

1st August 2020

To: The Secretary

Joint Standing Committee on Northern Australia

Inquiry *"The destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara region of WA"*

Public Submission on Terms of Reference (g) to (j): A case study on BHP Olympic Dam mine in SA under the Prime Minister's 'fast track' EPBC Act mine expansion Assessment and Approvals

Dear Secretary

The submission addresses Terms of Reference (g) to (j) on Aboriginal Heritage and public interest issues on BHP's Olympic Dam copper-uranium mine, under outdated 1982 "State Agreement" laws and facing uncertainty in the Prime Minister's 'fast track' of EPBC Act Assessment and Approvals.

Recommendations are provided for the Committee's consideration across SA laws and operation of the EPBC Act. Including to protect key Aboriginal Cultural Heritage at stake, in integrity of unique and fragile "Mound Springs" of the Great Artesian Basin, from impacts of BHP water extraction.

The Olympic Dam mine is governed in SA by a long out-dated "State Agreement", the *"Roxby Downs (Indenture Ratification) Act 1982"*, imposing a set of legal privileges to BHP that take precedence over Aboriginal Heritage legislation and over-ride other State laws and due process - out to 2036.

The [Productivity Commission Report on Resource Sector Regulation](#) (March 2020, p.121) explains:

"The Roxby Downs (Indenture Ratification) Act 1982 (SA) overrides any inconsistent provisions of other laws, such as licensing, environment, heritage, and freedom of information, in the area of the town and mine. Instead, BHP has the power to make decisions about this legislation independently (in consultation with the SA Government). This arrangement has been subject to some controversy since its introduction for the various privileges offered to the mine."

Joint national and state environment groups have called for repeal of this Indenture and called on BHP to surrender untenable legal privileges overriding Aboriginal heritage laws in SA.

See attached [Joint Env. NGO Briefing Paper \(June 2019\)](#) and Joint Env. NGO [Recommendations](#) to Federal Gov: No.7 *"EIS Guidelines to investigate and recommend on Aboriginal heritage issues"* & No.12 *"Repeal BHP legal privileges overriding SA laws, standards and due process"* (Dec 2019).

The Indenture Act 1982 Section 9 "Application of Aboriginal heritage" (p.4-7) restricts application of Aboriginal heritage legislation to that of a historical *"Aboriginal Heritage Act 1979"* in a form modified by Section 9 to favour company interests. Stating that: *"subsequent replacement or repeal of that Act shall not affect its operation in so far as it applies by virtue of this section"*. The Indenture further states *"the consent"* of the company is required for any change to the form of the modified *"Aboriginal Heritage Act 1979"* that is applied at Olympic Dam *"by virtue of this section"*.

The 1982 Indenture applies over the Olympic Dam Special Mine Lease and the "Stuart Shelf Area" of over 12 000 km², affecting the rights and interests of a number of Aboriginal Peoples country.

The Committee should investigate these issues and make findings to redress an untenable situation. The *"Aboriginal Heritage Act 1988"* should fully apply at Olympic Dam & across the Stuart Shelf Area.

The world's largest mining company has compromised their 'social license to operate' in retaining untenable legal privileges since taking over Olympic Dam mine in 2005. BHP has failed to live up to contemporary community expectations and public interest standards in Australia.

The BHP proposed Olympic Dam mine expansion is subject to a joint SA and Federal assessment process under the 1982 Indenture with the SA Mining Minister a '*conflict of interest*' decision maker.

There is added uncertainty under the EPBC Act since the [Prime Minister's announcement](#) (15 June) of a '*fast track*' Taskforce to "*accelerate*" Assessment and Approvals to BHP mining interests.

The influence of BHP vested interests to significantly increase Great Artesian Basin water extraction and to compromise Aboriginal Cultural Heritage Is a matter of serious public interest concern.

The 1982 Indenture provides BHP with priority access to GAB waters for Olympic Dam mine operations and stand-alone Special Water Licenses overriding SA water resource laws and process.

The PM's '*fast track*' may fatally compromise due assessment of an alternative mine water supply and facilitate Federal and State Gov's to grant BHP 'rights' over GAB waters for a period of 25 years.

