

**A REPORT TO URS  
DARWIN, N.T.**

**MT GRACE RESOURCES NL**

**MAGNESIUM MINE,**

**BATCHELOR, N.T.**

**ENVIRONMENTAL IMPACT ASSESSMENT,**

**ANTHROPOLOGICAL COMPONENT,**

**INITIAL REPORT**

W. Murgatroyd  
November 2001

## **EXECUTIVE SUMMARY**

- **The proposed Mt Grace Magnesium Mine is located within an area acknowledged as being the traditional country of the Kungarakany and Warai Aboriginal people.**
- **These areas are of spiritual significance emanating from, and particularly associated with, those Sacred Sites, (5171-87; 5171-108; 5171-109; and 5171-112: 5171-114), that are marked on the AAPA Certificate Map, (C2001/040). The spiritual significance is also associated with other sites adjacent the project area, and with ancestor's trails which pass in close proximity to the project area.**
- **The Aboriginal custodians consider all subsurface water and water courses to be of spiritual significance. The Custodians have an intimate understanding of the relationships between the regional subsurface hydrology (including Litchfield Park), and the surface drainage, and are particularly concerned about any activity which impedes or impacts on these landscape features.**
- **Consultations were not finalised with all Custodians prior to the submission of this Report, on the understanding that the Custodians would be supplied with the draft EIS Report, after which a further meeting would be held to explain and discuss issues raised in this Report. This Report should therefore be read as an Initial Report only.**
- **The custodians consulted acknowledge that they have little direct control over activities within the mine project area, (other than the immediate area of the Sacred Sites), however they appreciate the opportunity to express their concerns.**
- **Custodians consulted to-date have expressed a number of concerns detailed in the Report. These concerns focus on the nature and impacts of:**
  - **Construction methods and materials**
  - **Water diversion under varying flood conditions**
  - **Internal road alignments**
  - **Extraction of sub-surface water**
  - **Plant emissions under varying prevalent wind conditions**
  - **The chemical composition of slag and length of time it will stay on site**
  - **Projected mine life, and rehabilitation**
  - **The Custodians' concerns are not only with the mine project area, but also, potential impacts on adjacent areas of Aboriginal land, especially Areas 4 and 5 as granted under the Finnis River Land Claim, and the Aboriginal residents thereof.**
  - **Those consulted have expressed the desire to have these issues explained and discussed at the next meeting with the proponent, and have requested that a**

**wider range of people be advised of the next meeting, especially those custodians living in close proximity to the project area.**

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	i
List of Maps.....	iii
1.0 INTRODUCTION.....	1
2.0 Subject Area .....	2
3.0 Consultations and Research.....	4
3.1 Archival Research.....	4
3.2 Consultations .....	4
4.0 Brief History of Area.....	5
4.1 Introduction .....	5
4.2 The Kungarakany and Warai .....	5
4.3 European exploration and settlement.....	9
4.4 Mining .....	9
4.5 Batchelor Demonstration Farm.....	10
5.0 Finnis River Land Claim.....	12
6.0 Issues Raised During Consultations .....	16
7.0 The Relevance of Land Rights, Native Title and other Legislation.....	18
8.0 Conclusions and Recommendations .....	19
8.1 Conclusions .....	19
8.2 Recommendations.....	19
BIBLIOGRAPHY .....	21
APPENDICES .....	22

### List of Maps

Map One: Area Four and Area Five, Finnis River Land Claim 3

Map Two: Location of Kungarakany and Warai 9

## **1.0 INTRODUCTION**

This Report was commissioned by URS Australia Pty Ltd, on behalf of the proponents, Mt Grace Resources NL. The reporting consultant was required to carry out research and consultations with the relevant Aboriginal custodians, in regard to perceptions and values of the project area, and their concerns about possible impacts on sites and areas of significance to them.

Prior to the actual consultations, a group of Custodians carried out a site inspection with Mr Stuart Robinson, of Mt Grace Resources NL, during which numerous issues were raised and discussed.

Mr Robinson also agreed that the Custodians would be supplied with the draft EIS Report, after which a further meeting would be held to explain and discuss issues raised in this Report.

This Report should therefore be read as an Initial Report only. It should particularly be noted that consultations were not finalised with all Custodians prior to the submission of this Report, on the understanding that a broader group of people should be advised of the next meeting and invited to attend.

The Report outlines the known pre-European situation within the area, and briefly outlines the post-contact history to the present, drawing on published sources. Particular emphasis is placed on Toohey, J., (1981), in demonstrating that the Kungarakany and Warai custodians' relationship with the Mt Grace Magnesium mine project, and the surrounding Aboriginal landscape.

Essentially, this Report concludes that the Mt Grace mine area is situated in close proximity to a number of sites of special significance to the Kungarakany and Warai Aboriginal Custodians, and those Custodians feel it is their responsibility to ensure that a minimum of disturbance results from the construction and use of the proposed mine. The Custodians are concerned about potential impacts on the areas of Aboriginal Land to the North and South –East of the mine site, and any health issues for current and future residents of those areas.

## 2.0 Subject Area

The proposed Mt Grace Magnesium mine is situated just East of Batchelor township, 60klms South of Darwin in the Northern Territory of Australia. As outlined below, the area of the mine project was cleared for agricultural purposes during the early 20<sup>th</sup> Century. The project site is generally low lying black soil flood plains in the western portion, with the ground rising gently to low hills in the south-easterly and easterly section.

Land granted to the Kungarakany and Warai traditional owners under the Finnis River Land Claim, lies to the immediate north, (FRLC Area 4), and to the south-east, (FRLC Area 5), of the project area.(refer EIS). The Kungarakany and Warai therefore are considered to be the Aboriginal custodians of the area of the proposed Mt Grace Magnesium Mine

The project area, (refer EIS), has been subject to various leases, including agricultural, grazing and mining, and the land portions have changed boundaries and numbers since it was first surveyed in 1869. The project area now covers the following Mineral licence areas:

