4. The Ranger uranium mine: When opportunity becomes a cost

We can take the heartache away, we can use this Ranger Agreement as a foundation, a strong foundation for you people to look to the future for yourself and children, and to work in the future for yourself and your children, because that is what it will do for you […] Foundation not for something that will destroy your culture, but something that if you are strong enough in yourselves, with your fellow councillors working with you to protect and preserve your culture in a way that will contribute to the whole of Australia (Ian Viner, Minister for Aboriginal Affairs at the signing of the Ranger Agreement in Clancy, Hay and Lander 1980).

I told them I didn’t want the mine, but somebody pushed, might have been government or anyone. The Prime Minister Mr Fraser, he was up here before and we took him to have a look at this mine, and he went back and something happened (Toby Gangale (dec) in Clancy, Hay and Lander 1980).

Of the three mines considered by this study, the Ranger mine in Kakadu National Park, and within the traditional estate of the Mirrar Gundjeihmi people in the Northern Territory, has the longest and most complex history. It is difficult to separate consideration of the mine from that of the surrounding Kakadu National Park. The opposition of Mirrar Gundjeihmi people, the traditional owners of the Ranger, Jabiluka and town of Jabiru lease areas (Toohey 1981: 21–3), to the establishment of the mine in 1977 is well documented (Altman 1983a: 56; Fox, Kelleher and Kerr 1977; Gundjeihmi Aboriginal Corporation (GAC) 2001, 2006; Levitus 1991, 2005; Wilson 1997). Undeniably their prior experience of development in the region galvanised their opposition to development of the nearby Jabiluka uranium deposit into a successful international campaign of protest (1996–2002). Social impact studies detailing the experience of development reveal the institutional exclusion of Indigenous people from the mainstream economy, a reduction in government funding for services, and duress placed on Indigenous cultural institutions and relationships through the politics of royalty distribution (Australian Institute of Aboriginal Studies (AIAS) 1984; Kakadu Region Social Impact Study (KRSIS) 1997a, 1997b). The history of Ranger and Jabiluka highlights the attempted coercion of Indigenous people into a liberal economic agenda (see Chapter 1), predicated on mineral development.

The coercive administrative structures established in the Kakadu region challenge the basis of Mirrar Gundjeihmi identity, and has had a diverse range
of impacts both within the Indigenous polity and upon relations between Indigenous people and non-indigenous institutions. This chapter focuses on the dynamics, both within the Indigenous polity and organisations within the region, arising from definitions of ‘community’, and argues that the assumption of a unity of interests can negatively impact Indigenous organisational stability and subsequent economic outcomes. The future of services in the region, and state assistance in overcoming the disadvantage identified by KRSIS, the most recent of three social impact studies, remain connected in state and mining industry discourse with the consent of Mirrar Gundjeihmi for the development of Jabiluka (Murdoch 2006). Lack of mitigation of the impacts of mining identified by the KRSIS clearly demonstrates the nexus between mineral development and Indigenous rights in the area that has emerged from the nearly 30 year history of relations. This is also emerging in the Pilbara and Southern Gulf of Carpentaria (see Chapters 5 and 6).

At the time of fieldwork in the Kakadu region the Ranger mine, managed by Energy Resources of Australia (ERA), a business unit of Rio Tinto, was anticipated to close in 2012, and a range of issues associated with such closure were being considered. However, since fieldwork, the spot price for U_3O_8 reached $US52 per pound in 2006 (Australian Bureau of Agricultural and Resource Economics (ABARE) 2006b: 515), and peaked at an average of $US99 in 2006–07 the highest price for the commodity to date (ABARE 2009: 158). In October 2006 the life of the Ranger mine was extended to 2020 as the higher commodity price made the reworking of mine tailings commercially viable (Commonwealth of Australia 2006: 26). Similarly the Commonwealth Government’s interest in the establishment of an Australian uranium industry led it to place renewed pressure in 2006 on the Mirrar Gundjeihmi to consent to mining at Jabiluka (Murdoch 2006).\(^1\) However, at the time the Australian Uranium Association maintained that current Australian production and projected export capacity can be met from existing mines and reserves other than Jabiluka (Australian Broadcasting Commission 2006; Commonwealth of Australia 2006).

This chapter begins by outlining Indigenous land tenure and notions of community in the region. The KRSIS and Levitus (2005) have illuminated the dispersal of Indigenous authority in the structural and organisational arrangements in the region (see also von Sturmer 1982). This section traces the emergence of Mirrar Gundjeihmi\(^2\) assertions of their primary rights and

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1 Murdoch details claims that senior Commonwealth Government Ministers approached Mirrar Gundjeihmi representatives offering to settle their native title claim over the town of Jabiru in return for their consent to mine Jabiluka.

2 Mirrar Gundjeihmi is the name of the gunmogarrgurr associated with Ranger, Jabiluka and Jabiru as well as surrounding areas. The Mirrar Gundjeihmi estate is currently held in a company relationship with two other Mirrar gunmogarrgurr whose “home” estates are to the east—Mirrar Uningangk and Mirrar Mengerrdji. The three Mirrar groups, often collectively glossed as the ‘Mirrar’ form the membership of GAC.
hence identity, and the consequences of such assertions for the structures of Indigenous representation. Particular reference is made to the demise of the Gagudju Association with an expansive membership drawn from the broader region, and the emergence of the GAC with a discrete clan based membership. The relationships between Indigenous people, Indigenous organisations, the mining industry and the state in the post-Jabiluka protest era and with the imminent closure of Ranger mine are examined. This section highlights the ambivalence of many Indigenous people in the region who have experienced the negative impacts of mining, yet are in part reliant on the structures associated with it.

Part one: The social contract

The Ranger mine occurs within a complex organisational and statutory framework, sometimes described as a ‘social contract’ (KRSIS 1997a) that arises from the Ranger Uranium Environmental Inquiry, or the Fox Inquiry (see Chapter 3). The Commonwealth Government’s acceptance of the Fox recommendations in 1977 allowed for the establishment of Kakadu National Park, the recognition of regional claims for Aboriginal land rights and the staged development of uranium reserves in the region, beginning with the Ranger mine. The Fox recommendations entail a complex of land tenure and overlapping leases (Director of National Parks and Kakadu Board of Management 1998: 7), with provisions for a number of organisations to assume responsibility for management of lease areas and environmental monitoring over time.

Aboriginal land granted sequentially under the Aboriginal Land Rights (Northern Territory) Act 1976 (ALRA) and held by the Kakadu Aboriginal Land Trust, the Jabiluka Aboriginal Land Trust and the Gunlom Aboriginal Land Trust is leased to the Director of Parks Australia (previously known as the Australian National Parks and Wildlife Service) under three separate lease agreements, as part of Kakadu National Park. The park has a total area of 19 804 square kilometres (Director of National Parks and Kakadu Board of Management 1998: 3), and encompasses the entire catchment area of the South Alligator River. The Park was proclaimed in three stages in 1978, 1984, and the third stage in 1989 and 1991 (Director of National Parks and Kakadu Board of Management 1998: 8). The conduct of the Alligator Rivers Stage I and II Land Claims, and the Jawoyn (Gimbat Area) Land Claim accompanied the declaration of the Park.  

3 At the time of fieldwork, the closure of Ranger mine was imminent, and is reflected in this chapter. Nonetheless, whilst the life of the mine has been extended, issues identified here remain relevant to the future of the region.

4 The Kakadu Aboriginal Land Trust is created to hold title for land granted in the Alligator Rivers Stage I Land Claim, which was heard by the Fox Inquiry. The Jabiluka and Gunlom Aboriginal Land Trusts were created subsequent to the successful Alligator Rivers Stage II, and the Jawoyn (Gimbat Area) Land Claims respectively.
The majority of the park is recognised as Aboriginal land under the ALRA. Field Island, parts of the Alligator Rivers Stage II Land Claim that were not granted and the area previously known as the Goodparla pastoral lease in Stage III are currently the subject of claims and repeat claims the settlement of which is imminent. A joint management regime is in place at Kakadu with a Board of Management with traditional owner representation (see below). The three stages of Kakadu National Park were included on the UNESCO List of World Heritage in 1981, 1987, and 1992 respectively, on the basis of natural and cultural heritage values (Director of National Parks and Kakadu Board of Management 1998: 5; GAC 2001: 68). Kakadu National Park management also must consider Australia’s obligations in accordance with international covenants, including those of the Ramsar Convention relating to wetland management, and the Bonn Convention, the Chinese Australia Migratory Birds Agreement and the Japan Australia Migratory Birds Agreement, concerning the management and protection of migratory birds and their habitats (Director of National Parks and Kakadu Board of Management 2006: 25–6). 

Tourist visitation to Kakadu National Park in 2005–06 was in the vicinity of 193,000 people (Director of National Parks 2006: 78), but was as high as 240,000 in 1994 (Morse, King and Bartlett 2005: 7).

The Ranger project area, and the nearby Jabiluka project area are also recognised as Aboriginal land, but are excluded from the national park. The dedicated mining town of Jabiru (see below) is not Aboriginal land, but is part of the national park and subject to the Parks Plan of Management (AIAS 1984: 55; Director of National Parks and Kakadu Board of Management 1998). The overlay of leases on Aboriginal land has a number of implications for the political authority of Indigenous people in the region (KRSIS 1997a: 9). Such implications are characterised by the demarcation of space and exclusive, or inclusive, conceptualisations of ‘community’ on the basis of defined Indigenous land interests that coincide with the various land tenures. The pressures and responsibilities brought to bear on these various groupings through lease and agreement arrangements associated with different title holders are demonstrated in this chapter as a key factor arising from administrative arrangements in the region. The implications of community definition at the local and organisational level will be highlighted in the following discussion. Other impacts of the statutory and tenure relationships on Indigenous political authority are derived from the complex and antagonistic relationships between the Commonwealth and Northern Territory Governments. Such antagonism relates to the Northern

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5 The Ramsar Convention is so named after the location in Iran where it was signed in 1971.
6 The Ranger lease became Aboriginal land subsequent to the successful Alligator Rivers Stage I Land Claim conducted within the aegis of the Fox Enquiry. The Jabiluka lease area became Aboriginal land subsequent to the Alligator Rivers Stage II Land Claim and is vested in the Jabiluka Aboriginal Land Trust (Lawrence 2000: 147).
Territory Government’s historic rejection of the Commonwealth’s jurisdiction over Kakadu and Uluru-Kata Tjuta National Parks, and its perception that the ALRA has been imposed upon the Northern Territory (Gibbins 1988). Consequently on a local level different political jurisdictions, administered by Territory and Commonwealth agencies, operate in the region (KRSIS 1997a: 6).

The establishment of these tenure arrangements necessitated the creation of a number of statutory bodies and organisations with varying regulatory responsibility in relation to Indigenous people and issues in the region. These include the Office of the Supervising Scientist, now known as the Environmental Research Institute of the Supervising Scientist (ERISS), responsible for the monitoring of environmental impacts of uranium mining; the Jabiru Town Development Authority responsible for the management of the town of Jabiru; Parks Australia within the Commonwealth Department of Sustainability, Environment, Water, Population and Communities responsible for the management of Kakadu National Park. In addition the passage of the ALRA established the Northern Land Council (NLC) as a statutory body with responsibility for the representation of Indigenous people with land interests in the Top End of the Northern Territory. Aptly, von Sturmer (1982: 89–91) characterises the operation of these bodies as monolithic; he particularly criticises the Office of the Supervising Scientist for not being locally engaged with Indigenous landowners. In his study of early Indigenous organisational structures of the region von Sturmer (1982: 91) emphasises the absence of Indigenous people from administration and decision making and the invisibility of local Indigenous issues and realities: he cautions, ‘Without the dual trajectories—the locals looking outwards, the non-locals looking inwards—the knowledge necessary to establish a basis for mutual accommodation will not arise’.

