

Northern Territory Resources Pty Ltd

31 May 2018

Aboriginal Land Commissioner
Office of the Aboriginal Land Commissioner
GPO 9932
Darwin NT 0801

Dear Commissioner Mansfield

RE: FINNISS RIVER LAND CLAIM NO 39 (REPORT NO 9)

I write on behalf of Northern Territory Resources Pty Ltd (**NTR**). NTR wishes to participate in the review of detriment issues for the Finnis River Land Claim No 39 (**Land Claim**) as contained in the Aboriginal Land Commissioner's Report of May 1981 (**Land Claim Report No 9**). NTR may suffer detriment in the Land Claim is granted.

NTR is the owner of mineral tenements, including Exploration License in Retention (**ELR**) 146. ELR 146 is part of the Browns Sulfide Project (**Project**), a polymetallic sulphide mining and processing project south of Darwin and west of Batchelor that has been in care and maintenance since 2010. Another company interested in restarting the Project is currently undertaking its due diligence in advance of potential acquisition.

Most, if not all, of ELR 146 appears to be within Claim Area 4 of the Land Claim, described in paragraph 216 of Land Claim Report No 9 as follows:

This is an area of just under 107 square kilometres... Its southern boundary is the town of Batchelor and the road from Batchelor to the Stuart Highway. Fragmented, it runs north to just south of the Darwin River Dam, having the North Australian Railway as an approximate western boundary and extending in an easterly direction towards the Stuart Highway. It includes Rum Jungle.

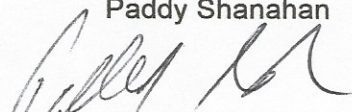
I am unaware of any direct negotiations between the claimants and/or Northern Land Council and NTR in relation to the Land Claim becoming Aboriginal Land and how to address the significant issues of detriment that would arise from such a grant.

A grant of the Land Claim could cause detriment by adversely impacting the viability of recovering minerals from the tenement, regardless of the Project developer. This detriment could arise in the form of delay occasioned by necessary negotiations with the Northern Land Council, and the risk of failing to reach reasonable accommodation because of excessive costs or other factors.

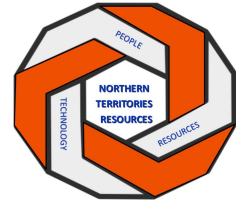
Thank you for your attention to this matter. It is my understanding that any further submission must be made by 4 July 2018.

Best Regards,

Paddy Shanahan



Chairman NTR



Northern Territories Resources Pty Limited
PO Box 37446
Winnellie
NT 0821
ACN 124 647 829
ABN 78 124 647 829

July 3rd 2018

Via email: AboriginalLandCommissioner@network.pmc.gov.au

Aboriginal Land Commissioner
Office of the Aboriginal Land Commissioner
GPO 9932
Darwin NT 0801

Dear Commissioner Mansfield

Re: FINNISS RIVER LAND CLAIM NO 39 (REPORT NO 9)

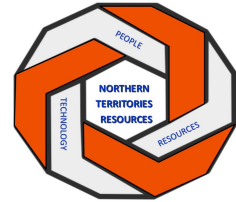
Introduction

I write on behalf of Northern Territory Resources Pty Ltd (**NTR**), who has expressed its interest in the review of detriment issues in relation to Section 2968 Hundred of Goyder (**Outstanding Land Claim Area**) within Claim Area No 4 of the Finnis River Land Claim No 39 (**Land Claim**) as contained in the Aboriginal Land Commissioner's Report of May 1981 (**Land Claim Report No 9**). This correspondence follows up on my previous correspondence of 31 May 2018 in regard to the matter. As noted in that correspondence, NTR may suffer detriment if the Land Claim is granted. A grant of the Land Claim may also result in the accrual of detriment to the community writ large.

This correspondence explains in more details that detriment may accrue to NTR from a grant of the Land Claim generally and the Outstanding Land Claim Area specifically.