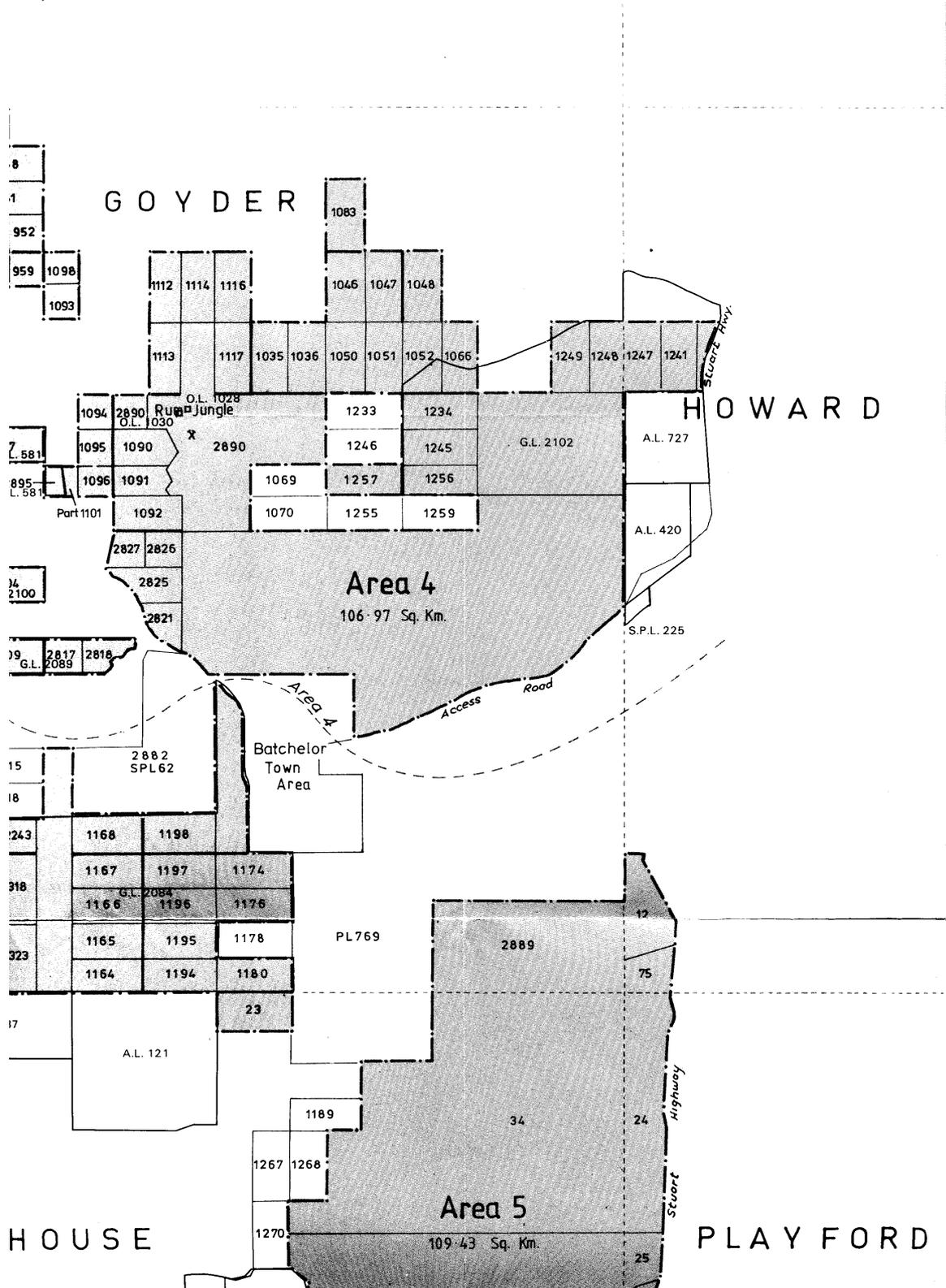
- EL 9253
- EL9 501
- ERL 134
- MLN 542
- MLN 543

These mining titles lie over parts of the following land sections within The Hundred of Goyder:

- Sections 72; 74; 78; 163; 2935; 2936; 2937.

The reporting consultant has not visited the project area. He has however worked extensively with Kungarakany and Warai Custodians in areas immediately north, east, southeast and west of The Mount Grace mine project area, over a period of ten years.

Map One, Area Four and Five, Finniss River Land Claim (Source: Toohey 1981: Ex 8A)



## **3.0 Consultations and Research**

### **3.1 Archival Research**

The principal published sources used in researching this Report are, Barrie, (1982), Donovan, (1984), and Toohey, J., (1981), as well as several other texts as listed in the Bibliography.

The relevant Aboriginal Areas Protection Authority Report, (R2001/010) was made available by the AAPA.

### **3.2 Consultations**

As noted, consultations with all Custodians were not finalised prior to the submission of this Report, on the understanding that the Custodians would be supplied with the draft EIS Report, after which a further meeting would be held to explain and discuss issues raised in this Report.

Those consultations carried out were as follows

#### **September / October**

Telephone contact and discussions only

Custodians  
Rhonda Calma  
Ada Calma

#### **Tuesday 30 October 2001**

Nightcliff

Custodian  
Mim Morley  
(and on behalf of Maddie Macintosh)

#### **Friday 02 November 2001**

Parap

Custodian  
Kath Mills

#### **Saturday 03 November 2001**

Middle Point Research Station  
Via Humpty Doo

Custodians:

Jane McGregor

Eva McGregor

(David McGregor also present)

In addition to these consultations with Custodians, the author attended a meeting with the Mt Grace Resources NL representative, Stuart Robinson, and URS / Dames and Moore, at which details of the site visit discussions were explained. This occurred prior to consultations with Custodians. A further brief discussion was held with L. Mearns of the Aboriginal Areas protection Authority on Monday 05 November.

## **4.0 Brief History of Area**

### **4.1 Introduction**

The Kungarakany and Warai Aboriginal people are acknowledged as the traditional custodians of the country around the site of the proposed Mt Grace Magnesium mine, as demonstrated in Map 3, (after Toohey 1981:Exhibit 27). While the Kungarakany also assert their ties to areas further west, and Warai interests extend to the east, there is little doubt that their shared responsibilities for the country immediately east of Batchelor predates European arrival in the region.

Since 1865, European interests and settlement in the area have at various times focussed on mining, the Overland Telegraph line, The Northern Australia Railway, agriculture, education and tourism. Thus, with the exception of the unique Education sector, the Batchelor area has traversed a path similar to the European history of the Top End.

### **4.2 The Kungarakany and Warai**

Toohey, J. (1981:28) states that, "Tracing the historical movement of the Kungarakany, Warai and Maranunggu is not easy.", he then goes on to summarise the early recordings of the Kungarakany and Warai as follows:

*Foelsche placed the Kungarakany mainly between the Finniss and Reynolds Rivers and showed the Woolwanga, of whom the Warai are part, to the east of the Kungarakany. Parkhouse, writing in 1895, did not mention the Kungarakany but showed the Warai around Stapleton and Adelaide River. Basedow, writing in 1907, placed the Kungarakany and Warai much where they are shown in the claim book The map, figure 6 on p.50 of Exhibit 8, puts the Kungarakany between Mount Finniss and the Stuart Highway and the Warai south and east of Batchelor...Material prepared by Professor W. F. H. Stanner during his work at the Daly River in 1933 contains a map (Exhibit 8 p. 44) showing the Warai around Adelaide River, the Kungarakany west of the Adelaide River and between the Finniss and Daly Rivers. Spencer, writing in 1914, ...placed the Warai around Adelaide River. Dahl, writing in 1926, spoke of the Warai as having territory extending from Mount Shoebridge to the Central Tableland. His fieldwork was done in*

MT Grace Resources NL, EIS W. Murgatroyd November 2001

1894.

Map 3 (over), shows the traditional countries of the Kungarakany, Warai and their neighbours, as presented in the Finnis River Land Claim.

Consequently, it is accepted that a century of European activities in the region have caused severe disruptions in the life of the traditional custodians. Significantly, as with many other Aboriginal people across the Top End, groups of people have been forced, directly or indirectly, to move away from their traditional country.

There is no doubt that the Kungarakany, Warai, and their neighbours suffered the violent impacts of European expansion, common to the experience of Aboriginal people in north Australia. The most widely reported incident involved the Aboriginal attack on copper miners near Daly River during 1884. The aftermath of European reprisals affected Aboriginal people from west of Daly River eastward through Kungarakany and Warai country (Kelsey 1975:61 ff).