The responsibility of Parks Australia and ERA in relation to Indigenous people in the region is defined by the nature of lease agreements over Aboriginal land and negotiated under the ALRA (the terms of the Ranger Uranium Mine (RUM) Agreement are outlined in more detail in Chapter 3). To summarise, the Kakadu lease agreements provide for continued Indigenous use of the national park for hunting and gathering, residence, the maintenance of Indigenous tradition, the encouragement of Indigenous commercial initiatives and enterprises, employment and training in the area of park management, the provision of lease payments, and sharing of park generated revenue (Director of National Parks and Kakadu Board of Management 1998: 11). Joint management of the park by Indigenous landowners and the state gives rise to tensions to be considered below.
Fig. 4.1 The Kakadu region

Source: CAEPR, ANU
4. The Ranger uranium mine: When opportunity becomes a cost

Until the Jabiluka protest in 1996–2002, Indigenous opposition to mining had been contained within the parameters of the regulatory regime that had emerged in the region. The actions of Mirrar Gundjeihmi in relation to the renegotiation of these structures demonstrates their determination to minimise the intrusion of mineral development upon their lives, livelihoods, and identity as Mirrar Gundjeihmi people. A central assertion of Mirrar Gundjeihmi opposition to development of the Jabiluka deposit is that the Ranger mine represents ‘the single greatest factor endangering their living tradition’ (GAC 2001: 34). They identify factors contributing to the erosion of Mirrar Gundjeihmi cultural life as lack of access to sites of significance within mining leases, desecration of sacred sites, and ‘exclusion from effective decision-making over the interpretation of what is significant and integral to their living tradition’ (GAC 2001: 32). A range of social problems such as ‘alcoholism, community violence, chronic health problems, disinterest in education, structural poverty and collective despair and hopelessness’ (GAC 2001: 47) provide evidence of, and reasons for, a decline in ‘living tradition’. However, the Mirrar Gundjeihmi anti-mining stance is characterised by considerable ambivalence to a range of institutions associated with the regulatory regime, and mine infrastructure in the region.

Whilst the exclusion of mining has been the objective of Mirrar Gundjeihmi action, the potential closure of the Ranger mine at the time of fieldwork presented a *pons asinorum* for the Mirrar Gundjeihmi that has implications for the broader Indigenous polity in the region and the relationships of Mirrar Gundjeihmi within that polity. There is a diversity of Indigenous attitudes to the potential closure of the town of Jabiru, and the anticipated reduction and ultimate cessation of mining-derived income. Historically, money derived from the RUM Agreement has funded a range of social services not provided by the state, and has been utilised to oppose development of the Jabiluka deposit. The town of Jabiru is home to a number of senior Mirrar Gundjeihmi people and is a locus for services within a region that extends beyond the bounds of Kakadu National Park to include western Arnhem Land. Although Indigenous organisations have been criticised for denying the distinctiveness of their membership, they are used as a buffer between the bureaucratic world of regulation and the more private domain of Indigenous daily life.

Fieldwork associated with the Ranger mine was influenced by a number of factors that minimised the involvement of Indigenous individuals and focused the research at an organisational and political level. These reasons include the wariness and weariness of Indigenous people in the region towards researchers, particularly the Mirrar Gundjeihmi. Their attitude is a product of the demands

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7 A vexing or challenging problem for the inexperienced (from Euclid’s *Elements*).
that are made upon them to perform as Indigenous people, or traditional owners, by a variety of organisations, including statutory bodies, the mining industry, local Indigenous organisations, and tourists.

The competing discourses of conservation, resource exploitation, and Indigenous land rights (through the ALRA and the NTA) in the region make it an attractive and fertile ground for social and scientific research. The longevity of administrative arrangements in the region established by the Fox Inquiry, and the extent of previous research add a time-depth invaluable to this present study. However, it is not only the scrutiny of researchers that has made the relatively small Indigenous population anxious. The perception and experience that not all research is necessarily of benefit to Indigenous interests that arises in this contested region has also had an impact. Relationships with researchers are mediated by a number of Indigenous organisations that act as buffers for Indigenous individuals. The Kakadu Board of Management also maintains the Kakadu Research Advisory Committee to advise on research issues pertaining to the park.

The resultant lack of the individual voice of the Mirrar Gundjeihmi traditional owners, rather than diminishing the study, served to refocus my research in this area on macro political issues, mining company staff, non-Mirrar Gundjeihmi residents of the Manuburduma town camp in Jabiru, and the prevalent organisational representation of Indigenous identity in the region. Consequently consideration of the bureaucratisation of Indigenous identity, inadequate definitions of community, and the limits to formal or mainstream engagement was foregrounded; these issues can be readily identified at the other two sites as well.

A key theme to emerge from research in the Kakadu region was the propensity for Indigenous organisations to mediate the interactions of their members with external individuals and agencies. Such intervention requires the representation of views, aspirations and obstacles faced by Indigenous people, and this process tends to essentialise the Indigenous experience in the region.

**Indigenous land tenure and community**

The Ranger mine, town of Jabiru and the Jabiluka leases occupy nearly 50 per cent of the Mirrar Gundjeihmi clan estate (Fox 1977: 266; Parliament of the Commonwealth of Australia 1999: 77). Indigenous land tenure in the Kakadu region is defined by membership of a language group or clan. Language group ownership predominates in the west of Kakadu National Park with the Burkurni:dja, Mbugarla, Ngombur, Konbudj, and Limilngan (also known as Minidja) all holding interests (see Fig. 4.1). The south of Kakadu National Park is
dominated by the land interests of the Jawoyn people. Clan groups, also known as gunmogurrgurr, are the principal land owning groups in the north-east of the park (Toohey 1981). Such ownership is recognised through the conduct of the Alligator Rivers Stage I and Alligator Rivers Stage II Land Claims under the ALRA. Clans associated with the current discussion, and who were involved in the Alligator Rivers II Land Claim (see Fig. 4.1) are the Bunjd, Dadjbaku, Mirrar Erre, Mirr Kendjey’mi (Gundjeihmi), and the Murumbur (Toohey 1981: 10). Such clan estates are generally bounded and discrete (Press et al. 1995: 40). Membership of a gunmogurrgurr is based on descent associated with ‘one or more patrilineages who share common rights in a contiguous area of land including a set of dreaming sites’ (Toohey 1981: 9), though gunmogurrgurr can also incorporate people on a cognatic basis (Smith 2006). Such rights extend to the use of resources and access to land. Being patrilineal, membership of gunmogurrgurr are typically small, as are the land interests associated with them. Close kinship and social networks exist between members of clans in the area; they form descent based patterns for shared access to resources deriving from one another’s estates (Fox, Kelleher and Kerr 1977: 256, 277). Conduct of ceremonial activity, hunting activity and day to day social interaction occurs within this social network. In a contemporary setting this network also includes Indigenous people from further afield than the members of contiguous gunmogurrgurr. Smith (2006) notes that in the West Arnhem region generally, a number of mechanisms are used to construct identity and define rights as derived from group membership. These include the invocation of ‘sameness’ and ‘difference’ by linking gunmogurrgurr with language, where more than one gunmogurrgurr share the same name but speak a different language. Similarly language can be used to define a corporate identity where multiple gunmogurrgurr speak the same language. ‘Company’ relationships also are common in relation to geographic or environmental locations such as rivers where more than one gunmogurrgurr are related through the common use of a resource, and through common affiliation with dreaming tracks or shared myths. Cooper Creek to the east of the East Alligator River is an example cited by Smith (2006).

8 Jawoyn is a language group whose interests also incorporate Nitmiluk National Park, and extend south to the settlements of Beswick and Barunga. In the Jawoyn (Gimbat Area) Land Claim over Stage III of Kakadu National Park, three clan groups asserted their specific rights as opposed to the previous Jawoyn model of land ownership that emphasised language group land tenure (Merlan 1992).

9 At the time of the Alligator Rivers Stage I Land Claim there was only one surviving member of the Mirrar Erre gunmogurrgurr. In the land claim the anticipated succession to the Mirrar Erre estate by Mirrar Gundjeihmi was noted (Fox, Kelleher and Kerr 1977: 263). The Mirrar Erre estate includes the Border Store, Cahill’s crossing on the East Alligator River, and rock art site and popular tourist destination Ubirr. The Alligator Rivers Stage II Land Claim found that Manilikarr and Murrwan Urningangk had jointly succeeded to the deceased Mirrar Erre estate.

10 As per the Alligator Rivers Stage II Land Claim the language groups of Ngombur and Mbu karla are an intermediate grouping who when considered together are referred to as the Murumburr gunmogurrgurr (Toohey 1981: 10).
Whilst shared access and common relations are a feature of land tenure in the region, so is the contemporary primacy of gunmogurrgurr members in relation to decision making on issues that affect their estate. The interplay of different emphases on language and gunmogurrgurr allows people to utilise multiple mechanisms to establish identification with other groups and areas of land. Such interplay creates networks of authority and responsibility which are opportunistically called upon to activate different kinds of alliances, often in response to specific events or issues. Smith (2006) describes this as ‘negotiated and informal regionalism’—where people come together for specific shared purposes, but reserve the autonomy and rights of constituent parts of the union. Whilst there is obvious flexibility in such a system, there are also longstanding alliances and relationships between groups and individuals.

A Kuninjku man and long term resident of the Manaburduma town camp on the outskirts of Jabiru, described Jabiru as Yirritja country, and himself as a Dua man who should be regarded as junggayi, or manager, in relation to regional decision making and management. However, he says that development in the region and particularly the intra-Indigenous contestation over access to resources, and increased alcohol consumption, has eroded such traditional structures. He cited the performance of the Mardayin ceremony as a key element of traditional law and lamented that the demise of knowledge over the last 20 years has resulted in a situation where ‘no-one knows how to run it’ (interview, 13 July 2004). Instead he says ‘Balanda people speak on behalf of Bininj now, makes me feel no good. Balanda act like junggayi now’. The term bininj is a Bininj Gun-wok word used to refer to local Indigneous people in the Kakadu and West Arnhem region (Evans 2003). The term balanda refers to Europeans, and is derived from the Macassan term for Hollanders. It is one of a number of Macassan derived words in the everyday lexicon of coastal Arnhem Land.

A large number of sacred sites, archaeological sites and rock art sites exist in the region. Traditional owners are responsible for protecting these sites in accordance with systems of Indigenous law. Many such sites are associated with

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11 Yirritja and Dua are terms used throughout Arnhem Land to denote moiety classifications. All people, animals and plants are classified into moieties, with such classification defining rights to land and resources, and defining kin relations. The term junggayi relates to land interests and associated decision making and ceremonial responsibilities derived from relationship to land through either Mother’s Father, Father’s Mother, and in some cases Mother’s Mother. See Chapter 6 for an extrapolation of these concepts in relation to the southern Gulf of Carpentaria.

12 The Mardayin ceremony (or Maraiin) was the last in the sacred ritual series of the West Arnhem region and is preceded by the Ubar, Mangindjeg and Lorgun ceremonies in terms of the sequence through which novices and adults pass. The Mardayin ceremony is essentially initiatory and revelatory in nature (see Berndt and Berndt (1970) for an account of Kuninjku ceremony). Whilst the practice of Mardayin is nowadays rare (in preference for other ceremonial activity such as Kunapipi), it is still used as a metaphor for the ceremonial domain.