Interest of NTR

NTR is the holder of mineral titles including Exploration Licence in Retention (**ELR**) 146, a mineral title of approximately 1008 hectares north of Bachelor at roughly the terminus of old Rum Jungle Road. The bulk of ELR 146 is within the Outstanding Land Claim Area. While maps produced for Land Claim Report No 9 make precise comparison difficult, the attached map from Northern Territory STRIKE database (Spatial Territory Resource Information Kit for Exploration) shows the extent of the Land Claim with respect to ELR 146. The cross-hatched area on the map represents the portion of the Outstanding Land Claim Area covering ELR 146.



Northern Territories Resources Pty Limited
PO Box 37446
Winnellie
NT 0821
ACN 124 647 829
ABN 78 124 647 829

NTR's mineral titles also include several mineral leases (**MLN**) in close proximity to ELR with small portions of each extending into the Outstanding Land Claim Area. MLN 140, MLN 142, and MLN 150 are each approximately 16.18 hectares. The amount of each mineral title that extends into the Outstanding Land Claim Area ranges from several hundred metres to three hectares. These 3 mineral leases are part of a total of 12 mineral leases known as the Browns Mineral Leases.

The Browns Mineral Leases are located on Finnis River Aboriginal Land Trust land except to the extent that they intrude into the Outstanding Land Claim Area as noted above or are over vacant Crown land which was formerly a part of the Rum Jungle Road and White Road. The Browns Mineral Leases represent the south-western continuation of mineralisation associated with the former Rum Jungle mining operations which were carried out within the Outstanding Land Claim Area. The Browns Mineral Leases are part of a wider mineral title package of mineral leases, exploration licences and exploration licences in retention in the Batchelor region of the Territory (**Batchelor Region Project**).

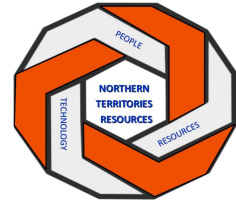
The Browns Mineral Leases were originally granted in 1956 and were mined for copper, cobalt and nickel oxide mineralisation as late as 2008 by Compass Resources Limited in joint venture with Hunan Non-Ferrous Corporation (after Project expenditure in excess of \$200 million and the construction of an Oxide Processing Plant which remains in care and maintenance on the Browns Mineral Leases). The 2008 oxide mining operations resulted in the insolvency and ultimately the liquidation of Compass. Debt financiers to Compass acquired Hunan Non-Ferrous Corporation's special purpose vehicle that had invested in the Browns Project and Batchelor Region Project in 2015 and re-named the entity NTR. Receivers of Compass sold Compass' interest in the Batchelor Region Project to NTR in 2017 and therefore NTR became the consolidated holder of the Batchelor Region Project.

ELR 146 is part of the Batchelor Region Project and contains sulfide mineralisation at depth (under the areas mined as part of the Rum Jungle Mine) which is a continuation of the Browns Mineral Leases sulfide mineralisation (sitting below the Browns Mineral Leases oxide mineralisation). ELR 146 was applied for in 1995 and granted in 2001 and has an expiry date of 18 September 2021, subject to a right to seek renewals under the *Mineral Titles Act* (NT).

NTR was aware of the status of the Outstanding Land Claim Area when it acquired the Batchelor Region Project (including ELR 146) in 2015 and 2017 but took the view that the land was unlikely to become Aboriginal land at any time in the near future given the long period in which the Land Claim had been outstanding in relation to the Outstanding Land Claim Area and the status of the rehabilitation of the legacy issues associated with the Rum Jungle Mine Site.

Exploration Licence in Retention 146

ELR 146 is part of the Browns Sulfide Project (**Project**), but before describing the Project in greater detail, a brief discussion of the current state of the property itself and its history is in order.



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Winnellie
NT 0821
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ELR 146 encompasses much of the Rum Jungle mine site, which produced and processed uranium and uranium oxide from the early 1950's until 1971. Within ELR 146 are a number of contaminated remnants of the mine that are visible on the attached STRIKE map, including open cuts, overburden heaps and a tailings dam.