Joe McGinness (McGinness 1991:8), relates how:

*“The majority of the tribe (Kungarakany), ...about one hundred people, became victims of poisoned damper....at a railway siding known as Stapleton...weed-killing powder...was supposedly mistaken for baking powder and added to the flour in preparing damper. Those who ate the poisoned damper became violently ill before their death...Similar incidents of poisoned damper were common throughout Australia.*

Toohy (1981:10 ) states that:

*Among the effects of this early contact were: ‘the sexual exploitation of Aboriginal women, the supply of opium and alcohol to Aboriginals, and the dislocation of Aboriginals from the areas with which they had close association’ (Exhibit 37 p. 1). In the early years there was confrontation between Aboriginals and pastoralists. Injuries were inflicted; people were killed. Apart from the ravages of liquor and opium, Aboriginals became subject to smallpox, colds, ‘flu, leprosy, tuberculosis and venereal diseases, heavily reducing their population.*

The Kungarakany particularly, seem to have been pressured by movements of other groups from the Daly River area also under pressure from European activities. Toohy J., (1981:20), cites an historical record (circa WW1), concerning a battle between, *“Kungarakany, Mulluk-Mulluk and Brinkin groups against the Marrangu group. The Kungarakany, on whose ground everyone was fighting were successful in driving the Marrangu back. A similar battle...between the same groups...the Kungarakany were again successful...”*



Although the Kungarakany may have won these struggles to hold their land against their Aboriginal neighbours, the pressures of European activities increased steadily, to the point where they moved or were moved towards Adelaide River around the time of the Second World war. (Toohey 1981:20).

The Kungarakany suffered doubly under the Commonwealth administration after 1911 – not only was their land alienated from them, (see especially Batchelor Farm, below), but the people were also subject to Commonwealth policies of protection and segregation, and the removal of children of mixed descent. Toohey (1981:12) states that:

*The presence of numbers of part-Aboriginal children was met by taking them from their mothers and placing them in institutions like the Kahlin Compound in Darwin or by sending them to isolated missions such as those on Groote and Croker Islands. A number of the Kungarakany claimants, including members of the McGinness family, experienced the effects of this policy and spoke feelingly of it during their evidence. It is a sad story. My purpose in referring to it albeit briefly is for the light it throws upon the claimants, their histories and their lifestyles. The impact of so many Europeans and Asians must have led to some breaking down of Aboriginal traditional life although many claimants showed a remarkable resilience in their capacity to retain and revive aspects of their 'Aboriginality'*

Aboriginal people in this area also felt the impact of WW2. Immediately after the air attacks on Darwin in 1942, the Military established compounds at a number of locations including Adelaide River. Aboriginal people were, as far as possible, moved from other areas, including traditional bush camps, and resettled in these compounds for the duration of the emergency in North Australia.

It is acknowledged that Aboriginal people benefited to some degree from their involvement in war time activities, particularly through contact with non-Territorian European Australians, the earning of wages and the learning of some skills. However, at the cessation of hostilities, life returned to its previous state of affairs for these Aboriginal people. (Berndt and Berndt 1987; Lockwood 1972: 180ff)

Kungarakany and Warai people remained living in areas between Adelaide River, Humpty Doo and Darwin, however since the Finnis River Land Claim (discussed below), some Kungarakany have moved permanently onto Area 4, and at least one attempt to move onto Kungarakany traditional land further west has been foiled by bushfire (R. Calma - pers.com.), and others by Park policies (R Mills - pers. com.)

### **4.3 European exploration and settlement**

Europeans first saw the Finnis River, west of the Mt Grace Magnesium mine site, in 1865, by an exploration party from Escape Cliffs Settlement led by Fred Litchfield. Shortly after Litchfield's return to Escape Cliffs, Col. Finnis, after whom the river was named, located the mouth of the Daly River and ordered Litchfield to return westwards to further explore the upper reaches of the Daly. During both expeditions, Litchfield and his party noticed the apparent mineral wealth as they passed close by the current project area. (Dickenson 1988: 66-67).

During the first expedition in May 1865, Litchfield had successfully panned for gold in the Finnis River and had traveled past the northern edge of what is now Woodcutters Mine and camped just north of Rum Jungle. His second expedition in September 1865 took Litchfield through the Rum Jungle area. . (Dickenson 1988: 66-67).

After several failed attempts, including that at Escape Cliffs, permanent European settlement was eventually successful at Palmerston (now Darwin). Most of what is now the Batchelor area, was surveyed and mapped within the Hundred of Goyder during the 1869 survey of land between Palmerston and Adelaide River (Toohey 1981:10). The intention at that the time was to encourage and develop close settlement farming by European families. (Barrie 1982:19).

The exploration and construction of the Overland Telegraph Line, completed in 1872, allowed freer access to land immediately adjacent it's cleared route, and in the Batchelor area, allowed for increased mineral exploration and agricultural activities. Kelsey, (1975 :esp ch 9), gives a good account of the general life of the times for Europeans, Chinese and, to some degree, Aborigines, in areas immediately adjacent the Batchelor area.

### **4.4 Mining**

Mining has continued sporadically in the Batchelor area since that time. In just over a century the deposits of the following mineral have been discovered and exploited: tin, copper, gold, nickel, lead, tantalite, and uranium (Barrie 1982: 139ff; 150-151; Donovan 1984: 215 ff.; Dickenson 1988; Kelsey 1975; McGinness: 1991).

The most significant of these ventures was the Rum Jungle Uranium mine and associated mines. The discovery of uranium ore in 1949 and the subsequent development and operation of these mines and treatment works until 1971, (Barrie 1982:196; Donovan 1984: 171; 244), has left significant alterations to areas of the environment seen as of spiritual significance by the Kungarakany, Warai, and other Aboriginal groups.

The uranium industry also saw the creation of Batchelor Township, further alienating land from the Aboriginal custodians. After the boom days of uranium, the mining industry in the region saw a general decline for some years. A resurgence during the late

twentieth Century has seen the construction and operation of mines in the immediate area of Mt Grace by Woodcutters, CML, and over areas of the old Rum Jungle leases.

#### **4.5 Batchelor Demonstration Farm**

During 1911 the Commonwealth Government, having been persuaded to take responsibility for Australia's Northern Territory from South Australia, developed an initiative to establish a number of demonstration farms at selected locations. The aim of the farms was to demonstrate the viability of agriculture across the Top End and to thus encourage European settlement.

The sites selected for the demonstration farms were at Mataranka (Sheep Station), Daly River (peanuts and other agriculture), and an area near Rum Jungle. The latter officially became known as Batchelor Demonstration Farm in May 1912.

The Batchelor Demonstration farm was situated on land now at least partially covered by the proposed Mt Grace mine site, including the former Sundance Mine.

Work commenced on the farm in January 1912, "...the scrub was cleared, ploughing and fencing carried out, experimental crops planted and livestock brought onto the farm." (Barrie 1982: 80). As Barrie's (1982), text and photographs show (especially pages 85 – 101), considerable expenditure and effort went into work, stock, plant, and buildings on the farm.

Agricultural efforts on the Farm included sheep, cattle, oranges, grape vines, bananas, pawpaws, passionfruit, pumpkins and other vegetables. (Barrie 1982:94)

Despite early optimism the Farm was beset with problems in its early years of operation – floods, insects (especially white ants), poor roads, and crucially, an inefficient European labour force, all hastened the farm's decline. Local Aboriginal people were eventually moved onto the farm to assist with labour. Custodians have stated that they remember stories from the older generations of Kungarakany people who lived and worked on the Farm.

The Farm inventory for 1919, just prior to its official closure, lists the materials (sheets of corrugated iron), comprising the "Black's Kitchen", "Black's Camp", and "Black's Humpies", but does not give any indication of the Aboriginal population living on the Farm.

The Farm was renamed the Batchelor Aboriginal Reserve in 1912, although a part of the land soon regained the title, Batchelor Farm. The Aboriginal Reserve had ceased to exist by 1923 when the area was privately leased by the Commonwealth for cotton growing and mixed farming.