13 The term ‘traditional owner’ is defined in the ALRA as any person who is a member of a local descent group who has a common spiritual affiliation to a site on the land, a primary spiritual responsibility for that site, and who is entitled by tradition to forage upon the land associated with the local descent group.
narratives relating to the travels and activities of ancestral heroes in the mythic period. The sites Djidbidjidbi and Dadbe occur on the Mt Brockman escarpment and are adjacent to the Ranger lease boundary. These sites are Djang Andjamun, a term that denotes the dangerous and sacred nature, and hence major spiritual significance, of these places. Less dangerous sacred sites are described simply as Djang. The association of Djidbidjidbi and Dadbe with the Rainbow Serpent promotes the belief that any damage to their integrity would have catastrophic consequences for Indigenous and non-Indigenous people in the region. Any damage, regardless of the perpetrator, attracts sanctions from other members of the regional Indigenous polity. Similarly, sacred sites associated with the Rainbow Serpent also occur on the Jabiluka lease (see below).

Apart from Indigenous people who have traditional interests as per the ALRA within the Kakadu National Park, migrant Indigenous residents contribute to the population profile of the region (Taylor 1999). A number of families and individuals whose traditional country is elsewhere have a long association with the Kakadu region through work, residence and intermarriage. In the parlance of the native title era such people are often referred to as having historic attachment. Early settlement at Oenpelli Mission (now known as Gunbalanya) in western Arnhem Land attracted eastern Kuninjku people into the region (see Chapter 2). In addition, primarily Rembarrngga people from central Arnhem Land have maintained long term residence at Mudginberri, an ex-pastoral lease which is now part of Kakadu National Park. A number of other settlements with mixed populations existed in the Kakadu region prior to the 1970s including Spring Peak, Nourlangie Camp (Anlarrh) and in the Jim Jim area (KRSIS 1997b).

The late 1970s brought an influx of people into the region due to the increased accessibility provided by policy developments related to the establishment of Kakadu National Park, the recognition of Indigenous land tenure and the establishment of Ranger mine (Altman 1983a, 1996b, 1997; Altman and Smith 1994; KRSIS 1997b; Levitus, 1991; Taylor 1999). The KRSIS (1997b: 7) characterises the Indigenous Kakadu ‘community’ with reference to kinship relations and in-migration as ‘a collection of networks, or portions of networks, some of which are, or have become, locally based, and others of which have their focus of knowledge and sentiment elsewhere’. As such, defining the interests of Indigenous people in the region is complex and it requires mediation between rights derived from clan and language group affiliation, and rights derived from residence or co-association. The impacts of colonisation, including depopulation caused by disease, create a situation where much ritual knowledge and authority resides with migrant groups and individuals, particularly the Kuninjku and Rembarrnga, rather than local traditional owners, further complicating the issue of local authority. Consideration of the interests derived from ‘areas affected’ under the ALRA, and their lack of definition, has
drawn distant groups, including those from Croker Island, Cobourg Peninsula, and western Arnhem Land into the contemporary political realm of the Kakadu region. This has made the consideration of the extent of interests of each of the groups and their historical and actual relatedness a critical concern. This process has brought to the surface previously inconsequential matters of personal or political difference.

Trigger (1997b: 111) states that ‘social relations among an Aboriginal population drawn into dealing with a new large-scale resource development are a major determinant of outcomes [and that] the processes of Indigenous politics are rarely transparent to government and industry’. Factionalism and localism can influence how land interests are described and the manner in which people define their relatedness to one another and to land. Land interests are highly context specific and the form they take varies greatly from one region to another. Within the institutional context the definition of community associated with the representation of Indigenous interests in the region varies, and is largely reliant on the consultation and interpretation of external agencies. This has resulted in multiple and contesting expressions of Indigenous authority in the administrative context, which has had a significant and poorly understood impact on the Indigenous polity, as Katona (1999: 7) observes.

The RUM Agreement does not define the affected community, other than by a non-specific reference to ‘relevant Aboriginal people’ (Commonwealth of Australia 1979). Responsibility for the definition of the ‘community’ fell to the newly established NLC, which adopted a broad and inclusive interpretation of land interests in accordance with the community development and self-determination ethos that prevailed in Indigenous affairs at the time. The ‘community’ encapsulated in the membership of the Gagudju Association, established by the NLC, was drawn from discrete interpretations of estate ownership, and also based on residence of traditional owners from across much of western Arnhem Land within the area considered to be affected by Ranger at the time, based on an interpretation of the areas affected provisions of the ALRA (see Altman 1983a, 1996b). Overall, people with historic relationships to the mine site, rather than traditional owners, dominated the Gagudju Association.

**Indigenous organisations and the ‘community’**

Whilst considering in some detail administrative structures in the region, the Fox Inquiry did not anticipate the establishment of any local Indigenous organisations (AIAS 1984: 127). However, the NLC and the Department of Aboriginal Affairs assisted in the establishment of the Gagudju Association and the Kunwinjku Association as royalty receiving organisations associated with the RUM Agreement and the Queensland Mines Ltd (QML) Agreement
(Nabarlek) respectively (Altman 1983a: 120; Levitus 1991: 156). Likewise the DjabuluKgu Association was established to receive royalty payments from the anticipated Jabiluka mine, in accordance with an agreement signed between mining company Pancontinental and the NLC in 1982 (Carroll 1983: 349). Overlapping membership, and consequent Indigenous politics concerning issues of representation and access to resources influences the histories of these organisations.

Throughout the 1980s and early 1990s the Gagudju Association became a political force in the region, with a significant resource base, increasing investment portfolio, and geographic coverage incorporating a number of outstations in the north of Kakadu National Park. The association took on a wide array of service delivery functions in the areas of health and outstation support funded by Ranger royalty payments (von Sturmer 1982: 79; Altman 1983a: 122, 1997: 179). It was regarded as an exemplary Indigenous organisation. The range of services assumed by these organisations—health care, education, power supply, road works, and other infrastructure development—clearly covers services provided to all citizens of Australia by the state. A number of commentators have criticised the practice of using mining related income to provide such services in this region (Altman 1983a. 1985b; Altman and Dillon 1985; Altman, Gillespie and Palmer 1998; GAC 2001; KRSIS 1997a; Levitus 2005).

In contrast, the Kunwinjku Association, through a combination of poor investments and inadequate structures, has become a poor case example of the application of Indigenous mining derived income (on the demise of the Kunwinjku Association, see Altman and Smith 1994). Although royalty distributions from the QML Agreement (see Chapter 3) ceased nearly 20 years ago, they left the region with a reputation as an example of the inappropriate social consequences of cash distributions. The history of Nabarlek (Altman and Smith 1994; Carroll 1983; Kesteven 1983), is often confused with Ranger, and it continues to influence modern mining agreements which restrict the capacity for cash distributions (on the Pilbara, see Chapter 5).

Over the life of the Ranger mine the Gagudju Association's political force has also declined in the region, and a number of other Indigenous organisations with discrete memberships have emerged. There are six local Indigenous governance organisations operating in the north of Kakadu, namely: the Gagudju Association Inc, the DjabuluKgu Association, the GAC, the Minidja Association, Warnbi Aboriginal Corporation, and Djigardaba Enterprise Aboriginal Corporation (Jabiru Region Sustainability Project 2004).

Membership of these Indigenous organisations is overlapping. The Gagudju Association has approximately 300 members, which is the most extensive membership. Circumstances and implications of the Gagudju membership will
be discussed below. All members of the Djabilukku Association (approximately 90 members), the GAC (27 members) and the Minidja Association (20 members), retain membership of the Gagudju Association (Collins 2000: viii–ix). Members of the GAC are also members of the Djabilukku Association. Apart from the Minidja Corporation which represent the interests of Limilngan people in the western part of Kakadu National Park, these associations are established primarily in relation to mining agreements (Director of National Parks and Kakadu Board of Management 1998).

The definition of community and the Gagudju Association

As noted elsewhere, like other organisations and agencies with responsibility for the arrangements established by the Fox recommendations, the NLC has had limited capacity and resources to deal effectively with the complexities presented in the region (e.g. see Coombs 1980; Levitus 1991). Notably, the RUM Agreement relied on s.35(2) of the ALRA for the distribution of mining income for the benefit of Indigenous people impacted by it. Section 35 stipulates that money paid under the terms of the agreement is to be paid by the NLC to (a) Aboriginal Councils, the Aboriginals in the areas which are affected by the agreement; and (b) any incorporated Aboriginal communities or groups whose members are affected by the agreement, in such proportions as the land council determines.

The initially broad and inclusive definition of membership of the Gagadju Association was based on a number of assumptions about the nature and intended purpose of the money. Membership of the organisation not only incorporated those with land interests within Kakadu National Park but Indigenous people from a much wider geographic area extending to western Arnhem Land. Levitus notes that the processes involved in the initial definitions of the membership were impacted by a number of factors of process and interpretation of the meaning of s.35(3) of the Act (these were the upfront money paid by the agreement—see Chapter 2 and below). The core membership of the Gagudju Association was initially the 107 people identified as the traditional owners of the first stage of Kakadu by the Fox Inquiry (Altman 1983a). However, at a series of meetings convened in 1979 this number was increased to 242 people, incorporating a number of clan groups not recognised by Fox and with land interests beyond the Kakadu area. The ad hoc basis for membership, Levitus (1991: 157–8) observes, compromised the coherence of Gagudju as a Kakadu focused organisation. Whilst the membership was expansive the primarily Rembarrnga migrant residents of the Mudginberri camp (see Fig. 4.1), which was the largest residential location within the Alligator Rivers Stage I Land Claim area, were not admitted as members (Levitus 1991: 159).
By about 1981, membership of the Gagudju Association had stabilised. However, by then the upfront monies that were subject of s.35(3) had been distributed, and the new income stream was derived from s.35(2) instead (see Chapter 3). Membership lists drawn up to qualify the association for upfront money under s35(3) ‘became problematic under the subsequent legal regime of s.35(2)’ (Altman 1997: 178–79; Levitus 1991: 161), which focused more on residence within the area affected than on traditional ownership. Depending on how the ‘area affected’ is defined, the Gagudju Association’s membership was either too inclusive by incorporating people who lived outside the area, or too exclusive. Residents of Mudginberri, for example, fell within the residential criteria established by the Act at the time, but because they were not traditional owners they were not eligible for membership of the relevant organisation. Levitus notes that failure to resolve the confusion resulted in the problem being ignored and subsequent royalty payments were made to the Gagudju Association (Altman 1983a; Levitus 1991: 161).  

Whilst considerable organisational complexity emerged in the region after the Fox Inquiry, with an array of organisations assuming limited responsibility for Indigenous issues, no specific and local organisation existed that could fulfil the expectations for economic self-determination propagated by the Fox Inquiry (Altman 1983a: 121). The Gagudju Association emerged, however, to fill this niche and thus ‘belied the Inquiry’s image of Aborigines already beleaguered and likely to be overwhelmed by the introduced forces of rapid change’ (Levitus 2005: 33). As such, unbound by prescription from the ALRA or the NLC (Altman 1983a: 121; Levitus, 2005: 33), the organisation was able to develop into a ‘regional political entity in negotiations with both mining interests and national park authorities’ (Altman 1996b: 6).

According to Levitus (2005), the rise of the Gagudju Association was permitted by the lack of constraints on its operation, the lack of competitors, and its significant income stream. Additionally Levitus (2005: 33) notes the role of early Indigenous committee membership, critically whom had ‘a reasonable balance between mutually respected self-interest and concern to reach good decisions on matters with wider implications for country and people’. Altman (1997: 179) also identifies how structural shortcomings and complexity in the constitution of the association were bridged by a strong and unchallenged

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14 Until amendments were made to the ALRA in 1982, the NLC distributed money to a shelf company which was bound to instructions from the Gagudju Association in the manner it expended such money (Altman 1983a: 104). Subsequent to the 1983 review of the ALRA (Toohey 1984) amendments to s.35 (2)(b) of the ALRA in 1987 resolved the problem of the inability of the association to distribute to traditional owners who resided outside the area affected, whilst the Gagudju Association resolved the issue of servicing non traditional owners residing within the area affected by focusing its service delivery attentions on locations rather than individuals or families (Levitus 1991: 161).

