

BHP MUST LODGE A BOND TO COVER 100% OF REHABILITATION LIABILITIES AT OLYMPIC DAM

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

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BHP has avoided paying a mine rehabilitation bond at Olympic Dam, which is by far the largest and most influential mining operation in South Australia, and now faces a significant long-term liability.

BHP must ensure this long-term rehabilitation liability is not left as a legacy cost to the public.

“There are no bonds held by the Commonwealth or State level in relation to the Olympic Dam project.” (Answer by the Minister for the Environment to Senate Question No.94, 1 Sept 2016).

It is not acceptable that decades after the passage of the *Roxby Downs (Indenture Ratification) Act 1982* successive SA and federal governments have failed to realise a bond over Olympic Dam.

The Olympic Dam uranium mine presents one of world's largest ever radioactive tailings rehabilitation liabilities at around 180 million tonnes (Mt) tailings, with ongoing tailings output of around 10 Mt/year.

Uranium mining is a Matter of National Environmental Significance as a *“nuclear action”* under the federal *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). BHP's current Olympic Dam underground mining expansion proposal is subject to the federal EPBC Act.

The federal government can require BHP to provide a bond to meet the full cost of rehabilitation liabilities, irrespective of whether or not the SA government acts on its responsibilities to do so. The federal government has stated its power to require a rehabilitation bond at Olympic Dam under the EPBC Act, in [Approval Conditions \(EPBC 2005/2270\)](#) set in Oct 2011 on an earlier proposed open pit expansion project.

“Rehabilitation bond Conditions 33-38” apply the Federal Minister's powers, including that:

- The Minister can require BHP as the Approval Holder to *“provide details of the financial arrangements that may be required by the SA Government in relation to ensuring adequate rehabilitation for the action.”*
- *“If at any time the Minister determines in writing that s/he is not satisfied that adequate financial arrangements, as may be required by the SA Government, are in place to ensure that the Mine Closure Plan (as required under Condition 32) will be implemented, the Minister may require the Approval holder to provide an arrangement (in the form of a bond, financial guarantee or similar arrangement, in these conditions ‘a bond’) as directed by the Minister.”*
- *“The maximum value of a bond that may be required by the Minister is the difference between the value of the arrangement the Approval Holder has provided to meet South Australian requirements, and the amount determined by the Minister as the full cost of implementation of the Mine Closure Plan.”*
- *“The Minister may decrease the amount required where the Approval Holder has decreased the liability through undertaking rehabilitation.”*
- *“In providing for or varying a bond amount in accordance with these Conditions, the Minister may request the Approval Holder to obtain written quotes for the cost of the rehabilitation liability under the Mine Closure Plan from a third party approved by the Minister.”*

- *“The Approval Holder must meet all of the charges and costs in obtaining and maintaining the bond.”*

The federal Department of Environment [“Olympic Dam expansion assessment report EPBC 2005/2070”](#) (Sept 2011) states at 5.1.8 Rehabilitation and Closure, Recommendations, that:

“Best practice mining standards require a comprehensive closure plan to be in place before mining commences.

It is likely that the SA Government will require a rehabilitation bond or similar financial arrangement to ensure a rehabilitation liability is not left for the landholder (ultimately the SA Government).

However, as a precautionary measure, to ensure rehabilitation liabilities are fully addressed the Department recommends that the Minister retain the option of requiring a bond on BHP in favour of the Commonwealth for up to the full cost of the rehabilitation liability.”

The Department also states that *“post closure environmental outcomes must be achieved indefinitely”*.

In terms of policy direction, the SA Department of State Development conducted a *“Leading Practice Mining Acts Review”* that addressed mine rehabilitation issues.

A Review Discussion Paper, *“2.3 Enforcing leading practice mine closure planning, and progressive rehabilitation to achieve sustainable mine completion outcomes”* (DSD, Dec 2016, p.52-55), states:

“Appropriate rehabilitation of all mining operations should be non-negotiable. Planning for mine closure from the earliest stages of mine planning and progressive rehabilitation throughout the life of a mine is leading practice behaviour, and all regulators should be able to elicit this behaviour...”

The current process for mining operations in SA is that the Government seeks to impose unconditional bonds for 100% of the estimated rehabilitation liabilities.

The Department is proposing to introduce a leading practice financial assurance model into South Australia that will adequately meet three ‘non-negotiable’ criteria.”

The State of SA has also endorsed Recommendation 5 of the Nuclear Fuel Cycle Royal Commission:

“Based on the findings set out in the report the Commission recommends that the South Australian Government:

5. Ensure the full costs of decommissioning and remediation with respect to radioactive ore mining projects are secured in advance from miners through associated guarantees.”

However, the State of SA has failed in its responsibility to secure and impose a *“non-negotiable”* unconditional bond in advance on BHP for 100% of the rehabilitation liabilities at Olympic Dam.

The [“Olympic Dam Major Projects Declaration”](#) (SA Government Gazette, 14 Feb 2019, p.461-462) on BHP’s 2019 proposed expansion of underground mining at Olympic Dam provides an important opportunity for the State of SA to ensure a 100% bond is applied and secured in advance.

The Guidelines for the EIS Assessment must require the relevant studies are conducted by BHP and are subject to public scrutiny in this EIS process prior to the approval or the advance of any new Tailings Storage Facility or expansion of production of radioactive tailings waste.

BHP must now be required to provide a costed Tailings Disposal Plan addressing full rehabilitation liabilities across all existing and proposed expansion operations at Olympic Dam.

Recommendations:

BHP must lodge a bond to cover 100% of rehabilitation liabilities at Olympic Dam:

The Guidelines to the required EIS Assessment must mandate a statutory 100% unconditional bond is secured to cover estimated rehabilitation liabilities to ensure that the full costs of remediation and decommissioning at Olympic Dam.

This bond should be secured by the SA government in the first instance. Alternatively, it must be secured directly by the federal government under the EPBC Act.

The Guidelines must require that BHP conduct relevant studies and release full contemporary cost estimates of mine rehabilitation, decommissioning and remediation work for the full rehabilitation liabilities across Olympic Dam operations for public consultation in the EIS process.

These studies must include a costed Mine Closure Plan and Tailings Disposal Plan to be based on the prerequisites required by a comprehensive Safety Risk Assessment of all Olympic Dam mine tailings.

Modern environmental practice and community expectations require the Guidelines to set a comprehensive Safety Risk Assessment to determine the long-term (in the order of 10,000 year) risk to the public and the environment from all radioactive tailings produced and stored at Olympic Dam.

This approach is consistent with [federal EPBC Act Approval Condition 32 Mine Closure, Oct 2011](#).

Further, the federal government standards for disposal of radioactive ore tailings at the Ranger uranium mine in the NT need to be applied to Olympic Dam to ensure consistency with current best of sector approaches. This is particularly important regarding the “*Environmental Requirements, Management of Tailings*” (1999) requirement “to ensure that:

- i) The tailings are physically isolated from the environment for at least 10,000 years;*
- ii) Any contaminants arising from the tailings will not result in any detrimental environmental impact for at least 10,000 years.”*

These studies and contemporary costings on rehabilitation liabilities across Olympic Dam operations are essential to determine the value of the bond needed to meet the full cost of implementation of BHP’s rehabilitation liabilities and to best ensure that none are left to the public as a legacy cost.

These studies and the proposed bond arrangement must be subject to public scrutiny in the EIS process prior to any new Tailings Storage Facilities or expansion of radioactive tailings output.