The area remained as agricultural and / or grazing leases until resumed by the Commonwealth in July 1941 for defence purposes. After the cessation of World War 2,

the land reverted to grazing leases until 1953, when the western portion was resumed to allow for construction of Batchelor Township to service the Rum Jungle Uranium Mine.

The remaining eastern portion remained under lease and was renamed "Sundance" in the 1960's before reverting to Batchelor Station in 1980.

Much of this area was allowed to revert to natural conditions with the decline in agricultural and pastoral efforts in the area. In recent years much of the land immediately to the west of the proposed Mt Grace mine area, has been recleared for various agricultural enterprises, including hardwood plantation timber. The Custodians consulted were aware that the vegetation cover was regrowth, following the closure of Batchelor Demonstration Farm. It is fair to say that the Farm itself has played a significant part in Kungarakany history, and this also adds to the Custodians feelings towards the location.

## 5.0 Finnis River Land Claim

The following sections have been selected from Toohey, J. (1981) as they amply demonstrate that the Kungarakany and Warai custodians:

- Have a great deal of traditional knowledge in relation to land around and in the Mt Grace Mine area, including sacred sites and other areas of significance
- Have maintained that knowledge and respect the significance through generations to the present custodians
- Feel a strong sense of attachment to that country, and feel a very strong responsibility to maintain that country in a viable condition.

258. In a powerful written statement tendered at the hearing, Mrs. Ida Bishop one of the Kungarakany claimants said:

We belong to this special place. We do not think to possess the earth, the trees, rocks and waters of our traditional home, because it is the other part of us. It brought us forth and taken many of us back. There are the sacred places of the dreaming. There are the special places for food gathering, water to drink and where we once hunted for game to feed us. This land is our heritage; our home; it is our history. This land is our very life. Separate us from it and we are nothing. (Exhibit 43).

259. .... There was compelling evidence of women's ritual for ...the Kungarakany and Warai (Exhibit 128—Restricted). The shade-laying ceremony and ngirrwat, the ceremony of conferring place names on young persons, are still of importance to the Kungarakany and Warai. .... The transmission of knowledge of country is more evident in some families than in others, which is hardly surprising. It may have been due to the dedication of a few people but there was evidence that before this land claim began or could have been visualised, traditional knowledge was being fostered among the Kungarakany and Warai...

262. In regard to that part of Area 3 around Miniling, Area 4 and Area 5, I am also satisfied that there is among those Kungarakany and Warai found to be traditional owners a strong traditional attachment, maintained despite the very great pressures of the last one hundred years.

### Area 4

220. The historical material suggests that once this country was Warai rather than Kungarakany country but as already noted, the movement of the Kungarakany from the area around the Wagait Reserve took them east to Adelaide River where over the years they have entered into a company relationship with the Warai. I accept that within Area 4 are places of spiritual significance to both Kungarakany and Warai.

221. The place mentioned as of the greatest importance was Angurukulpam. It was described by Mrs. Stanton as '~where the water is, near Miniling Ganwudak Spring . . . where the lake is' (transcript p. 806), referring to the area known as Rum Jungle. It is the site of a leprosy dreaming described by Mrs. Stanton in closed session. In the course of her inquiries, Dr Williams was told about it by Abalak, Doris White, Laniyuk, Eddie McGregor and Violet Stanton. Abalak was born there but white men told him and other Aborigines to get out and they moved to Marrakai, Amungal and Kumili (Coomalie Creek). The Rum Jungle Mine itself is a dreaming site associated with the women's dreaming cycle—

Exhibits 127 and 128 (Restricted).

222. Kingutung is a spring or billabong near the junction of the Batchelor road and the Stuart Highway. It is not far from where Anmilil lives and during the inspections it was pointed out by her and by Abalak. It is on a traditional walking track from Amungal to Kurrindju. The map Exhibit 33 suggests that Kumili is Mount Charles although the additional site information (Exhibit 9A) asserts that it is Kingutung not Kumili which is Mount Charles. As mentioned earlier, Kingutung was referred to as a spring or billabong. It seems likely that Kumuli is the name for the area of Coomalie Creek, located on both sides of the Batchelor road. Anmilil spoke of it as the main camp on the walking track from Amungal to Kurrindju. It is a place rich in natural resources and some of the claimants still go there to hunt. It is the birth place of two of the claimants, Eddie McGregor and Janie McGregor. The claim book refers to Mandja as 'the name for Kumili waterhole and the adjacent creek' (Exhibit 8 p. 109). The map, Exhibit 33, puts fvlandja on the Stuart Highway just east of Area 4 but I do not think that witnesses intended to suggest any sharp division between the two places. The claim book speaks of Mandja as a traditional site for mortuary ceremonies and in Exhibit 9, the appendix to the claim book, there is a description by Anmilil and Mrs. Stanton of a shade-laying ceremony held at Mandja. I am satisfied that the area around Coomalie Creek has spiritual significance for the Kungarakany and Warai, that they have common spiritual affiliations to the site represented by the water there which place them under a primary spiritual responsibility for that country.

223. Kurnaldji (Kurrangaltji) is a ridge north east of Area 4. During the inspection it was pointed out as the boundary of Kungarakany country which followed the watershed towards Kanbak Pirrmainy. Poordjitpadgin was said to lie between Batchelor and Rum Jungle. Anmilil referred to it as a very special place which she was not allowed to talk about; nothing more was said. Tangga is a billabong and group of rocky outcrops; it is near the Batchelor road and close to Wulinggi which I shall mention later. In his evidence, Dr Layton said that originally he had thought that Tangga and Wulinggi were the same place. It is either within Area 4 or so close that part of the claim must be regarded as falling within its influence. During the inspection it was pointed out and described by Anmilil. During the closed session Anmilil spoke of the spiritual significance of the rocks and associated Tangga with a dreaming track from Miniling. It is a site for which Anmilil and Janie McGregor have particular responsibility. Tupuli is the name for the place where the Rum Jungle siding is located and is on the walking track from Amungal to Kurrindju. Wulinggi or Crater Lake is on the south side of the Batchelor road close to the Stuart Highway. It lies between Areas 4 and 5. During the closed session Anmilil described it as 'poison country'. She and Mrs Stanton told stories about the place. Janie McGregor said that she was responsible for looking after it for the Kungarakany and Warai. Anmilil described the ritual to be followed when visiting the place and she illustrated this when we visited Wulinggi during the inspection. Abalak sang a song connected with the site and Mrs McGregor performed a ritual introduction ceremony for three young children. Exhibit 9 contains details of the dreaming connected with the site as recorded by Laniyuk, Anmilil and Abalak. There is no doubt about the spiritual significance of Wulinggi to Kungarakany and Warai.

224. While Wulinggi itself is outside the claim area it has a connection with sites to the north and to the west mentioned earlier, and I am satisfied that within Area 4 there are sites of importance. The Kungarakany and Warai claimants showed common spiritual affiliations to those sites, placing them under a primary spiritual responsibility for the sites and for the land. There is a natural connection between the country around Miniling and Area 4.

225.1 am satisfied that the Kungarakany and Warai are entitled by Aboriginal tradition to forage as of right over Area 4 and that they still do so.

## Area 5

226. Area 5 is 109 square kilometres, about the same size as each of Areas 3 and 4. It runs north from Adelaide River to just south of Glen Luckie Creek. It has the Stuart Highway as its eastern boundary and extends west past Mount Minza and Mount Durand, with Stapleton as its south-western corner. It has little fragmentation.