15 Altman (1997: 179) notes that ‘in the period 1979–80 to 1995–96, the Gagudju Association received nearly $38 million in mining moneys, with most (89%) being areas affected moneys, or public moneys…’.
political alliance between a senior Mirrar Gundjeihmi man (Toby Gangale) and a senior Murumburr man and who commanded authority in both customary and contemporary spheres. The early success of Gagudju, Levitus (2005: 34) suggests, represented ‘at least broad acquiescence in a strategy of collective planning and future security’. Collectivity was also a feature of the emergent local Indigenous polity, which through in-migration subsequent to the development in the region was constituted by many individuals relatively new to the area (Levitus 2005).

However, whilst the Gagudju Association was lauded as a model organisation a number of factors impacted on its early success in the late 1980s through to the mid 1990s. The association invested heavily in two major hotels within Kakadu. These businesses, like the tourism industry nationally, were severely affected by the 1989 pilot’s strike that dramatically decreased tourist visitation to Kakadu. At the same time the international uranium industry experienced a downturn. The resulting decline in world uranium prices diminished the income stream of the association to one-third of what it had received in the mid 1980s (Levitus 2005: 34); this placed considerable pressure on the service delivery functions of the organisation. The senior Mirrar Gundjeihmi man also passed away in 1989 and the senior Murumburr man resigned as chairperson of the association. The departure of these two pivotal leaders from the association precipitated what Levitus (2005: 35) refers to as a ‘dispersal of institutionalised Aboriginal authority’. The eldest daughter of the Mirrar Gundjeihmi man, the then young Ms Yvonne Margarula, assumed the mantle of senior traditional owner of the Ranger, Jabiluka, and town of Jabiru leases. According to Altman (1997: 181) and Levitus (2005: 35) Ms Margarula lacked her father’s ‘statesman’ like qualities, and they imply that this led her to be treated like other ordinary members of the association, and to the Mirrar Gundjeihmi’s perception that their primary interests in the areas affected by mining were not being taken into consideration in the management of the association.

The increasing tension within the Gagudju Association compounded with a dispute with the NLC that ultimately destabilised Gagudju. The relationship between the NLC and the Gagudju Association had always been tense due to members’ perception that the NLC was instrumental in striking the Ranger deal against the wishes of traditional owners. Altman (1996b: 15) notes that disputation between the NLC and Gagudju was foreshadowed in the passage of the ALRA with a number of structural factors in the relationships defined by the ALRA, giving rise to potential conflict. Such factors derive from s.35 of the ALRA, and concern poor definition of the terms by which traditional

16 The Mirrar Gundjeihmi assert that the NLC stance on uranium mining in the region undermines its integrity as a representative of the Mirrar (GAC 2001: 7.3).
owners should receive royalty payments for areas affected, the discretion of the Full Council of the NLC over who should receive such money, and a lack of definition within the ALRA of areas affected and the purpose of areas affected money (see Chapter 3, and Altman 1983: 102–5).

From the early 1980s, there were a number of altercations between the Gagudju Association and the NLC, including a rift between the two organisations over the development of the Koongarra deposit. The NLC had also commenced legal proceedings against the Commonwealth and ERA in 1985 to rescind the RUM Agreement on the basis that the agreement had been signed under duress, and that the Commonwealth had a conflict of interest in the negotiations due to its status as a major stakeholder in Peko Wallsend (Wilson 1997). As an association, Gagudju did not fully support the court action (Altman 1996b: 20). The litigation ran for 10 years until traditional owners directed its discontinuation due to a lack of funds (Wilson 1997: 38), and the High Court refused access to confidential cabinet papers (GAC 2001: 21). The Commonwealth offered a mediation package of approximately $7 million to be paid from the ABA. It included increased annual rental payments to $340 000 per annum, a one-off payment of $5.5 million to the Gagadju Association, and the establishment of a Kakadu Foundation for the long-term development of Indigenous people associated with the mine. Acceptance of the package would have involved giving consent for the extension of mining operations at Ranger from 2005 until 2015, and for the mining of Orebody 3 at Ranger (Altman 1996b: 21). Given the decline in the fortunes of the Gagudju Association, the mediation package represented an important potential resource, and the Gagudju leadership supported consenting to the terms. However, the senior Mirrar Gundjeihmi traditional owner rejected the offer. Her action was possibly motivated by disillusionment over the Gagudju Association’s treatment of her clan interests, and of the need to reassert the authority of Mirrar Gundjeihmi as the primary traditional owners. The declining relationship between Mirrar Gundjeihmi and the Gagudju Association was accompanied by the NLC’s increasing tendency towards more exclusive definitions of traditional ownership and, in this case, giving greater emphasis to the Mirrar Gundjeihmi, as primary traditional owners, over the Gagudju Association.18

17 The NLC had sought to pursue negotiations with mining company Denison, whilst a number of key Gagudju members who were traditional owners of the Koongarra deposit opposed the development (Altman 1996b: 16).

18 Increasingly through the 1990s the NLC had come into dispute with Indigenous organisations it had established under the ALRA, particularly in relation to the issue of representation. Organisations such as Gagudju and the Jawoyn Association had expansive memberships that had a tendency to consume the specific land interests of sectors of their membership. Increasing sophistication in relation to the identification of traditional owners and consultation processes allowed the NLC to seek instruction from specific Indigenous groups, often without recourse, or against the wishes of such organisations. As such the NLC was often accused of undermining the authority of such organisations.
Following the rejection of the mediation package, and in response to Mirrar Gundjeihmi queries about the transparency and accountability of the organisation, the NLC instigated a review of the Gagudju Association. Gagudju’s initial refusal to cooperate with the review was met with the suspension of ‘areas affected’ money until such time that the review took place. Gagudju responded by taking action in the Federal Court to force the NLC to release the funds (Altman 1997: 182). The court action was unsuccessful. However, facing a six-month timeframe stipulated by s.35(2) of the ALRA, the NLC decided to pay areas affected money to the newly incorporated Mirrar Gundjeihmi Association (Altman 1996b: 23), an organisation that the NLC was instrumental in establishing (Levitus 2005: 35).

The review subsequently undertaken found the Gagudju Association’s internal processes and structures incapable of dealing with the nature of the dispute that had arisen (Altman 1996b: 182). The Gagudju Association has never fully recovered from this crisis, and became dependent on the GAC for ongoing funding (Levitus 2005: 35). As an organisation it currently manages an investment portfolio, and does not undertake the broad range of social servicing that it undertook from its inception through to 1996. With the decline in the service delivery function of the Gagudju Association the Djabulukgu Association has expanded its operations to encompass those functions. The Warnbi Aboriginal Corporation derives from the Djabuluku Association and has responsibility for outstation resourcing. Levitus (2005: 35–6) laments the demise of ‘a self-determined future’ and notes that the Gagudju Association is no longer a royalty receiving association under the ALRA; it now seems ‘merely to carry on with reduced functions, offering another set of chairs for Aborigines to fill while they discussed and decided such matters as circumstances, or the executive officer put before them’.

However, despite the decline of the Gagudju Association, the self-determination philosophy that underpinned much of the Indigenous organisational design in the Kakadu region appears to be alive and well in a number of Indigenous organisations, and in their actions relating to mining and conservation values in the region. Notably, with the decline of the Gagudju Association, the Djabulukgu Association has developed to fill its service delivery role concerning outstations in the region, the provision of health services, and the coordination of CDEP (Collins 2000; Levitus 2005). The success of the GAC’s anti-Jabiluka campaign (see below) clearly demonstrates aspirations for a future without mining. Whilst Yvonne Margarula may not have possessed the ritual or political authority of her father when she assumed the mantle as senior Mirrar Gundjeihmi traditional owner, her political acumen has clearly developed in the course of the anti-Jabiluka campaign and in subsequent years. Her prominence demonstrates that she possesses leadership qualities that are different from those of her father and the previous generation of Indigenous leaders in the region and that Indigenous self-determination does not depend entirely upon statesmen.
The weakening of the Gagudju Association and the rise of the GAC is an example of the strategic repositioning of Indigenous authority to achieve the clear objective of opposing further mineral development in the region. Renegotiation and definition of discrete rights demonstrates a high degree of Indigenous agency, and challenges the administrative frameworks instigated by the Fox Inquiry. Such renegotiation is characterised by intra-Indigenous disputation which has contributed to organisational instability (Altman 1996b; Levitus 2005). Although on the surface intra-Indigenous disputation manifests in interpersonal relationships, it also is strategic. It reflects the strategic repositioning and reassertion of rights and interests in an intra-Indigenous context, and also to a non-Indigenous audience (in this case the possessor of greater potential resources). Structural inadequacies in the representation of discrete Indigenous interests in the region associated with legislative frameworks and overlapping organisational jurisdiction can be identified as motivating factors in such contestation. Indigenous people are forced to validate their authenticity as traditional owners or as having interests derived from areas affected in order to access resources. Also, the capacity of Indigenous organisations to adequately represent the diverse interests of their membership is often limited. Levitus (2005: 36) observes that the emergence of Indigenous organisations with discrete memberships, such as the Djabulukgu Association and the GAC, implies that ‘Gagudju, as everyone’s association, was no-one’s’.

The concentration of development in the traditional estate of Mirrar Gundjeihmi has a number of implications that relate to the extent of Mirrar Gundjeihmi authority within the region, and the impact of such authority on their relationships with other groups whose country is also impacted by the same development. In particular the Bunidj, whose country is on the Magela Creek system downstream from the mine, have raised concerns about the release of water from the Ranger tailings dam into the Magela Creek system and the potential impacts that this might have upon their livelihoods. Within the framework of Indigenous law, such contamination could be seen as a result of Mirrar’s poor management of their estate, and could entail sanctions for a breach of obligations to maintain the integrity of country.

Djabulukgu, Jabiluka and the Gundjeihmi Aboriginal Corporation

The signing of a 1982 agreement between the NLC and Pancontinental Ltd allowing for the development of the Jabiluka deposit led to the establishment of the Djabulukgu Association, initially as a royalty receiving association. Membership of the association is approximately 90 people and consists of six main clans: the Mirrar Gundjeihmi, the Bunidj, Manilakarr, Dadjbaku, and Murrwan Urningangk. The traditional estates of these clans are on the Magela
Creek system, mostly downstream from the proposed Jabiluka mine site and the existing Ranger mine. Despite the existence of the 1982 agreement, and the completion of an Environmental Impact Study, development of the Jabiluka deposit was halted by the introduction of the ‘three uranium mines’ policy of the Hawke Australian Labor Party (ALP) Government (Grey 1994).

The 1982 agreement provides a regimen of royalty payments not dissimilar to the RUM Agreement. Upfront payments include ‘$1 million on ministerial approval of the project, $800 000 over four years to meet the NLC’s project administration costs, $1.2 million after sale of 3 000 tonnes of yellowcake per annum for the first five years of the project, and $3.4 million on commencement of production of yellowcake’ (Altman 1983a: 64). Ad valorem royalties under the agreement are set at 5.75 per cent of which 1.25 per cent is payable to the Northern Territory Government, 4 per cent to the Aboriginals Benefit Trust Account, and 0.5 per cent to traditional owners (Altman 1983a: 64). Various estimations of the value of developing Jabiluka to the Commonwealth Government and traditional owners have been made. The agreement stipulates that income derived from Jabiluka mine is to be divided with the Djabulukgu Association receiving 80 per cent, and the Kunwinjku and Gagudju Associations receiving 10 per cent each.