Aboriginal Cultural Heritage at stake features ongoing recognised cultural, social and spiritual values in the integrity and survival of the unique and fragile "Mound Springs" of the GAB. These Springs are dependent on continued natural flows and water pressures of an intact GAB water system. The Mound Springs are recognised as an EPBC Act "Matter of National Environmental Significance" and must be protected as a national asset and EPBC listed "Endangered Ecological Community".

These unique Springs must be protected from the impacts of BHP's proposed approx. 50 per cent increase in the rate of current mine operation's extraction of GAB waters. BHP seeks rights to mine water, to extract 50 million litres a day (annual average) of GAB waters for a period of 25 years.

My experience is relevant, including some sixteen years as an Australian Conservation Foundation (ACF) Campaigner 1996-2011 based in Adelaide; as lead author consultant on three Joint Env. NGO submissions (ACF, Conservation SA, and Friends of the Earth Australia) to BHP EPBC Act Olympic Dam Referrals in 2019; and with 25 years involvement across public interest issues in Olympic Dam mine operations. For further information see: <https://nuclear.foe.org.au/olympic-dam/>

Please feel free for the Secretary of the Inquiry, for Members of the Committee and any staff, to contact on any aspect of these issues, and for further information, clarification or discussion.

I would welcome an opportunity to provide evidence to this Inquiry as a Witness in a Hearing.

Thank you for your consideration to this public submission and to the Recommendations made.

Yours sincerely

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Recommendations to protect Aboriginal Cultural Heritage rights and interests:

1. This JSCNA Inquiry should investigate outdated BHP legal privileges that modify and take precedence over Aboriginal Heritage laws in SA, through the “*Roxby Downs (Indenture Ratification) Act 1982*” Section 7 “Interaction with other Acts” & Section 9 “Application of Aboriginal heritage”. This JSCNA Inquiry should make findings toward a redress of this untenable situation.

2. The SA “*Aboriginal Heritage Act 1988*” should have stand-alone unmodified application in SA law at the Olympic Dam Special Mining Lease and across the 12 000 km² “Stuart Shelf Area”.

It is unacceptable for Aboriginal heritage at Olympic Dam and across the Stuart Shelf Area to continue to be governed through an 1982 Indenture applying a modified version (favouring mining interests) of an earlier historical Act. Which the SA Attorney General’s Department website states has been “*effectively impliedly repealed*”, in the outdated “*Aboriginal Heritage Act 1979*”.

3. The “*Roxby Downs (Indenture Ratification) Act 1982*” should be repealed and the full range of contemporary SA laws and due process (including the *Mining Act*) govern the Olympic Dam mine.

4. Joint Env. NGO public interest [Recommendations](#) to the Federal Government (Dec 2019) should be applied to the assessment of the BHP proposed Olympic Dam mine expansion, including:

- Recommendation No.1 “*The Olympic Dam operation be assessed in its entirety, with the full range of project impacts subject to public consultation*”;
- No.5 “*Pre-Conditions to protect Mound Springs and to explore alternatives to Great Artesian Basin water extraction must be required by the EIS Assessment*”;
- No.7 “*EIS Guidelines to investigate and recommend on Aboriginal heritage issues*”;
- No.12 “*Repeal BHP legal privileges overriding SA laws, standards and due process*”.

The [Joint Env. NGO Submission to Federal Gov](#) (Dec 2019) discusses these public interest issues.

5. This JSCNA Inquiry should investigate how “State Agreements” to major mining and resource projects adversely affect Aboriginal people’s rights and interests, lessen options to protect cultural heritage, and contribute to effectively pressure Aboriginal groups into unfavourable terms of agreement with mining companies, including in so called ‘life of mine’ agreements.

6. Aboriginal Cultural Heritage must be protected in the PM’s ‘fast track’ of BHP’s Olympic Dam mine expansion. The influence of BHP vested interests to significantly increase Great Artesian Basin water extraction and to compromise Aboriginal Cultural Heritage is a matter of serious concern.

The integrity and survival of the unique and fragile “Mound Springs” of the Great Artesian Basin are at stake and under threat from BHP mining water in proposed approx. 50 per cent increase in GAB water extraction to a rate of 50 million litres a day (annual average) over a 25-year period.

The Mound Springs must be protected as a national asset and EPBC Act listed “Endangered Ecological Community”, recognised as a “Matter of National Environmental Significance” for ecological values and for ongoing cultural, social and spiritual values to Indigenous people.

