



ERA

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Senate Economics Legislation Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee

Energy Resources of Australia Limited (ERA) submission regarding the Inquiry into Atomic Energy Amendment (Mine Rehabilitation and Closure) Bill 2022

On 8 September 2022, the Senate referred the provisions of the Atomic Energy Amendment (Mine Rehabilitation and Closure) Bill 2022 (the **Bill**) to the Senate Economics Legislation Committee (**Committee**) for inquiry and report by 23 November 2022.

ERA appreciates this opportunity to make a submission to the Senate Economics Legislation Committee regarding the Bill, and to urge for the Bill to be passed.

ERA's submission is set out in full below, but ERA's position can be summarised as follows:

- ERA strongly supports the Bill.
- The Bill is necessary to enable ERA sufficient time to complete world class rehabilitation of the Ranger Project Area and for long term monitoring and maintenance.
- Importantly, the Bill only provides for an authorisation to be issued that is limited to rehabilitation activities – a Rehabilitation Authority. It does not authorise future mining.
- If the Bill is passed, ERA intends to apply for a Rehabilitation Authority.
- ERA has, through the Northern Land Council (**NLC**) and the Gundjeihmi Aboriginal Corporation (**GAC**), worked with the Traditional Owners (the Mirarr People) to agree on this pathway forward, and the Bill also has Traditional Owner support.
- The grant of any future authority is conditional on a further agreement being negotiated with the Traditional Owners.
- It is important that the Bill is passed in a timely manner, as that will deliver the regulatory certainty that ERA requires to plan and undertake its rehabilitation by working to optimal timeframes, and will also provide the necessary certainty to inform agreement negotiations with the Traditional Owners.



Background

ERA owns and operates the Ranger Uranium Mine, which is located in the Northern Territory. Mining of uranium at the Ranger Mine commenced in 1981.

The mining and processing of uranium at Ranger has ceased. ERA has commenced and is continuing to undertake rehabilitation at the mine site. This is a process that will be ongoing for many years.

The Ranger Mine is regulated by a unique suite of approvals, agreements and regulations. Relevantly in relation to the Bill, ERA's access to the Ranger Project Area (*RPA*) is authorised and regulated under provisions of the *Atomic Energy Act 1953* (Cth) (*AEA*) that specifically relate to the Ranger Mine, and by way of an authority granted pursuant to section 41 of the AEA (**Section 41 Authority**).

ERA's Section 41 Authority is due to expire on 8 January 2026.

The Section 41 Authority allowed ERA to carry on uranium mining and processing activities at the Range Uranium Mine until 8 January 2021, at which time mining of uranium was required to cease. The current Section 41 Authority requires ERA to undertake and complete rehabilitation related activities prior to the cessation of the Section 41 Authority on 8 January 2026.

There is no current ability under the AEA to grant ERA a further Section 41 Authority, or extend the existing authority, beyond 8 January 2026.

ERA's commitment to world class rehabilitation at Ranger

ERA's priority to care for country is demonstrated by our public commitment to achieve a standard of rehabilitation similar to the adjoining Kakadu National Park for the RPA. To achieve our rehabilitation goals, ERA requires the Bill to be passed to ensure ERA can continue to meet its rehabilitation obligations.

ERA's rehabilitation plan takes into account feedback over many years from the NLC, GAC, the Supervising Scientist Branch, and Northern Territory and Commonwealth regulatory agencies. ERA recognises the complexities of rehabilitating a site in an environmentally and culturally sensitive area and has accordingly developed world class, comprehensive and achievable closure outcomes for the Ranger Mine.

ERA's rehabilitation work is already well underway. To date, ERAs key milestones include:

- Transferring 26.7 Million tonnes of tailings from the Tailings Storage Facility TSF to the Pit 3 area;
- That tailings dam is now a water storage facility after the transfer which eliminates the risk of a tailings failure from that facility in the future;
- Pit 1 has been backfilled, the final landform constructed and it has been largely planted for rehabilitation; and
- we have planted 44,500 stems, a combination of trees and grasses which are now establishing themselves as part of the final landform



ERA has spent more than \$918 million on rehabilitation and water management at Ranger to date, with further capital commitments required to achieve upcoming progressive rehabilitation commitments.

Extension required to produce optimal rehabilitation outcome

The provisions of the AEA that allowed for a 5 year window between cessation of mining and subsequent completion of rehabilitation were passed decades ago. Knowledge, standards and expectations in relation to mine site rehabilitation has advanced significantly since that time. The RPA is also a complex mine to rehabilitate given both the nature of the minerals that have been mined and the surrounding world heritage listed national park.

Attempting to finalise rehabilitation by 8 January 2026 is not feasible and will not meet the agreed objectives of stakeholders. ERA is committed to undertaking proper and thorough rehabilitation of the Ranger Project Area to a world class standard. It has already commenced that work, but in order to rehabilitate the mine site to that standard, it requires further time beyond 8 January 2026.

The amendments to the AEA are required to enable this to be possible. Without the amendments, ERA is required to vacate the RPA on 8 January 2026.

