

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Energy Resources of Australia Ltd ABN 71 008 550 865**

Applicant

**Minister for Resources and Minister for Northern Australia (Commonwealth) and others**

Respondents

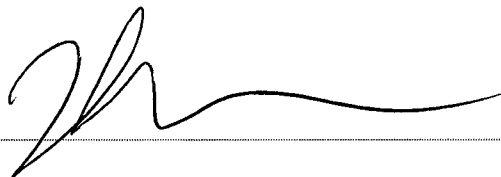
Affidavit of: Leon Chung

Address: 161 Castlereagh Street, Sydney NSW 2000

Occupation: Solicitor

**Certificate identifying Exhibit**

This is the Certificate identifying Exhibit "LC-5" annexed to the Affidavit of Leon Chung dated 30 September 2024



Witness,

Date: 30 September 2024

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Filed on behalf of	Energy Resources of Australia Ltd ABN 71 008 550 865, Applicant	
Prepared by	Leon Chung	
Law firm	Herbert Smith Freehills	
Tel	02 9225 5716	Fax
Email	leon.chung@hsf.com	
<b>Address for service</b>	Level 34	
(include state and postcode)	161 Castlereagh St Sydney NSW 2000	

---

**Zhu, Haiqiu**

---

**From:** Scott, Nicholas  
**Sent:** Monday, 16 September 2024 10:58 AM  
**To:** Ng, Grace; Scott, Madisen; Griffin, Brooke; Nance, Emily  
**Cc:** Chung, Leon; Laird, Kayla; Zhu, Haiqiu  
**Subject:** NSD1056/2024 Energy Resources of Australia Ltd v Minister for Resources and Minister for Northern Australia (Cth) & Ors  
**Attachments:** 240916 Notice to Produce to First Respondent.pdf; 240916 Notice to Produce to Second Respondent.pdf

Dear Colleagues

We **attach**, by way of service, Notices to Produce to each of the First and Second Respondents in the above-listed proceedings.

We will provide sealed copies once available.

Yours sincerely

**Nicholas Scott**  
Senior Associate  
Herbert Smith Freehills

T +61 8 9211 7336 E [Nicholas.Scott@hsf.com](mailto:Nicholas.Scott@hsf.com)  
[www.herbertsmithfreehills.com](http://www.herbertsmithfreehills.com)

Form 61  
Rule 30.28(1)

## Notice to produce

No. NSD 1056 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

### Energy Resources of Australia Ltd ABN 71 008 550 865

Applicant

**Minister for Resources and Minister for Northern Australia (Commonwealth)** and others  
named in the Schedule

Respondents

To the First Respondent

### Definitions

In this Notice to Produce:

- **Communication** includes oral communications and communications in writing (whether electronic or otherwise).
- **Document** has the meaning set out in the Dictionary to the *Evidence Act 1995* (Cth) and includes (for the avoidance of doubt) all correspondence, memoranda, reports, notes, meeting minutes, submissions, computer and smart phone messaging communications (including WhatsApp and Signal) and other records (whether handwritten or electronic).

The Applicant requires you to produce the following documents or things before a Registrar of the Court by 9:30am on 25 September 2024:

1. The original or one copy of all Documents evidencing or recording:
  - (a) draft versions of the Joint Media Release by the Hon Madeleine King MP and the Hon Tanya Plibersek MP titled "Work begins to add Jabiluka site to Kakadu National Park" dated 27 July 2024 (**Joint Media Release**);
  - (b) the date on which draft versions of the Joint Media Release were prepared;

Filed on behalf of (name & role of party)	The Applicant, Energy Resources of Australia ABN 71 008 550 865	
Prepared by (name of person/lawyer)	Leon Chung	
Law firm (if applicable)	Herbert Smith Freehills	
Tel	02 9225 5716	Fax
Email	Leon.chung@hsf.com	
<b>Address for service</b> (include state and postcode)	Level 34, 161 Castlereagh St, Sydney NSW 2000	

- (c) comments on and proposed amendments to the Joint Media Release; and
- (d) Communications to or from the First Respondent, on or before 25 July 2024, in respect of the Joint Media Release.

Date: 16 September 2024



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Signed by Leon Chung  
Solicitor for the Applicant

*Note*

If this notice specifies a date for production, and is served 5 days or more before that date, you must produce the documents or things described in the notice, without the need for a subpoena for production.

If you fail to produce the documents or things, the party serving the notice may lead secondary evidence of the contents or nature of the document or thing and you may be liable to pay any costs incurred because of the failure.

**Schedule**

No. NSD 1056 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Respondents**

**Second Respondent:** Commonwealth of Australia

**Third Respondent:** Minister for Mining and Minister for Agribusiness and Fisheries  
(Northern Territory)

**Fourth Respondent:** Northern Territory

**Fifth Respondent:** Jabiluka Aboriginal Land Trust

**Sixth Respondent:** Northern Land Council

Form 61  
Rule 30.28(1)

## Notice to produce

No. NSD 1056 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

### Energy Resources of Australia Ltd ABN 71 008 550 865

Applicant

**Minister for Resources and Minister for Northern Australia (Commonwealth)** and others  
named in the Schedule

Respondents

To the Second Respondent

### Definitions

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The Applicant requires you to produce the following documents or things before a Registrar of the Court by 9:30am on 25 September 2024:

1. The original or one copy of all Documents evidencing or recording the final version of the text of the speech given by the Hon Anthony Albanese MP at the New South Wales Labor Annual Conference on 27 July 2024 (**Speech**), at which Mr Albanese addressed Jabiluka.
2. The original or one copy of all Documents evidencing or recording:

Filed on behalf of (name & role of party)	The Applicant, Energy Resources of Australia ABN 71 008 550 865	
Prepared by (name of person/lawyer)	Leon Chung	
Law firm (if applicable)	Herbert Smith Freehills	
Tel	02 9225 5716	Fax
Email	Leon.chung@hsf.com	
<b>Address for service</b> (include state and postcode)	Level 34, 161 Castlereagh St, Sydney NSW 2000	

- (a) draft versions of the Speech, but excluding draft versions which do not refer to Jabiluka;
  - (b) the date on which draft versions of the Speech were prepared;
  - (c) comments or proposed amendments to the Speech relating to Jabiluka; and
  - (d) Communications to or from the First Respondent, on or before 25 July 2024, in respect of the Speech.
3. The original or one copy of all Documents evidencing or recording:
- (a) draft versions of the Joint Media Release by the Hon Madeleine King MP and the Hon Tanya Plibersek MP titled "Work begins to add Jabiluka site to Kakadu National Park" dated 27 July 2024 (**Joint Media Release**);
  - (b) the date on which draft versions of the Joint Media Release were prepared;
  - (c) comments on and proposed amendments to the Joint Media Release; and
  - (d) Communications to or from the First Respondent, on or before 25 July 2024, in respect of the Joint Media Release.

Date: 16 September 2024



---

Signed by Leon Chung  
Solicitor for the Applicant

**Note**

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**Schedule**

No. NSD 1056 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Respondents**

**Second Respondent:** Commonwealth of Australia

**Third Respondent:** Minister for Mining and Minister for Agribusiness and Fisheries  
(Northern Territory)

**Fourth Respondent:** Northern Territory

**Fifth Respondent:** Jabiluka Aboriginal Land Trust

**Sixth Respondent:** Northern Land Council



**Zhu, Haiqiu**

---

**From:** Scott, Nicholas  
**Sent:** Monday, 16 September 2024 1:38 PM  
**To:** Ng, Grace; Emily Nance (emily.nance@ags.gov.au); Griffin, Brooke; Scott, Madisen; Julian van Lingen; Jennifer Laurence; Trilby Donald; Dominic Gomez; desley.motlop@nlc.org.au; Melissa Forbes; Anna Falzon; Susan O'Sullivan; Shelley Landmark  
**Cc:** Chung, Leon; Laird, Kayla; Zhu, Haiqiu  
**Subject:** NSD1056/2024 Energy Resources of Australia Ltd v Minister for Resources and Minister for Northern Australia (Cth) & Ors  
**Attachments:** 240916 Sealed Notice to Produce to First Respondent.pdf; 240916 Sealed Notice to Produce to Second Respondent.pdf

Dear Colleagues

We **attach**, by way of service, sealed copies of Notices to Produce addressed to the First and Second Respondents.

Unsealed copies of the notices were served separately on the First and Second Respondents this morning.

Yours sincerely

**Nicholas Scott**  
Senior Associate  
Herbert Smith Freehills

T +61 8 9211 7336 E [Nicholas.Scott@hsf.com](mailto:Nicholas.Scott@hsf.com)  
[www.herbertsmithfreehills.com](http://www.herbertsmithfreehills.com)

**NOTICE OF FILING AND HEARING****Filing and Hearing Details**

Document Lodged: Notice to Produce - Form 61 - Rule 30.28(1)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 16/09/2024 10:28:10 AM AEST  
Date Accepted for Filing: 16/09/2024 12:29:10 PM AEST  
File Number: NSD1056/2024  
File Title: ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v  
MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN  
AUSTRALIA (COMMONWEALTH) &ORS  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: Return of Subpoena  
Time and date for hearing: 25/09/2024, 9:30 AM  
Place: By Web Conference, Level 17, Law Courts Building 184 Phillip Street Queens  
Square, Sydney

Registrar

**Important Information**

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 61  
Rule 30.28(1)

## Notice to produce

No. NSD 1056 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

### Energy Resources of Australia Ltd ABN 71 008 550 865

Applicant

**Minister for Resources and Minister for Northern Australia (Commonwealth)** and others  
named in the Schedule

Respondents

To the First Respondent

### Definitions

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The Applicant requires you to produce the following documents or things before a Registrar of the Court by 9:30am on 25 September 2024:

1. The original or one copy of all Documents evidencing or recording:
  - (a) draft versions of the Joint Media Release by the Hon Madeleine King MP and the Hon Tanya Plibersek MP titled "Work begins to add Jabiluka site to Kakadu National Park" dated 27 July 2024 (**Joint Media Release**);
  - (b) the date on which draft versions of the Joint Media Release were prepared;

Filed on behalf of (name & role of party)	The Applicant, Energy Resources of Australia ABN 71 008 550 865	
Prepared by (name of person/lawyer)	Leon Chung	
Law firm (if applicable)	Herbert Smith Freehills	
Tel	02 9225 5716	Fax
Email	Leon.chung@hsf.com	
<b>Address for service</b> (include state and postcode)	Level 34, 161 Castlereagh St, Sydney NSW 2000	

- (c) comments on and proposed amendments to the Joint Media Release; and
- (d) Communications to or from the First Respondent, on or before 25 July 2024, in respect of the Joint Media Release.

Date: 16 September 2024



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Signed by Leon Chung  
Solicitor for the Applicant

*Note*

If this notice specifies a date for production, and is served 5 days or more before that date, you must produce the documents or things described in the notice, without the need for a subpoena for production.

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**Schedule**

No. NSD 1056 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Respondents**

**Second Respondent:** Commonwealth of Australia

**Third Respondent:** Minister for Mining and Minister for Agribusiness and Fisheries  
(Northern Territory)

**Fourth Respondent:** Northern Territory

**Fifth Respondent:** Jabiluka Aboriginal Land Trust

**Sixth Respondent:** Northern Land Council

**NOTICE OF FILING AND HEARING****Filing and Hearing Details**

Document Lodged: Notice to Produce - Form 61 - Rule 30.28(1)  
Court of Filing: FEDERAL COURT OF AUSTRALIA (FCA)  
Date of Lodgment: 16/09/2024 10:28:10 AM AEST  
Date Accepted for Filing: 16/09/2024 12:29:19 PM AEST  
File Number: NSD1056/2024  
File Title: ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865 v  
MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN  
AUSTRALIA (COMMONWEALTH) &ORS  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA  
Reason for Listing: Return of Subpoena  
Time and date for hearing: 25/09/2024, 9:30 AM  
Place: By Web Conference, Level 17, Law Courts Building 184 Phillip Street Queens  
Square, Sydney

Registrar

**Important Information**

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The date of the filing of the document is determined pursuant to the Court's Rules.

Form 61  
Rule 30.28(1)

## Notice to produce

No. NSD 1056 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

### Energy Resources of Australia Ltd ABN 71 008 550 865

Applicant

**Minister for Resources and Minister for Northern Australia (Commonwealth)** and others  
named in the Schedule

Respondents

To the Second Respondent

### Definitions

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2. The original or one copy of all Documents evidencing or recording:

Filed on behalf of (name & role of party)	The Applicant, Energy Resources of Australia ABN 71 008 550 865	
Prepared by (name of person/lawyer)	Leon Chung	
Law firm (if applicable)	Herbert Smith Freehills	
Tel	02 9225 5716	Fax
Email	Leon.chung@hsf.com	
<b>Address for service</b> (include state and postcode)	Level 34, 161 Castlereagh St, Sydney NSW 2000	

- (a) draft versions of the Speech, but excluding draft versions which do not refer to Jabiluka;
  - (b) the date on which draft versions of the Speech were prepared;
  - (c) comments or proposed amendments to the Speech relating to Jabiluka; and
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  - (c) comments on and proposed amendments to the Joint Media Release; and
  - (d) Communications to or from the First Respondent, on or before 25 July 2024, in respect of the Joint Media Release.

Date: 16 September 2024



---

Signed by Leon Chung  
Solicitor for the Applicant

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**Schedule**

No. NSD 1056 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Respondents**

**Second Respondent:** Commonwealth of Australia

**Third Respondent:** Minister for Mining and Minister for Agribusiness and Fisheries  
(Northern Territory)

**Fourth Respondent:** Northern Territory

**Fifth Respondent:** Jabiluka Aboriginal Land Trust

**Sixth Respondent:** Northern Land Council



Your ref.82783241  
Our ref. 24007108

**Australian Government Solicitor**  
Level 21, Exchange Tower  
2 The Esplanade Perth WA 6000  
GPO Box U1994 Perth WA 6845  
T 08 9268 1199  
www.ags.gov.au

25 September 2024

Leon Chung  
Herbert Smith Freehills  
Level 34  
161 Castlereagh Street  
SYDNEY NSW 2000

Canberra  
Sydney  
Melbourne  
Brisbane  
Perth  
Adelaide  
Hobart  
Darwin

By email: [leon.chung@hsf.com](mailto:leon.chung@hsf.com)

Dear Mr Chung

**Energy Resources of Australia Ltd v Minister for Resources and Minister for Northern Australia & Ors - NSD1056/2024**

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1. We refer to the above matter, and the orders of his Honour Justice Kennett dated 24 September 2024.
2. The First and Second Respondents have this evening filed an interlocutory application seeking orders that the **Notices** to Produce issued by the Applicant to the First and Second Respondent on 16 September 2024 be set aside. A copy of that application, and supporting affidavit, are attached. Sealed copies will be provided on receipt.
3. Following the outcome of today's hearing, the documents sought in the Notices have no apparent relevance to the grounds and particulars in the Originating Application, and they are otherwise burdensome and oppressive given the extent of searches required.
4. We invite the Applicant to consent to orders setting aside the Notices, with costs (if any) to be in the cause. A copy is attached.
5. If the Applicant is not agreeable, in order to efficiently progress the interlocutory application, we enclose a proposed minute of consent orders for your consideration. The orders are for the purposes of:
  - 5.1. dispensing with compliance with r 30.28(3) of the *Federal Court Rules 2011 (Rules)* until further order of the Court
  - 5.2. providing for the parties to exchange short written submissions of no more than 5 pages on the interlocutory application; and
  - 5.3. listing the interlocutory application for hearing on a date not before 2 October 2024 (with the preference being for the application to be heard consecutively with the case management hearing on 2 October 2024).