7. BHP's proposed significant 50 per cent increase in the rate of Olympic Dam mine extraction of GAB water and the proposed extension of period of GAB water extraction must not go ahead.

In any case: BHP's Borefield A must close as soon as possible to protect unique and fragile GAB Springs in that area. Borefield A is inappropriately located within an arc of fragile GAB Springs.

Water extraction at Borefield B should be capped and phased out of operations over time. These measures are in accordance with [Joint ENGO Recommendation](#) No.5 to the Federal Gov. (Dec 2019):

"Recommendation 5. Pre-Conditions to protect Mound Springs and to explore alternatives to Great Artesian Basin water extraction must be required by the EIS Assessment Guidelines.

The federal Department of Environment assessed Mound Spring protection issues in 2011. At this time the federal Minister set a range of [strong EPBC Act Conditions](#) on "Groundwater" and on "Extraction of Water from the Great Artesian Basin".

These federal conditions must now be applied in the Guidelines to the required EIS Assessment process across the entire Olympic Dam operation, on both the proposed expansion of mining at Olympic Dam as well as existing BHP operations, including that:

- *The conditions apply to all activities undertaken by the Approval Holder on the Special Mining Lease and to water extraction from Wellfields A and B in the Great Artesian Basin;*
- *The Approval Holder must ensure that the extraction of water from Wellfield A and B in the Great Artesian Basin does not have a significant adverse impact on groundwater dependent Listed Threatened Species or Ecological Communities; and*
- *That groundwater drawdown from mining operations will have no significant adverse impact on groundwater pressure in the Great Artesian Basin.*

The EIS Guidelines must require that BHP present alternatives to any increase in extraction of Great Artesian Basin waters and the associated impacts and risks to protected Mound Springs, for EIS Assessment and public scrutiny.

The required alternatives must include options to close Wellfield A and to phase out Wellfield B.

Such action is also needed to protect the fundamental, important and ongoing Aboriginal cultural heritage associated with the unique and fragile Mound Springs."

As background please consider "PRE-CONDITIONS TO PROTECT MOUND SPRINGS IN OLYMPIC DAM EXPANSION EIS GUIDELINES", a Briefing Paper produced for ACF, Conservation SA and FOE Australia by David Noonan – June 2019, available at:

<https://nuclear.foe.org.au/wp-content/uploads/ODM-PreConditions-to-protect-Mound-Springs.pdf>

8. The Prime Minister's 'fast track' Taskforce to "accelerate" EPBC Act Assessment and Approvals to BHP mining interests must be subject to public interest transparency and accountability. This JSCNA Inquiry should investigate how 'fast track' Assessment and Approvals of Major Projects can compromise Aboriginal Cultural Heritage protection and make findings.

9. Aboriginal Cultural Heritage and the unique Mound Springs of GAB are under further threat by proposed "One Stop Shop" transfer of EPBC Act Approval powers to the States. This must not be allowed to occur in the case of BHP's Olympic Dam mine expansion given SA's 'conflict of interest'.

Re Recommendations 8 & 9:

The Prime Minister's 'fast track' Taskforce to "accelerate" EPBC Act Assessment and Approvals to BHP Olympic Dam mining interests must be subject to public interest transparency and accountability. This JSCNA Inquiry should investigate how 'fast track' Assessment and Approvals of Major Projects can compromise Aboriginal Cultural Heritage protection and make findings.

In particular: full EIS Assessment of an alternative mine water supply for the Olympic Dam mine must not be compromised. Cultural and ecological interests in the integrity of GAB Springs rely on preventing BHP's 50 per cent increase in GAB water extraction AND on closure of Borefield A.

Federal & SA Gov's must require and BHP pay for an alternative mine water supply for Olympic Dam.

The [Prime Minister's 15 June CEDA Conference announcement](#) to prioritise BHP mining interests is of particular concern and has added significant uncertainty under the EPBC Act through a 'fast track' Taskforce to "accelerate" Assessment and Approvals to BHP's Olympic Dam mine expansion.

This is intended to go on to a "One Stop Shop" transfer of EPBC Act Approval powers to the States, placing Aboriginal Cultural Heritage and the unique Mound Springs of the GAB under further threat.