227. Many places were mentioned in connection with this part of the claim. Not all were said to have a particular significance and a number were outside the claim area. I shall mention each one in alphabetical order, say something about it and then see what conclusions should be drawn regarding traditional ownership of this part of the claim.

228. Ambambambala is a small hill on the east side of the Stuart Highway south of the Adelaide River. Tony Kenyon identified it as 'a very important place; it is a King Brown dreaming' (transcript p. 820). During the inspection, Mrs Stanton pointed out the hill, commenting that it had been a favourite camping place of a deceased Warai man, Ambambambala, who was father's brother to Doris White and Tony Kenyon. Amungal is the area around Adelaide River itself. Its history has been caught up in that of European settlement but there is no doubt about its importance to many of the Kungarakany and Warai

231. Kumili, between Areas 4 and 5, was discussed earlier. Luludjun in the southern corner of Area 5 and is close to Mount Carr. On the south side of the town is a camp occupied by a number of persons including Eddie and is close to McGregor. Eva McGregor and Janie McGregor. During the inspection, Eddie McGregor there pointed out the site of a shade-laying ceremony held for his father Edwin McGregor in September last year. We were shown the collective grave of a number of people who died as a result of accidental poisoning at the turn of the century. Mundang and Tjalinymara are buried at Amungal and in 1895 Parkhouse recorded the burial of Awarra (Warai) there. Mrs Ida Bishop spoke of Amungal as the 'foot' of Kungarakany and Warai country (transcript p. 1058). The claim book fairly describes Amutigal as . . . a site which Warai and Kungarakany hold jointly . . . It has remained a centre for both groups throughout the contact period' (Exhibit 8 p. 110).

229. Amutumul lies within Area 5; it is the location of the Snake Creek ammunition depot. It was described by Anmilil as 'Just a little spring down there and a creek' (transcript p. 800). In closed session she gave details of a dreaming track passing through Amutumul, Krilin, Deraderbel, Purungu, Yaldanga and Mimirri. These places are just east of Area 5. Tom Calma described Amutumul as a camping ground which people still use to get away from Adelaide River to camp and to hunt. Boko Anwili is located as bordering Area 5 near Batchelor. It is a dreaming site of particular importance and was described by Doris White. Bulngumi, one of the hills on the south side of Adelaide River south of Area 5, probably Mount Foelsche, is a dog dreaming site. Deraderabel is a lagoon north east of Adelaide River and east of Area 5. It is part the dreaming track mentioned earlier in connection with Amutumul.

230. Anmilil identified Djanggalpa as a little billabong between Tangga and Kurnaldji. It is either part of Glen Luckie Creek or is close thereto. It is within Area 5. Gunlucki is a billabong and is the origin of the name Glen Luckie Creek. It and Djanggalpa are close together. Kangatmu is referred to in Exhibit 150 as part of Area 5. But it appears to be north of the claim area close to Batchelor. Kigoyang (Kiboiyong) is a spring adjacent to Smoky Creek which is east of the Stuart Highway and north of Adelaide River. During the inspection Mildred Morley pointed it out as the place from which she took

her Aboriginal name. Krilin Kiriliny) is on the Adelaide River near Mount Bunday. It is associated with traditional camp sites and old fish traps can still be seen there. It is on the dreaming track described by Anmilil—

231. Kumili, between Areas 4 and 5, was discussed earlier. Luludjun is in the southern corner of Area 5 and is close to Mount Carr. In closed session Eddie McGregor told of its significance as a dreaming place as did Anmilil during the inspection. Eddie McGregor, Janie McGregor and Doris White spoke of it as a place still used for hunting. Midada is north of Adelaide River and just east of the Stuart Highway. It is therefore just outside Area 5. Jimmy Tapnguk described it as a place for Kungarakany and Warai. It used to be a big camping ground. During the inspection Joyce Patulbo and Violet Stanton spoke of the 'hidden water there. Anmilil described how she and her first husband, Edwin Verberg, cultivated a pineapple plantation there. In closed session Mrs Stanton, Mrs Patullo and Anmilil spoke of the spiritual significance of Midada which clearly is a place of considerable importance. Mimirri is north of Midada and is also just east of Area 5. It is part of the dreaming track described by Anmilil. Perrmadjin is the western part of Area 5 near Stapleton Creek. Its importance relates mainly to the poisoning of a number of Kungarakany, Warai and Parlamarnyin years ago. Purungu is a dreaming site near Deraderabel, east of Area 5.

232. Tjakatalma Pirmainy is a hill near Adelaide River. It is either in the southern corner of Area 5 or immediately south of the southern boundary. It is part of the kangaroo dreaming track described in more detail in the closed session by Edwin McGregor and Violet Stanton. Topoting, a billabong next to the Adelaide River race course, is just east of Area 5. It is a woman's ceremonial site of considerable importance. During the inspection information about the site was given to me by Mrs Stanton, Mrs Mills and other women. Walula is on Burrell's Creek; it is a small hill on the south side of Adelaide River and probably just outside Area 5. I have already spoken of Wulinggi in connection with Area 4. Wundindi is a billabong on the south side of Adelaide River about 7 kilometres east of Area 5. Several witnesses described its significance as a dreaming place and during the inspection Abalak spoke of the restrictions that applied when entering that country. Yalbanga is close to Midada and so outside the claim area. It too is on the dreaming track described by Anmilil and referred to earlier in this report.

233. It is true that many of the places mentioned by the witnesses are outside Area 5 although, in most cases, just outside. But a number of places of spiritual significance lie within the claim area. Coupled with the sites just east of the Stuart Highway and those around Miniling with which they are linked they satisfy me that in regard to Area 5 there is a pattern of sites to which the Kungarakany and Warai have common spiritual affiliations which place them under a primary spiritual responsibility for those sites and for the land generally.

234. There is ample evidence that the Kungarakany and Warai are entitled by Aboriginal tradition to forage as of right over the land and that many of them still do so.

164. I am satisfied that among the Kungarakany, Warai, ... are to be found local descent groups. The precise scope of each group is something to which I shall return when seeking to identify traditional owners.

## 6.0 Issues Raised During Consultations

Custodians consulted to-date have expressed a number of concerns in relation to the proposed magnesium mine. These are concerns relate to:

- **The Sensitivity and significance of area generally** as detailed in Toohey (1981), and affirmed by Custodians consulted to date.
- **Past impacts of mining and dealings with mining companies.** The custodians have visited sites such as Rum Jungle and other un-rehabilitated mine sites within their traditional country. They are very concerned that past practices should not be repeated and that contemporary mining should have the minimum possible impact on the environment and their sites of significance, including proper rehabilitation after mine closure.
- A view was expressed that the **Traditional Aboriginal custodial responsibilities** to a large degree coincide with non-aboriginal environmental concerns, especially in regard to mining.
- The custodians expressed and an **appreciation of the proponent's attitude** and interest in their concerns and responsibilities.
- The Custodians are concerned that **construction and mining activities** may disturb and damage adjacent sites of significance through the use of explosives and heavy machinery.
- The Custodians are concerned about **the nature of materials to be used in the construction and operation** of the magnesium plant. They are particularly concerned about whether heat resistant materials such as asbestos will be used and whether any materials will degrade and produce **emissions** during the operational life of the mine. The details of the smelting process were also queried specifically as to whether any catalysts or other chemical were to be added to the process which could lead to emissions, and the **chemical composition of the slag**, does it pose any risks, and for how long will it be kept on site.
- **The impacts of the water diversion** were of particular concern to Custodians. They sought details in regard to the impact on the surface flow during varying categories of flood incidents, as well as the long term effects including after the mine is closed. There is also a concern to ensure that natural watercourses are not blocked by roads or other construction.
- As noted the Custodians regard **subsurface waterways** to be of great importance and require more information concerning the number, location, depth and output of the proposed bores, and the impact they may have on subsurface and surface flows.