Future Authority is limited to authorising rehabilitation

Notably and importantly, the Bill will amend the AEA in such a way that any future Authority issued under the AEA to ERA (or any extension of the existing Section 41 Authority) is limited to authorising ERA to undertake rehabilitation activities. It is not possible under the AEA, as amended by the Bill, for ERA to be issued any future mining rights at Ranger.

Key features of the Bill are:

- an ability for ERA to apply for and be granted a 'Rehabilitation Authority' to enable ERA the further necessary time to undertake and complete rehabilitation of the RPA;
- an ability for the Commonwealth to impose on ERA an extension of the existing Section 41 Authority requiring ERA to complete rehabilitation of the RPA. ERA fully intends to apply for a Rehabilitation Authority, but this provision provides the Commonwealth with a safeguard that it can impose the rehabilitation obligation on ERA if it does not so apply; and
- provisions that provide for the progressive relinquishment of parts of the RPA as and when rehabilitation of areas are complete (and environmental standards are met and ongoing), returning those areas to the Traditional Owners sooner.

These are sensible amendments that align the relevant provisions of the AEA regarding rehabilitation with the position commonly adopted under mining related legislation, by obliging the mining authority holder to complete rehabilitation to a required standard before 'handing back' the authority, and by encouraging progressive rehabilitation and relinquishment.



Support of Traditional Owners

ERA recognises that support of the Traditional Owners is of critical importance.

The requirement for their agreement under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) (**ARLA**) is a current requirement of the AEA and will remain an important requirement of the AEA after amendment by the Bill. The existing agreements with the Traditional Owners are due to expire on 8 January 2026 when the current Section 41 Authority expires.

The approach taken by Bill has been the subject of extensive collaborative discussions between ERA, the NLC, the GAC and the Commonwealth Department of Industry, Science and Resources (**DISR**). ERA understands that the Bill has the support of the Traditional Owners. All parties recognise the need for the amendments in the Bill to be made to the AEA, for reasons expressed above.

ERA urges the Committee to have strong regard to the views of the Traditional Owners in supporting the Bill.

Further, the Bill entrenches a number of safeguards to ensure the involvement and agreement of the Traditional Owners is required, including:

- a Rehabilitation Authority cannot be granted unless there is first an agreement in place between the Commonwealth and the NLC pursuant to ALRA;
- the Minister is required to further consult with the NLC before any Rehabilitation Authority is granted;
- before the Minister makes any declaration that an Authority no longer applies to part of the RPA because the Minister is satisfied the area is rehabilitated, the Minister must consult with the NLC;
- before the Minister revokes an Authority, the Minister must be satisfied the area is rehabilitated, and the Minister must first consult with the NLC; and
- before the Minister makes any variation to the conditions of an Authority, the Minister must consult with the NLC.

Whilst the AEA requires the Commonwealth to negotiate and enter an agreement with the NLC, ERA will, under its arrangements with the Commonwealth, be required to comply with the terms of any such agreement, and it is ERA's expectation that it will be heavily involved in the negotiations, as it has in the past when similar agreements have been negotiated for Ranger. Indeed, ERA has already been involved in preliminary discussions with the NLC and GAC about the necessary agreements, in anticipation of the amendments in the Bill being passed.

Importance of timing for passing of the Bill

It is important to have certainty on the timing for completion of rehabilitation well in advance.

ERA's rehabilitation works are already substantially underway and are proceeding to a plan. That plan requires confidence as to the time frames it is working towards. It is important for ERA to know well in advance of 8 January 2026 if it will be required to



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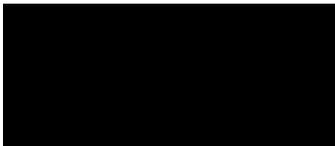
vacate the RPA at that date or whether it will be granted a Rehabilitation Authority providing further time to complete rehabilitation. Rehabilitation takes time and planning needs to be undertaken years in advance.

Further, before a Rehabilitation Authority can be applied for and granted, agreements will need to be negotiated with the Traditional Owners (through the NLC and GAC) and the Commonwealth. Whilst ERA is confident all parties will approach those negotiations in good faith and with a collaborative attitude, experience suggests such agreements will take at least 12 months to negotiate, and possibly longer. The parties require regulatory certainty to provide the context for those negotiations to commence in earnest. For example, the parties cannot confidently negotiate an agreement that contemplates activities on the RPA beyond 8 January 2026 unless they are confident this will actually be permitted.

For this reason, it is in the interests of all stakeholders to have the Bill passed as soon as possible. ERA is ready and willing to commence fulsome engagement in the necessary agreement negotiations with the Commonwealth, NLC and the GAC once the Bill is passed, and understands that the NLC and GAC are similarly minded.

ERA therefore urges the Committee to consider the Bill as a matter of urgency and well in advance of 23 November 2022, so that the Bill can preferably be passed by parliament this calendar year. This will allow ERA and the Traditional Owners to move forward with their agreement negotiations with the Commonwealth, and enable ERA to plan with certainty the world class rehabilitation of the RPA.

Yours sincerely



Brad Welsh
Chief Executive
Energy Resources of Australia Limited