6. We note that the matter is listed for a Return of Subpoena hearing tomorrow morning at 9:30AM. We ask that the Applicant provide a response by this time.
7. In the event the Applicant does not agree to the proposal in paragraph 4 or 5, or no response is received prior to the listing, the First and Second Respondent will move at this listing for the Registrar to make orders in the terms of the proposed minute of consent orders (noting that the Registrar has the power to do so pursuant to Item 93 of Schedule 2 Part 3.7 of the Rules).

Yours sincerely



**Grace Ng**

Senior Executive Lawyer  
T 02 9581 7320  
M 0417 991 508  
Grace.Ng@ags.gov.au

cc. Melissa Forbes  
Dominic Gomez  
Anna Falzon

**Zhu, Haiqiu**

---

**From:** Scott, Nicholas  
**Sent:** Sunday, 29 September 2024 10:24 AM  
**To:** Grace.Ng@ags.gov.au; Madisen.Scott@ags.gov.au  
**Cc:** Melissa Forbes; Zhu, Haiqiu; Laird, Kayla; DonalT@nlc.org.au; Julian van Lingen; Nance, Emily; Griffin, Brooke; Anna Falzon; Nitschke, Samuel; susan\_osullivan@outlook.com; Taylah Cramp; Shelley Landmark; Dominic Gomez; Chung, Leon  
**Subject:** NSD1065/2024 - ERA v Min Resources & Ors - notice to produce  
**Attachments:** 240916 Notice to Produce to Second Respondent - Proposed Limitations.doc; 240916 Notice to Produce to First Respondent - Proposed Limitations.doc

Dear Colleagues

We refer to the Commonwealth parties' interlocutory application listed before his Honour Justice Kennett on Wednesday, 2 October seeking to set aside the Notices to Produce issued by the Applicant on 16 September 2024 (together, the **Notices to Produce**).

We **enclose** revised versions of the Notices to Produce, which reflect the scope of production our client presently intends to seek at Wednesday's hearing. This includes a number of proposed limitations to the original Notice as to both time and custodians, having regard to the matters set out in Ms Scott's affidavit.

Yours sincerely

**Nicholas Scott**  
Senior Associate  
Herbert Smith Freehills

T +61 8 9211 7336 E [Nicholas.Scott@hsf.com](mailto:Nicholas.Scott@hsf.com)  
[www.herbertsmithfreehills.com](http://www.herbertsmithfreehills.com)

Form 61  
Rule 30.28(1)

## Notice to produce

No. NSD 1056 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

### Energy Resources of Australia Ltd ABN 71 008 550 865

Applicant

**Minister for Resources and Minister for Northern Australia (Commonwealth)** and others  
named in the Schedule

Respondents

To the First Respondent

### Definitions

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The Applicant requires you to produce the following documents or things before a Registrar of the Court by 9:30am on 25 September 2024:

1. ~~The original or one copy~~ One electronic copy (with metadata where recorded) of all Documents created during the period 15 July to 27 July 2024 inclusive, evidencing or recording:
  - (a) each draft versions of the Joint Media Release by the Hon Madeleine King MP and the Hon Tanya Plibersek MP titled "Work begins to add Jabiluka site to Kakadu National Park" dated 27 July 2024 (**Joint Media Release**);

Filed on behalf of (name & role of party)	The Applicant, Energy Resources of Australia ABN 71 008 550 865	
Prepared by (name of person/lawyer)	Leon Chung	
Law firm (if applicable)	Herbert Smith Freehills	
Tel	02 9225 5716	Fax
Email	Leon.chung@hsf.com	
<b>Address for service</b> (include state and postcode)	Level 34, 161 Castlereagh St, Sydney NSW 2000	

~~(b) the date on which draft versions of the Joint Media Release were prepared;~~

~~(e)(b)~~ comments on and proposed amendments to the Joint Media Release; and

~~(d)(c)~~ Communications to or from the First Respondent (including to or from the office of the First Respondent), on or before 25 July 2024, in respect of the Joint Media Release.

2. One electronic copy (with metadata where recorded) of all Documents created during the period 15 July to 27 July inclusive, evidencing or recording Communications to or from the First Respondent (including to or from the office of the First Respondent) during the period 15 July to 25 July inclusive, in respect of the speech given by the Hon Anthony Albanese MP at the New South Wales Labor Annual Conference on 27 July 2024 (Speech). For the avoidance of doubt, Communications includes any draft or final version of the Speech.

Date: [insert] September 2024

.....  
Signed by Leon Chung  
Solicitor for the Applicant

*Note*

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**Schedule**

No. NSD 1056 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Respondents**

**Second Respondent:** Commonwealth of Australia

**Third Respondent:** Minister for Mining and Minister for Agribusiness and Fisheries  
(Northern Territory)

**Fourth Respondent:** Northern Territory

**Fifth Respondent:** Jabiluka Aboriginal Land Trust

**Sixth Respondent:** Northern Land Council

Form 61  
Rule 30.28(1)

## Notice to produce

No. NSD 1056 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

### Energy Resources of Australia Ltd ABN 71 008 550 865

Applicant

**Minister for Resources and Minister for Northern Australia (Commonwealth)** and others  
named in the Schedule

Respondents

To the Second Respondent

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The Applicant requires you to produce the following documents or things before a Registrar of the Court by 9:30am on 25 September 2024:

1. ~~The original or one copy of all Documents evidencing or recording~~One electronic copy (with metadata where recorded) of the final version of the text of the speech to be given by the Hon Anthony Albanese MP at the New South Wales Labor Annual Conference on 27 July 2024 (**Speech**), ~~at which Mr Albanese addressed Jabiluka.~~

Filed on behalf of (name & role of party) The Applicant, Energy Resources of Australia ABN 71 008 550 865

Prepared by (name of person/lawyer) Leon Chung

Law firm (if applicable) Herbert Smith Freehills

Tel 02 9225 5716

Fax

Email Leon.chung@hsf.com

**Address for service** Level 34, 161 Castlereagh St, Sydney NSW 2000  
(include state and postcode)



2. ~~One electronic copy (with metadata where recorded). The original or one copy~~ of all Documents created during the period 15 July to 27 July 2024 inclusive, evidencing or recording:
- (a) each draft versions of the Speech held within the Department of Prime Minister and Cabinet, the Prime Minister's Office and/or the Department of Industry, Science and Resources, but excluding draft versions which do not refer to Jabiluka;
- ~~(b) the date on which draft versions of the Speech were prepared;~~
- ~~(c)~~ (b) comments or proposed amendments to the Speech relating to Jabiluka held within the Department of Prime Minister and Cabinet, the Prime Minister's Office and/or the Department of Industry, Science and Resources; and
- ~~(d)~~ (c) Communications to or from the First Respondent (including to or from the office of the First Respondent), on or before 25 July 2024, in respect of the Speech.
3. ~~The original or one copy~~ One electronic copy (with metadata where recorded) of all Documents created during the period 15 July to 27 July 2024 inclusive evidencing or recording:
- (a) each draft versions of the Joint Media Release by the Hon Madeleine King MP and the Hon Tanya Plibersek MP titled "Work begins to add Jabiluka site to Kakadu National Park" dated 27 July 2024 (**Joint Media Release**) held within the Department of Industry, Science and Resources and/or the Department of Climate Change, Energy, the Environment and Water;
- ~~(b) the date on which draft versions of the Joint Media Release were prepared;~~
- ~~(c)~~ (b) comments on and proposed amendments to the Joint Media Release held within the Department of Industry, Science and Resources and/or the Department of Climate Change, Energy, the Environment and Water; and
- ~~(d)~~ (c) Communications to or from the First Respondent (including to or from the office of the First Respondent), on or before 25 July 2024, in respect of the Joint Media Release.

Date: [insert] September 2024

---

Signed by Leon Chung  
Solicitor for the Applicant

*Note*

If this notice specifies a date for production, and is served 5 days or more before that date, you must produce the documents or things described in the notice, without the need for a subpoena for production.

If you fail to produce the documents or things, the party serving the notice may lead secondary evidence of the contents or nature of the document or thing and you may be liable to pay any costs incurred because of the failure.

**Schedule**

No. NSD 1056 of 2024

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Respondents**

**Second Respondent:** Commonwealth of Australia

**Third Respondent:** Minister for Mining and Minister for Agribusiness and Fisheries  
(Northern Territory)

**Fourth Respondent:** Northern Territory

**Fifth Respondent:** Jabiluka Aboriginal Land Trust

**Sixth Respondent:** Northern Land Council



**Head office**  
Level 8, TIO Centre, 24 Mitchell St, Darwin, NT 0800  
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**Ranger project**  
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[www.energyres.com.au](http://www.energyres.com.au)

3 September 2024

The Honourable Madeleine King  
Minister for Resources and Minister for Northern Australia  
Parliament House  
Canberra ACT 2600

Email: [minister.king@industry.gov.au](mailto:minister.king@industry.gov.au)

Dear Minister King

**Mineral Lease No.1 Jabiluka – Renewal**

We refer to your letter to the Hon Mark Monaghan (the then Northern Territory Minister for Mining) dated 25 July 2024 advising the Minister to refuse ERA's application for the renewal of the Jabiluka Mineral Lease (MLN1) dated 20 March 2024.

ERA requests you provide a written statement of reasons for your decision to advise Minister Monaghan to refuse ERA's application for renewal.

Please confirm by no later than **4pm ACST, Wednesday 4 September** whether you will provide a copy of the reasons and if so, ERA requests that you provide a copy of the reasons as soon as possible and, in any event, by no later than **4pm ACST, Friday 6 September 2024**.

Yours sincerely

Brad Welsh  
**Chief Executive**



Our ref. 24007108

17 September 2024

Leon Chung  
Herbert Smith Freehills  
Level 34  
161 Castlereagh Street  
SYDNEY NSW 2000

**Australian Government Solicitor**  
Level 10, 60 Martin Place Sydney NSW 2000  
GPO Box 2727 Sydney NSW 2001  
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Canberra  
Sydney  
Melbourne  
Brisbane  
Perth  
Adelaide  
Hobart  
Darwin

Cc: Brad Welsh, CEO of Energy Resources Australia

Dear Mr Chung

**Request for Statement of Reasons – Jabiluka Mineral Lease Renewal application**

---

1. We refer to the letter dated 3 September 2024, sent by Mr Brad Welsh to the Hon Madeleine King, the **Minister** for Resources and Minister for Northern Australia.
2. The letter requested a statement of reasons for the Minister's **Advice** to the Hon Mark Monaghan MLA on the Jabiluka Mineral Lease Renewal application. That Advice is currently the subject of Federal Court proceedings under reference NSD1056/2024.
3. Noting the pending legal proceedings, we consider that requests related to the Jabiluka Mineral Lease Renewal Application should be directed to AGS. For this reason, we have addressed this reply to you as solicitors on the record for Energy Resources Australia in those proceedings, and copied Mr Welsh.

**Statement of reasons**

4. Where you have not identified any legal requirement for reasons to be given, and litigation has already been commenced, we are instructed that the Minister will not provide a statement of reasons for the Advice.

**Basis for ERA's originating application**

5. We note that ERA's originating application has been filed as Form 66, which is the form specified for an application under r 31.01 of the *Federal Court Rules 2011* for review under the *Administrative Decisions Judicial Review Act 1977* (Cth). This is apparent from the Court-generated filing page.
6. The application does not otherwise identify the basis or bases upon which it seeks to invoke Federal Court's jurisdiction. We ask that the ERA, through its solicitors, clarify its position, noting that the Minister and Commonwealth do not consider that the Advice is a decision to which the ADJR Act applies.

7. We would be grateful for a response on this question by COB on 18 September 2024.

Yours sincerely



**Grace Ng**  
Senior Executive Lawyer  
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HERBERT  
SMITH  
FREEHILLS

30

Grace Ng  
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**By email:** Grace.Ng@ags.gov.au

18 September 2024  
Matter 2783241  
By Email

Madisen Scott  
Senior Lawyer  
Australian Government Solicitor  
Level 21, Exchange Tower  
2 The Esplanade  
Perth WA 6000  
**By email:** Madisen.Scott@ags.gov.au

Dear Colleagues

**NSD1056/2024 Energy Resources of Australia Ltd v Minister for  
Resources and Minister for Northern Australia (Cth) & Ors**

We refer to your letter of 17 September 2024.

We note the Minister's refusal to provide a statement of reasons.

In respect of the question you have asked, our client has set out its position on the source of the power to make the Advice Decision in its written submissions on interlocutory issues filed to date. The sources of power were the executive power given by ss 61 and 64 of the Constitution or, alternatively, s 35 of the *Atomic Energy Act 1953* (Cth) read with s 187 of the *Mineral Titles Act 2010* (NT).

Please promptly confirm what the First and Second Respondents say was the source of the power of the Minister to make the Advice Decision and give the Advice.

Yours sincerely

**Leon Chung**  
Partner  
Herbert Smith Freehills

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19 September 2024  
Matter 82783241  
By Email

**Copy to:**

Melissa Forbes  
Director, Legal Services  
Department of Industry, Tourism and Trade  
5th Floor, Centrepont Building, 48-50 Smith Street  
Darwin NT 0801  
Melissa.Forbes@nt.gov.au

Dominic Gomez  
Principal Legal Officer  
Northern Land Council  
45 Mitchell Street  
Darwin NT 0801  
GomezD@nlc.org.au

Anna Falzon  
Falzon Legal  
5 Gregory Place  
Jabiru NT 0886  
anna@annafalzonlegal.com.au

Dear Ms Ng

**NSD1056/2024 – Energy Resources of Australia Ltd v Minister for Resources and Minister for Northern Australia & Ors**

We refer to:

- (a) the Notices to Admit served on the First Respondent and the Second Respondent on 5 September 2024 (together, **Notices**); and
- (b) your letter of 17 September 2024.

Although the Applicant does not agree with the contentions set out in your letter, in the interests of seeking to prosecute the matter as efficiently as possible, the Applicant withdraws, on a without admissions basis, the following paragraphs (or parts of paragraphs) of the Notices:

- paragraphs 4;
- the words “adverse to the interests of the Applicant” in the chapeau to paragraph 5;
- paragraph 7;

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- paragraph 8;
- sub-paragraphs (c)-(k) of paragraph 13;
- paragraph 14; and
- paragraphs 16-22.

We **enclose** marked up versions of the Notices reflecting those withdrawals (**Revised Notices**).

As the revisions to the Notices is only to withdraw matters without any amendment to the balance, the Applicant expects that any notice of dispute under r 22.02 of the *Federal Court Rules 2011* (Cth) (**FCR**) will be served by 19 September 2024, being 14 days after service of the Notices, and that any paragraph in the Revised Notices which is not the subject of a notice of dispute served by 19 September 2024 will be taken to be admitted in accordance with FCR r 22.04.

Yours sincerely

**Leon Chung**  
Partner  
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Herbert Smith Freehills LLP and its subsidiaries and Herbert Smith Freehills, an Australian Partnership ABN 98 773 882 646, are separate member firms of the international legal practice known as Herbert Smith Freehills.