The SA State Gov & Mining Minister's 'conflict of interest' and the influence of BHP's mining interests must not be allowed to become Decision and Approval Condition determinants over EPBC Act "Matters of National Environmental Significance" and Aboriginal Cultural Heritage rights & interests.

Extracts of Prime Minister's Speech: "... To build the pipeline of future projects, we are determined to get out of the way and speed up progress by improving approvals processes.

One area in which the Commonwealth has a direct regulatory role for relevant projects is through approvals under the Environment Protection and Biodiversity Conservation Act 1999. ...

The Commonwealth has already taken steps to cut project approval times under the EPBC Act. ...

Ultimately, our objective is the streamlining of Commonwealth and state processes to a point of 'single touch approvals'.

The National Cabinet has had already - early discussions on how we can achieve this objective, and there is already, I can assure you, a high level of engagement and agreement.

The National Cabinet will come back to this issue very shortly, informed by the current review of the EPBC Act being conducted by Graeme Samuel. ...

Now when it comes to major projects, focusing on Commonwealth approvals won't do much to deliver projects faster if we don't address the state approval processes.

Today I announce a priority list of 15 major projects that are on the fast-track for approval under a bilateral model between the Commonwealth, states and territories.

Joint assessment teams will work on accelerating these projects...

Under our new approach this investment, and most importantly, these jobs will be brought to market earlier by targeting a 50 per cent reduction in Commonwealth assessment and approval times for major projects, from an average of 3.5 years to 21 months.

This priority list includes: ...

- *Olympic Dam extension in South Australia;*



BHP LEGAL PRIVILEGES IN THE OLYMPIC DAM INDENTURE ACT 1982 OVERRIDE SA LAWS

Briefing written by David Noonan for the Australian Conservation Foundation, Friends of the Earth and Conservation SA

For more information on BHP's proposed expansion of the Olympic Dam mine visit nuclear.foe.org.au/olympic-dam

June 2019

The Olympic Dam mine is governed by the outdated [Roxby Downs \(Indenture Ratification\) Act 1982](#) which grants extensive legal privileges to BHP. These “take precedence over” a range of key public interest legislation in SA including: the *Mining Act 1971*, *Aboriginal Heritage Act 1988*, *Environment Protection Act 1993*, and *Natural Resources Management Act 2004* (incorporating water issues).

BHP’s Olympic Dam operations have unacceptable stand-alone arrangements under the 1982 Act and in the “Olympic Dam and Stuart Shelf Indenture” (the ‘Indenture’, March 1982), which applies to an area of over 12 000 km² or more than 1% of the total area of SA - defined as the Stuart Shelf Area.

ACF, FoEA and Conservation SA call for the repeal of these outdated and unacceptable legal privileges held by the proponent BHP. The entire Olympic Dam operation, existing and any proposed expansion needs to be assessed and regulated under the objects and provisions, standards and procedures and other requirements of contemporary relevant legislation of the SA Parliament.

This is required in order to best reflect the legitimate community expectation for best industry, legislative and environmental protection practices regarding Olympic Dam. This is especially important given that the project is by far the largest, most influential and environmentally impacting mining operation in SA. This legitimate community expectation is heightened in the case of BHP uranium mining given the related significant radiological risks and impacts and ongoing long-term toxic tailings waste management responsibilities.

The “[Olympic Dam Major Projects Declaration](#)” (SA Government Gazette, 14 Feb 2019, p. 461-462) has made the proposed BHP mining expansion project subject to a determination by the SA Minister for Energy and Mining under the Indenture and its multiple exemptions and overrides.

This raises public interest concerns over the integrity of the required environmental impact assessment process and on the real or perceived conflict of interest in government decision making.

Section 7 of the *Roxby Downs (Indenture Ratification) Act 1982* (Interaction with other Acts) which “takes precedence over” the *Development Act 1993*, and the 1982 Act and Indenture does not provide for a proper and independent environmental assessment process.

For instance, it is unacceptable for the Minister for Energy and Mining to use the Indenture to assume the place of the Major Development Panel in consideration of public submissions and in development of the Final Guidelines to a required Environmental Impact Statement (EIS) process. Further, the effect of the Major Projects Declaration precludes future Appeals and the Indenture Confidentiality Clause 35 overrides the *SA Freedom of Information Act 1991*.