- The Custodians are concerned to be clear about the **internal road alignments** in relation to sacred sites as recorded and an area to east where there is the possibility of an Aboriginal stone quarry.
- The Custodians requested information concerning **plant emissions** under varying prevalent wind conditions and especially in relation to the health of present and future occupants of adjacent Aboriginal land
- The Custodians requested specific information in relation to the **projected mine life**, and planned **rehabilitation**.
- The Custodians requested that these issues be explained and discussed at the next meeting with the proponent, and have requested that a wider range of people be advised of the next meeting, especially those custodians living in close proximity to the project area, Edith McGinness and Speedy McGinness.

## **7.0 The Relevance of Land Rights, Native Title and other Legislation**

As noted above, the area of the Mt Grace proposed mine is subject to a Certificate issued by The Aboriginal Areas Protection Authority under the *Northern Territory Aboriginal areas protection Authority Act 1991*.

The area of land containing the proposed Mt Grace Mine was not available for claim under the *Aboriginal Lands Right (Northern Territory) Act (Cth) 1976*, when the Finnis River Land Claim was lodged, as it was not vacant Crown Land. The land retains that status and no further Land Claims may be lodged under that Act.

The *Native Title Act 1993* allows for Native Title applications only over land in which the Crown retains normal rights. The long history of various types of leases over the subject area makes it seem highly unlikely that an Application for Native Title would be successful.

Should the proponents discover any Aboriginal sites or artefacts during construction and operation of the mine, they should be aware that such material may come under the auspices of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, and possibly, the *Northern Territory Aboriginal Sacred Sites Act 1989*.

## **8.0 Conclusions and Recommendations**

### **8.1 Conclusions**

It is concluded that:

- The Mt Grace Magnesium Mine is located in an area of some significance to the Kungarakany and Warai Aboriginal people.
- That significance emanates from, and is particularly associated with those Sacred Sites which are marked on the AAPA Certificate, and may also be associated with other sites of significance adjacent the project area, and with ancestor's trails which pass in close proximity to the project area.
- The local Aboriginal custodians consider all subsurface water to be of significance. The Custodians have an intimate understanding of the relationships between the regional subsurface hydrology (including Litchfield Park), and the surface drainage, and are particularly concerned about any activity which impedes or impacts on these landscape features.
- The custodians consulted acknowledge that they have little direct control over activities within the mine project area, (other than the immediate area of the Registered and Recorded Sacred Sites), however they appreciate the opportunity to express their concerns and be involved in minimising impacts of the mine.
- That the custodial responsibilities of Aboriginal people are to a large part coincident with non-Aboriginal concerns to maintain a viable environment.

### **8.2 Recommendations**

It is recommended that the following issues, as detailed above, be explained and discussed in detail at the next meeting:

- Construction methods and materials
- Water diversion under varying flood conditions
- Internal road alignments
- Extraction of sub-surface water
- Plant emissions under varying prevalent wind conditions
- Projected mine life
- Rehabilitation of the current and previous mine workings

With reference to the meeting itself, those consulted to date have:

- Requested that a wider range of people be advised and invited, especially those custodians living in close proximity to the mine area
- Requested a suitable venue with appropriate facilities available
- Advised that they prefer the reporting consultant to be present so that consultations and discussions can be carried out as a group.

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## **APPENDICES**

### **Appendix One Correspondence URS to W. Murgatroyd**

**URS**

Dames & Moore  
Woodward Clyde

Warren Murgatroyd  
6 Sowden Street  
Jingili, NT

4 June 2001

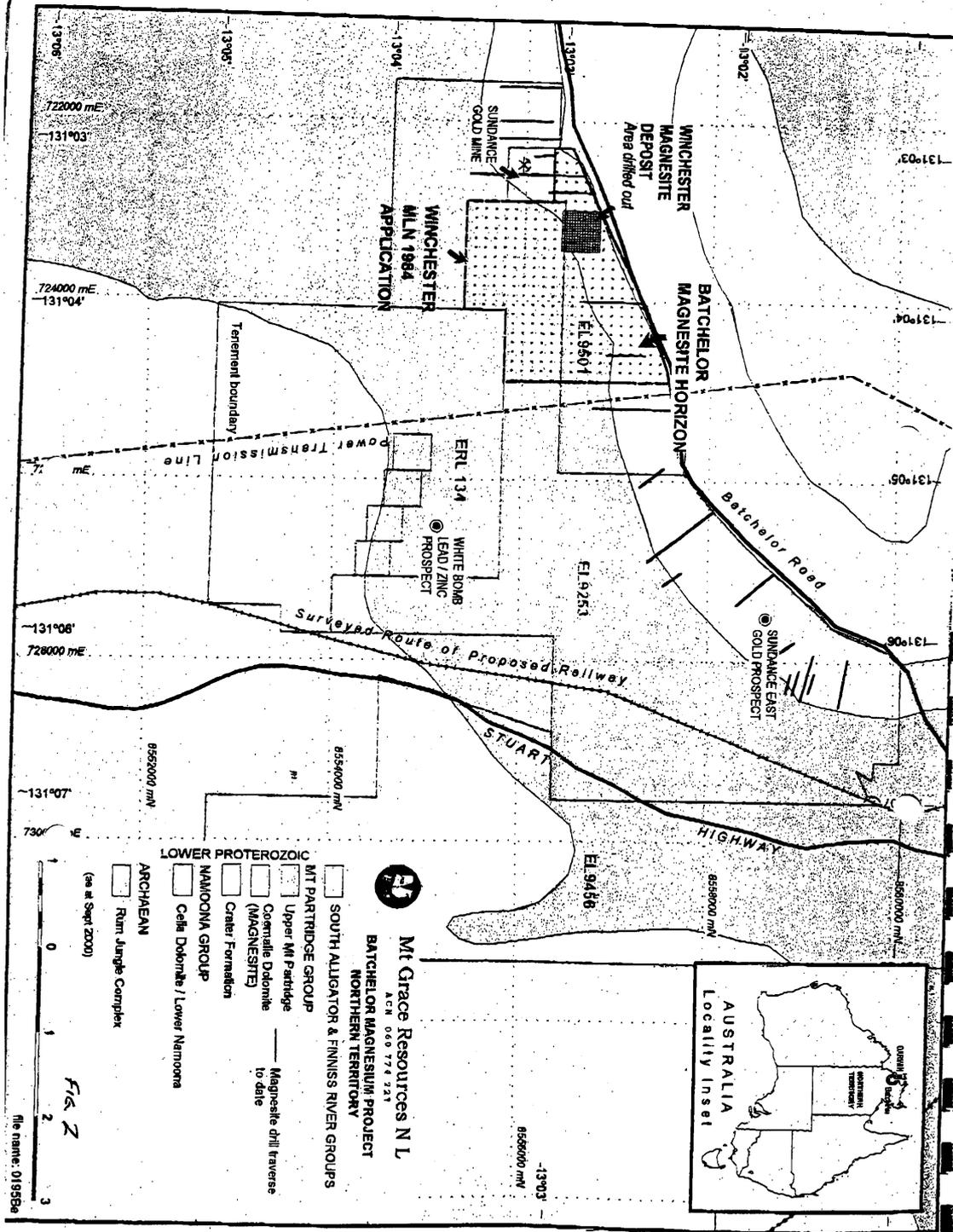
Dear Warren,

This is a letter to state that URS Australia Pty Ltd have engaged your professional services to carry out an anthropological survey of the proposed Mt Grace Magnesite mine site. The site is located approximately 5km out of Batchelor townsite (in the Shire of Litchfield, NT) and covers an area of about 160 hectares (map attached). URS Australia Pty Ltd authorises you to carry out enquiries and interviews with the local custodians and relevant authorities relevant to the allocated site at Batchelor and specific Magnesite mine project.