**Notice to admit**

No. NSD 1056 of 2024

Federal Court of Australia  
 District Registry: New South Wales  
 Division: General

**Energy Resources of Australia Ltd ABN 71 008 550 865**

Applicant

**Minister for Resources and Minister for Northern Australia (Commonwealth)** and others  
 named in the Schedule

Respondents

To the First Respondent

The Applicant requires you to admit, for the purpose of the proceeding only, the truth of the following facts:

**Procedure in respect of the Advice Decision**

1. Prior to making the Advice Decision, the First Respondent received at least the following documents in respect of the possible renewal of Jabiluka MLN1:
  - (a) A letter from the GAC to the First Respondent dated 24 February 2023.
  - (b) A letter from Ms Thalia van den Boogaard (CEO of the GAC) on behalf of Ms Margarula to the Hon Eva Lawler, Chief Minister of the Northern Territory (**NT Chief Minister**) dated 14 March 2024 which was copied to the First Respondent, the Third Respondent and Matthew Ryan (Chairperson of the Sixth Respondent) and was included in the Departmental Brief as 'Attachment C'.
  - (c) A letter from Ms van den Boogaard on behalf of the GAC to the NT Chief Minister dated 9 April 2024 which was copied to the Prime Minister, Anthony Albanese MP (**Prime Minister**) the First Respondent, the Third Respondent and the Commonwealth Minister for the Environment and Water, the Hon Tanya Plibersek

Filed on behalf of	Energy Resources of Australia Ltd ABN 71 008 550 865, Applicant	
Prepared by	Leon Chung	
Law firm	Herbert Smith Freehills	
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	Level 34	
<b>Address for service</b>	161 Castlereagh St	
(include state and postcode)	Sydney NSW 2000	

Filed on behalf of

Energy Resources of Australia Ltd ABN  
 71 008 550 865, Applicant

MP (**Minister Plibersek**) and was included in the Departmental Brief as 'Attachment C'.

- (d) A letter from the Sixth Respondent to the Director Mineral Titles of the Northern Territory Department of Industry Tourism and Trade dated 8 May 2024 which was included in the Departmental Brief as 'Attachment C'.
  - (e) A letter from Ms Margarula on behalf of the GAC to the First Respondent and the Third Respondent dated 9 July 2024 which was included in the Departmental Brief as 'Attachment C'.
  - (f) A letter from the Hon Peter Garrett AM and Professor Don Henry AM to the First Respondent and Third Respondent dated 17 July 2024 which was copied to the Prime Minister and the Hon Linda Burney, the then Minister for Indigenous Australians (**Minister Burney**).
  - (g) An advice from Marie Illman (Deputy Chief of Staff to the First Respondent) and Ben Latham (Parliamentary Advisor to the First Respondent) dated 24 July 2024.
  - (h) Three emails from "members of the public".
  - (i) The Departmental Brief which included the following attachments.
    - (i) A letter from the Third Respondent to the First Respondent dated 23 July 2024 requesting the First Respondent's advice;
    - (ii) the Application;
    - (iii) the letter from the Sixth Respondent dated 8 May 2024 referred to at (d) above;
    - (iv) the letters from the GAC dated 14 March, 9 April and 9 July 2024 referred to at (b), (c) and (e) above;
    - (v) a document entitled 'Attachment D' described as "Context and key policy considerations";
    - (vi) a series of three draft letters on the First Respondent's letterhead, each of which reflected a different "option" in response to the Third Respondent's request for advice;
    - (vii) a document entitled 'Attachment H' described as "Legal considerations"; and
    - (viii) an advice from the Australian Government Solicitor dated 23 July 2024.
2. Prior to making the Advice Decision, the First Respondent received at least the following information or representations in respect of the possible renewal of Jabiluka MLN1:

- (a) A representation from the Sixth Respondent that ERA did not have the financial capacity to mine in the Area;
- (b) A representation from the GAC that ERA did not have the financial capacity to mine in the Area;
- (c) A representation from the Sixth Respondent that ERA was not a “fit and proper person” to hold a mineral lease;
- (d) A representation from the Sixth Respondent that ERA had not complied with the terms of Jabiluka MLN1 and other related legislation and mining authorisations;
- (e) A representation from the GAC that ERA had not complied with the terms of Jabiluka MLN1 and its related mining authorisation;
- (f) A representation from the Sixth Respondent that the Area was demonstrably unsuitable for mining due to its proximity to Kakadu National Park;
- (g) A representation from the Commonwealth Department of Industry, Science and Resources that renewal of Jabiluka MLN1 would impact on the regulatory framework and future rehabilitation of the Ranger site;
- (h) A representation from the Commonwealth Department of Industry, Science and Resources that ERA’s prospects of mining Jabiluka were “limited”;
- (i) A representation from the Commonwealth Department of Industry, Science and Resources that mining in the Area could be expected to have environmental impacts;
- (j) A representation from the Commonwealth Department of Industry, Science and Resources that renewal of Jabiluka MLN1 may negatively impact on ERA’s ability to raise capital to continue the rehabilitation of the Ranger site;
- (k) A representation from the Commonwealth Department of Industry, Science and Resources that refusal to renew Jabiluka MLN1 may impact upon ERA’s ability to rehabilitate the Area;
- (l) A representation from the Mirarr Traditional Owners that Jabiluka should be incorporated into Kakadu National Park;
- (m) A representation from Minister Plibersek that Jabiluka MLN1 should not be renewed in order to allow the Area to be incorporated into Kakadu National Park; and
- (n) A representation from Minister Burney that Jabiluka MLN1 should not be renewed in order to allow the Area to be incorporated into Kakadu National Park; and

- (o) A representation from Senator Malarndirri McCarthy (**Senator McCarthy**) that Jabiluka MLN1 should not be renewed in order to allow the Area to be incorporated into Kakadu National Park;
  - (p) A representation from Luke Gosling MP that Jabiluka MLN1 should not be renewed in order to allow the Area to be incorporated into Kakadu National Park; and
  - (q) A representation from Marie Illman and/or Ben Latham to the First Respondent that it was doubtful that Rio Tinto would fund ERA's challenge to an adverse decision.
3. Prior to making the Advice Decision, the First Respondent spoke orally about the possible renewal of Jabiluka MLN1 with at least:
- (a) Ms Margarula, from at least December 2022;
  - (b) The Prime Minister on at least 13 February 2023;
  - (c) Minister Plibersek on at least 13 February 2023;
  - (d) the Hon Peter Garrett AM on at least 13 February 2023;
  - (e) the GAC on at least 13 February 2023;
  - (f) a representative or representatives of her office in respect of "communications opportunities";
  - (g) the Mirarr Traditional Owners on at least 20 March 2024; and
  - (h) the Third Respondent on at least 18 April 2024, 11 June 2024, 25 July 2024 and 26 July 2024.
- ~~4. Prior to making the Advice Decision, a member of staff or other representative of the First Respondent spoke orally about the possible renewal of Jabiluka MLN1 with at least:~~
- ~~(a) a member of staff or other representative of the Prime Minister;~~
  - ~~(b) a member of staff or other representative of Minister Plibersek;~~
  - ~~(c) a member of staff or other representative of Minister Burney;~~
  - ~~(d) a member of staff or other representative of Senator McCarthy;~~
  - ~~(e) a member of staff or other representative of Luke Gosling MP;~~
  - ~~(f) a member of staff or other representative of the Third Respondent;~~
  - ~~(g) the Commonwealth Office of the Supervising Scientist, the NT Department of Industry, Tourism and Trade and the Northern Territory Department of Environment, Parks and Water Security through the meetings of the "Ranger Intergovernmental Taskforce on Closure" from February 2024 onwards;~~

~~(h) a member or members of the Mirarr Traditional Owners; and~~

~~(i) the GAC.~~

5. Prior to making the Advice Decision, the First Respondent received representations, ~~adverse to the interests of the Applicant,~~ in respect of the possible renewal of Jabiluka MLN1 from or on behalf of:
  - (a) the Prime Minister;
  - (b) Minister Plibersek;
  - (c) Minister Burney;
  - (d) Senator McCarthy;
  - (e) Luke Gosling MP;
  - (f) Ms Margarula and other members of the Mirarr Traditional Owners;
  - (g) the Hon Peter Garrett AM;
  - (h) the GAC;
  - (i) the Sixth Respondent;
  - (j) the Commonwealth Department of Industry, Science and Resources; and
  - (k) unknown members of the public who sent emails to the Office of the First Respondent.
6. Prior to making the Advice Decision, the First Respondent did not disclose to the Applicant the following documents:
  - (a) the letter from the GAC to the First Respondent dated 24 February 2023, referred to at 1(a) above;
  - (b) the letter from the GAC to the First Respondent dated 14 March 2024, referred to at 1(b) above;
  - (c) the letter from the GAC to the First Respondent dated 9 April 2024, referred to at 1(c) above;
  - (d) the letter from the Sixth Respondent dated 8 May 2024, referred to at 1(d) above;
  - (e) the letter from the GAC to the First Respondent dated 9 July 2024, referred to at 1(e) above;
  - (f) the letter from Hon Peter Garrett AM and Professor Don Henry AM to the First Respondent and Third Respondent dated 17 July 2024, referred to at 1(f) above;
  - (g) the advice to the First Respondent dated 24 July 2024, referred to at 1(g) above,

- (h) the covering note to the Departmental Brief;
- (i) Attachment D to the Departmental Brief referred to at 1(i)(v) above;
- (j) Attachment H to the Departmental Brief referred to at 1(i)(vii) above;
- (k) the advice from the Australian Government Solicitor dated 23 July 2024 referred to at 1(i)(viii) above;
- (l) the emails from unknown “members of the public” of unknown date referred to at 1(h) above.

~~7. Prior to making the Advice Decision, the First Respondent did not disclose to the Applicant the following information:~~

- ~~(a) the representations made by Ms Margarula in December 2022 in respect of the renewal of Jabiluka MLN1;~~
- ~~(b) the representations made by Ms Margarula and/or the GAC at the meeting with the First Respondent, the Prime Minister, the Hon Peter Garrett AM and Minister Plibersek on 13 February 2023 in respect of the renewal of Jabiluka MLN1;~~
- ~~(c) the representations made by the Prime Minister at the meeting on 13 February 2023 in respect of the renewal of Jabiluka MLN1;~~
- ~~(d) the representations made by the Hon Peter Garrett AM at the meeting on 13 February 2023 in respect of the renewal of Jabiluka MLN1;~~
- ~~(e) the representations made by Minister Plibersek at the meeting on 13 February 2023 in respect of the renewal of Jabiluka MLN1;~~
- ~~(f) the representations made by the Mirarr Traditional Owners to the First Respondent on 20 March 2024 in respect of the renewal of Jabiluka MLN1;~~
- ~~(g) the representations made by the Third Respondent to the First Respondent on 18 April 2024 in respect of the renewal of Jabiluka MLN1;~~
- ~~(h) the representations made by the Third Respondent to the First Respondent on 11 June 2024 in respect of the renewal of Jabiluka MLN1;~~
- ~~(i) the representations made by the Third Respondent to the First Respondent on 25 July 2024 in respect of the renewal of Jabiluka MLN1;~~
- ~~(j) the representations made by the Third Respondent to the First Respondent on 26 July 2024 in respect of the renewal of Jabiluka MLN1;~~
- ~~(k) the representations made by Minister King’s Office or Department in respect of the renewal of Jabiluka MLN1 prior to the Advice Decision; and~~

- ~~(l) the representations made by the Commonwealth Office of the Supervising Scientist, the NT Department of Industry, Tourism and Trade and the Northern Territory Department of Environment, Parks and Water Security to the First Respondent's Commonwealth Department of Industry, Science and Resources Department at the meetings of the "Ranger Intergovernmental Taskforce on Closure".~~
8. ~~Prior to making the Advice Decision, the First Respondent did not disclose to the Applicant that the following were issues that had arisen in the course of considering what (if any) advice to give in respect of the possible renewal of Jabiluka MLN1:~~
- ~~(a) that ERA did not have the financial capacity to mine in the Area;~~
  - ~~(b) that ERA was not a "fit and proper person" to hold a mineral lease;~~
  - ~~(c) that ERA had not complied with the terms of Jabiluka MLN1 and other related legislation and mining authorisations;~~
  - ~~(d) that the Area was demonstrably unsuitable for mining due to its proximity to Kakadu National Park;~~
  - ~~(e) that renewal of Jabiluka MLN1 would impact on the regulatory framework and future rehabilitation of the Ranger site;~~
  - ~~(f) that ERA's prospects of mining Jabiluka were "limited";~~
  - ~~(g) that mining in the Area could be expected to have environmental impacts;~~
  - ~~(h) that renewal of Jabiluka MLN1 may negatively impact on ERA's ability to raise capital to continue the rehabilitation of the Ranger site;~~
  - ~~(i) that refusal to renew Jabiluka MLN1 may impact upon ERA's ability to rehabilitate the Area;~~
  - ~~(j) that the Area should be incorporated into Kakadu National Park;~~
  - ~~(k) that Jabiluka MLN1 should not be renewed in order to allow the Area to be incorporated into Kakadu National Park; and~~
  - ~~(l) that it was doubtful that Rio Tinto would fund ERA's challenge to an adverse decision.~~
9. On or around 28 June 2024, the First Respondent represented to the Applicant that no decision would be made on the Application prior to September 2024.
10. The representation referred to in paragraph 9 was not corrected at any time between 28 June 2024 and the time of the making of the Advice Decision.
11. On or around 28 June 2024, the First Respondent represented to the Applicant that the Applicant would be afforded an opportunity to make submissions to the First Respondent



in respect of the possible renewal of Jabiluka MLN1, further to those made orally on 7 February and 28 June 2024 and those made in writing on 20 March 2024.