Altman notes that prior to ministerial approval of the agreement, the Commonwealth Government imposed conditions on the distribution of funds (Altman 1983a: 67). Clause 6.2 of the agreement stipulates the provision of a range of social service activities be funded by the agreement including, but not limited to, Indigenous businesses, educational scholarships, community amenities (such as libraries and community halls), basic utilities (such as water sewerage and power), and other services relating to communications, transportation and health (GAC 2001: 30). Altman (1983a: 66) identifies that the agreement not only positions the NLC as a ‘vehicle of government policy’ in regulating expenditure, but also that the proscribed forms of expenditure in the agreement may result in ‘both State and Commonwealth Governments reneging on their funding of Aboriginal communities’. This early prediction of the potential for substitution, as already noted, has been born out in subsequent studies of the region in relation to the Ranger mine (KRSIS 1997a, 1997b; Taylor 1999).

Despite its design as a royalty receiving association, the lack of development of the Jabiluka lease and the opposition of the principal land owning group to the Jabiluka mine has resulted in a minimal flow of income from the agreement to the Djabulukgu Association. It appears that only the $1 million upfront payment upon ministerial approval was made. The Chief Executive Officer (CEO) of Djabulukgu maintained that income from investments, access to government grants, loans from ERA, and payment from contracting services to Kakadu
National Park have made the organisation more resilient than the Gagudju Association because it does not depend upon mining royalties (interview, 7 August 2004). Another factor is its strong commercial focus.

Plans to develop the Jabiluka deposit were revived in 1996 following the election of a conservative Commonwealth Government. However, the validity of the 1982 agreement is contested. The NLC, ERA and the Commonwealth Government insisted that the agreement was binding whilst the Mirrar Gundjeihmi assert that it was signed under duress (GAC 2001, 2006; O’Brien 2003; Parliament of the Commonwealth of Australia 1999: 80, 82, 83). The Mirrar Gundjeihmi’s core assertion is that the NLC acquiesced to Pancontinental’s threat to oppose the Alligator Rivers Stage II Land Claim if an agreement was not reached (GAC 2001, 2006). Processes surrounding the initial consent and subsequent transfer of the agreement have been examined in detail, and criticised, by an Australian Senate Inquiry. The Senate Inquiry (Parliament of the Commonwealth of Australia 1999: xiii) also heavily criticised the environmental approvals process associated with the revived project on the grounds that it was rushed and inadequate, and that the process had become politicised through incremental approvals that had placed pressure on traditional owners to support the project.

Provisions in the original agreement at Clause 3.2(a) require the approval of the NLC in the event of a change of scope of the original project. This provision was invoked with the proposal to mill ore and dispose of tailings at the existing Ranger mine (Parliament of the Commonwealth of Australia 1999: 82). Given the low price of uranium at the time, the Ranger Mill Alternative (RMA) was considered as the only economically viable way of developing Jabiluka. After consultation with traditional owners the proposed change was rejected; this prompted referral to a committee for a decision under Clause 3.2(h) of the agreement. The non-Aboriginal majority representatives of the 3.2(h) committee—which consisted of representatives of the Northern Territory and Commonwealth Governments, and ERA—defeated the Indigenous members of the committee and their representative, the NLC. The latter two opposed the change in scope on the basis of the poor environmental record of the Ranger mine, and on the basis that the agreement was at the time 15 years old and out of date (Parliament of the Commonwealth of Australia 1999: 90). A condition of the vote was that ERA would enter into a ‘Deed Poll with the NLC which incorporated offers such as additional housing, funding for alcohol programs and a social impact monitoring program for the life of the project’ (Parliament of the Commonwealth of Australia 1999: 90). The resulting agreement is known as the s.3.2 Deed Poll Agreement. Whilst a change in scope of the initial proposal triggered the requirement for additional environmental assessments, Mirrar Gundjeihmi’s major criticism of the process was that the views of traditional

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19 An opposing view is contained in Grey (1994).
owners were not re-evaluated (GAC 2001, 2006; Katona 1999; Parliament of the Commonwealth of Australia 1999). According to a senior ERA employee based in Jabiru, the NLC is in receipt of approximately $4.5 million from the s.3.2 Deed Poll Agreement. However, the Mirrar Gundjeihmi will not accept the use of this money for any purpose because of the implication that this would entail tacit approval of the mine (interview with GAC CEO, 29 June 2005).

Being in receipt of Ranger mine royalty payments, the GAC hired an executive officer to manage it and to direct Mirrar Gundjeihmi opposition to the development of Jabiluka. A campaign was mounted that commenced with initial lobbying and dissemination of information about Mirrar Gundjeihmi opposition throughout the local and predominantly Indigenous region.\(^\text{20}\) Between 1996 and 2000 the campaign increased in scope to incorporate national and international speaking tours by Mirrar Gundjeihmi, court action in the Federal and High Courts of Australia,\(^\text{21}\) and submissions to the UNESCO World Heritage Committee. In 1998 The European Parliament passed a resolution condemning the Australian Government’s decision to mine Kakadu (GAC 2001: Attachment C, p. 73). A delegation of the World Heritage Committee visited the area in 1998, and assessed that mining at Jabiluka would compromise the natural and cultural heritage values of the region.\(^\text{22}\) That Committee’s decision not to place Kakadu National Park on the list of places in danger under Article 11(4) of the World Heritage Convention (UNESCO 1972) was partly due to the Commonwealth Government’s intense lobbying in international forums. The World Heritage Committee also had listed Kakadu National Park on the register with Ranger mine within its bounds, which placed it in a difficult position of maintaining consistency in relation to Jabiluka.

Arising out of the renewed and intense negotiations over mining and Indigenous interests associated with the 3.2(h) Deed Poll Agreement was the joint commitment of ERA, the Northern Territory and Commonwealth Governments and the NLC to undertake a social impact assessment of mining on Indigenous people in the region. In 1996–97 the KRISIS was conducted to consider development in the region ‘including tourism, mining and park management’ (Collins 2000: 1). The Study Advisory Group consisted of a number of regional experts, representatives of organisations in the region, and government officers. An Aboriginal Project Committee, with members drawn from Aboriginal organisations in the region, advised the Study Advisory Group. At the conclusion of the study the Commonwealth and Northern Territory Governments and

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20 An information tour of the west Arnhem region was undertaken (Parliament of the Commonwealth of Australia 1999).

21 Margarula v Hon. Eric Poole and Another (1998a) NTSC 87; Margarula v Minister for Resources and Energy and Others (1998b) HCA; Margarula v Minister for Resources and Energy and Others (1998c) FCA 186; Margarula v Minister for Environment and Others (1999) FCA 730.

22 Two Australian members of the delegation, Jon Altman and Roy Webb, provided a dissenting view in relation to the threat.
ERA considered the Community Action Plan and a KRSIS Implementation Team was established. Whilst considering the social impact of mining in the region, the study did not explicitly consider the potential and actual impacts of the proposal to mine Jabiluka (Parliament of the Commonwealth of Australia 1999). However, funding for implementation of recommendations arising from the study in the areas of employment and training, including CDEP, and the establishment of a Women’s Resource Centre, partly derive from the s.3.2(h) Deed Poll Agreement. Consequently, the Mirrar Gundjeihmi vetoed a number of KRSIS initiatives reliant on Jabiluka derived funds. They also boycotted the KRSIS Implementation Team, at least whilst ERA remained involved.

A significant number of sites of cultural significance are identified within the Jabiluka mineral lease area. Notably the *Djawumbu-Madjawarnja* site complex within the lease boundary contains approximately 230 art, archaeological and sacred sites (Parliament of the Commonwealth of Australia 1999: 106). More contentious is the site complex known by Mirrar Gundjeihmi as *Boiweg-Almudj* and which they consider an area of *djang andjamun*. Attempts by Mirrar Gundjeihmi and the NLC to have the area registered as a sacred site under the *Northern Territory Aboriginal Sacred Sites Act* remain unresolved due to variant interpretations of the extent and significance of the area (Parliament of the Commonwealth of Australia 1999: 43). The Commonwealth and ERA made strong counter assertions of the veracity of the existence and extent of the site complex on the basis that the definitions of the extent of the site in the 1990s differed from those made in 1982 when the agreement between Pancontinental and the NLC was signed. In spite of Mirrar protestations that the significance of the site complex extended underground to include the orebody, government approvals for construction of the Jabiluka mine incline and tailings dams occurred six months prior to the completion of a cultural heritage management plan (GAC 2001: 6.19–6.25; Parliament of the Commonwealth of Australia 1999: 39–40). The debate about *Boyweg-Almudj* highlights the incompatibility of legislative regimes to recognise Indigenous belief systems, when such beliefs contradict fundamental assertions of the sovereignty of the state. The subsurface significance of sacred sites has never legally been recognised, and the state asserts sovereignty over all subsurface minerals. This issue is highly contentious across all three field sites subject of this study.\(^{23}\)

International protest and condemnation of the Jabiluka project and increasing national support for the Mirrar Gundjeihmi cause did not stop construction of the mine from commencing in 1998. In response, the GAC, in alliance with

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\(^{23}\) The controversy over *Boiweg-Almudg* has some parallels with controversy surrounding proposals to mine Guratba (Coronation Hill) in the southern part of Kakadu National Park in the early 1990s. Assertions of the spiritual significance of the area served a useful political purpose in stopping the proposed mine (see among others Brunton 1992; Cooper 1988; Keen and Merlan 1990; Resource Assessment Commission 1991).
conservation lobby groups including the Australian Conservation Foundation and the Wilderness Society, and political parties including the Greens and the Australian Democrats, mobilised up to 5 000 protesters to form an eight month blockade of the development site (GAC 2006: 9). Over 500 arrests were made (O’Brien 2003). Ironically the senior Mirrar Gundjeihmi traditional owner, Yvonne Margarula, was among those arrested for trespassing upon the Jabiluka lease (N.A., 1998; GAC 2001: 6.34–6.40).

The campaign brought considerable pressure to bear on ERA, and, as Trebeck (2005) has highlighted, it entailed a reputational cost for the company. The acquisition of North Ltd by Rio Tinto in 2000 marked a turning point in the protest. As early as October 2000 ERA’s chairman indicated that the company was committed to securing the approval of Indigenous people for the development of Jabiluka (Cusack 2000). Trebeck (2005: 308) concludes that the defining impact of the anti-Jabiluka campaign was dealt at the level of local community opposition and their use of levers that directly affected the economics of the project. The fact that the world price of uranium was declining at the time made the viability of the project reliant on milling ore at Ranger (the RMA) rather than incurring high investment costs of building a new mill at the Jabiluka site. However, despite the s.3.2 Deed Poll Agreement, the power of veto contained in the ALRA, arising in this case from the changed project scope, required the consent of the Mirrar Gundjeihmi for the construction of an access road between the Jabiluka and Ranger sites. Consent was not forthcoming. This prevented the development of the RMA, and effectively halted development of the mine (Katona 1999: 12). Development had already been stalled by Rio Tinto’s commitment to the World Heritage Committee to sequentially develop Jabiluka (i.e. after Ranger had ceased operation). However, in 2003 with still considerable pressure upon the company to declare its plans for Jabiluka, it made a commitment to rehabilitate the site and not to develop the mine without the consent of the Mirrar Gundjeihmi. A new agreement known as the Jabiluka Long Term Care and Maintenance Agreement was ratified in 2004; it gives the Mirrar Gundjeihmi the right of veto over the mine.

Part two: The broken social contract

This chapter has described relationships in the context of the organisational and regulatory framework of the region in order to highlight the impacts of

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24 The acquisition of the Ranger mine and the Jabiluka lease area were incidental in the takeover of North Ltd, with the primary asset being North’s Robe River iron ore operations in the Pilbara (subsequently combined with Hamersley Iron to become Pilbara Iron). Rio Tinto initially attempted to divest itself of ERA in 2000, but could not procure a suitable price. It then incorporated ERA into its Energy Product Group in 2001 (Trebeck 2005: 352).
inadequate representation and based upon poor definitions of community. Not only has this caused the decline of the Gagudju Association and the rise of the GAC, it has shaped personal relationships. Altman (1997) and Levitus (2005) describe key relationships between Mirrar Gundjeihmi, Murumburr and Bunidj antecedents as being key to minimising dispute and maximising representation within the Gagudju Association.