Although it is not my intention here to discuss rehabilitation of the Rum Jungle site, rehabilitation efforts on the part of the Commonwealth and Northern Territory governments are ongoing. It is also NTR's understanding that one reason for lack of final action on the Land Claim in the early 1980s was a concern that traditional owners would potentially become partially liable for the existing environmental problems at Rum Jungle.

Browns Sulfide Project

The Project is a polymetallic sulfide project focussing on cobalt, nickel, lead and copper that has been in care and maintenance since 2010. It stretches across several mineral leases with known mineralization extending significantly into ELR 146. It would be necessary to convert ELR 146 to a mineral lease before mining could commence. One component of the Project known as Browns Oxide Pit straddles the boundary between one of the mineral leases and ELR 146 along what the attached STRIKE map identifies as Rum Jungle Road.

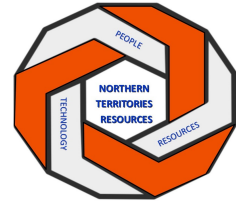
The three other mineral leases identified above that are impacted by the Outstanding Land Claim Area are also part of the Project. The focus of the detriment, though, is on ELR 146. Although it is discussed further below, the detriment that would accrue to any individual MLN would be subsumed into the detriment resulting from the impact of granting the Land Claim on ELR 146.

[REDACTED]

Detriment

The grant of the Land Claim as Aboriginal land will cause detriment to NTR for the reasons outlined below.

[REDACTED]



Northern Territories Resources Pty Limited
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Winnellie
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This also results in a detriment to MLN 140, MLN 142, and MLN 150. They may be directly impacted in the same manner as ELR 146, although we understand the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) grants certain protections to existing mineral leases. To the extent MLN 140, MLN 142, and MLN 150 are outside Claim Area No 4, a grant of the Land Claim would still cause detriment to those mineral leases. They are part of the same project as ELR 146. Standing alone from ELR 146, the economic viability of extracting minerals from those three tenements would be severely constrained.

While NTR acknowledges the Land Commissioner's statement regarding other mining interests in Land Claim Report No 9 that submissions based on the possibility of mining not going ahead because of opposition from Aboriginal owners can only be considered speculative at this stage and offer no evidence of actual or probable detriment to the company' [432], we believe the statement is misplaced. The issue is not the potential opposition (which may or may not eventuate), but the inevitable uncertainty that a grant would create. That is, uncertainty that reasonable accommodation can be reached with Aboriginal Owners.

Reasonable in this regard refers to more than just direct costs; it includes the exactions that may be sought in exchange for permission to access Aboriginal land which may not be practicable. The remaining contamination and tailings dam will be of considerable concern to Aboriginal owners.

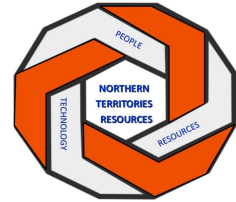
A grant would also generate uncertainty around the length of the delay caused to the Project. The time cost of the delay, which would be caused by negotiations with Aboriginal owners, would be material to the viability of the Project. This time cost can also be magnified by seasonal variations in the Top End; depending on when the delay occurs, an otherwise short delay can result in much longer delays in Project development and operation because of the onset of the wet season.



The failure of the Project to move forward, or even to move forward in a timely manner, also has negative ramifications for the wider community. Local job creation is suppressed. Statutory royalties and compensation do not accrue as long as the Project is not operational.

Mining on the site also has the potential to reduce environmental clean-up costs otherwise borne by the public, creating additional public detriment if the Project fails to go forward.