Kind regards  
**URS Australia Pty Ltd**



Peter Mueller  
*Principal – Manager Northern Territory*





Dames & Moore  
Woodward Clyde

13 August 2001

Ref: (48082-002 )  
\*letter/DRW

Warren Murgatroyd  
6 Sowden Street  
Jingili, NT

Attention: Warren Murgatroyd

Dear Warren,

**Subject: MT GRACE BATCHELOR MAGNESIUM PROJECT**

This is a letter to state that URS Australia Pty Ltd have engaged your professional services to carry out an anthropological survey for the Mt Grace Resources Magnesium Project Environmental Impact Statement (EIS), as outlined in your proposal of 20 April, 2001. URS Australia Pty Ltd authorises you to carry out inquiries and interviews with the local custodians and authorities relevant to the allocated site at Batchelor and specific Magnesite mine project. The Anthropological consultations have been postponed until this time as per the instructions of Mt Grace Resources. Due to an impending deadline for submission of the EIS we require your report be submitted to us no later than 14 September, 2001.

Yours faithfully  
**URS AUSTRALIA PTY LTD**

Peter Mueller  
*Principal – Manager Northern Territory*

URS Australia Pty Ltd (ACN 000 691 690)  
Dames & Moore Pty Ltd (ACN 003 293 695)  
Level 1, Arkaba House  
The Esplanade  
GPO Box 2005  
Darwin, NT, 0801, Australia  
Tel +61 08 8981 2195  
Fax +61 08 8941 3920

## ABORIGINAL AREAS PROTECTION AUTHORITY AUTHORITY CERTIFICATE

*Issued in accordance with Section 22 of the Northern Territory Aboriginal Sacred Sites Act 1989*

**REFERENCE:** D89/199;90/307 (Doc:36860) C2001/040

**APPLICANT:** Mt Grace Resources NL  
Post Office Box 403  
VICTORIA PARK WA 6979

**SUBJECT LAND:** Parts of EL 9253, EL 9501 & ERL 134, MLN 542 & MLN 543. Parts of Sections 72, 74, 78, 163, 2935, 2936 & 2973, Hundred of Goyder, as shown on the map which is annexure 'A' hereto.

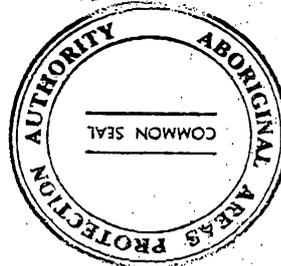
**PROPOSED WORK OR USE:** Mineral exploration; development of a small-medium open pit mine; processing of material mined; and access road construction.

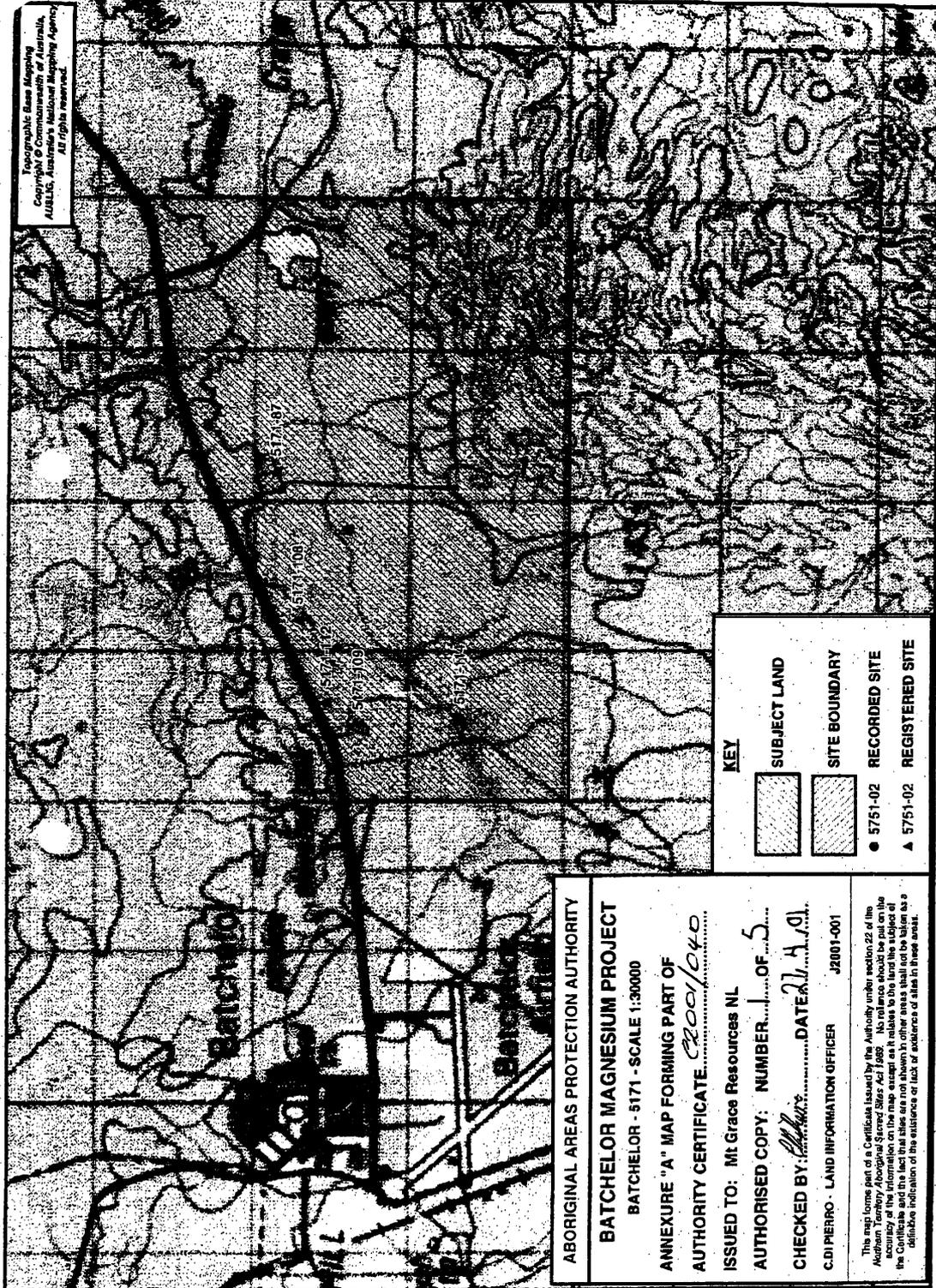
**CONDITIONS:**

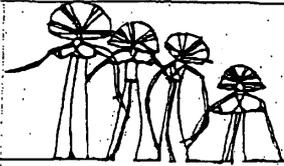
1. The applicant shall ensure that the conditions of this Certificate are included in any subsequent contract or tender documents for the works or use described herein.
2. The applicant shall ensure any agent, contractor or employee is aware of the conditions of this Certificate and the obligations of all persons (who enter on, or carry out works or use land on which there is a sacred site) under Part IV of the *Northern Territory Aboriginal Sacred Sites Act 1989*.
3. This Certificate shall lapse and be null and void if the works in question or the proposed use is not commenced within 24 months of this Certificate.
4. The applicant shall ensure any agent, contractor or employee is aware of the content of section 40(1) of the *Northern Territory Aboriginal Sacred Sites Act 1989* which provides that this Certificate does not negate the need for consent, approval or permission for the subject works or use of the land which may be required under another statute.
5. There must be no damage to sacred sites 5171-87, 108, 109 & 112 as shown on annexure 'A'.
6. There must be no entry by exploration or mining personnel to sacred sites 5171-87, 108, 109 & 112 as shown on annexure 'A'.
7. There must be no damage to the banks and bed of Coomalie Creek, sacred site 5171-114.
8. There must be no direct run-off of contaminants including water with a high sediment load into Coomalie Creek as a result of exploration or mining processes.