The successful campaign by the Mirrar Gundjeihmi to halt development of the Jabiluka deposit has clearly affected a range of relationships in the region both intra-Indigenous and between Indigenous people and the multiple agencies in the region, and between agencies themselves. With development of Jabiluka stalled, the longer-term future of the region, and in particular of the town of Jabiru, is unclear. Clearly without the impetus of additional mineral development in the region, motivation for implementation of the KRSIS recommendations has waned amongst the major stakeholders in the region. This is despite the compelling recognition of the KRSIS (1997a: 5) of past inaction in relation to the amelioration of mining impacts identified by prior studies. A critical outcome of the anti-Jabiluka campaign by the Mirrar Gundjeihmi and the GAC has been the assertion of their traditional authority over the Ranger, Jabiluka, and town of Jabiru leases. Prior to the campaign the authority of Mirrar Gundjeihmi over these areas was concealed by the expansive definitions of traditional ownership and the separation of Indigenous political authority from the institutional framework governing the area (von Sturmer 1982: 89). The renegotiation and definition of the discrete rights of Mirrar Gundjeihmi entailed the self-representation of Mirrar Gundjeihmi as a cultural entity distinct from the representations made of them by the range of agencies and organisations in the region.

However, the relationships engendered by the re-emergence of Mirrar authority have created a range of new challenges that are not anticipated by the organisational framework described thus far. Mirrar submissions (particularly to UNESCO) and public statements, assert aspirations for a future without mining, for the preservation of a ‘space for cultural renewal and recovery’ (GAC 2001, 2006). However, the consequences of pursuing such aspirations (for other sectors of the Kakadu Indigenous polity) have not been considered. In 2012 ambivalence still pervades the Indigenous polity over administrative arrangements, institutions, infrastructure, and income flows generated by the current arrangements.

Jacqui Katona (1999: 7) comments on the institutional arrangements instigated by the Fox recommendations:

What seemed to escape just about everyone except the traditional owners during the Ranger debate in the 1970s was that it would be bininj-bininj
relations, not bininj-balanda relations, that stood to be affected most, and lose most, by the imposition of mining. By failing to appreciate this highly sensitive point, a series of critical errors were made, as the measures taken to supposedly protect bininj culture simply did not take into account bininj economic and political systems. Difficulties associated with representation and decision making processes were glossed over.

Assertions of the distinctiveness and exclusivity of Mirrar Gundjeihmi authority over their estate privileges their view over the broader Indigenous polity in relation to the regional organisational framework. As such the rise of an exclusive conceptualisation of ‘community’ creates a new demarcation of space defined by the authority of Mirrar Gundjeihmi. This is most apparent in the discretion over Ranger royalties by the GAC, and the new reliance of the broader polity encompassed by the Gagudju membership on their continued good will. As described in Chapter 3, the Mirrar Gundjeihmi receive Ranger rental and areas affected money via the GAC, which distributes funds to the Gagudju Association and the Djabulukgu Association.\(^{25}\) Levitus (2005: 35) notes that these arrangements engender ‘bitter interpersonal feelings’ amongst senior Indigenous people whose clan affiliations are reflected in organisational allegiances. However, the organisational landscape is characterised by senior Indigenous people’s strategic use of organisations to distance themselves from such personal animosities, particularly in the aftermath of the anti-Jabiluka campaign. Although the Indigenous organisational framework has been criticised for constraining Indigenous agency, individual clans actively use it to limit the administrative burden and ‘meeting fatigue’ associated with having traditional land interests in the Kakadu region. Examples of such buffering were cited as frustrating the conduct of administrative functions requiring consultation with traditional owners by staff of ERA, Kakadu National Park, the Jabiru Town Council, and the Northern Territory Government (interviews, 7 January, 6 April, 25 June and 22 July 2004).\(^{26}\)

The emergence of organisations with discrete clan or language group membership over the history of the Ranger mine indicates how organisations function as symbolic ‘markers of identity’ (Thorburn 2006), which represent the distinctiveness of discrete cultural groupings and their interests within the administrative framework. However, whilst Mirrar Gundjeihmi authority is recognised, considerable diversity of opinion within the regional Indigenous polity over development of the region and the economic and cultural future of Indigenous people persists.

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\(^{25}\) Whilst authority over payments has changed, effectively distributions of funds occur in much the same way as they did under the Gagudju Association.

\(^{26}\) In addition, and as noted in Chapter 1, my own fieldwork experience was characterised by Indigenous organisations acting as intermediaries for their membership.
The CEO of the Djabulukgu Association indicated that the Jabiluka protest divided Indigenous people in the region by exposing their different expectations of what the development would bring, the lobbying of outside agencies, and the earlier lack of acknowledgement of Yvonne Margarula’s authority. Tensions emerged within the Djabulukgu Association between the now deceased Bunidj senior traditional owner and Yvonne Margarula over the interpretation of her deceased father’s intentions with respect to Jabiluka. More broadly, and within the membership of the Gagudju Association, tensions emerged in relation to the prospect of declining resource streams associated with a lack of development of Jabiluka, and the redirection of Ranger s.35(2) income to the GAC by the NLC. However, the CEO of Djabulukgu claimed that poor relationships only endure amongst the mostly non-Indigenous staff of the GAC, the Gagudju Association, and the Djabulukgu Association and are primarily concerned with issues of funding. She asserted that in the post Jabiluka era there is wide acceptance both within the organisational arena and the Indigenous polity of the authority of Mirrar Gundjeihmi people to make decisions in relation to their estate.

Some residents of the Manuburduma town camp expressed a desire that Jabiluka be developed in order to preserve the town of Jabiru as a service center, and to redress some of the Ranger mine impacts. However, they also stated that they respected the authority of Mirrar Gundjeihmi to halt the development on their estate. The implications of Mirrar Gundjeihmi opposition to development are most acute for Indigenous migrants in the region who are excluded from decision making by the institutional framework, and are isolated from rights associated with access to land. Whilst hunting activities within the park boundary are permitted, there is tension between park management priorities and Indigenous livelihood activities (Altman 1988; Director of National Parks and Kakadu Board of Management 2006: 28; Kesteven 1987). As one long-term Manuburduma resident who is not a traditional owner observed, access to many good hunting places is restricted by locked gates,’only parks mob and traditional owner got the key’ (interview, 13 July 2004).

Services to the town camp, and outstations in the region are reliant on the service provision of the Jabiru Town Council and Djabulukgu Association and associated Warnbi Aboriginal Corporation, yet they are also subject to the vagaries of regional politics. Another Manuburduma resident (interview, 13 July 2004) commented:

Politics are a big problem for Bininj mob, we don’t know which way to go and we are left out here. Ranger mine never done anything for Bininj people. Too stuck in politics. We can see what’s happening now—nothing! Social Impact it started, but what has happened now? Gundjeihmi closed woman centre, no knowledge centre or culture centre,
night patrol stopped. Ranger Agreement should be jobs and education for Bininj, but nothing happening because Gundjeihmi stopped it. But we let it go because we respect Gundjeihmi.

In addition to funding for KRSIS initiatives from the Jabiluka s.3.2(h) Deed Poll Agreement, a number of the KRSIS initiatives entailed a financial commitment from royalty derived income via the Bininj Working Group, and ultimately from the GAC. Anecdotally it appears that Mirrar Gundjeihmi has a limited capacity to meet such financial commitments in the post-Jabiluka era. This also reflects on the organisation and its capacity at the time of research to engage meaningfully with other stakeholders given its history has been dominated by a role of opposition and protest. Anecdotally it appears that GAC in recent years (with the Jabiluka matter in abeyance) has become far more engaged with the broader community and active in the development and support of a range of benevolent initiatives for its members and other bininj.

The Gunbang (alcohol) Action Group was established in 1995 with representatives drawn from a number of Indigenous organisations in the region. Despite the recommendations of the Fox Inquiry, the AIAS social impact study, and the KRSIS in relation to alcohol, and the supposedly ‘dry’ status of the town of Jabiru, alcohol is available in a semi-restricted manner. At the time of fieldwork the Jabiru Sports and Social Club had a quota of 10 drinks per day for members and visitors, the Crocodile Hotel bar was open to non-guests between the hours of 11am–6pm, and the Jabiru Golf Club had a takeaway alcohol quota of one carton of beer and one bottle of spirits per day per member. The fact that licensees in the region are also members of the Gunbang Action Group led one local resident to comment that it ‘operates as an advocacy group for organisations that sell grog’ (interview, 30 June 2004). Alcohol abuse is a major obstacle to Indigenous engagement in employment opportunities in the region both for those addicted, and for abstainers who suffer their behaviour (D’Abbs and Jones 1996).

Tourism

A senior Limilngan man from the north-west of Kakadu National Park, chair of the Aboriginal Project Committee in the KRSIS and long term senior Kakadu park ranger (Commonwealth of Australia 2002: 28–29), asserts that Kakadu National Park tourism has worse social consequences than mining (interview, 7 December 2004). High tourist visitation, he maintains, restricts Indigenous park resident’s ability to conduct livelihood activities, such as hunting and fishing, at areas designated for tourism use. Safety concerns for tourists on the part of Indigenous hunters, a lack of privacy in the conduct of such activities, and the availability of game in populace parts of the park are all factors that
impact hunting access. Gillespie (1988: 243) notes the difficulty in separating
the negative impacts of tourism in the region from those of mining and the
town of Jabiru; although he notes the loss of privacy associated with increasing
tourist visitation, he acknowledges that by limiting tourist access to certain
areas Indigenous people can continue to use their land (see also Smyth 2001: 11).

However, one Indigenous person commented to the KRSIS (1997b: 71) that:

It’s a problem with tourists wanting more places. Like we wanted to get
pandanus but we were worried about getting caught by Parks and were
hiding from tourists. It’s intimidating.

Another informant to that study commented: ‘When you try and control
development, they tell you there have to be more and more tourists’ (KRSIS
1997b: 71). Gillespie (1988: 244) identifies an even more insidious consequence
of tourism as being the ‘information, which is purveyed about Aboriginal
people and their lifestyle, particularly by the tourist industry’ (see also Brady
1985: 19, 22). Tourists are interested in Indigenous culture (Brady 1985: 19), and
the Kakadu Board of Management actively promotes Indigenous values as draw
cards for tourism (Director of National Parks and Kakadu Board of Management
2006: 78), yet overall the involvement of Indigenous people in tourism ventures
at the time of research was minimal. In many tourism ventures non-Indigenous
parties represent Indigenous identity and this remains an ongoing issue. Again
a participant in the KRSIS (1997b: 71) stated: ‘Bining [sic] should hear what
happens with complaints about tour operators and tourist behaviour. Is there
ever going to be control over the numbers of tour operators?’ The GAC (2001)
and the reports from the KRSIS (1997a, 1997b) emphatically point to the external
agencies operating in the region as negative consequences of development.
(Other structural issues associated with Indigenous involvement in tourism are
considered by Altman 1988; Altman and Finlayson 1992; Knapman, Stanley and
Lea 1991.)

There are a number of Indigenous-owned tourism enterprises in the region
that reflect an understanding of the potential economic benefits of the
industry (Access Economics Pty Ltd 2002; KRSIS 1997a: 40). Importantly the
organisational membership, ownership and operation of tourism ventures
and engagement with the national park reflect clan alliances and affiliations.
In addition to its hotel investments the Gagudju Association also owns the
Border Store, and operates a retail outlet at the Warradjan Cultural Centre,
a cafeteria at the Bowali Visitor Centre and the Yellow Waters tours. The
Djabulukgu Association operates the Guluyambi cruise on the East Alligator
River, the Magela Cultural and Heritage Tours and the Marawuddi Gallery at the
Bowali Visitor Centre. The Hawk Dreaming Safari Camp at Cannon Hill is also
administered through the Djabulukgu Association on behalf of the Bunidj clan.
The Djabulukgu Association also operates the Lakeview tourist park in Jabiru. The Members of the Murumburr clan run a tour business known as Murdurjurl Cultural Tours, and have the Djigardaba Enterprise Aboriginal Corporation, which is also associated with tourism and other business enterprises of the clan. Whilst the Mirrar Gundjeihmi are members of both the Gagudju and Djabulukgu Associations, they are not explicitly involved at an organisational level in tourism ventures on their country.