The state Declaration has unacceptably sought to “exclude” existing operations, and an array of significant future “enabling activities” including a major new Tailings Storage Facility No.6 and Evaporation Pond No.6, from this EIS assessment process.

ACF, FoEA and Conservation SA call on BHP to surrender these outdated legal privileges and to agree to be governed by a full set of contemporary public interest SA laws and standards and due process.

BHP Olympic Dam legal privileges override the SA *Aboriginal Heritage Act 1988*

The [Roxby Downs \(Indenture Ratification\) Act 1982](#) Section 9 Application of Aboriginal heritage (p.4-7) restricts application of Aboriginal heritage legislation to that of the *Aboriginal Heritage Act 1979* in a form modified by Section 9, stating that: “subsequent replacement or repeal of that Act shall not affect its operation in so far as it applies by virtue of this section”.

The Indenture states “the consent” of the company is required for any change to the form of the modified *Aboriginal Heritage Act 1979* that is applied at Olympic Dam “by virtue of this section”.

The [SA Attorney-General’s Department](#) website states regarding the *Aboriginal Heritage Act 1979*:

“This Act has never been brought into operation but has not been expressly repealed. Section 9 of the Roxby Downs (Indenture Ratification) Act 1982 applies this Act to certain operations. Apart from that, the Act has been effectively impliedly repealed by the [Aboriginal Heritage Act 1988](#) and is, consequently, treated as a historical version.”

BHP Indenture legal privileges take precedence over Aboriginal Heritage across an extensive Indenture area which includes the defined Stuart Shelf Area – applying to an area of over 12 000 km², equal to over 1% of the total area of South Australia (see the [1982 Indenture Act, Stuart Shelf Area Map B](#), p.288), and including the area of the Olympic Dam Special Mining Lease (SML).

For instance, applications from BHP to ‘damage, disturb or interfere with’ Aboriginal cultural heritage sites in the Indenture area are decided by the Mineral for Mining and not by the Minister for Aboriginal Affairs – as is due process under the contemporary *Aboriginal Heritage Act 1988*.

Areas to protect Aboriginal heritage shall not be declared unless BHP “agree to the declaration”, and powers conferred by the 1979 Act to remove Aboriginal heritage for safe storage “are not exercisable without the consent of” BHP, under the 1982 Indenture Act Section 9.

Successive SA State governments maintain these outdated BHP legal privileges are “appropriate”. At the last SA assessment of a proposed Olympic Dam expansion earlier this decade, the “SA Assessment Report EIS Olympic Dam Expansion” ([SAAR](#), Indigenous issues, p.366-370, Sept 2011), concluded that:

“...appropriate mechanisms are already in place for the management of indigenous people, employment and heritage”; stating: “Cultural heritage matters will continue to be dealt with under separate legislation and agreed processes.”

The [SAAR](#) (p.366) clearly states the precedence and legal privilege of BHP activities through the 1982 Indenture to require Aboriginal heritage issues to be dealt with under modified 1979 legislation and not by the *Aboriginal Heritage Act 1988* - which applies elsewhere across SA and arguably provides Indigenous communities with a semblance of contemporary rights and due process:

SAAR, p366: *“12.5 Indigenous issues*

12.5.1 General This section applies to the proposed Olympic Dam expansion project as a whole and considers the issues the project raises in relation to indigenous people. ...

12.5.2 Legislative environment

12.5.2.1 SA Legislation The Roxby Downs (Indenture Ratification) Act 1982 requires that Aboriginal heritage issues on the Stuart Shelf and Olympic Dam area (SML) be dealt with under the Aboriginal Heritage Act 1979 (the ‘1979 Act’). For activities located outside the Stuart Shelf and the SML, the Aboriginal Heritage Act 1988 (the ‘1998 Act’) applies.

In 2011 amendments to the Indenture Act were passed by a bipartisan vote of the SA Parliament (note: these amendments never came into force as the proposed BHP open pit mine project did not go ahead). However, BHP’s outdated legal privilege override of Aboriginal heritage was retained.

A SA government spokesperson asked in Parliament (Oct 2011) why BHP’s outdated override of Aboriginal heritage rights and interests was intended to be retained, responded:

“BHP were satisfied with the current arrangements and insisted on the continuation of these arrangements, and the government did not consult further than that.”

Such an approach is unacceptable and in conflict with both best of sector practice and contemporary community expectation.