The COMMON SEAL of the  
ABORIGINAL AREAS PROTECTION AUTHORITY  
was hereto affixed on the 2nd day of  
May 2001

DAVID RITCHIE  
Chief Executive Officer







**ABORIGINAL AREAS PROTECTION AUTHORITY**

GPO BOX 1890  
 DARWIN NT 0801  
 TELEPHONE: (08) 8981 4700  
 FACSIMILE: (08) 8981 4169

File: 90/307

15 AUG 2001

13 August, 2001

Mt Grace Resources NL  
 PO Box 403  
 VICTORIA PARK WA 6979

	MYD	RCD
SK	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
JAW	<input type="checkbox"/>	<input type="checkbox"/>
RGS	<input type="checkbox"/>	<input type="checkbox"/>
RFS	<input type="checkbox"/>	<input type="checkbox"/>
BU	<input type="checkbox"/>	<input type="checkbox"/>
JKL	<input type="checkbox"/>	<input type="checkbox"/>

Dear Sir

**RE: CLARIFICATION ON CONDITIONS OF AUTHORITY CERTIFICATE AND OTHER MATTERS**

I refer to meeting with your representative on Tuesday 12 June 2001 and on-site meeting on Saturday 4 August to discuss the effect of conditions of Authority Certificate No. C2001/040 and related issues. At this meeting custodians expressed concern over the environmental damage caused by previous mining activity within this lease. While it is understood that this work was carried out by previous tenement holders, custodians expressed a strong desire to have this area rehabilitated, if at all practicable, using resources deployed in the operation of the new mine.

Custodians inspected the area of the proposed open cut, tailings ponds and ore processing works. It was noted that a section of the creek flowing through the lease has a shallow channel(s) and seasonally floods out over a wider area. It was further noted that unless constrained, seasonal floodouts could result in creek water entering mine workings and becoming contaminated in breach of Condition 8 of the current Certificate. The Authority advises that the intention of Condition 8 is to ensure that water purity is maintained so there are no adverse effects on important site features further down stream on Coomalie Creek. The Authority considers that a properly designed system of levee banks (as explained to custodians on site) is an appropriate way of diverting flood water and ensuring that water from the creek is prevented from entering the area of mine operations on the south side of the creek.

The Authority understands that Mt Grace Resources will continue to keep custodians informed about the development as it progresses. Proposals for levee banks etc will, of course, be subject to conditions imposed under the Environmental Assessment legislation.

If you have any further queries, contact Mrs Lesley Mearns on 89814700.

Yours faithfully

DAVID RITCHIE (Dr)  
 Chief Executive Officer

AVL2001/MountGraceResources

## **Appendix Two Consultation Correspondence**

**ABN 23 236 391 856**

02 November 2001  
(14<sup>th</sup> June 2001)

6 Sowden Street  
Jingili NT 0810

Dear

**Re: Mt Grace Magnesium Mine- EIS Anthropological component**

URS/Dames & Moore have engaged me to carry out the anthropological component of the environmental impact statement for the proposed Mt Grace magnesium mine near Batchelor, as per attached correspondence and Project Map.

It would be appreciated if we could meet to discuss this matter.

Given the time constraints on completion of the project, it would be appreciated if we could meet as soon as possible

I am looking forward to hearing from you,

Warren Murgatroyd  
(08) 8948 4943

**ABN 23 236 391 856**

06 November 2001  
(14<sup>th</sup> June 2001)

6 Sowden Street  
Jingili NT 0810

Dear

**Re: Mt Grace Magnesium Mine- EIS Anthropological component**

Although consultations have not completed with all custodians, I am required to submit the Initial Report in relation to this project, on the understanding that the Custodians would be supplied with the draft EIS Report, after which a further meeting would be held to explain and discuss issues raised in this Report.

Attached are a list of the issues raised by Custodians which they wish to be explained and discussed at the4 upcoming meeting with Mt Grace Resources.

Could you please contact me if you have any further concerns or comments on these issues.

W. Murgatroyd  
**Ph. 89484943**

## Issues Raised During Consultation

Custodians to-date have expressed a number of concerns detailed in the Report. These are discussed below and have been sent to the custodians for confirmation.

- **The Sensitivity and significance of area generally** as detailed in Toohey (1981), and affirmed by Custodians consulted to date.
- **Past impacts of mining and dealings with mining companies.** The custodians have visited sites such as Rum Jungle and other un-rehabilitated mine sites within their traditional country. They are very concerned that past practices should not be repeated and that contemporary mining should have the minimum possible impact on the environment and their sites of significance, including proper rehabilitation after mine closure.
- A view was expressed that the **Traditional Aboriginal custodial responsibilities** to a large degree coincide with non-aboriginal environmental concerns, especially in regard to mining.
- The custodians expressed an **appreciation of the proponent's attitude** and interest in their concerns and responsibilities.
- The Custodians are concerned that **construction and mining activities** may disturb and damage adjacent sites of significance through the use of explosives and heavy machinery.
- The Custodians are concerned about **the nature of materials to be used in the construction and operation** of the magnesium plant. They are particularly concerned about whether heat resistant materials such as asbestos will be used and whether any materials will degrade and produce **emissions** during the operational life of the mine. The details of the smelting process were also queried specifically as to whether any catalysts or other chemical were to be added to the process which could lead to emissions, and the **chemical composition of the slag**, does it pose any risks, and for how long will it be kept on site.
- The **impacts of the water diversion** were of particular concern to Custodians. They sought details in regard to the impact on the surface flow during varying categories of flood incidents, as well as the long term effects including after the mine is closed. There is also a concern to ensure that natural watercourses are not blocked by roads or other construction.
- As noted the Custodians regard **subsurface waterways** to be of great importance and require more information concerning the number, location, depth and output of the proposed bores, and the impact they may have on subsurface and surface flows.

- The Custodians are concerned to be clear about the **internal road alignments** in relation to sacred sites as recorded and an area to east where there is the possibility of an Aboriginal stone quarry.
- The Custodians requested information concerning **plant emissions** under varying prevalent wind conditions and especially in relation to the health of present and future occupants of adjacent Aboriginal land
- The Custodians requested specific information in relation to the **projected mine life**, and planned **rehabilitation**.
- The Custodians requested that these issues be explained and discussed at the next meeting with the proponent, and have requested that a wider range of people be advised of the next meeting, especially those custodians living in close proximity to the project area, Edith McGinness and Speedy McGinness.