Victor Cooper, like the town camp residents, was clear in his respect for the political will of the Mirrar Gundjeihmi, but expressed considerable dissatisfaction with the lack of implementation of the KRSIS recommendations. He associated the lack of implementation with the stalling of the Jabiluka mine development, and stakeholders’ reluctance or inability to commit the necessary funds to ensure the implementation. Many Indigenous people at the time of fieldwork associated the failure of KRSIS-derived initiatives with Mirrar Gundjeihmi opposition to the mine.

**Energy Resources of Australia**

Relations between ERA and the Indigenous polity are marked by detachment arising from a structural separation instituted by the RUM Agreement. Whilst it is undoubtedly true that personal relations exist between individual Indigenous people and mining company staff, formal relations have been conducted at an organisational level, primarily through the NLC. As Levitus (2005: 30) emphasises, arrangements arising from the Fox Inquiry were imbued with an ethos of protection and a desire to isolate Aboriginal people from the impacts of development, rather than an attempt to seek resolution ‘in terms of a design for Aboriginal articulation’. As such, ERAs delivery of agreement benefits has not discriminated between those with primary interests in the region and Indigenous migrants; this approach has been facilitated by the expansive membership criteria of the Gagudju Association. According to one ERA employee at the time subsequent to the Jabiluka protest, a dialogue between the GAC and ERA has developed, which mostly excludes the NLC (interview, 24 June 2004). However, it is clear that despite the visibility of Mirrar Gundjeihmi interests in relation to Ranger, ERA remained uncomfortable about appearing to be Mirrar-centric in the assistance it provided to the Indigenous community.

Corporate restructuring occurred within ERA after Rio Tinto assumed control of the company in 2002. This significantly changed the attitude towards Indigenous interests (Trebeck 2005). As a partner in the Global Mining Initiative, Rio Tinto incorporated the pre-existing RUM Agreement into the sustainable development approach promoted by that forum. However, given the nearly 30 year history of the mine, Rio Tinto acquired a legacy of poor relationships with
Indigenous organisations in the region. The dynamics of corporate takeover are not the subject of this study; however, it is clear from fieldwork undertaken that the external relations section of Rio Tinto based in Melbourne was driving the sustainable development approach. ERA’s head office is in Darwin, yet the interface of Indigenous relations occurs at the mine site and within the Kakadu region. The distance of the three sites from one another creates a high degree of autonomy—both within the business unit consisting of ERA Darwin, and the mine site—and between the business unit and the Melbourne office. Of note is the ideological and experiential distance between those engaged in community relations activities at the mine site and the corporate approach to sustainability generated by the Melbourne office. One ERA employee noted that the relationship between the business unit and the parent company reflects different agendas, ‘ranging from outright warfare to sullen belligerence’ (interview, 24 June 2004).

Following the Jabiluka protest, ERA became more responsive to the wishes of the Mirrar Gundjeihmi expressed via the representations of their organisation, the GAC. On behalf of its membership, the Corporation made a number of demands on ERA in relation to longstanding issues associated with the operation of the Ranger mine, including a request not to hire Indigenous people at the mine. The increased responsiveness of ERA to the GAC (evident in the closure of the Ingenar Training Centre, for example) has a number of consequences for other Indigenous people associated with the Ranger mine. In some sense this relieves ERA of its responsibilities under the RUM Agreement and in accordance with the KRSIS recommendations. However, it also impinges on the opportunities of other Indigenous people to work in the mine through the lack of beneficial employment provisions.

Whilst the Mirrar Gundjeihmi remain opposed to Ranger mine, other traditional owner groups from within Kakadu National Park, and Indigenous people from the broader areas affected region are, and have been, represented in the workforce (see Chapter 3). Indeed, along with the National Park itself, Ranger represents a resource in terms of available employment. However, aside from Mirrar opposition, other obstacles to employment at the mine and mainstream economic engagement in general, include poor standards of education and health amongst the Indigenous polity generally (Taylor 1999), and the status of Jabiru as a closed town.

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27 Whilst the request primarily related to the hiring of Indigenous people from other parts of Australia, according to ERA it was also received as a statement about the lack of desire of Mirrar Gunjeihmi to work there (interview, ERA community relations, 26 June 2004).
28 Ingenar was established as a training centre on the Ranger mine site for Indigenous vocational training purposes.
29 Anecdotal evidence exists that many Indigenous people would prefer to work at the National Park.
Jabiru

The Fox Inquiry identified the construction of the town of Jabiru as the biggest potential impact of the Ranger mine on the Indigenous population of the region. A number of recommendations were made to limit the size of the town and to isolate interaction between Indigenous people and the town area. The Jabiru Town Development Authority, established by the Jabiru Town Development Act 1978 leases land within the town boundary from the Commonwealth Director of National Parks. At the time of fieldwork the Jabiru Town Development Authority consisted of ERA, Northern Territory Government and Jabiru Town Council representatives. The Jabiru Town Council exercised its powers in accordance with a delegation from the Jabiru Town Development Authority; and was responsible for a number of service delivery activities normally associated with local government. Indigenous involvement in the Jabiru Town Development Authority was restricted to an observer role, performed by the GAC (KRSIS 1997a: 19). Lea and Zehner (1986: 87) comment that ‘there is a peculiar division of responsibility between governments in the Uranium Province with a high degree of federal control exercised through the National Parks Service rather than a conventional ministry and local bodies which are politically accountable in the Territory’. In 2008 the Jabiru Town Council was amalgamated with the new West Arnhem Shire as part of broad local government reforms in the Northern Territory.

Since its construction Jabiru has developed into a regional centre. A range of services are located in the town, including Indigenous organisations, Government departments, banks, a post office and a shopping centre, and a range of tourist accommodation. As such, Jabiru is a focal point of service delivery for the mine workforce, Indigenous people and tourists. However, residence in the town is restricted to mine employees, and the employees of organisations that lease housing stock from ERA. As the KRSIS (1997a: 20) notes, the status of the town as a closed mining town is anachronistic; it belies the historical congregation of Indigenous people at locations, such as Mudginberri and Jabiru East, in order to access goods, services and other resources (KRSIS 1997b: 60).

A number of Indigenous people reside in the town by virtue of their employment with either the mine or a local organisation. Those who are not gainfully employed have no access to housing in the town. Their residential options are confined to the 12 outstations within Kakadu National Park, or the Manuburduma town camp. Manuburduma was initially intended as a temporary camping place for visiting Indigenous people, and was intended to be shielded from the town ‘by a “buffer-zone” of vegetation’ (Lea and Zehner 1986: 71). Initial residents at Manuburduma had moved there from Mudginberri in 1979 and occupied six Commonwealth Government erected shelters (Lea and Zehner 1986: 71). By 1983, it was apparent that the camp was becoming permanent; this prompted
4. The Ranger uranium mine: When opportunity becomes a cost

an upgrade of housing and facilities; the area remained controlled by the Jabiru Town Development Authority (Lea and Zehner 1986: 73). The relationship between employment and housing in the region limits Indigenous people’s access to both. Unlike the mining towns of the Pilbara that were normalised in the 1980s (Thomas et al. 2006), Jabiru’s status as a closed domain insidiously reinforces a racially segregated space. The then CEO of the Jabiru Town Council described Jabiru as a ‘white island in a sea of Aboriginal governance’ (interview, 1 July 2004).

One Kurulk\textsuperscript{30} man, born at Oenpelli Mission (now Gunbalanya) in 1956, learned to read and write at the mission school, and spent many years working for the mission engaged in the construction of houses. As a worker at Oenpelli he acquired skills to drive a grader and a bulldozer and he also worked as a carpenter. However, he never acquired formal tickets in any of these areas. With the development of Ranger mine, he migrated to the new town of Jabiru in search of formal employment. As at 2004 he had worked for a period of nine years as a trainee at the mine engaged in ground keeping work at the mine site and, for a period, in full time employment as a product packer. As a trainee, he worked through the Ingenar training centre and acquired an impressive number of worksite qualifications. However, his prior experience was never recognised. He stated ‘I tried to explain my skills to the supervisor, but they thought I didn’t understand what’s happening here, they never trusted me, but I know lots of that mine equipment’ (interview, 25 June 2004).

Initially this man was a resident in the Manuburduma town camp, and he was given a flat in Jabiru when he became a product packer. He described the granting of accommodation in the town as ‘a noose around his neck’. Large numbers of relatives came to stay, a number of who were drinkers. He couldn’t control the behaviour of his relatives, which prompted complaints from his predominantly non-Indigenous neighbours. Ultimately he lost his job at the mine. He maintains that the reason for his dismissal was to evict him from his company accommodation in the town. He now resides back at the Manuburduma town camp and works on CDEP. This man’s experience highlights the racial demarcation of the town of Jabiru and the structural obstacles faced by Indigenous people in seeking mainstream engagement with the mine economy.

Whilst the extension of the lifespan of Ranger mine will extend that of the town, issues associated with the long term future of Jabiru, which were dominant at the time of fieldwork, are merely deferred, and remain subject to the potentially conflicting agendas of ERA, the traditional owners, the Northern Territory and Commonwealth Governments. The lodgement by Mirrar Gundjeihmi of a native title claim over the town lease area has support from within the Indigenous

\textsuperscript{30} Kurulk is a clan of the Kuninjku dialect of the language Bininj Gun-wok in the Mann and Liverpool Rivers region of western Arnhem Land (Altman 2006b: 17).
polity, however the centrality of Jabiru and changes in the status quo are reflected in the comment of one Indigenous participant in the KRSIS (1997b: 65) that: ‘Every Aboriginal person who lives in Kakadu should be asked about Jabiru normalisation because that will affect everyone’s future, all our kids’.

Issues associated with normalisation, including how the town will access electricity after the decommissioning of the Ranger power plant, and the potential use of excess housing stock, remain unresolved. The Kakadu Region Economic Development Strategy suggested that housing stock in Jabiru could be used as tourist accommodation, despite asserting that mineral income in the region is declining and that ‘the current levels of tourism would not deliver the rate revenues required to sustain the existing levels of service’ (Access Economics Pty Ltd 2002: 135). Discussion of the future of Jabiru is characterised by consideration of liabilities associated with depreciating infrastructure such as the costs of repair and maintenance that may be incurred by the stakeholders. As such it is steeped in the political culture that has emerged in the region since the Fox Inquiry. Despite its exclusivity and other measures imposed by the Fox recommendations, the closure of the town, which was considered a possibility at the time of fieldwork, would have been the biggest mining-associated impact on Indigenous people in the region. However, in 2009 the native title claim over the town was settled. The settlement entailed a grant of land under the ALRA to Mirrar traditional owners with an immediate 99 year lease back to the Executive Director of Township Leasing. The lease secures the future of infrastructure and service delivery in the town and preserves existing interests there (Macklin 2009).

