
Gundjehmi Aboriginal Corporation



*An organisation managed and controlled by
the Mirrar People of Kakadu*

Information for the Twenty-Fourth Session of the World Heritage Committee

22 September 2000

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1. Introduction

The Mirrar, like the World Heritage Committee¹, believe that the proposal to develop the Jabiluka uranium mine poses an ascertained and potential danger to the cultural and natural values of Kakadu National Park. The Mirrar have communicated clearly to the Australian Government and the World Heritage Committee their fears for the integrity of cultural and natural values if the project proceeds. The Australian Government has not conceded that there exists any threat to the World Heritage values of Kakadu.

Therefore, the Australian Government remains incapable of undertaking corrective measures to protect the cultural and natural values of Kakadu. In spite of the findings of the 1998 World Heritage Mission to Kakadu and the continuing concerns of the World Heritage Committee, the Government has not outlined any meaningful remedial action to protect these values of Kakadu. The Government has proceeded on the basis that Jabiluka is inevitable and poses no threat to World Heritage values, ignoring the input of Traditional Owners, international and domestic scientific opinion, the concerns of non-government organisations and opposition political parties and the will of the Australian people.

The Mirrar view with some concern the recent acquisition of Energy Resources of Australia by Rio Tinto and are very aware of the problems faced by Indigenous peoples internationally by the activities of one of the largest mining companies in the world. Rio's current record in dealing with Indigenous peoples is somewhat tarnished by its activities in Papua New Guinea in relation to the Bougainville copper mine.

¹ UNESCO World Heritage Committee Kakadu Mission Report, 1998

The Mirrar believe that the ascertained and potential dangers to the cultural and natural values of Kakadu have never been greater than at this point. Consequently, the need for action to protect these values is immediate.

2. Cultural Heritage Management Plan Process

Domestic processes for cultural heritage assessment do not indicate to the Mirrar that the Australian Government has a good faith approach to accepting Mirrar evidence as credible or primary to the process – Mirrar evidence is treated merely as one of many sources. The Australian Government has refused to devise a process outside of the development agenda to resolve this issue. The only existing option for domestic resolution of this impasse is Federal legislation from which the Mirrar have withdrawn due to the inability of the Minister for Environment and Heritage, Senator Robert Hill, to properly consult regarding the appropriate experience of an official inquirer.

The Australian Government proposes a cultural heritage management process that facilitates the development of the Jabiluka mine. This process involves a Cultural Heritage Reference Group to provide technical and cultural advice to ERA to fulfil the requirement of the preparation of a Cultural Heritage Management Plan.

The Mirrar have been invited to participate in the Cultural Heritage Reference Group and have outlined their objection to the nature and purpose of their participation on the Group. These concerns remained unanswered.² Mirrar participation will facilitate and accelerate the negative impact of the ascertained threat to the cultural values for which Kakadu has received World Heritage Listing.

² See Attachment A: 17 May 2000 letter from Yvonne Margarula to Senator Robert Hill.

The Cultural Heritage Reference Group is to act as an assessor and certifier of Aboriginal cultural knowledge. There is no indication from the Australian Government that information from the Mirrar will be treated as primary; nor is Energy Resources of Australia expected to remain independent of the proposed process of validation.

The Mirrar do not understand why the Australian Government would propose a process facilitating a development that threatens cultural values, where the proponent of the project participates as an arbiter of those very values.

In the view of the Mirrar the Australian Government must first accept that the development threatens the natural and cultural values of Kakadu National Park. While the threats posed by the proposed development remain unresolved the cultural values of Kakadu further deteriorate.

The Mirrar have provided information to the World Heritage Committee regarding the nature of the threat posed by the Jabiluka development. The position of the Mirrar remains unchanged. They have indicated their willingness to participate in cultural heritage management with the Australian Government under a process that recognises Mirrar information regarding cultural values as a basis for the development of a management plan.

Compounding the existing impasse is the fact that Energy Resources of Australia has announced plans to develop a new design for milling uranium on-site at Jabiluka. The Mirrar have requested a final mine design for some 18 months and regard this as prerequisite to any cultural mapping. As yet Gundjehmi Aboriginal Corporation has received no detailed information regarding the revised milling design.

3. The Way Ahead

While some parties may view Jabiluka as a political issue, to the Mirrar it remains a fight for cultural survival. Mirrar have received criticism of their approaches to the World Heritage Committee but have under the strain of limited resources continued their involvement in representing their issues to this credible and worthwhile forum.

With its emphasis on protecting sites of universal natural and cultural significance, a highly international skilled team and some 28 years experience, the World Heritage Committee is uniquely placed to understand Mirrar concerns regarding their cultural future.

To the Committee, the Mirrar emphasise the following:

- i. The Australian Government must implement corrective measures to protect Kakadu as the responsible State Party, accepting its responsibilities under the World Heritage Convention.
- ii. Energy Resources of Australia's new design for uranium milling on-site at Jabiluka must be fully examined as soon as possible by the Committee and its advisory bodies.
- iii. A high-level, expert advisory mission should visit Kakadu with a view to assess the current status of identified threats to its World Heritage cultural values and report back to the World Heritage Committee.