It is NTR's understanding that one of the reasons the Land Claim, especially Claim Area No 4, was not granted at the time was concerns over the effect of a grant of Aboriginal land on contamination-related liability. Since Land Claim Report No 9 issued, some funds have been appropriated by the Commonwealth to facilitate rehabilitation of the site, but the site has not

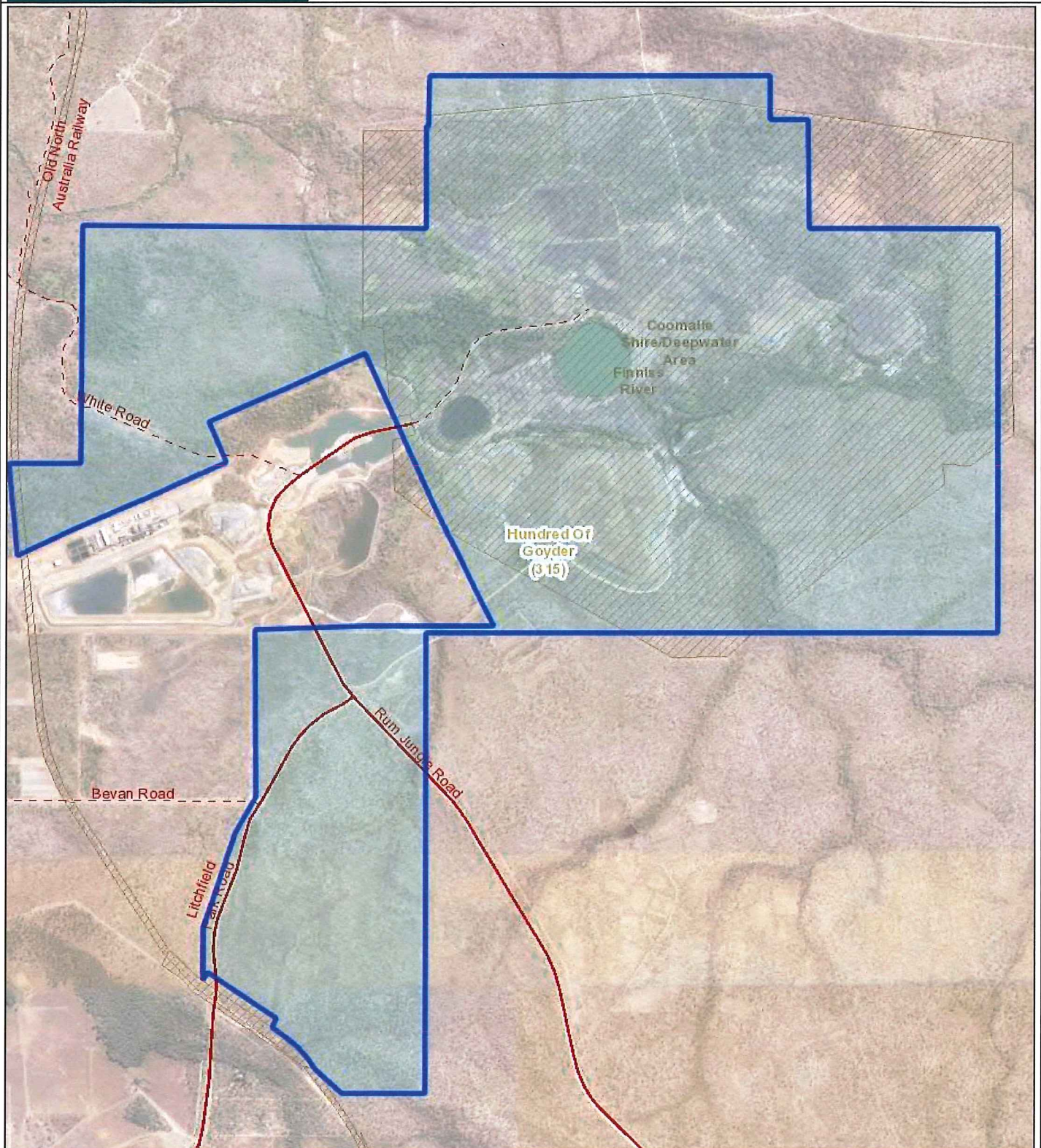


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been rehabilitated. In that regard, the contamination related concerns have not changed since the issuance of Land Claim Report No 9 and those concerns should remain. A grant at this time would therefore hinder the progression of clean-up and remediation measures in due course because of the legal implications of the grant in requiring negotiation and permission to access affected land.