Kakadu National Park

Kakadu National Park presents an alternative avenue from mining for future engagement with the mainstream economy through employment and the development of land-based business and tourist enterprises. Kakadu National Park also provides an income stream to traditional owners via rent and other payments in accordance with the lease agreements. In 2005–06, such payments totalled $1.1 million (Director of National Parks 2006: 18). However, as an institution that serves many stakeholder groups, the Park also presents obstacles to alternate forms of economic activity based on Indigenous livelihood activities. The 2006 draft Plan of Management recognises that small-scale commercial use of plants and animals by Indigenous people already occurs within the park, particularly in relation to the production of art. The same document also notes Indigenous aspirations for activities such as ‘harvesting bush tucker for sale, harvesting crocodile eggs for sale to crocodile farms and capturing live fish for

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31 This document was produced by a consulting firm for the NLC in response to recommendations from the KRSIS.
sale to aquariums and pet shops’ (Director of National Parks and Kakadu Board of Management 2006: 63). However, the proposed and existing mechanisms for promoting such economic activity appear to recognise Indigenous cultural prerogatives, yet subjugate the conduct of such activities to the overarching permissions required by the Environmental Protection and Biodiversity Conservation (Cth) Act 1999 and executed via the Director of National Parks (Altman and Larsen 2006: 3; Director of National Parks and Kakadu Board of Management 2006: 64). Similarly, although Indigenous aspirations for more employment opportunities and enterprise development in the park are acknowledged, no specific course of action is defined (Altman and Larsen 2006: 3; Director of National Parks and Kakadu Board of Management 2006: 33–4).

In 1989 the Kakadu Board of Management was established as a key instrument in the joint management of the park between the Commonwealth Government and traditional owners. Ten of the 14 members of the board of management are Indigenous representatives of land owning groups within the boundary of the park. The remaining four members of the board are the Director of National Parks and Wildlife, the Assistant Secretary of Parks Australia North and two Northern Territory representatives drawn from the conservation and tourism sectors respectively. With a majority Indigenous membership, the Kakadu Board of Management itself represents a regional Indigenous political entity. Levitus (2005: 34) has noted that the establishment of the board in 1989 created ‘a new locus for Aboriginal authority’ at a time when the Gagudju Association was already experiencing financial difficulties. Unlike the Gagudju Association, however, the political authority of traditional owners is limited in this forum by ‘the overriding powers of the Director and the Minister’, and a perception that the board serves the purposes of non-Indigenous interests at the expense of those of traditional owners (KRSIS 1997b: 54–5). However, Kakadu National Park is identified by the KRSIS (1997b: 54) as having a ‘better relationship with local Aboriginal people than any other organisation’ in the region. At the time of fieldwork, Kakadu National Park was the largest employer of Indigenous people in the region, and historically it has sustained lower rates of Indigenous workforce turnover than other employers (Altman 1988; Taylor 1999: 26). Primarily, Indigenous employees occupy land-based positions such as park rangers and seasonal rangers.

Whilst the Kakadu joint management model is often regarded as international best practice, conduct of management in this forum has not been unproblematic. Issues such as fire management, recreational fishing, hunting, management

32 The International Union for the Conservation of Nature and Natural Resources (IUCN) stipulates categories for protected areas and corresponding management principles. Subsequent to the 5th World Parks Congress the category of ‘community conserved areas’ was adopted by the IUCN. The principles of community conserved areas, which emphasise the recognition of culturally or traditionally based land management practices in the maintenance of biodiversity, are being adopted in Australia’s management of Indigenous Protected Areas.
of the town of Jabiru, and the establishment and servicing of outstations highlight potential and actual conflict between Indigenous livelihood values and those of conservation and park management (KRSIS 1997a: 41, 1997b: 53–5; Lawrence 2000; Press et al. 1995; see also Smyth 2001). Despite these limitations, in this highly regulated region joint management arrangements associated with Kakadu National Park provide the only formal mechanism for the recognition of Indigenous knowledge and institutions. Such knowledge is integrally associated with the practice and maintenance of what this research identifies as Indigenous livelihood activities. These activities (broadly outlined in Chapter 1) include a range of tangible activities—such as burning of country, fishing, hunting and gathering, and the conduct of ceremony—which are interdependent with Indigenous institutions that maintain kinship and family structures. Such structures define the relationships of individuals and groups to each other, rights and obligations to maintain land, and the appropriate exploitation of resources from the natural world. The maintenance of knowledge is achieved through the conduct of such activities and it generates a range of values associated with the productive use of land-based resources (see Altman 1987) and also in a symbolic sense (Povinelli 1993). Following Povinelli (1993), symbolic value is realised through the engagement with a ‘sentient’ landscape through the conduct of a range of livelihood activities, which both maintain and generate knowledge and authority, which is essential to the maintenance of cultural identity and distinctiveness both within an intra-Indigenous context and the non-Indigenous world.

Throughout the literature pertaining to the Kakadu region, expressions of the centrality of cultural identity abound in relation to both the Kakadu National Park and the Ranger mine. In their discussion of livelihoods and biodiversity, Langton, Ma Rhea and Palmer (2005: 24) note that:

> for Indigenous peoples and local communities, concern about the preservation and maintenance of traditional knowledge is not only motivated by the desire to conserve ‘biodiversity’ as an end to itself, but also by the desire to live on their ancestral lands, to safeguard local food security, and, to the extent possible exercise local economic, cultural and political autonomy.

Whilst the Kakadu Plan of Management recognises the importance of Indigenous knowledge and land management practices, a number of Indigenous people (KRSIS 1997a: 53–56) in the region perceive that its emphasis upon biodiversity compromises traditional practice, and that this highlights a potential lack of

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autonomy in the practice of livelihoods (see Langton, Ma Rhea and Palmer 2005). Over the past decade across the Top End of the Northern Territory innovative land management programs have developed in relation to the Indigenous estate that recognise and incorporate the value of Indigenous livelihoods and institutions. The Caring for Country program coordinated by the NLC and supported by the North Australia Indigenous Land and Sea Management Alliance, currently has 35 ranger groups in the Top End, and provides paid employment for over 400 Indigenous people in a range of natural resource management related activities (NLC 2006: 4). The Caring for Country program integrates traditional ecological knowledge with science based knowledge in programs associated with land and sea management, feral animal and weed control, and enterprise development (NLC 2006: 12). Whilst the activities of ranger groups are primarily associated with land care activities—such as fire management and control of weeds such as the invasive *mimosa pigra*—fee for service environmental work is also undertaken by a number of ranger groups in areas such as ‘biodiversity conservation, government and private weed spraying, fencing and mustering contracts, sustainable use of wildlife projects, and AQIS and Customs Service contracts’ (NLC 2006: 15). The latter two items involve the monitoring of disease in feral animal populations, and coastal monitoring for illegal foreign fishing and immigration.

Commercial enterprises that have emerged from the Caring for Country ranger program, often in partnership with businesses, include a commercially viable crocodile harvesting enterprise by the Jawoyn Rangers, crocodile egg and long neck turtle harvesting, sponge aquaculture, producing honey from native bees, and the collection of traditional medicine plants for use in the pharmaceutical industry (NLC 2006). In addition, adjacent to the eastern boundary of Kakadu National Park is the area covered by the West Arnhem Fire Management Agreement between the Northern Territory Government, Darwin Liquefied Natural Gas, the NLC and West Arnhem Indigenous groups. It is a carbon trading agreement and concerns strategic fire management in the 28 000 square kilometre Western Arnhem Land Fire Abatement project area for the purposes of offsetting greenhouse gas emissions from the Liquefied Natural Gas plant at Wickham Point in Darwin Harbour (Tropical Savannas CRC 2006). The agreement is expected to yield approximately $1 million per annum for ranger groups over the next 17 years. The West Arnhem Fire Abatement project is part of the larger Arnhem Land Fire Abatement project which ‘seeks to extend contemporary Indigenous fire management regimes that focus on early dry season burning’ (Altman and Whitehead 2003: 7). The range of benefits of

34 The North Australia Indigenous Land and Sea Management Alliance is a partnership of the Kimberley, Northern and Carpentaria Land Councils, and the Balkanu Cape York Development Association. It is an unincorporated partner agency of the Tropical Savannas Cooperative Research Centre (CRC) and represents the interests of Indigenous land and sea managers across northern Australia to the CRC Board of Management.
the project include the abatement of a minimum of 100,000 tonnes of carbon annually, environmental health gains associated with improved air quality, maintenance of biodiversity through the prevention of hot late dry season fires, and the employment of Indigenous people in the conduct of traditionally based land management practices (Altman and Whitehead 2003).

Whilst management of Kakadu National Park does emphasise Indigenous cultural values, the lack of autonomy in relation to livelihood practices in Kakadu due to overriding powers of the Director and the Environmental Protection and Biodiversity Conservation (Cth) Act 1999 mean that the park may become anachronistic to Indigenous people compared to the innovative land management practices taking shape elsewhere in the region. Comparative cost effectiveness of jointly managed national parks in the Northern Territory, Indigenous Protected Areas, and community managed land in Arnhem Land suggest that community management represents the cheapest regime (Whitehead 2002). Altman and Whitehead (2003: 6) also observe ‘preliminary comparisons of biodiversity values in the Maningrida region indicate that they are being maintained at least as well as in Kakadu National Park, just 150 kilometres to the west, but without massive national parks infrastructure’.

Conclusion

This chapter has outlined aspects of the jurisdictional complexity of the Kakadu region largely from the legacy of the Fox Inquiry recommendations and its attempt to balance the competing interests of uranium mining, conservation, and Indigenous residents. The Ranger mine was presented as an opportunity both for the preservation of culture and also for seeking redress of entrenched social disadvantage via the payment of mining derived funds. However, over the nearly 30 year history of the mine, ‘opportunities’ presented by the influx of capital and development from mining have resulted also in duress on Indigenous cultural institutions and hence on relationships within the Indigenous polity of the region. The Mirrar Gundjejim campaign of opposition to the development of the nearby Jabiluka deposit was motivated by the experience of the Ranger mine, and portrayed mineral development as entailing a cost to the ‘living tradition’ of Mirrar Gundjejim.

The RUM Agreement and other administrative structures established in the Kakadu region have placed constraints on the economic, social and cultural value that can be attained by Indigenous people from within this legal, social and spatial environment. Examples have been given of the external mediation

[35] A review of the Indigenous Protected Areas program found management of those areas cost less than $50 per square kilometre, compared to $1,000 per square kilometre in Kakadu National Park (Gilligan 2006).
of local Indigenous practice relating to land access, resource use, enterprise development, housing, and community definition. This chapter argues that Indigenous experience of such mediation in the region challenges the basis of Indigenous identity by constraining the autonomy of culturally-based economic and social activity. This chapter has highlighted Indigenous responses to this challenge, particularly in terms of the renegotiation of community definition, and its diverse impacts upon relationships within the Indigenous polity and with external agencies. Notably, the expansive definitions of ‘community’ entailed in the membership of the Gagudju Association, have been challenged by the reassertion of Mirrar Gundjeihmi authority over their traditional estate, and the establishment of the GAC. Such reassertion is consistent with the changing organisational landscape in the Kakadu region anticipated by the earlier emergence of the Djabulukgu and Minidja Associations, highlighting a trend towards gunmogurrgurr based organisations and a desire to remain tied to forms of traditional authority and governance.

This chapter argues that a nexus between mineral development and the citizenship rights of Indigenous people has emerged. This nexus has been demonstrated in the relationship between the use of mining derived income to oppose the development of Jabiluka by the GAC; the proposed use of Jabiluka s.32(h) derived income to mitigate social impacts associated with the Ranger mine; and the diminishing political will of ERA and the Northern Territory and Commonwealth Governments to implement recommendations arising from the KRSIS in the absence of development at Jabiluka. Indigenous ambivalence to mining related structures and institutions—including the town of Jabiru, Indigenous mining related organisations, and the income flow to those organisations that has been provided by the Ranger Mine—also highlights emerging tensions between mining derived resources in the region and the practice and maintenance of Indigenous institutions. Such ambivalence arises from the competing values informing resource extraction and the conduct of typically indigenous activities associated with obligations to kin and country. The following chapter, focusing on the Yandi Land Use Agreement and the central Pilbara, highlights issues such as the renegotiation of community, and ambivalence to mining related structures that are emerging in much the same way as in the Kakadu region.