12. The representation referred to in paragraph 11 was not corrected at any time between 28 June 2024 and the date of the Advice Decision.
13. When making the Advice Decision, the First Respondent had regard to at least the following matters:
  - (a) the submissions of the Sixth Respondent, marked as both 'Attachment B' and 'Attachment C' of the Departmental Brief;
  - (b) the submissions of Ms Margarula and the GAC representing the Mirarr Traditional Owners, in letters marked as 'Attachment C' of the Departmental Brief;
  - ~~(c) the desire to include the Area in Kakadu National Park;~~
  - ~~(d) the desire to ensure the Renewal Decision was made prior to the Northern Territory election;~~
  - ~~(e) the desire to allow the Prime Minister to deliver a speech to the NSW State Labor Conference on 27 July 2024, announcing that there would never be mining at Jabiluka;~~
  - ~~(f) the views of the Prime Minister in respect of the Advice Decision;~~
  - ~~(g) the views of Minister Plibersek in respect of the Advice Decision;~~
  - ~~(h) the views of Minister Burney in respect of the Advice Decision;~~
  - ~~(i) the views of Senator McCarthy in respect of the Advice Decision;~~
  - ~~(j) the views of Luke Gosling MP in respect of the Advice Decision;~~
  - ~~(k) the views of the Hon Peter Garrett AM and Professor Don Henry AM in respect of the Advice Decision; and~~
  - (l) the submissions of the Commonwealth Department of Industry, Science and Resources in respect of the Advice Decision.
- ~~14. When making the Advice Decision, the First Respondent held the following views:~~
  - ~~(a) the effect of the Advice Decision was that there would never be mining in the Area;~~
  - ~~(b) the effect of the Advice Decision was that the Area would be protected from mining forever;~~
  - ~~(c) the effect of the Advice Decision was that the Area was allowed to be added to Kakadu National Park; and~~

~~(d) the effect of the Advice Decision was that the Third Respondent was enabled to decline to extend Jabiluka MLN1, when it would not otherwise have been enabled to do so.~~

15. On 27 July 2024, during the NSW State Labor Conference, the Prime Minister gave a speech which included the following words:

*“Over the past 18 months, Linda, Tanya Plibersek and myself have met with leaders and representatives of the Mirarr people, the traditional owners of the Jabiluka site in Kakadu. Madeleine King, our Resources Minister, has joined us.*

*They were seeking a guarantee that there would never be uranium mining on their land.*

*....*

*Today, I am proud to announce that our Government will be working with the traditional owners to make Jabiluka part of Kakadu National Park, once and for all.*

*This means there will never be mining at Jabiluka.*

*The Mirarr people have loved and cared for their land for more than 60,000 years.*

*Our Government will work with them to keep it safe for all time.”*

### **Renewal Decision**

~~16. — In making the Renewal Decision, the Third Respondent proceeded on the basis that the Advice Decision was valid.~~

~~17. — In making the Renewal Decision, the Third Respondent proceeded on the basis that the advice given by the First Respondent on 25 July 2024 was “advice” within the meaning of section 187(1) of the *Mineral Titles Act 2010* (NT).~~

~~18. — In making the Renewal Decision, the Third Respondent proceeded on the basis that he was obliged to exercise powers in accordance with, and give effect to, the advice given by the First Respondent on 25 July 2024.~~

### **Compliance**

~~19. — At the time of the Advice Decision, the Applicant had complied with the *Mining Act 1980* (NT), the *Mineral Titles Act 2010* (NT) and the conditions of Jabiluka MLN1 at all times during the life of Jabiluka MLN1.~~

~~20. — At the time of the Renewal Decision, the Applicant had complied with the *Mining Act 1980* (NT), the *Mineral Titles Act 2010* (NT) and the conditions of Jabiluka MLN1 at all times during the life of Jabiluka MLN1.~~

~~21. At the time of the Advice Decision, the First Respondent was satisfied that the Applicant had, at all times during the life of Jabiluka MLN1, complied with the Mineral Titles Act 2010 (NT) and the terms of Jabiluka MLN1.~~

~~22. At the time of the Renewal Decision, the Third Respondent was satisfied that the Applicant had, at all times during the life of Jabiluka MLN1, complied with the Mining Act 1980 (NT), the Mineral Titles Act 2010 (NT) and the terms of Jabiluka MLN1.~~

## Definitions

**Advice Decision** means the decision and/or conduct of the First Respondent and/or Second Respondent to provide advice on 25 July 2024 to the Third Respondent that the Application be refused.

**Application** means the Applicant's application for renewal of Jabiluka Mineral Lease 1 dated 20 March 2024 including the supporting letter from the Applicant.

**Area** means the Jabiluka Mine Area in respect of which Jabiluka MLN1 is granted.

**Departmental Brief** means the brief of materials provided to the First Respondent by the Commonwealth Department of Industry, Science and Resources in respect of the Advice Decision on 25 July 2024.

**GAC** means the Gundjeihmi Aboriginal Corporation.

**Jabiluka MLN1** means Jabiluka Mineral Lease 1 granted on 12 August 1982.

~~LTCMA means the Jabiluka Long Term Care and Maintenance Agreement dated 25 February 2005 between the Applicant, the Sixth Respondent and the Mirarr Traditional Aboriginal Owners.~~

~~Renewal Decision means the decision of the Third Respondent dated 26 July 2024 that the Application be refused.~~

**If you do not serve a notice of dispute on the Applicant within 14 days, you will be taken to have admitted the truth of each fact or the authenticity of each document specified.**

Date: 5 September 2024



---

Signed by Leon Chung  
Lawyer for the Applicant

**Schedule**

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Respondents**

- Second Respondent:** Commonwealth of Australia
- Third Respondent:** Minister for Mining and Minister for Agribusiness and Fisheries  
(Northern Territory)
- Fourth Respondent:** Northern Territory
- Fifth Respondent:** Jabiluka Aboriginal Land Trust
- Sixth Respondent:** Northern Land Council
- Seventh Respondent:** Yvonne Margarula

**Notice to admit**

No. NSD 1056 of 2024

Federal Court of Australia  
 District Registry: New South Wales  
 Division: General

**Energy Resources of Australia Ltd ABN 71 008 550 865**

Applicant

**Minister for Resources and Minister for Northern Australia (Commonwealth)** and others  
 named in the Schedule

Respondents

To the Second Respondent

The Applicant requires you to admit, for the purpose of the proceeding only, the truth of the following facts:

**Procedure in respect of the Advice Decision**

1. Prior to making the Advice Decision, the First Respondent received at least the following documents in respect of the possible renewal of Jabiluka MLN1:
  - (a) A letter from the GAC to the First Respondent dated 24 February 2023.
  - (b) A letter from Ms Thalia van den Boogaard (CEO of the GAC) on behalf of Ms Margarula to the Hon Eva Lawler, Chief Minister of the Northern Territory (**NT Chief Minister**) dated 14 March 2024 which was copied to the First Respondent, the Third Respondent and Matthew Ryan (Chairperson of the Sixth Respondent) and was included in the Departmental Brief as 'Attachment C'.
  - (c) A letter from Ms van den Boogaard on behalf of the GAC to the NT Chief Minister dated 9 April 2024 which was copied to the Prime Minister, Anthony Albanese MP (**Prime Minister**) the First Respondent, the Third Respondent and the Commonwealth Minister for the Environment and Water, the Hon Tanya Plibersek

Filed on behalf of	Energy Resources of Australia Ltd ABN 71 008 550 865, Applicant		
Prepared by	Leon Chung		
Law firm	Herbert Smith Freehills		
Tel	02 9225 5716	Tel	02 9225 5716
Email	leon.chung@hsf.com		
	Level 34		
<b>Address for service</b>	161 Castlereagh St		
(include state and postcode)	Sydney NSW 2000		

Filed on behalf of

Energy Resources of Australia Ltd ABN  
 71 008 550 865, Applicant

MP (**Minister Plibersek**) and was included in the Departmental Brief as 'Attachment C'.

- (d) A letter from the Sixth Respondent to the Director Mineral Titles of the Northern Territory Department of Industry Tourism and Trade dated 8 May 2024 which was included in the Departmental Brief as 'Attachment C'.
  - (e) A letter from Ms Margarula on behalf of the GAC to the First Respondent and the Third Respondent dated 9 July 2024 which was included in the Departmental Brief as 'Attachment C'.
  - (f) A letter from the Hon Peter Garrett AM and Professor Don Henry AM to the First Respondent and Third Respondent dated 17 July 2024 which was copied to the Prime Minister and the Hon Linda Burney, the then Minister for Indigenous Australians (**Minister Burney**).
  - (g) An advice from Marie Illman (Deputy Chief of Staff to the First Respondent) and Ben Latham (Parliamentary Advisor to the First Respondent) dated 24 July 2024.
  - (h) Three emails from "members of the public".
  - (i) The Departmental Brief which included the following attachments.
    - (i) A letter from the Third Respondent to the First Respondent dated 23 July 2024 requesting the First Respondent's advice;
    - (ii) the Application;
    - (iii) the letter from the Sixth Respondent dated 8 May 2024 referred to at (d) above;
    - (iv) the letters from the GAC dated 14 March, 9 April and 9 July 2024 referred to at (b), (c) and (e) above;
    - (v) a document entitled 'Attachment D' described as "Context and key policy considerations";
    - (vi) a series of three draft letters on the First Respondent's letterhead, each of which reflected a different "option" in response to the Third Respondent's request for advice;
    - (vii) a document entitled 'Attachment H' described as "Legal considerations"; and
    - (viii) an advice from the Australian Government Solicitor dated 23 July 2024.
2. Prior to making the Advice Decision, the First Respondent received at least the following information or representations in respect of the possible renewal of Jabiluka MLN1:

- (a) A representation from the Sixth Respondent that ERA did not have the financial capacity to mine in the Area;
- (b) A representation from the GAC that ERA did not have the financial capacity to mine in the Area;
- (c) A representation from the Sixth Respondent that ERA was not a “fit and proper person” to hold a mineral lease;
- (d) A representation from the Sixth Respondent that ERA had not complied with the terms of Jabiluka MLN1 and other related legislation and mining authorisations;
- (e) A representation from the GAC that ERA had not complied with the terms of Jabiluka MLN1 and its related mining authorisation;
- (f) A representation from the Sixth Respondent that the Area was demonstrably unsuitable for mining due to its proximity to Kakadu National Park;
- (g) A representation from the Commonwealth Department of Industry, Science and Resources that renewal of Jabiluka MLN1 would impact on the regulatory framework and future rehabilitation of the Ranger site;
- (h) A representation from the Commonwealth Department of Industry, Science and Resources that ERA’s prospects of mining Jabiluka were “limited”;
- (i) A representation from the Commonwealth Department of Industry, Science and Resources that mining in the Area could be expected to have environmental impacts;
- (j) A representation from the Commonwealth Department of Industry, Science and Resources that renewal of Jabiluka MLN1 may negatively impact on ERA’s ability to raise capital to continue the rehabilitation of the Ranger site;
- (k) A representation from the Commonwealth Department of Industry, Science and Resources that refusal to renew Jabiluka MLN1 may impact upon ERA’s ability to rehabilitate the Area;
- (l) A representation from the Mirarr Traditional Owners that Jabiluka should be incorporated into Kakadu National Park;
- (m) A representation from Minister Plibersek that Jabiluka MLN1 should not be renewed in order to allow the Area to be incorporated into Kakadu National Park; and
- (n) A representation from Minister Burney that Jabiluka MLN1 should not be renewed in order to allow the Area to be incorporated into Kakadu National Park; and

- (o) A representation from Senator Malarndirri McCarthy (**Senator McCarthy**) that Jabiluka MLN1 should not be renewed in order to allow the Area to be incorporated into Kakadu National Park;
  - (p) A representation from Luke Gosling MP that Jabiluka MLN1 should not be renewed in order to allow the Area to be incorporated into Kakadu National Park; and
  - (q) A representation from Marie Illman and/or Ben Latham to the First Respondent that it was doubtful that Rio Tinto would fund ERA's challenge to an adverse decision.
3. Prior to making the Advice Decision, the First Respondent spoke orally about the possible renewal of Jabiluka MLN1 with at least:
- (a) Ms Margarula, from at least December 2022;
  - (b) The Prime Minister on at least 13 February 2023;
  - (c) Minister Plibersek on at least 13 February 2023;
  - (d) the Hon Peter Garrett AM on at least 13 February 2023;
  - (e) the GAC on at least 13 February 2023;
  - (f) a representative or representatives of her office in respect of "communications opportunities";
  - (g) the Mirarr Traditional Owners on at least 20 March 2024; and
  - (h) the Third Respondent on at least 18 April 2024, 11 June 2024, 25 July 2024 and 26 July 2024.
- ~~4. Prior to making the Advice Decision, a member of staff or other representative of the First Respondent spoke orally about the possible renewal of Jabiluka MLN1 with at least:~~
- ~~(a) a member of staff or other representative of the Prime Minister;~~
  - ~~(b) a member of staff or other representative of Minister Plibersek;~~
  - ~~(c) a member of staff or other representative of Minister Burney;~~
  - ~~(d) a member of staff or other representative of Senator McCarthy;~~
  - ~~(e) a member of staff or other representative of Luke Gosling MP;~~
  - ~~(f) a member of staff or other representative of the Third Respondent;~~
  - ~~(g) the Commonwealth Office of the Supervising Scientist, the NT Department of Industry, Tourism and Trade and the Northern Territory Department of Environment, Parks and Water Security through the meetings of the "Ranger Intergovernmental Taskforce on Closure" from February 2024 onwards;~~



~~(h) a member or members of the Mirarr Traditional Owners; and~~

~~(i) the GAC.~~

5. Prior to making the Advice Decision, the First Respondent received representations, ~~adverse to the interests of the Applicant~~, in respect of the possible renewal of Jabiluka MLN1 from or on behalf of:
  - (a) the Prime Minister;
  - (b) Minister Plibersek;
  - (c) Minister Burney;
  - (d) Senator McCarthy;
  - (e) Luke Gosling MP;
  - (f) Ms Margarula and other members of the Mirarr Traditional Owners;
  - (g) the Hon Peter Garrett AM;
  - (h) the GAC;
  - (i) the Sixth Respondent;
  - (j) the Commonwealth Department of Industry, Science and Resources; and
  - (k) unknown members of the public who sent emails to the Office of the First Respondent.
  
6. Prior to making the Advice Decision, the First Respondent did not disclose to the Applicant the following documents:
  - (a) the letter from the GAC to the First Respondent dated 24 February 2023, referred to at 1(a) above;
  - (b) the letter from the GAC to the First Respondent dated 14 March 2024, referred to at 1(b) above;
  - (c) the letter from the GAC to the First Respondent dated 9 April 2024, referred to at 1(c) above;
  - (d) the letter from the Sixth Respondent dated 8 May 2024, referred to at 1(d) above;
  - (e) the letter from the GAC to the First Respondent dated 9 July 2024, referred to at 1(e) above;
  - (f) the letter from Hon Peter Garrett AM and Professor Don Henry AM to the First Respondent and Third Respondent dated 17 July 2024, referred to at 1(f) above;
  - (g) the advice to the First Respondent dated 24 July 2024, referred to at 1(g) above,

- (h) the covering note to the Departmental Brief;
- (i) Attachment D to the Departmental Brief referred to at 1(i)(v) above;
- (j) Attachment H to the Departmental Brief referred to at 1(i)(vii) above;
- (k) the advice from the Australian Government Solicitor dated 23 July 2024 referred to at 1(i)(viii) above;
- (l) the emails from unknown “members of the public” of unknown date referred to at 1(h) above.