Thank you for the opportunity to participate in the Finniss River Land Claim No 39 detriment review. In light of the foregoing, NTR believes a recommendation to grant Claim Area No 4 should not be made at this time.

Patrick Shanahan
Chairman, Northern Territories Resources PTY Limited



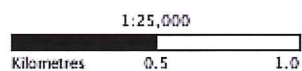
© Northern Territory Government.

This map is generated from the STRIKE for information purposes only. No guarantee of accuracy or completeness is provided.

Titles and Geoscience Information is sourced from the Northern Territory Government's Department of Primary Industry and Resources, Department of Infrastructure, Planning and Logistics and Department of Environment and Natural Resources

Topographic data sourced from Geoscience Australia and the Department of Infrastructure, Planning and Logistics

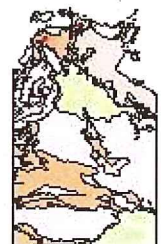
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STRIKE - Department Primary Industry and Resources

Major Towns



Roads - NT

- National Highway
- State Arterial
- Secondary

Roads - Regional

- National Highway
- State Arterial
- Secondary
- Urban Local
- - Rural - Local
- - Pastoral - Local

Roads - Urban

- National Highway
- State Arterial
- Secondary
- Urban Local
- - Rural - Local
- - Pastoral - Local

Aboriginal Community Living Areas



Hundreds



Aboriginal Land Claims - ALRA





Northern Territories Resources Pty Limited
PO Box 37446
Winnellie
NT 0821
ACN 124 647 829
ABN 78 124 647 829

20 September 2018

The Hon John Mansfield AM QC
Aboriginal Land Commissioner
Australian Government - Office of the Aboriginal Land
Commission
GPO Box 9932
DARWIN NT 0801

Dear Commissioner Mansfield

Land Claim No 39 - Finniss River

Thank you for your letter of 13 September 2018 providing an opportunity for us to review and respond to the Claimants' submissions. I note your request for comment on paragraphs 7 – 10 of the submissions in particular.

We wish to make the following comments in relations to paragraphs 8, 9 and 10 of the submissions.

As to paragraph 8, rather than accept the characterisation of NLC, we believe the process a miner would have to go through under section 46 of the ALRA speaks for itself. The amount time it would take to get through all the steps in section 46(7) is substantial and would represent a significant detriment.

As to paragraph 9, it is not possible to provide any indication of timeframe at this stage or whether activities on the land might be finalised before rehabilitation is completed. If the Minister is inclined to grant title, however, NTR agrees with the Claimants that title should not be granted until the area has been satisfactorily rehabilitated. See paragraph 3 of Claimants' submission.

Paragraph 9 mentions that Doe Run can itself assess the level of risk. That is correct. With respect, it is exactly the point NTR sought to make in our submission. That is, Doe Run will have to assess the uncertainty created by the claim and rehabilitation process, which is potentially a negative factor in Doe Run's decision on its level of involvement going forward. A



decision by Doe Run to not move forward based on the increased uncertainty created by the current status of the claim and rehabilitation process would be a detriment to NTR.

In relation to paragraph 10 we are at odds with the Claimants' comment. Although the restriction on activity is in place, NTR may wish to seek the approval of the Department to undertake further activities. If that happens, NTR may be asked to assume responsibility for, or contribute to, cleaning up the affected part of the land as a condition of the Department giving its approval. No evidence can be provided of that matter at this stage, because it has not occurred yet.

Of note, any surface construction activities that are approved on the site may ameliorate the need for rehabilitation at the construction areas at a minimum. Approved subsurface activities could result in reduction of necessary groundwater management activities. The Claimant's submission with regard to the current restriction is irrelevant to this consideration.

We have no further comment on the balance of the Claimants' submissions.

Yours faithfully

A handwritten signature in black ink, appearing to read "Patrick Shanahan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Patrick Shanahan
Chairman