The 1982 Indenture Act makes provisions for Section 9 Application of Aboriginal heritage *“to cease to operate”* subject to/only with *“the consent”* of the company (Section 9, subsections 10-13, p.7).

The 1982 Indenture Act requires BHP’s consent to a proclamation to replace the form of the *Aboriginal Heritage Act 1979* which applies under Section 9 to BHP Olympic Dam operations.

However, BHP has never offered their consent and the SA State government has never sought it. This is a most striking example of unacceptable corporate self-interest overriding the public interest. This unacceptable situation has adverse consequences for both broad Aboriginal rights and interests and for protection of Aboriginal cultural heritage in the current BHP proposed mining expansion.

Despite a range of strong public concerns on Indigenous issues being evidenced in public submissions, the state and federal government’s failed to make recommendations on Aboriginal heritage issues in the 2011 assessment of BHP’s previous Olympic Dam mine expansion project. This failure must not be repeated in setting Guidelines on an EIS Assessment process in 2019.

The [SA Assessment Report, Chapter 12: Effects on communities](#) (SAAR, Sept 2011) lists significant public interest issues raised across submissions (note: there were some 4,000 submissions in total). These key matters continue to be unresolved in BHP’s 2019 Olympic Dam expansion project:

SAAR, p.369: *“12.5.5 Summary of submissions - Public submissions*

Public submissions raised the following matters in relation to indigenous issues:

- *The impact of the Indenture on BHP’s statutory obligation to consult with traditional owners, and the level of protection they receive;*
- *Additional detail on measures undertaken and proposed by BHP to protect cultural heritage and to consult with relevant groups;*
- *The cultural significance of the Mound Springs and Great Artesian Basin to Aboriginal people;*
- *Concern that Aboriginal people would inherit radioactive land and waters when the mine closed and that they should be included as stakeholders to be consulted post-closure.”*

Joint ENGO Recommendations:

Repeal BHP legal privileges overriding SA laws, standards and due process:

The Australian Conservation Foundation, Friends of the Earth Australia and Conservation SA call for the repeal of outdated unacceptable legal privileges in the *Roxby Downs (Indenture Ratification) Act 1982* held by BHP over the Olympic Dam mine operations.

The entire Olympic Dam operation, existing and any proposed expansion, should be assessed and regulated under the objects and provisions, standards and procedures and other due process requirements of contemporary relevant legislation of the South Australian Parliament.

There is a strong public interest imperative to repeal the Olympic Dam Indenture Act 1982, especially the overrides of the *Environment Protection Act 1993*, the *Aboriginal Heritage Act 1988* and the *Natural Resources Management Act 2004* (incorporating ground water issues).

The Australian Conservation Foundation, Friends of the Earth Australia and Conservation SA call on BHP to surrender its outdated Olympic Dam Indenture Act legal privileges as a clear corporate commitment to compliance with best of sector practice:

ACF, FoEA and Conservation SA call on BHP to surrender and forego the outdated and unacceptable legal privileges in the *Roxby Downs (Indenture Ratification) Act 1982* over the Olympic Dam mine;

BHP should agree to be governed by contemporary public interest laws and standards and due process in SA across the entire Olympic Dam mine operation. This includes existing operations, any future proposed “*enabling activities*” and the current 2019 BHP proposed underground mining expansion project.

EIS Guidelines to investigate and recommend on Aboriginal heritage issues:

The Guidelines for the EIS Assessment process on BHP’s proposed 2019 Olympic Dam mining expansion project should require investigation of Aboriginal heritage issues across the entire Olympic Dam operation, with the EIS Assessment to make relevant recommendations.

This should include investigations on the lead set of public matters raised on Indigenous issues and summarised in the SA Assessment Report, Chapter 12: Effects on communities (SAAR, p.369, Sept 2011) during assessment of BHP’s previous Olympic Dam mine expansion project:

- *“The impact of the Indenture on BHP’s statutory obligation to consult with traditional owners, and the level of protection they receive;*
- *Additional detail on measures undertaken and proposed by BHP to protect cultural heritage and to consult with relevant groups;*
- *The cultural significance of the Mound Springs and Great Artesian Basin to Aboriginal people;*
- *Concern that Aboriginal people would inherit radioactive land and waters when the mine closed and that they should be included as stakeholders to be consulted post-closure.”*