~~7. Prior to making the Advice Decision, the First Respondent did not disclose to the Applicant the following information:~~

- ~~(a) the representations made by Ms Margarula in December 2022 in respect of the renewal of Jabiluka MLN1;~~
- ~~(b) the representations made by Ms Margarula and/or the GAC at the meeting with the First Respondent, the Prime Minister, the Hon Peter Garrett AM and Minister Plibersek on 13 February 2023 in respect of the renewal of Jabiluka MLN1;~~
- ~~(c) the representations made by the Prime Minister at the meeting on 13 February 2023 in respect of the renewal of Jabiluka MLN1;~~
- ~~(d) the representations made by the Hon Peter Garrett AM at the meeting on 13 February 2023 in respect of the renewal of Jabiluka MLN1;~~
- ~~(e) the representations made by Minister Plibersek at the meeting on 13 February 2023 in respect of the renewal of Jabiluka MLN1;~~
- ~~(f) the representations made by the Mirarr Traditional Owners to the First Respondent on 20 March 2024 in respect of the renewal of Jabiluka MLN1;~~
- ~~(g) the representations made by the Third Respondent to the First Respondent on 18 April 2024 in respect of the renewal of Jabiluka MLN1;~~
- ~~(h) the representations made by the Third Respondent to the First Respondent on 11 June 2024 in respect of the renewal of Jabiluka MLN1;~~
- ~~(i) the representations made by the Third Respondent to the First Respondent on 25 July 2024 in respect of the renewal of Jabiluka MLN1;~~
- ~~(j) the representations made by the Third Respondent to the First Respondent on 26 July 2024 in respect of the renewal of Jabiluka MLN1;~~
- ~~(k) the representations made by Minister King’s Office or Department in respect of the renewal of Jabiluka MLN1 prior to the Advice Decision; and~~

- ~~(l) the representations made by the Commonwealth Office of the Supervising Scientist, the NT Department of Industry, Tourism and Trade and the Northern Territory Department of Environment, Parks and Water Security to the First Respondent's Commonwealth Department of Industry, Science and Resources Department at the meetings of the "Ranger Intergovernmental Taskforce on Closure".~~
8. ~~Prior to making the Advice Decision, the First Respondent did not disclose to the Applicant that the following were issues that had arisen in the course of considering what (if any) advice to give in respect of the possible renewal of Jabiluka MLN1:~~
- ~~(a) that ERA did not have the financial capacity to mine in the Area;~~
  - ~~(b) that ERA was not a "fit and proper person" to hold a mineral lease;~~
  - ~~(c) that ERA had not complied with the terms of Jabiluka MLN1 and other related legislation and mining authorisations;~~
  - ~~(d) that the Area was demonstrably unsuitable for mining due to its proximity to Kakadu National Park;~~
  - ~~(e) that renewal of Jabiluka MLN1 would impact on the regulatory framework and future rehabilitation of the Ranger site;~~
  - ~~(f) that ERA's prospects of mining Jabiluka were "limited";~~
  - ~~(g) that mining in the Area could be expected to have environmental impacts;~~
  - ~~(h) that renewal of Jabiluka MLN1 may negatively impact on ERA's ability to raise capital to continue the rehabilitation of the Ranger site;~~
  - ~~(i) that refusal to renew Jabiluka MLN1 may impact upon ERA's ability to rehabilitate the Area;~~
  - ~~(j) that the Area should be incorporated into Kakadu National Park;~~
  - ~~(k) that Jabiluka MLN1 should not be renewed in order to allow the Area to be incorporated into Kakadu National Park; and~~
  - ~~(l) that it was doubtful that Rio Tinto would fund ERA's challenge to an adverse decision.~~
9. On or around 28 June 2024, the First Respondent represented to the Applicant that no decision would be made on the Application prior to September 2024.
10. The representation referred to in paragraph 9 was not corrected at any time between 28 June 2024 and the time of the making of the Advice Decision.
11. On or around 28 June 2024, the First Respondent represented to the Applicant that the Applicant would be afforded an opportunity to make submissions to the First Respondent

in respect of the possible renewal of Jabiluka MLN1, further to those made orally on 7 February and 28 June 2024 and those made in writing on 20 March 2024.

12. The representation referred to in paragraph 11 was not corrected at any time between 28 June 2024 and the date of the Advice Decision.
13. When making the Advice Decision, the First Respondent had regard to at least the following matters:
  - (a) the submissions of the Sixth Respondent, marked as both 'Attachment B' and 'Attachment C' of the Departmental Brief;
  - (b) the submissions of Ms Margarula and the GAC representing the Mirarr Traditional Owners, in letters marked as 'Attachment C' of the Departmental Brief;
  - ~~(c) the desire to include the Area in Kakadu National Park;~~
  - ~~(d) the desire to ensure the Renewal Decision was made prior to the Northern Territory election;~~
  - ~~(e) the desire to allow the Prime Minister to deliver a speech to the NSW State Labor Conference on 27 July 2024, announcing that there would never be mining at Jabiluka;~~
  - ~~(f) the views of the Prime Minister in respect of the Advice Decision;~~
  - ~~(g) the views of Minister Plibersek in respect of the Advice Decision;~~
  - ~~(h) the views of Minister Burney in respect of the Advice Decision;~~
  - ~~(i) the views of Senator McCarthy in respect of the Advice Decision;~~
  - ~~(j) the views of Luke Gosling MP in respect of the Advice Decision;~~
  - ~~(k) the views of the Hon Peter Garrett AM and Professor Don Henry AM in respect of the Advice Decision; and~~
  - (l) the submissions of the Commonwealth Department of Industry, Science and Resources in respect of the Advice Decision.
- ~~14. When making the Advice Decision, the First Respondent held the following views:~~
  - ~~(a) the effect of the Advice Decision was that there would never be mining in the Area;~~
  - ~~(b) the effect of the Advice Decision was that the Area would be protected from mining forever;~~
  - ~~(c) the effect of the Advice Decision was that the Area was allowed to be added to Kakadu National Park; and~~

~~(d) the effect of the Advice Decision was that the Third Respondent was enabled to decline to extend Jabiluka MLN1, when it would not otherwise have been enabled to do so.~~

15. On 27 July 2024, during the NSW State Labor Conference, the Prime Minister gave a speech which included the following words:

*“Over the past 18 months, Linda, Tanya Plibersek and myself have met with leaders and representatives of the Mirarr people, the traditional owners of the Jabiluka site in Kakadu. Madeleine King, our Resources Minister, has joined us.*

*They were seeking a guarantee that there would never be uranium mining on their land.*

*....*

*Today, I am proud to announce that our Government will be working with the traditional owners to make Jabiluka part of Kakadu National Park, once and for all.*

*This means there will never be mining at Jabiluka.*

*The Mirarr people have loved and cared for their land for more than 60,000 years.*

*Our Government will work with them to keep it safe for all time.”*

### **Renewal Decision**

~~16. — In making the Renewal Decision, the Third Respondent proceeded on the basis that the Advice Decision was valid.~~

~~17. — In making the Renewal Decision, the Third Respondent proceeded on the basis that the advice given by the First Respondent on 25 July 2024 was “advice” within the meaning of section 187(1) of the *Mineral Titles Act 2010* (NT).~~

~~18. — In making the Renewal Decision, the Third Respondent proceeded on the basis that he was obliged to exercise powers in accordance with, and give effect to, the advice given by the First Respondent on 25 July 2024.~~

### **Compliance**

~~19. — At the time of the Advice Decision, the Applicant had complied with the *Mining Act 1980* (NT), the *Mineral Titles Act 2010* (NT) and the conditions of Jabiluka MLN1 at all times during the life of Jabiluka MLN1.~~

~~20. — At the time of the Renewal Decision, the Applicant had complied with the *Mining Act 1980* (NT), the *Mineral Titles Act 2010* (NT) and the conditions of Jabiluka MLN1 at all times during the life of Jabiluka MLN1.~~

~~21. At the time of the Advice Decision, the First Respondent was satisfied that the Applicant had, at all times during the life of Jabiluka MLN1, complied with the Mineral Titles Act 2010 (NT) and the terms of Jabiluka MLN1.~~

~~22. At the time of the Renewal Decision, the Third Respondent was satisfied that the Applicant had, at all times during the life of Jabiluka MLN1, complied with the Mining Act 1980 (NT), the Mineral Titles Act 2010 (NT) and the terms of Jabiluka MLN1.~~

## Definitions

**Advice Decision** means the decision and/or conduct of the First Respondent and/or Second Respondent to provide advice on 25 July 2024 to the Third Respondent that the Application be refused.

**Application** means the Applicant's application for renewal of Jabiluka Mineral Lease 1 dated 20 March 2024 including the supporting letter from the Applicant.

**Area** means the Jabiluka Mine Area in respect of which Jabiluka MLN1 is granted.

**Departmental Brief** means the brief of materials provided to the First Respondent by the Commonwealth Department of Industry, Science and Resources in respect of the Advice Decision on 25 July 2024.

**GAC** means the Gundjeihmi Aboriginal Corporation.

**Jabiluka MLN1** means Jabiluka Mineral Lease 1 granted on 12 August 1982.

~~LTCMA means the Jabiluka Long Term Care and Maintenance Agreement dated 25 February 2005 between the Applicant, the Sixth Respondent and the Mirarr Traditional Aboriginal Owners.~~

~~Renewal Decision means the decision of the Third Respondent dated 26 July 2024 that the Application be refused.~~

**If you do not serve a notice of dispute on the Applicant within 14 days, you will be taken to have admitted the truth of each fact or the authenticity of each document specified.**

Date: 5 September 2024



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Signed by Leon Chung  
Lawyer for the Applicant

**Schedule**

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**Respondents**

- Second Respondent:** Commonwealth of Australia
- Third Respondent:** Minister for Mining and Minister for Agribusiness and Fisheries  
(Northern Territory)
- Fourth Respondent:** Northern Territory
- Fifth Respondent:** Jabiluka Aboriginal Land Trust
- Sixth Respondent:** Northern Land Council
- Seventh Respondent:** Yvonne Margarula

Form 42  
Rule 22.02

**NOTICE DISPUTING FACTS**

**FEDERAL COURT OF AUSTRALIA  
DISTRICT REGISTRY: NEW SOUTH WALES  
DIVISION: GENERAL**

**NO NSD 1056 OF 2024**

**ENERGY RESOURCES OF AUSTRALIA LTD ABN 71 008 550 865**

Applicant

**MINISTER FOR RESOURCES AND MINISTER FOR NORTHERN  
AUSTRALIA (COMMONWEALTH) and others**

Respondents

Defined terms have the same meaning as in the Applicant's notices to admit dated 5 September 2024 addressed to the First and Second respondents (**Notices**). The First and Second Respondents use of those defined terms is not an admission that those definitions accurately characterise the matters they seek to define.

**WITHDRAWN PARAGRAPHS OF NOTICES**

By 'reissued' Notices to Admit dated 19 September 2024, the Applicant has withdrawn the following paragraphs specified in the Notices:

1. Paragraph 4.
2. Paragraphs 7-8.
3. Paragraph 13(c)-(k).
4. Paragraph 14.
5. Paragraphs 16-22.

**AMENDED PARAGRAPH OF NOTICE**

6. By 'reissued' Notices to Admit dated 19 September 2024, the Applicant has amended paragraph 5 in a manner that changes the meaning of the paragraph. The First and Second Respondents will serve a further Notice of Dispute separately in relation to amended paragraph 5.

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Filed on behalf of the First and Second Respondents  
Prepared by: Madisen Scott  
AGS lawyer within the meaning of s 55I of the *Judiciary Act*  
1903

File ref: 24007108

Address for Service:  
The Australian Government Solicitor,  
Level 21, Exchange Tower, 2 The Esplanade, Perth, WA 6000  
Madisen.Scott@ags.gov.au

Telephone: 08 926 81797  
Lawyer's Email:  
Madisen.Scott@ags.gov.au



**DISPUTED FACTS**

The First and Second Respondents dispute the truth of the following facts specified in the Notices:

7. Paragraph 2(a)-(b), (d), (g), (j), (k), (m)-(p).
8. Paragraph 3(a), but says that there was 1 conversation, being on 20 March 2024, about the possible renewal of Jabiluka MLN1.
9. Paragraph 3(b)-(e).
10. Paragraph 3(h).
11. Paragraphs 9-12.

**FACTS ADMITTED**

The First and Second Respondent admit the truth of the following facts specified in the Notices:

12. Paragraph 1.
13. Paragraph 2(c), (e)-(f), (h)-(i), (l), (q)
14. Paragraph 3(f)-(g).
15. Paragraph 6(a)-(g) and (i)-(l).
16. Paragraph 6(h), on the understanding that this is the same document as referred to in Paragraph 6(g).
17. Paragraph 13(a)-(b).
18. Paragraph 13(l), on the understanding that the reference to 'submissions' is a reference to MS 24-000911.
19. Paragraph 15, subject to the following amendments in underline text:

Over the past 18 months, Linda, Tanya Plibersek and myself have met with leaders and representatives of the Mirarr people, the traditional owners of the Jabiluka site in Kakadu. Madeleine King, our Resources Minister, has joined with us.

They were seeking a guarantee that there would never be uranium mining on their land.

....

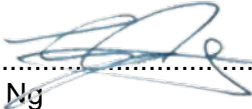
Today, I am proud to announce that our Government will be working with the traditional owners to make Jabiluka part of Kakadu National Park, once and for all.

This means there will never be mining at Jabiluka.

The Mirarr people have loved and cared for their land for more than 60,000 years.

Our Government will work with them to keep it safe for all time.

Date: 19 September 2024



.....  
Grace Ng  
AGS lawyer  
for and on behalf of the Australian Government  
Solicitor Lawyer for the First and Second Respondent

**Schedule**

**FEDERAL COURT OF AUSTRALIA  
DISTRICT REGISTRY: NEW SOUTH WALES  
DIVISION: GENERAL**

**No NSD 1056 of 2024**

**Respondents**

<b>Second Respondent</b>	Commonwealth of Australia
<b>Third Respondent</b>	Minister for Mining and Minister for Agribusiness and Fisheries (Northern Territory)
<b>Fourth Respondent</b>	Northern Territory
<b>Fifth Respondent</b>	Jabiluka Aboriginal Land Trust
<b>Sixth Respondent</b>	Northern Land Council
<b>Seventh Respondent</b>	Yvonne Margarula

Date: 19 September 2024

**IN CONFIDENCE - INTERNAL MO USE ONLY****OFFICE OF THE HON MADELEINE KING MP**

<b>Topic</b>	Jabiluka		
<b>Brief No.</b>	MS24-000911	<b>Adviser</b>	Marie Illman Ben Latham
<b>Date Received</b>	24/07/2024	<b>Due Date</b>	26/07/2024
<b>Yellow date</b>	25/07/2024		
<input type="checkbox"/> <b>ROUTINE</b> <input checked="" type="checkbox"/> <b><u>URGENT</u></b>			

**ADVISER COMMENTS:**

- There are four options: 1. Renew the mineral lease, 2. Don't renew the mineral lease, 3. Tell Minister Monaghan to make the decision but to consider certain factors, 4. Withhold your advice until after the NT re-makes the minerals titles legislation.
- The advice is binding and must be adhered to by Minister Monaghan.
- [REDACTED]
- [REDACTED] – although it's doubtful that Rio Tinto would fund ERA's challenge due to public backlash.
- The offices of the PM, Ministers Plibersek and Burney, Senator McCarthy and MP Gosling have been notified – all would like the mineral lease to end so Jabiluka can be incorporated into Kakadu National Park.
- MP Scrymgour would like the decision to be made after the NT Election on 24 August to avoid political attacks and to investigate the ramifications for Ranger rehabilitation, but will support any decision that's made.

**COMMUNICATIONS OPPORTUNITIES:**

- As discussed.

**IN CONFIDENCE - INTERNAL MO USE ONLY****ADVISER RECOMMENDATIONS:**

- That the Minister signs the letter for Option 2 (Attachment F), i.e. advising Minister Monaghan to refuse the Jabiluka Mineral Lease renewal application.

**CHIEF OF STAFF COMMENTS:****MINISTER'S COMMENTS:**

To: Anne Tan

61

Armando, Minister's office seeking confirmation that reservation over Jabiluka will be gazetted mid-May as previously advised please.

Yes on track for mid May. Denise will sign on her return Tuesday then it will take a week or so to get gazetted

Ta!!

