



Australian Government

Department of Industry, Science and Resources

National Indigenous Australians Agency

Submission to Senate Inquiry on the Atomic Energy Amendment (Mine Rehabilitation and Closure) Bill 2022 – Economics Legislation Committee

28 September 2022

Introduction

The Department of Industry, Science and Resources (DISR) and the National Indigenous Australians Agency (NIAA) welcome the inquiry of the Senate Economics Legislation Committee into the Atomic Energy Amendment (Mine Rehabilitation and Closure) Bill 2022 (the Bill). We have prepared a joint submission.

The DISR provides advice to Commonwealth Minister for Resources in respect of Energy Resources of Australia's (ERA) rehabilitation activities at the Ranger Uranium Mine (Ranger) in the Northern Territory (NT). The NIAA provides advice to the Commonwealth Minister for Indigenous Australians, who administers the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALRA), which sets out the requirements for an agreement granting access to ERA to undertake operations at Ranger and surrounding area. Those access provisions are in section 44 of the ALRA, being the version of the ALRA in force immediately before the commencement of the *Aboriginal Land Rights (Northern Territory) Amendment Act (No. 3) 1987*. Section 8 of that amendment Act continued those provisions in force in relation to the Ranger Project Area.

The DISR and NIAA acknowledge that the Bill:

- is necessary in order for the Australian Government to give ERA and Mirarr traditional owners' certainty that the longstanding regulatory framework will remain in place until ERA has completed rehabilitation;
- will facilitate the rehabilitation of the Ranger Project Area (RPA) to the standard described in the *Environmental Requirements of the Commonwealth of Australia for the Operation of Ranger Uranium Mine* (the ERs); and
- protects the interests of the Mirarr traditional owners, who have formally expressed their support for the amendments.

Further information on the Bill can be found in the [Explanatory Memorandum](#).

Background

Ranger is located within the RPA, on Mirarr country in the NT. The RPA is on Aboriginal land under the ALRA, and is surrounded by Kakadu National Park (Kakadu). Under the ALRA, traditional Aboriginal owners have the power to veto mining operations on their land. However, during the late 1970s the Commonwealth overrode the veto power of the local Mirarr traditional owners in relation to the RPA, establishing Ranger against the traditional owners' wishes.

The Commonwealth was a joint proponent when Ranger was first approved, but divested its equity interest in the project before commencement of uranium production. ERA has operated Ranger since 1980.

The Commonwealth retains oversight of the unique regulatory framework for the RPA. In general terms, this framework includes a:

- section 41 Authority under the *Atomic Energy Act 1953* (AEA) (s 41 Authority) permitting ERA to undertake certain activities relating to mining and rehabilitation in the RPA; and
- section 44 agreement under the ALRA (ALRA land access agreement), through which the Mirarr traditional owners agree to ERA accessing the RPA.

The current s 41 Authority requires ERA to rehabilitate the RPA in accordance with the ERs, which are appended to the current s 41 Authority. The ERs require the RPA to be rehabilitated to a state akin to surrounding areas of Kakadu.

ERA ceased mining at Ranger in 2012 and ceased processing uranium ore in 2021. The current s 41 Authority and ALRA land access agreement expire on 8 January 2026. While rehabilitation is well advanced in some areas, ERA requires more time to rehabilitate the whole of the RPA to the standard set out in the ERs. The need for additional time is accepted by all stakeholders, including the Mirarr traditional owners.

To enable ERA to properly rehabilitate the RPA, the rehabilitation period must be extended – and a longer term monitoring period must be implemented – through a new Authority conferred under the AEA and a variation to the ALRA land access agreement. The AEA does not presently allow the Minister for Resources to vary, renew or extend ERA's current s 41 Authority.

What the Bill will achieve

The Bill will enable the preservation of the RPA's regulatory framework until ERA has rehabilitated the RPA to the standard set out in the ERs. The Bill will achieve this by allowing the Minister for Resources to:

- confer on ERA a new Rehabilitation Authority, upon application by ERA, under proposed new s 41CA of the AEA; or
- vary and extend the expiry date for the existing s 41 Authority. This provides an alternative pathway to preserving the regulatory framework beyond 2026 should ERA not apply for a Rehabilitation Authority under the proposed new s 41CA.

The Bill will also enable progressive 'close-out' of the RPA by providing for rehabilitated areas to be returned to the Mirarr traditional owners sooner. This will ensure that the Mirarr traditional owners regain control of rehabilitated areas of their land as soon as possible, even as rehabilitation remains ongoing in other parts of the RPA.

Protection of traditional owners' interests

The Bill has been developed in consultation with the Gundjeihmi Aboriginal Corporation (GAC) and the Northern Land Council (NLC), who represent the Mirarr traditional owners, and whose representatives commented on several exposure drafts. This thorough consultation process has led to a Bill that protects traditional owners' interests by ensuring that:

- an ALRA land access agreement remains a precondition to the Minister for Resources' proposed conferral of a new Authority (or extension of the current s 41 Authority) authorising ERA's ongoing rehabilitation activities on the RPA; and
- traditional owners must be consulted before the Minister for Resources can confer a new Authority, or vary the conditions, restrictions or requirements of an Authority. Proposed variation provisions in the Bill do not allow the Minister for Resources to vary the standard of rehabilitation ERA must achieve.

The requirement to consult traditional owners maintains longstanding arrangements, and will ensure that rehabilitation is completed in a way that supports traditional owners' reconnection with country and aligns with post-mining land use objectives. Rehabilitation of the RPA to a state akin to surrounding areas of Kakadu, with traditional owners' input (for example, on the design of landforms reconstructed over mined-out areas), will assist this transition.

Outside of the provisions of the AEA and Bill, Traditional Owners (via their representative bodies) are closely involved in the oversight of Ranger's rehabilitation. NLC and GAC are members of several Ranger-focused committees and are formally consulted on ERA's annual Mine Closure Plan, rehabilitation designs and the development of closure criteria which will be used to determine if ERA has achieved the ERs.

The rehabilitation of the RPA fits within a broader commitment by the Commonwealth in Jabiru and Kakadu to support empowerment of the local Mirarr traditional owners as they implement their vision to the transition of Jabiru from a mining town servicing Ranger to a world class tourism hub. In June 2021 Jabiru was granted to the Mirarr traditional owners as Aboriginal land which is being managed by a local community entity, the Gundjeihmi Aboriginal Corporation Jabiru Town, through a township lease under s 19A of the ALRA.

Traditional owners' support

GAC and the NLC have written jointly, with ERA, to the Minister for Resources and Northern Australia expressing support for the Bill and requesting that it be passed as a matter of urgency.