



BHP URANIUM MINING TRIGGERS “PROTECTION OF THE ENVIRONMENT” UNDER THE EPBC ACT

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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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Uranium mining is a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) in the controlling provisions “*Protection of the Environment from Nuclear Actions*” EPBC Section 21 & 22A. In assessing a “*nuclear action*” as defined in the EPBC Act the federal Department of Environment has stated:

“This means that it is necessary to consider impacts on the whole environment in addition to specific matters to be considered under other relevant controlling provisions”

In: “[Olympic Dam expansion assessment report EPBC 2005/2270](#)”, Sept 2011, 5. Assessment of Impacts on the Environment, p.4.

Section 134(1) of the EPBC Act allows the Minister to impose conditions on an approval:

“(1) The Minister may attach a condition to the approval of the action if he or she is satisfied that the condition is necessary or convenient for:

(a) Protecting a matter protected by a provision of Part 3 for which the approval has effect;”

With a uranium proposal triggering Section 21 “*Protection of the Environment from Nuclear Actions*”, the protected matter is “*the environment*”. The Minister can require assessment of risks and impacts to the environment and attach conditions as “*necessary or convenient*” to protect the environment.

In assessing BHP uranium mining as a nuclear action the 2011 Assessment Report (p.5) stated:

“Mining and processing present a number of risks to environmental values, including risks relating to: Radiation exposure; Regional and local groundwater impacts; Impacts on flora and fauna; Air quality; and Rehabilitation and decommissioning.”

Environmental values are defined to “*mean the physical characteristics and qualities of the environment that contribute to biodiversity conservation, and the social, spiritual and economic health of individuals and society*” ([Olympic Dam Decision Conditions](#), Oct 2011, Definitions p.21).

These considerations apply equally to assessment of the current 2019 BHP Olympic Dam expansion.

In addition, the federal Department of Environment has made an important recommendation (“[Olympic Dam expansion assessment report EPBC 2005/2270](#)”, Sept 2011, 7. Existing operation, p.62) that conditions be applied so that the entire Olympic Dam operation (existing and expanded) is regulated by a single approval under the EPBC Act:

“Section 134(1) of the EPBC Act allows the minister to attach conditions to an approval of an action to protect the environment or repair or mitigate damage, even where this does not relate directly to the action. Consequently, it is recommended that conditions be applied to the existing operation so that the entire Olympic Dam operation (existing and expanded) is regulated by a single approval under the EPBC Act.”

However, the "[Olympic Dam Major Project Declaration](#)" (SA Government Gazette, 14 Feb 2019, p.461-462) seeks to "Exclude" existing mining operations at Olympic Dam of up to 200,000 tonnes copper production per year along with future "enabling activities" and any resultant impacts, from the required EIS Assessment and from the governing EIS Guidelines which are yet to be finalised:

"such as: waste treatment, storage and disposal, including but not limited to, Tailings Storage Facility 6, Evaporation Pond 6, additional cells for the contaminated waste disposal facility, and development of a low-level radioactive waste storage facility";

Exclusion of existing Olympic Dam operations and resultant impacts would undermine the integrity of this environmental impact assessment process, is directly contrary to the federal Department of Environment's 2011 recommendation and would set up an untenable two-tiered mining operation.

Further, as a public interest issue and under federal jurisdiction and various legislative roles, matters of nuclear security, safety and safeguards must also be included in the EIS Assessment and governing EIS Guidelines set for this BHP uranium mining "nuclear action" under the EPBC Act.

A September 2011 federal Department of Environment report acknowledged nuclear security and safety concerns, stating ("[Olympic Dam expansion assessment report EPBC 2005/2270](#)", 5.13 Nuclear Security/Safety, p.57):

"Nuclear safety, security and safeguards controls are discussed in detail in Appendix E3 of the DEIS. ... Around a quarter of the public submissions received on the DEIS raised concerns about the export of uranium from Olympic Dam and the associated nuclear security and safety risks. Key concerns related to: the potential use of uranium from Olympic Dam in nuclear weapons; the adequacy of nuclear safeguards in ensuring that uranium from Australia is only used for peaceful purposes; the effectiveness of nuclear safeguards associated with export of uranium-copper concentrate to China; nuclear waste storage; and the safety of nuclear power plants."

(Note: There were over 4,000 submissions)

There is also an obligation for these EIS Assessment Guidelines to explicitly recognise and mandate Objects D in the [Commonwealth-SA Assessment Bilateral Agreement](#) (signed 25 Sept 2014), stating:

"The parties will work cooperatively so that Australia's high environmental standards are maintained by ensuring that: ...

b. Matters of National Environmental Significance (NES) are protected as required under the EPBC Act;

c, there are high quality assessments of the impacts of proposals on Matters of NES; and

d. authorized actions do not have unacceptable or unsustainable impacts on Matters of NES"

Uranium mining is a Matter of National Environmental Significance in which "the environment" (the whole environment) must be assessed and protected as required under the EPBC Act. There should be no place for vested interests, legal privileges and exemptions in assessment of BHP's 2019 Olympic Dam expansion proposal. The impacts of the entire Olympic Dam operation (existing and expanded) must be fully assessed and subject to public scrutiny and consultation in the EIS process.