Mon, 13 May at 11:40 AM

Jabiluka reserve. Getting now to sign, will email date when it is published

Mon, 13 May at 2:54 PM

Thank you Minister very happy.  
Asked if there could be media on 23 May. Gabby and Emma managing this side.

To: Anne Tan

62

text message

Fri, 26 Jul at 8:25 AM

A&D, heading into office now.  
Checking that I have MLN1 brief waiting? If not could someone please send asap?

Have not seen corro from Min King yet so not sure if decision but apparently it came through. Will ask for it to be forwarded if we have not seen yet. Expect it will be what we think.

iMessage

Armando, just tried calling and phone rang out.

I appreciate that you're unwell and apologise for calling on a weekend but I need the package on MLN1 asap this morning - per my text earlier.

CM is chasing and has had a call from PM. Decision to be announced asap today and paperwork needs to be ready.

I will try calling Denise but need support on this asap.

support on this asap.

Spoke with Jennifer and Denise. Jennifer will have letter to you by 10:30. I understand you have applicant details which she will need

I can populate for applicant details once the words come through

I just spoke with [redacted] she asked if we could let her know when letters to ERA and stakeholders are emailed as PM wants to call parties personally. Also plan seems to be to make announcement tomorrow at party conference

Who is [redacted]

She sent ministers letter yesterday evening. She's senior policy/ legal person who works closely with Kym

Ta. Heading across to Ministers office now



To: Anne Tan

64

Ia. Heading across to Ministers office now

Do you need anything else?

No all good ta

Pack has been sent across

I'll keep phone nearby just in case

Ta

Would you happen to have Yvonne's phone number?

No I dont, I dont think anyone of us would have it. Her last letter had an email address

No probs ta. There's phone for GAC but not Yvonne. That's ok. Mins office trying to track down.

Minister signed letters?

Not yet

No probs ta. There's phone for GAC but not Yvonne. That's ok. Mins office trying to track down.

Minister signed letters?

Not yet

Still working through.

Fri, 26 Jul at 2:43 PM

Heads up [redacted] called saying ERA requested our minister's Statement of reasons. She told them rightly to go to our mins office

MTA doesn't require SOR

That's not how it's come through. Cw advised Brad that our Minister would provide reason.

That should just be reflection of kings letter

All done



**THE HON MADELEINE KING MP  
MINISTER FOR RESOURCES  
MINISTER FOR NORTHERN AUSTRALIA**

MS24-000480

Ms Yvonne Margarula and Ms Thalia van den Boogaard  
Gundjeihmi Aboriginal Corporation  
PO Box 245  
JABIRU NT 0886

thalia@mirarr.net

Dear Ms Margarula and Ms van den Boogaard

I write to express my thanks for facilitating my meeting with the Mirarr Traditional Owners, Gundjeihmi Aboriginal Corporation (GAC) and the Northern Land Council on 20 March 2024. I appreciate the time you have taken and the distance many attendees travelled to share your views about the Jabiluka Mineral Lease renewal application and concerns about the rehabilitation of the Ranger Uranium Mine (Ranger).

As discussed at our meeting, the decision on the Jabiluka Mineral Lease renewal application is a matter for the Hon Mark Monaghan MLA, as the Northern Territory (NT) Minister for Mining. Under the *Mineral Titles Act 2010* (NT), Minister Monaghan is required to act on and give effect to my advice. This is due to my role as the Minister administering the *Atomic Energy Act 1953* (Cth) and limitations on the executive powers of the NT Government under the *Northern Territory (Self-Government) Act 1978* (Cth).

There is no statutory timeframe for deciding the Jabiluka Mineral Lease application. I intend to provide my advice to Minister Monaghan within a reasonable time of his request and will consider the matter on its merits. I will follow procedural fairness principles in this matter and ensure all parties involved have an opportunity to provide views to me as I form my advice.

As I explained at our meeting, I will continue to work closely with my colleagues in the NT, particularly Minister Monaghan, and with the Hon Tanya Plibersek MP, Minister for the Environment and Water and the Hon Linda Burney MP, Minister for Indigenous Australians. While a decision with respect to the GAC's proposal for Jabiluka to be declared a special or general reserve under the *Mineral Titles Act 2010* (NT) is a matter for Minister Monaghan and any parties request that Jabiluka be incorporated into Kakadu National Park is ultimately a matter for Minister Plibersek, it is essential we all work together to make effective, meaningful decisions.

I understand your concerns about the rehabilitation of Ranger and delays to when Mirarr Traditional Owners can get back on Country. I acknowledge that ERA has delayed confirming how much rehabilitation will cost and when rehabilitation works will be completed. It is

important to note that ERA is currently executing its planned rehabilitation works so that Ranger can be handed back to the Mirarr as soon as it is safe to do so.

The Ranger Environmental Requirements state that the Ranger uranium mine must be revegetated with local native species to create a sustainable ecosystem similar to surrounding areas of Kakadu National Park, and which would be suitable for incorporation into Kakadu National Park. The Supervising Scientist is required to advise the relevant Minister on the adequacy of rehabilitation plans for Ranger and on the eventual achievement of closure criteria.

As you would appreciate, Ranger's rehabilitation is complex. As with any project extending over years, the precise cost and scheduling of Ranger's rehabilitation will vary as ERA implements actual works at site. It is ERA's responsibility to manage its project costs and schedule, and to identify and respond to changes as necessary over the course of the project. ERA – working with Rio Tinto – must ensure it has adequate funding for Ranger's rehabilitation.

I will continue to closely engage with ERA and Rio Tinto to ensure there is a clear path forward for ERA to obtain the necessary funding to complete Ranger's rehabilitation.

A key element in ensuring ERA, with Rio Tinto, can continue rehabilitation at Ranger is to extend Ranger's regulatory instruments beyond their expiry in January 2026. The GAC is an important stakeholder and I would encourage the GAC, on behalf of the Mirarr Traditional Owners, to continue its involvement and work with ERA and the Government on these matters.

Thank you again for meeting with me and bringing your views about Jabiluka's future and Ranger's rehabilitation to my attention. Please do not hesitate to contact Kym Moore, A/g General Manager, Mining Branch on [REDACTED] or [REDACTED] if you require any further information.

Yours sincerely,



Madeleine King MP

10/5 /2024

CC:

Corban Mudjandi  
Justin O'Brien  
Susan O'Sullivan  
c/o Gundjeihmi Aboriginal Corporation

Mrs Jessie Schaecken, Interim Chief Executive Officer  
Northern Land Council  
45 Mitchell Street, DARWIN NT 0801

Mr Dominic Gomez, Principal Legal Officer  
Northern Land Council  
45 Mitchell Street, DARWIN NT 0801

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**From:** [REDACTED]  
**Sent:** Wed, 17 Jul 2024 17:53:36 +1000  
**To:** Kraatz, Angela; Moore, Kym; [REDACTED]  
**Subject:** FW: Jabiluka update [SEC=OFFICIAL]

OFFICIAL

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OFFICIAL

Apologies, should have cc'd others on the below.

[REDACTED] | A/g Senior Adviser  
Resources | PM&C  
p. [REDACTED] | m. [REDACTED]

---

**From:** [REDACTED]  
**Sent:** Wednesday, 17 July 2024 5:52 PM  
**To:** 'Kraatz, Angela' <Angela.Kraatz@industry.gov.au>  
**Cc:** Resources <Resources@pmc.gov.au>  
**Subject:** RE: Jabiluka update [SEC=OFFICIAL]

OFFICIAL

Hi Ange,

To help us manage the system on our end, would it be possible to send through some information on the IGA we discussed?

As I understood from our call, the intent is to make minor, administrative changes to renew an existing IGA? Would you be able to confirm whether this characterisation is accurate and provide any other detail that might be relevant? (including its name)

Thanks,

[REDACTED]

[REDACTED] | A/g Senior Adviser  
Resources | PM&C  
p. [REDACTED] [REDACTED]

---

**From:** Kraatz, Angela <[Angela.Kraatz@industry.gov.au](mailto:Angela.Kraatz@industry.gov.au)>  
**Sent:** Wednesday, 17 July 2024 10:17 AM  
**To:** Strachan, Jyah [REDACTED] >  
**Cc:** Resources <[Resources@pmc.gov.au](mailto:Resources@pmc.gov.au)>  
**Subject:** RE: Jabiluka update [SEC=OFFICIAL]

OFFICIAL

Hi [REDACTED]

I'm free at 2pm or after 4.30pm.

A

OFFICIAL

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**From:** [REDACTED] <[REDACTED]>  
**Sent:** Wednesday, July 17, 2024 10:14 AM  
**To:** Kraatz, Angela <[REDACTED]>  
**Cc:** Resources <[Resources@pmc.gov.au](mailto:Resources@pmc.gov.au)>  
**Subject:** Jabiluka update [SEC=OFFICIAL]

OFFICIAL

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OFFICIAL

Hi Ange,

I understand Kym recently spoke with Matt and provided an update on all things Jabiluka. Do you have half an hour's free time today/this week to let us follow up with some clarifying questions?

Thanks,

[REDACTED]

[REDACTED]

Senior Adviser A/g | Resources  
Department of the Prime Minister and Cabinet  
p. [REDACTED] | m. [REDACTED]  
Ngunnawal Country, One National Circuit Barton, Canberra, ACT, 2600  
e. [REDACTED] [pmc.gov.au](mailto:[REDACTED]@pmc.gov.au) w. [pmc.gov.au](http://pmc.gov.au)



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

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**From:** Moore, Kym  
**Sent:** Fri, 26 Jul 2024 08:31:19 +1000  
**To:** PMC  
**Cc:** Kraatz, Angela  
**Subject:** Jabiluka [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

OFFICIAL: Sensitive//Legal-Privilege

Good morning,  
Minister King signed and sent advice to the NT Minister for Mining last night to refuse the Jabiluka Mineral Lease. We are working with the King MO now on the order of communications of this matter and if there is any requirement for the stock market to be told in a specific way before either Government make announcements.  
This is not for broad disclosure at present.  
We understand there is interest from the PM to communicate this tomorrow in Sydney. We also understand there is a desire for a few media releases (potentially today pending the above) from Min King about providing her advice, from the PM, and from Min Plibersek about working towards potential incorporation into KNP.  
Suspect PMO will reach out shortly.  
-Kym  
[REDACTED]



Min King 9:30 am  
 DPC  
 JS

YM Jos  
 JOB Thelie

20 / 3 / 29

Y

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- worried about her dream
- spoke in herself
- Miller dent- for

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- in the car

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Mk. - in relation to me  
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- can't do pre-emp  
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- if we go to system -  
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 properly

- other people can  
 do only things - can  
 be done others things

- history meeting of the  
 Govt. date end of yr  
 been 11 weeks

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 version - per 49  
 transfer

- PM will give a  
 concern

important to all of us  
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 until now

will work with the NT

Job - Quarterly - if  
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Mk - if they don't say  
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Y - RT are likely to  
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 - don't ask it by days

Y - put it like you  
 or my car

MU - don't want to  
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 between ~~note~~ + ~~Ass~~ ~~law~~

PM - ~~the~~ - ~~the~~ ~~minor~~ ~~law~~  
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SS - ~~make~~ if the ~~the~~ ~~has~~  
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- fold ~~the~~ ~~down~~ ~~1~~  
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- ~~the~~ ~~down~~

Job - can ~~my~~ ~~or~~ ~~it~~ ~~can~~  
 appear ~~in~~ ~~the~~



THE HON PATRICK GORMAN MP  
ASSISTANT MINISTER TO THE PRIME MINISTER

Reference: MC23-012234

Mr Justin O'Brien and Ms Yvonne Margarula  
Chief Executive Officer and Mirarr Senior Traditional Owner  
Gundjeihmi Aboriginal Corporation  
PO Box 245  
JABIRU NT 0886

Mr Samuel Bush-Blanasi  
Chair  
Northern Land Council  
GPO Box 1222  
DARWIN NT 0801

Dear Ms Margarula, Mr O'Brien and Mr Bush-Blanasi

Thank you for your letters, dated 20 December 2022, 23 December 2022 and 23 February 2023, to the Hon Anthony Albanese MP, Prime Minister, regarding Kakadu National Park. The Prime Minister has asked me to reply on his behalf.

The Prime Minister was pleased to meet with Mr O'Brien on 13 February 2023. The discussion provided an opportunity for the Australian Government to hear first-hand about the proposal for a complete Kakadu National Park that represents traditional cultural boundaries.

The Prime Minister has asked the Hon Tanya Plibersek MP, Minister for the Environment and Water, and the Hon Madeleine King MP, Minister for Resources, to come back to him after they have considered this issue, particularly in the context of existing arrangements for rehabilitation works in the region.

I appreciate your offer to provide further information and background to assist with this work. Under the National Agreement on Closing the Gap, the Government has committed to work in genuine partnership with First Nations people. We know policies and programs are more effective and achieve better outcomes when they are informed by those directly impacted. We look forward to working closely with you on the future of Kakadu National Park.

Thank you again for writing to the Prime Minister. I have copied this letter to the Minister for the Environment and Water, the Minister for Resources and the Hon Linda Burney MP, Minister for Indigenous Australians.

Yours sincerely



**PATRICK GORMAN**

16/03 / 2023



**THE HON TANYA PLIBERSEK MP**  
MINISTER FOR THE ENVIRONMENT AND WATER

MS23-001295

Mr Justin O'Brien  
CEO  
Gundjehmi Aboriginal Corporation  
PO Box 245  
JABIRU NT 0886

[charlotte@mirarr.net](mailto:charlotte@mirarr.net)

Dear Mr O'Brien

Thank you for your correspondence on behalf of Yvonne Margarula and the Mirrar about Gundjehmi Aboriginal Corporation's proposal for the completion of Kakadu National Park upon the expiry of the Jabiluka Mineral Lease. It was a pleasure to meet with you in February.

As noted in the Prime Minister's, the Hon Anthony Albanese MP, letter to you, I will consider the Jabiluka Mineral Lease issue together with the Minister for Resources, the Hon Madeleine King MP.

I am aware of the Memorandum of Understanding (**MOU**) between Gundjehmi Aboriginal Corporation (**GAC**), the Northern Territory Government, Energy Resources Australia and the Commonwealth Government. I can assure you that I remain committed to the future of Jabiru outlined in the MOU, that the funding remains available and I have asked the Director of National Parks (**DNP**) to deliver projects on the ground as soon as practicable.

Regarding the World Heritage Visitor Centre, I recently reaffirmed the Australian Government's contribution to the Centre and it was great to hear this renewed commitment was well received by the GAC. I have been advised that the DNP is working with the Northern Land Council (**NLC**) and the Kakadu National Park Board of Management to determine the appropriate level of consultation with the broader group of Traditional Owners of Kakadu. I have requested that the DNP continue to keep GAC informed on the process.

I note your comments in relation to lease agreements and participatory decision-making. As part of the Nature Positive Plan, I have committed to working with the Traditional Owners to co-design possible alternative models for the management of Commonwealth Parks on Aboriginal land. This co-design process should enable full consideration of alternative governance arrangements for Kakadu, such as the model proposed in Attachment E. I would urge you to work with the NLC to ensure your ideas are carried forward.

I remain committed to ensuring that the cultural and natural heritage values of Kakadu are protected and restored. You would have seen that I recently announced an additional



\$262.3 million for National Parks, with some elements of the package dedicated to Kakadu. I am confident that this additional funding, on top of the \$276 million Kakadu package will repair and restore the important values of Kakadu that have been neglected and will both attract tourists and improve the visitor experience to this beautiful world heritage property.

