Australian Conservation Foundation, Environment Centre of the Northern Territory and Friends of the Earth Australia are all active in the community campaign to halt uranium mining in Kakadu.

www.foe.org.au

www.ecnt.org

Kakadu National Park, showing the Ranger and Jabiluka uranium areas