The Mirrar place great faith in the UNESCO World Heritage Convention to ensure the "protection, conservation, presentation and transmission to future generations of the cultural and natural heritage"³ of Kakadu.

³ Article 4 of the Convention Concerning the Protection of the World Cultural and Natural Heritage

4. A Government-created Impasse

In its 15 April 2000 Progress Report to the Bureau of the World Heritage Committee, the Australian Government attempted to defend the Jabiluka mine against concerns that it threatens the World Heritage values of Kakadu.

A number of key issues identified in the Progress Report highlight the inadequacy of the Government's approach.

- i. The Government steadfastly refuses to acknowledge that Jabiluka poses any ascertained and potential dangers to the cultural and natural values of Kakadu National Park. Apart from being at odds with the findings of every independent organisation that has examined the likely impacts of the mine, the Government founds its entire argument on a blatant rejection of Mirrar values and worldview. The Government decides what is acceptable drinking water, what constitutes an uninterrupted view of Kakadu's landscape, where Mirrar should camp and hunt and, most offensive, what areas are of cultural significance to the Mirrar.

- ii. The Government states that the proposed Cultural Heritage Reference Group will "provide a forum for discussion and a source of advice to assist ERA develop the Cultural Heritage Management Plan".⁴ This comment highlights the fundamental and unacceptable inadequacy of the Government's approach – the CHMP is to be developed by ERA, the proponent of the Jabiluka project with a vested interest worth some hundreds of millions of dollars. The secondary role of the Mirrar on this Reference Group is likewise unacceptable.

- iii. With repeated references to Gundjehmi Aboriginal Corporation's non-participation in the CHMP process, the Government seeks to portray the

⁴ *Australia's Commitments: Protecting Kakadu, Progress Report to the Bureau of the World Heritage Committee 15 April 2000, page 7.*

Mirrarr as unreasonably obstructionist. The report does not acknowledge, let alone counter, *any* of the Mirrar's concerns with the Government's approach despite them being stated and repeated time and again in frequent correspondence with the Minister for the Environment. A good example of this 'glossing over' is the description (on page 7) of the events that led to Gundjehmi withdrawing its application under the *Aboriginal and Torres Strait Islander Heritage Protection Act* to protect the Boiwek-Almudj sacred site complex. The Government version of events neglects to mention the reason why this application was withdrawn, namely because the "senior and highly respected lawyer" appointed by the Government to conduct the necessary inquiry was inappropriate, appointed with no consultation of the Mirrar and began to conduct the inquiry in an unfair manner.⁵

- iv. Nowhere in the Progress Report does the Government acknowledge the rightful primacy of the Mirrar in the corrective measures offered to address cultural values. Mirrar knowledge of country and its cultural significance is sidelined in favour of "earlier extensive and well documented studies of sites of significance"⁶. In other words, the Government prefers the paperwork of European anthropologists who walked over the lease area some 21 years ago to the direct testimony today of the land's custodians.⁷
- v. In defying the request of the Independent Scientific Panel (ISP) to examine "the revised plans for mining at Jabiluka" the Australian Government defies the World Heritage Committee, clearly regarding its actions as not accountable to the Committee. This not only leaves significant questions regarding the so-called Jabiluka Mill Alternative unanswered but also undermines the integrity of the World Heritage Convention itself.

⁵ See Gundjehmi Aboriginal Corporation: Report to the 23rd Session of the World Heritage Committee.

⁶ *Australia's Commitments: Protecting Kakadu, Progress Report to the Bureau of the World Heritage Committee 15 April 2000*, page 7.

⁷ See Attachment B: Jabiluka Uranium Mine Inquiry submission by Prof. Mulvaney AO, CMG.

5. Conclusion & Recommendation

The position of the Mirrar regarding ascertained and potential danger to the cultural and natural values of Kakadu National Park has deteriorated since the Bureau of the World Heritage Committee's Twenty-Fourth Session in July 2000.

The planning process for the cultural mapping of sites of significance within and around the Jabiluka lease area has reached an impasse due to the reluctance of the Australian Government to acknowledge both the concerns of the Mirrar and their key role in the process. Correspondence from the Australian Environment Minister has never dealt with Mirrar proposals raised in the letter of 17 May 2000.⁸ To date there has been no meaningful response let alone negotiation with regard to these proposals.

The Mirrar believe that the World Heritage Committee should ensure the close supervision and reporting of ongoing impacts of the Jabiluka proposal to the cultural values of Kakadu. The involvement of the significant resources of the Committee is regarded as integral to the protection of these values.

The Mirrar recommend the following to the Twenty-Fourth Session of the World Heritage Committee:

That a high-level, expert advisory mission including representatives of ICOMOS, ICCROM and IUCN visit Kakadu National Park prior to the 25th Session of the Bureau of the World Heritage Committee with a view to assessing the current status of identified threats to World Heritage values.



[Attachments follow]

⁸ See Attachment A: 17 May 2000 letter from Yvonne Margarula to Senator Robert Hill.