I thank you for the time you have taken to raise additional matters with me, not addressed in this response and I understand some of your concerns have been relayed to my office. I want to assure you that your concerns have been heard and will be carefully considered.

Thank you again for bringing these matters to my attention.

Yours sincerely



TANYA PLIBERSEK

31.5.23

OFFICIAL



ANTHONY ALBANESE  
PRIME MINISTER OF AUSTRALIA

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**SPEECH**

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**NEW SOUTH WALES STATE LABOR CONFERENCE**

TOWN HALL  
SYDNEY

**SATURDAY, 27 JULY 2024**

*\*\*\* CHECK AGAINST DELIVERY \*\*\**

I begin by acknowledging the traditional owners of the land on which we meet and I pay my respects to their elders past, present and emerging.

And I want to acknowledge a person who has put her heart and soul into turning those words of respect into acts of national progress.

A trailblazer. An inspiration. A powerful advocate for First Nations people.

A person of wonderful warmth and great strength, who has met every challenge with courage and grace.

And a dear friend who all of us wish every happiness in the future: Linda Burney.

Linda's approach has been defined by respect, listening and co-operation.

Doing things with communities, not to them.

And today – there is a fitting final chapter in the story.

Over the past 18 months, Linda, Tanya Plibersek and myself have met with leaders and representatives of the Mirrar people, the traditional owners of the Jabiluka site in Kakadu.

They were seeking a guarantee that there would never be uranium mining on their land.

When Yvonne Margarula, the senior traditional owner of Mirrar country, wrote to me, she talked of the chance:

*“To finally be free of the threat of further uranium mining at Kakadu”*

That beautiful part of Australia is home to some of the oldest rock art in the world.

It was there, in 2017, that archaeologists discovered axes and sharpening tools dating back tens of thousands of years.

Proof of the extraordinary and enduring connection Aboriginal and Torres Strait Islander people have with this land.

A reminder of the extraordinary privilege all of us have to share this continent with the world's oldest continuous culture.

Delegates.

In 1991, despite the pressure even from some within his own Cabinet, Bob Hawke acted to stop uranium mining in Kakadu National Park.

In 2013, the Gillard Government, acting on the express wishes of traditional owner Jeffrey Lee from the Djok clan, legislated to protect his people's land by adding Koongarra to the

national park.

I remember Bob Hawke and Jeffrey Lee sitting together in the Parliament the day that law passed.

Today, I am proud to announce that our Government will be working with the traditional owners to make Jabiluka part of Kakadu National Park, once and for all.

This means there will never be mining at Jabiluka.

The Mirrar people have loved and cared for their land for more than 60,000 years.

Our Government will work with them to keep it safe for all time.

This morning I also want to recognise my friend Brendan O'Connor.

Brendan is a great Labor person and he has been an outstanding Minister in three Labor Governments.

Brendan has always believed in the dignity of work, he has always understood the difference that a good job makes to individuals, families and communities – that's why he has always been a champion for public TAFE.

When we came to office, we set a goal of 180,000 fee-free TAFE places.

Well, we didn't quite deliver on that commitment.

We've actually seen 500,000 enrolments.

Half a million Australians who have had the doors of opportunity opened wide for them.

Brendan, your work has changed lives and your service has changed our country, for the better. Thank you.

Delegates.

Rank and file members.

Members of the mighty trade union movement.

True believers, one and all.

Thank you for what you do, every day.

As members of the parliamentary Labor Party, my colleagues and I stand on your shoulders.

Your enthusiasm and energy drives us, your passion and dedication inspires us.

And being here with you at New South Wales conference always feels like coming home.

My Mum, who used to sit up there on these Saturday mornings to listen to the Labor leader, was an eternal optimist.

She saw the best in everyone – and she taught me that everyone deserves an equal chance to be their best.

And it was this branch where I learned how to put that optimism into action.

I already knew the difference that a good government could make to the life of one family.

The Labor Party showed me the difference a good government could make to the life of a nation.

A fair bit has changed since the first time I came here as Delegate Albanese, back in 1983.

My taste in music has held up better than my taste in fashion.

But the power of this place, this almost-sacred hall for the Labor Party, remains.

Over the decades, this grand theatre has been the scene of high drama.

This great political colosseum, an arena for fierce battles.

Yet always in the service of a greater purpose.

At Labor conferences the passion is real - because the consequences are real.

The debates we have here matter, because they are about what matters to people's lives.

They help set the direction of our party – and the country we seek to serve.

That's how the New South Wales branch has earned its place in history – because it has always focused on the future.

Because the Labor people in this hall, always put the Australian people first.

And because, in the end, when we have had our say and made our decision, we go forward together, knowing we are part of something bigger than any of us as individuals.

In these times of global uncertainty and rising tensions, we must remember that.

Because - here in Australia - our disagreements do not define us and our differences do not divide us.

And whenever our community is tested by tragedy or challenged by fear, as it has been this year at Bondi Junction and Wakeley, Australians from all walks of life and from every faith and background, respond with bravery, with unity, with kindness toward one another.

That's the standard that drives our Government every day – to prove worthy of the courage and compassion of the people we serve.

And that's always been the story of Labor at our best – bringing people together in the face of uncertainty.

Because the basis of all solidarity, is our common humanity.

Yes, things have changed since the first time I came here as a delegate.

Today I want to focus on what's changed since the last time I spoke here as Prime Minister, back in 2022.

For starters, the Blues have won Origin.

And New South Wales Labor has won government.

Thank you to all the volunteers who worked so hard to make that victory possible for Chris Minns and his team.

When I spoke here two years ago, I talked about the legislation we were introducing to make child care cheaper.

Today, I can report that Labor's cheaper child care has benefitted over one million families.

There are now 60,000 more children enrolled in early education and 30,000 more early educators.

The next step is to look after the people working in child care - by making sure every single early educator gets a pay rise.

Our Government promised aged care workers we would fund their wage increase – and we delivered.

And we will deliver on this commitment too.

Because the dedicated people who teach our youngest Australians and those who care for

our older Australians, deserve more than our thanks and praise.

They deserve better pay and conditions.

Two years ago, I spoke about our plans to rescue bulk-billing and open 50 Medicare Urgent Care Clinics.

On Wednesday, we opened clinic number 66.

In New South Wales alone, instead of waiting in a hospital emergency department, more than 100,000 people have been able to go to one of these clinics and get the treatment they need.

They haven't needed their credit card, just their Medicare card.

In Cessnock and Tamworth and Queanbeyan.

Wollongong and Lismore.

Liverpool and Penrith.

Bankstown and Batemans Bay.

1 in 3 people to receive treatment at these clinics so far, have been children aged under 15.

Because it shouldn't matter if it's the weekend, or after normal working hours.

If your child is hurt or sick, in Australia you should be able to see a doctor straightaway - and for free.

That's the meaning of Medicare.

And that's why, last November, we tripled the bulk-billing incentive which has already seen



an additional 2 million bulk-billed consultations.

After a decade of Liberal cuts and neglect, we are getting bulk billing back on track.

And guess who was in charge when the last Liberal Government launched its attack on Medicare, the same man the doctors of Australia voted the worst Health Minister ever: Peter Dutton.

Through his whole time as Minister for Health he had one idea – making sick people pay more.

A GP tax. A hospital tax. A medicine tax.

And a six year freeze on Medicare rebates.

Peter Dutton was so bad at his job that Tony Abbott sacked him.

The Liberals' history on Medicare is appalling - but the risk they pose to Medicare's future is even worse.

There's only one sure way to keep Medicare strong – keep Labor strong in Government.

When I spoke here two years ago, we had just passed the legislation for 10 days paid family and domestic violence leave.

Today, all 55 recommendations of the Respect@Work report are being implemented.

Casual workers have new rights and better security.

And Same Job, Same Pay is now the law of the land.

Let me tell you about the difference that makes:

Danielle is a member of the Mining and Energy Union who was employed by labour hire at

the Mount Pleasant Coal Mine.

She wore the same uniform as the workers directly employed.

She had the same skills, answered to the same supervisor, drove the same vehicles and worked the same rosters.

But she was paid \$33,000 less than those who worked side by side with her.

Now, because of an application her union made under our laws, Danielle is going to be directly employed and get a \$33,000 payrise.

Only the labour movement could drive that change – and only a Labor Government could deliver it.

And today, let me send a very clear message to companies that are fighting to keep these loopholes open to undercut wages and conditions.

When we pass a law about a fair go at work – we back the words with action.

I am proud to announce we will be sending the Australian Government's lawyers to back the workers and the unions in their case against the labour hire company Operational Services.

Our principle is simple, our position is clear: same job, same pay.

Delegates.

It was on this stage that I first announced our plans to expand Paid Parental Leave to a full six months.

On the 1<sup>st</sup> of July that expansion began: with an extra two weeks for every eligible parent.

And next year, when we add another two weeks, we'll also be adding superannuation.

That's what happens when a Labor Government with a majority of women, makes equality for women a priority.

And that's why the gender pay gap is at an all-time low.

Expanding Paid Parental Leave is just one way we are working to take pressure off the cost of living, while putting downward pressure on inflation.

Today, inflation is almost half what it was when we came to office.

930,000 jobs have been created, more than during any term of any government since Federation.

Over 1000 new jobs every day – and the majority of them, full time jobs.

We've turned a decade of Liberal Budget deficits into back-to-back Labor surpluses.

And we've got wages moving again: real wages grew more in the past year - than they did under nine years of the Liberals.

Of course, we understand there are Australians doing it tough.

I've never forgotten what that's like, I know that pressure is something you live with every day.

That's why our Government is working every day to help.

We've just frozen the price of medicines on the PBS, for everyone.

We've cut \$300 off the energy bill of every household.

2.6 million workers on award wages have just received their third consecutive pay increase.

We are wiping \$3 billion in student debt.

And every Australian taxpayer – all 13.6 million of them – are getting Labor's tax cuts.

At the start of the year, my colleagues and I decided to change the tax plan we had inherited from the Liberals.

It wasn't an easy call – but it was the right call.

We made these tax cuts better for part time workers, better for women, better for young people, better for low and middle income earners.

And better for the economy, by boosting workforce participation.

We made them Labor tax cuts – because they deliver for all Australians.

No-one held back and no-one left behind.

And remember this: the Deputy Liberal Leader promised to fight these tax cuts before she'd seen them.

Their Shadow Treasurer said he would roll them back.

And Peter Dutton demanded an election to stop them going ahead.

If the Liberals had their way:

90 per cent of female taxpayers would be worse off.

Average workers would be over \$800 worse off.

3 million people earning less than \$45,000 would have got nothing.

In these tough times, our Government is working to make it easier for people.

We're helping Australians earn more – and keep more of what they earn.

We're building a stronger economy - and we're investing in the infrastructure that drives growth and productivity.

Including \$2 billion for the roads and rail that will connect communities to the new jobs Western Sydney International Airport will bring.

And – all over Australia – we are building more homes.

Our Government's \$32 billion Homes for Australia plan means:

Training more tradies.

Building more social housing.

More crisis accommodation for women and children fleeing violence.

And working with the Minns Labor Government to strengthen renters' rights and build more homes where people want to live: close to family, jobs, services and public transport.

We are focused on practical measures that make a positive difference.

The Liberals have opposed every one of them - more often than not with the backing of the Greens Political Party.

The Greens post about housing on social media – and protest social housing in their communities.

They move motions about housing in the Parliament – but sign petitions against building more homes in their electorate.

For our opponents, housing is a talking point – for us, housing is the starting point for a

better life.

They are the wreckers and the blockers – we are the builders.

And we are getting on with the job.

We're also investing in the things that turn suburbs into communities.

The parks and sporting fields, netball courts and local pools that teach our children the joy of sport and the value of teamwork.

The community centres and halls and libraries that bring people together.

Our Government is going to contribute to these projects – not on the basis of a colour-coded spreadsheet but on their merits.

And I am pleased to announce our new \$350 million Thriving Suburbs program is open to every suburb across our nation, from today.

Building stronger communities is about working together to shape the future, not waiting for the future to shape us.

The Liberals and Nationals wasted a decade pretending change wasn't happening.

Who can forget Scott Morrison standing in the Parliament and passing a lump of coal down the front bench, I'll give them the big tip, don't try that stunt with uranium.

Meanwhile, on their watch, 24 out of 28 coal fired power stations around the country announced they would be closing.

And all the Liberals did was close their eyes.

Buried in denial and frozen in time, while the world warms around them.

Not just stuck in the past but trying to drag the rest of Australia back there just to keep them company.

And because they have nothing positive to say about the future – they do nothing to prepare for it.

That's not caution or conservatism – that's negligence.

Now look at what's happening at the old Liddell Power Station in the Hunter today.

Workers, local businesses and AGL are co-operating to turn the site into a new clean energy hub.

And our Solar Sunshot Program is investing in hundreds of new local manufacturing jobs, right along the solar panel supply chain.

Soon there will be more workers employed on that site than at any time when the old power station was operating.

This is what our vision for a future made in Australia is all about.

Seizing the opportunities of cleaner, cheaper, renewable energy to power a new generation of secure, well-paid manufacturing jobs in our regions and suburbs alike.

Making sure no community is held back and no worker is left behind.

Making more things here.

And making the most of our national strengths.

At the next election, all this is at stake.

Because the Liberal Party oppose new investments in critical minerals and clean energy.

They say fee-free TAFE is a waste of money.

They call Australian manufacturing a *graveyard*.

They brag about driving the car industry out of Australia when they were last in government.

And now they want to sacrifice a new generation of manufacturing jobs, all in the name of their obsession with nuclear power.

It's been over a month since the Liberals finally announced their plan for nuclear reactors in every state on the mainland.

They can't find a single investor to back it.

They won't tell people what the cost of building these reactors will be.

They won't tell you how long it will take.

They don't have an answer about how or where they will safely store the nuclear waste.

They can't tell us how much energy these reactors will produce - because they're not sure how many reactors there will actually be.

But there is one thing they have been crystal clear on, from the outset - they don't like the memes.

Peter Dutton spends a lot of time demanding a 'mature debate', on the facts.

He should start by facing the facts.

Nuclear power is the most expensive form of new energy – renewables are the cheapest.

Building one nuclear reactor will cost taxpayers at least 8.5 billion dollars.

It will take at least 20 years.

And even if the Liberals' reactors are up and running, sometime in the distant future, they will only produce about 4 per cent of the energy we need.

That measly 4 per cent will cost families and businesses up to eight times more than solar or wind power.

And on top of all this, there is the opportunity cost.

The jobs, investment, energy and certainty Australia would miss out on, now.

The price our nation would pay for turning away from our unbeatable natural advantages to go chasing after something that takes longer, costs more and delivers less.



Delegates.

Let there be no doubt.

This is the decisive decade for our nation's future. We are in it right now.

And in Australia we have everything we need to seize this moment and make it our own.

We have the sunlight, the space, the critical minerals, the skilled workers, the great universities and TAFEs, the trade ties to our region, diaspora communities that connect us to every nation in the world.

The only thing we do not have is time to waste.

That's why the next election is about more than the next three years.

It is about the next generation of Australian jobs - and the once-in-a-generation chance we have to secure a new era of growth and fairness.

The choice facing our nation is clear: a Labor Government driven by our optimism for a better future, our plan to deliver it and our determination to see all Australians share in it or a Liberal National Noalition that spent a decade creating the problems and the last two years standing in the way of the solutions.

For every urgent challenge Australians are facing, for every opportunity our nation must act to seize.

The Liberals have nothing to offer but the negativity that takes us nowhere.

This is the choice.

This is what's at stake.

This is why we have to win.

This is why - with your help - we will win.

Delegates.

Not far from here, more than 130 years ago, the founding members of our movement made a choice that defines us still.

Labor chose to be a movement for change and a party of government.

We chose to make ourselves part of the foundations of Australian democracy.

To campaign for rights and reforms that would not just win the backing of a caucus or a conference, they would win the support of the nation.

We set ourselves the toughest democratic test – earning the trust of the Australian people and proving worthy of it.

Every great Labor generation that has gone before us has shown the courage to choose that hard road and the determination to follow it.

That's the choice everyone in this hall and everyone in our movement makes every day.

We choose progress over protest.

We choose delivery and action over empty words.

And our Members choose to help vulnerable people inside electorate offices – not intimidate them outside.

Of course, there are times when building to last, bringing people together, doing the patient work of meaningful change is hard.

Ben Chifley said it at New South Wales conference, 75 years ago:

*"People who work within the Labor movement...can never have an easy job".*

Our job will never be easy - because the work of progress is never done.

Because we should always be striving for better and aiming higher for the people we serve.

That's what drives me in this job - the determination to do better for Australians.

And as long as there is more to do, our Labor Government will keep working.

We'll keep working to bring people together.

We'll keep working to make Medicare stronger.

We'll keep working to build more homes.

We'll keep working to help families under pressure.

We'll keep working to boost pay and job security and safety at work.

We'll keep working to bring the life-changing opportunity of education in reach of all Australians.

We'll keep working to deliver the cleaner and cheaper renewable energy our nation needs - and preserve the natural environment that all of us treasure.

We'll keep working to ensure that Aboriginal and Torres Strait Islander people have an equal chance at a safe and fulfilling life.

We'll keep working to make our future here in Australia.

We'll keep working to build an economy and a society where no-one is held back and no-

one is left behind.

Delegates.

Let's keep working for Australia – and let's keep working together

***ENDS***

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# Jabiluka uranium mine to become part of Kakadu National Park in historic win for Mirarr traditional owners

By chief digital political correspondent Jacob Greber and Myles Houlbrook-Walk

Environment

Fri 26 Jul 2024 at 10:30pm



## In short:

In a major win for traditional owners fearful of the Coalition's nuclear power push, the Jabiluka site surrounded by Kakadu National Park will never be mined.

The federal government rejected an application by company Energy Resources Australia to extend the undeveloped uranium lease for 10 years.

## What's next?

The site's lease will end on August 11 and the government will move to formally absorb the site into Kakadu National Park.

Prime Minister Anthony Albanese will end three decades of uncertainty over the Northern Territory's Jabiluka mining lease by absorbing the controversial uranium site into Kakadu National Park.

In a major win for the Mirarr traditional owners that shields them from any future expanded uranium mining under the Coalition's nuclear power policy, Mr Albanese will tell the NSW Labor state conference in Sydney on Saturday that the federal government will begin the process of permanently protecting the site.

Portraying the decision to block renewal of the Jabiluka lease, which was due to expire on August 11, as a final tribute to outgoing Indigenous Affairs Minister Linda Burney, Mr Albanese says it "means there will never be mining at Jabiluka".

"This beautiful part of Australia is home to some of the oldest rock art in the world," he will tell delegates at the conference.

"And it was here, in 2017, that archaeologists discovered axes and sharpening tools dating back tens of thousands of years.

"Proof of the extraordinary and enduring connection Aboriginal and Torres Strait Islander people have had with our land.

"A reminder of the extraordinary privilege all of us have, to share this continent with the world's oldest continuous culture."

The NT government said on Friday that it had taken federal government advice and rejected an application for a 10 year renewal of the mineral lease for the Jabiluka site, which has never been mined or developed by its holder, the majority Rio Tinto-owned Energy Resources Australia (ERA).

At one point in the late 1990s subject to a blockade by the Mirarr traditional owners alongside rock band Midnight Oil, the fight over the uranium mine has been a long running saga.

"In 1991, despite pressure from within his own cabinet, Bob Hawke acted to stop uranium mining in Kakadu National Park," Mr Albanese will say.



Thousands of people, including Mirarr traditional owners, protested against the Jabiluka mine in the 1990s. (Supplied: Gundjeihmi Aboriginal Corporation)

"In 2013, the Gillard government, acting on the express wishes of traditional owner Jeffrey Lee from the Djok clan, legislated to protect his people's land by adding [nearby] Koongarra to the national park.

"Today, I am proud to announce that our government will be working with the traditional owners to make Jabiluka part of Kakadu National Park, once and for all.

"The Mirarr people have loved and cared for their land for more than 60,000 years. Our government will work with them to keep it safe for all time."

Mirarr traditional owner Corben Mudjandi told the ABC early this month he was worried the federal Coalition's plan to open nuclear power plants if it won the next election could stoke demand for Jabiluka's uranium.

ERA, which is 86.3 per cent owned by Rio Tinto, has argued that extending the Jabiluka lease, which is subject to veto by traditional owners, would not result in uranium mining unless the custodians changed their minds.

The Northern Territory government in June declared the area covered by the lease would switch to "general reserved land" when the lease expires next month, a move campaigners took as a sign the lease would be blocked.

Mr Albanese has met with the Mirarr people over the past 18 months.

## **"They were seeking a guarantee that there would never be uranium mining on their land.**

"When Yvonne Margarula, the senior traditional owner of Mirarr country, wrote to me, she spoke of the chance 'to be finally free of the threat of further uranium mining at Kakadu'," Mr Albanese will say.

ERA has for 42 years held a lease over the Jabiluka site — one of the world's largest and richest uranium deposits.



The Mirarr people have always opposed mining at the Jabiluka site. (ABC News: Michael Franchi)

The lease has long been a contentious proposal, staunchly opposed by the Mirarr as well as environmental groups.

In March, ERA applied for a 10-year extension of the lease.

On Friday, NT Mining Minister Mark Monaghan said the decision to reject the lease was based on advice from Federal Resources Minister Madeleine King that the Mirarr people did not want the mine lease to be extended.

"The advice came back very clearly from Minister King to refuse the application," he said.



Mr Monaghan said he did not have a view on whether or not the lease should have been extended and that he was acting only on ministerial advice.

"One of the most clear aspects of all the stakeholder feedback was that the Mirarr position was the most important from everyone, including ERA," he said.

## **Traditional owners celebrate historic win**

Mr Mudjandi said the denial of the lease extension was a long and hard-fought victory.

"This day will go down in history as the day the Mirarr finally stopped Jabiluka. It is a great day for the Mirarr people, for Kakadu, the Northern Territory and for Australia," he said.

**"This proves that people standing strong for Country can win. We look forward to welcoming all Australians to share our cultural heritage for decades to come."**

Australian Conservation Foundation nuclear-free campaigner Dave Sweeney said he was stunned by the decision.

"It was a genuine and welcome surprise and it was really a positive piece of news to hear," he said.

Mr Sweeney wants to see ERA now focus on its rehabilitation of the massive Ranger Uranium Mine at Jabiru after concluding production in January 2021.



ERA will now focus on the rehabilitation of the Ranger uranium mine which ended operations in 2021. (ABC News: Che Chorley)

"It's a sensible, prudent, responsible decision and it does offer the ability now for ERA and for all agencies and actors in this area to concentrate on the core business that needs to happen now, which is the comprehensive clean-up of the former Ranger mine," he said.

CEO of the Gundjeihmi Aboriginal Corporation Thalia van den Boogard said the rehab project was crucial.

"It is up to the mining company and the Commonwealth government to ensure that site is fully rehabilitated so it can be safely returned to the Mirarr and included in the national park," she said.

## **ERA and parent company split over lease decision**

While some of ERA's minor shareholders had sought to extend the mining lease, it did not have the backing of Rio Tinto.

The disagreement is now resolved with the lease being rejected.

A Rio Tinto spokesperson acknowledged the announcement, and told the ABC the company "is pleased that the wishes of the Mirarr People ... have been respected".

The land will be released from the mining lease on August 11 this year, one day before voting begins in the Northern Territory election.

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Posted Fri 26 Jul 2024 at 10:30pm

## News in Language

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## Breaking News

Anthony Albanese to commit to protecting Jabiluka by incorporating it in Kakadu National Park

A controversial uranium mine site will be incorporated into the Kakadu National Park after its owners failed to get the mining lease renewed.

Aisling Brennan

@AislingBrennan9

3 min read

July 27, 2024 - 7:18AM

There are renewed calls for the development of a uranium mine at the Jabiluka site in the Northern Territory.

The Prime Minister is committing to plans to incorporate a controversial uranium mine site to the world-heritage listed Kakadu National Park in line with the traditional owners of the land.

Prime Minister Anthony Albanese will announce on Saturday Jabiluka will be added to Kakadu National Park, after Northern Territory Government confirmed it would not renew the Jabiluka mineral lease on the advice of the federal government.

Energy Resources of Australia was not given a lease renewal for Jabiluka uranium mine in Kakadu National Park.

Energy Resources of Australia was not given a lease renewal for Jabiluka uranium mine in Kakadu National Park.

While the mineral site has never been mined, the mineral lease for the site will end on August 11.

It comes after decades of uncertainty about the project for the Mirarr traditional owners who wished to protect extensive rock art, shelters and paintings contained in Jabiluka, about 250m east of Darwin.

Those items discovered are recognised as among the longest historical records of any group of people on earth.

“I am proud to announce that our Government will be working with the traditional owners to make Jabiluka part of Kakadu National Park, once and for all,” Mr Albanese will say at the NSW Labor State Conference.

“This means there will never be mining at Jabiluka.

“The Mirrar people have loved and cared for their land for more than 60,000 years.

“Our Government will work with them to keep it safe for all time.”

Energy Resources Australia has held the mining license since 1991 for the site that is surrounded by but previously not included in Kakadu National Park.

Mr Albanese will explain how he'd worked with Indigenous Affairs minister Linda Burney and Environment minister Tanya Plibersek to discuss with leaders and representatives of the Mirrar people over the past 18 months about securing the site.

“They were seeking a guarantee that there would never be uranium mining on their land,” Mr Albanese says.

“When Yvonne Margarula, the senior traditional owner of Mirrar country, wrote to me, she spoke of the chance ‘to finally be free of the threat of further uranium mining at Kakadu’.

“This beautiful part of Australia is home to some of the oldest rock art in the world.

“And it was here, in 2017, that archaeologists discovered axes and sharpening tools dating back tens of thousands of years.

“Proof of the extraordinary and enduring connection Aboriginal and Torres Strait Islander people have had with our land.

“A reminder of the extraordinary privilege all of us have, to share this continent with the world's oldest continuous culture.”

Mr Albanese says it's been a long journey for the government and the Mirrar people to secure Jabiluka.

“In 1991, despite pressure even from within his own Cabinet, Bob Hawke acted to stop uranium mining in Kakadu National Park,” he says.

“In 2013, the Gillard Government, acting on the express wishes of traditional owner Jeffrey Lee from the Djok clan, legislated to protect his people’s land by adding Koongarra to the national park.

“I remember Bob Hawke and Jeffrey Lee sitting together in the parliament the day that law passed.”

Meanwhile, an ERA spokesman said the decision not to renew the \$90m mining lease posed further risk to the Mirarr people’s interests.

“(The decision) is disappointing and increases the potential for the site to be developed without the consent of the Mirarr traditional owners,” he said.

“Under ERA’s lease arrangements, Jabiluka cannot be developed without the consent of the Mirarr traditional owners.

“That development veto lapses once the lease expires. Without ERA’s lease arrangements in place, the potential development of the site will be in the hands of future governments.”

Mr Albanese will also take the opportunity on Saturday to thank Ms Burney’s dedication in securing the site, after she announced this week she’ll not be contesting her seat at next year’s federal election.

“I want to acknowledge a person who has put her heart and soul into turning those words of respect into acts of national progress,” he says.

“A person of wonderful warmth and great strength, who has met every challenge with courage and grace.

“And a dear friend who all of us wish every happiness in the future: Linda Burney.

“Linda’s approach has been defined by respect, listening and co-operation.

“Doing things with communities, not to them.

“And today, there is a fitting final chapter in that story.”

Originally published as Anthony Albanese to commit to protecting Jabiluka by incorporating it in Kakadu National Park

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July 27, 2024

Section: TheNation

## Heritage listing for Jabiluka mine site

James Dowling

The world's biggest untapped uranium source will be closed off and made part of Kakadu National Park.

In a potential hindrance to the Coalition's hopes for nuclear power in Australia and expanding uranium mining, Anthony Albanese will on Saturday tell the NSW Labor conference the Jabiluka uranium mine will be heritage listed.

It comes after the federal government, in concert with the region's Mirrar traditional owners, advised Territory officials not to renew the site's mineral lease.

"Our government will be working with the traditional owners to make Jabiluka part of Kakadu National Park, once and for all," the Prime Minister will say. "This means there will never be mining at Jabiluka.

Prime Minister Anthony Albanese and Chief Minister of the Northern Territory Eva Lawler. Picture: Lukas Coch/NCA NewsWire "The Mirrar people have loved and cared for their land for more than 60,000 years. Our government will work with them to keep it safe for all time." There has never been mining at Jabiluka, 250km east of Darwin, due to protests regarding the site's cultural history and significance to traditional owners.

Mr Albanese will also pay tribute to outgoing Indigenous Australians Minister Linda Burney. "Over the course of the past 18 months, Linda, (Environment Minister) Tanya Plibersek and myself have met with leaders and representatives of the Mirrar people," the speech reads.

"When Yvonne Margarula, the senior traditional owner of Mirrar country, wrote to me, she spoke of the chance to finally be free of the threat of further uranium mining at Kakadu." Anthony Albanese will honour Mirrar traditional owner Yvonne Margarula in his speech on Saturday morning. Picture: Zizi Averill On Friday the NT Lawler government ruled it would not renew the site's lease, which is to expire on August 11.

Energy Resources Australia, which has held the site since 1991, lobbied for a 10-year extension and had previously agreed not to begin mining without the consent of traditional owners.

"This beautiful part of Australia is home to some of the oldest rock art in the world," Mr Albanese will say in his address. "It was here, in 2017, that archaeologists discovered axes and sharpening tools dating back tens of thousands of years.



"(It is) proof of the extraordinary and enduring connection Aboriginal and Torres Strait Islander people have had with our land (and) a reminder of the extraordinary privilege all of us have to share this continent with the world's oldest continuous culture." Kakadu National Park gained its protected status in several stages through the 1970s to 1990s. In 1991, then-prime minister Bob Hawke banned uranium mining in the region.

The World Heritage site was expanded in 2013 to include Koongarra, east of the park and south of Jabiluka. It now spans almost 20,000sq km.

Twin Falls in Kakadu National Park. Picture: Werner Kalin Until now, Jabiluka had remained an exclusion zone.

The Ranger uranium mine is surrounded by the park, but remains excluded from its protections. The site was actively mined until 2021. ERA's lease on Ranger will lapse in 2026.

---- **Index References** ----

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