‘uranium trigger’

The Environmental Protection and Biodiversity Conservation (EPBC) Act 1999 is Australias key piece of environmental law and is currently under review under review. Under the EPBC Act uranium mining is defined as a ‘nuclear action’ and this requires direct federal input. This is often referred to as the ‘uranium trigger’. There is a push from the Minerals Council of Australia and the nuclear industry to remove the ‘uranium trigger’. Current environmental laws are not adequate to manage the risks of uranium mining, our laws need strengthening not weakening.

EPBC Act 1999:
Section 22 What is a nuclear action?
(1) In this Act: nuclear action means any of the following:
(a) establishing or significantly modifying a nuclear installation;
(b) transporting spent nuclear fuel or radioactive waste products arising from reprocessing;
(c) establishing or significantly modifying a facility for storing radioactive waste products arising from reprocessing;
(d) mining or milling uranium ore;
(e) establishing or significantly modifying a large-scale disposal facility for radioactive waste;
(f) de-commissioning or rehabilitating any facility or area in which an activity described in paragraph (a), (b), (c), (d) or (e) has been undertaken;

Uranium mines are different to other mines. Uranium is radioactive and poses unique risks to the environment and public health. Mining leaves behind radioactive mine waste which needs to be isolated from the environment for long periods. At the Ranger mine in Kakadu this isolation is required for no less that 10,000 years

While no amount of regulation will make uranium mining socially or environmentally acceptable, or risk free, it can reduce the negative impacts. State/ Territory and federal laws routinely fail to uphold the best possible standards for uranium mining. Removing federal intervention would further weaken the regulatory framework.

The Minerals Council of Australia and the nuclear industry argues that the uranium trigger is ‘discriminatory’ and is a duplication of process. We maintain that uranium is different and requires the highest level of scrutiny. The uranium trigger is an important provision that gives the federal government power to intervene and oversee one of Australia’s most contested and controversial industries.

This regulatory framework urgently needs strengthening, not weakening. This is particularly importans because in recent years, state and federal governments have made decisions that fail to uphold the objects of environmental laws (see Yeelirrie case study).

Uranium mining in Australia has been the subject of reviews and inquiries over many years. Many of these processes have resulted in important recommendations that are directly relevant to the uranium trigger and support the view that uranium is different, has unique risks and requires specific regulations to address and manage these risks.

The 2003 Senate Inquiry into the adequacy of federal regulation of Jabiluka, Ranger, Beverley and Honeymoon uranium mines made 25 general recommendations and further specific recommendations for individual mines. Reommendations include: setting quality limits, increasing monitoring, ensuring compliance, improving the collection and analysis of data and increasing transparency.

Most importantly the Inquiry recommended an increased role for the Federal Government in assessing and regulating. There has never been a recommendation through any review on uranium mining to remove the uranium trigger

“a pattern of underperformance and non-compliance can be shown. The Committee also identified many gaps in knowledge and found an absence of reliable data on which to measure the extent of contamination or its impact on the environment.”
Senate Inquiry 2003.

uranium is different

The 2013 Queensland uranium implementation committee found that there should be stakeholder reference groups, interagency working groups, MOUs with states and territories and an independent specialist advisor - like the Supervising Scientist - from the Australian Government. It also found the need to revise and improve health and saftey guidelines, radiation guidelines, environmental modelling conditions and rehabilitation guidelines to address the specific issues arising from uranium mining.

The 2012 WA Uranium Advisory Group, benchmarked WA regulations with 'worlds best practice' and made many recommendations around the need to improve transparency, ensure broad public consultation, review OH&S legislation, consider cumulative impacts and more. The Group made specific recommendations about tailings management.

The 2003 Senate Inquiry into the adequacy of federal regulation of Jabiluka, Ranger, Beverley and Honeymoon uranium mines recommended that improvements be made to federal regulations for uranium including: groundwater protection and quality limits; increased monitoring of groundwater impacts; compliance with water quality limits; independent monitoring; more systematic approach to collecting and analysing data; public release of all data relating to incidents; an increased role for the federal government in assessment and regulation; confidentiality clauses to protect anonymity of concerned individuals; Improved consultation and communication with stakeholders; independent inspection program of stockpiles and prevention of discharge from runoff.

The 2015 Bureau d'audiences publiques sur l'environnement (BAPE) inquiry in Quebec Canada is the most recent and comprehensive review of uranium mining to occur globally. The BAPE panel found that there are "significant gaps in scientific knowledge of the impacts of uranium mining on the environment and public health." BAPE recommended that a new system in Canada would be needed to regulate uranium mining.

These reviews highlight the need for further regulatory requirements for uranium mines and greater federal oversight. A wider national review of uranium mine regulation, an update on the 2003 inquiry, and further scientific studies on the impacts of uranium mining on the environmnt and public health should be considered to improve and raise the standards of Australia's most dangerous mines. We need to improve standards not cut corners.

Yeelirrie Case Study

The most recent approval for a uranium mine in Australia was Yeelirrie, in the northern Goldfields of WA. Overwhelming evidence suggests that the Yeelirrie project would lead the extinction of multiple species. The WA EPA recommended the project not be approved as it failed to meet objects and principles of the WA Environmental Protection Act including: the precautionary principle, the principle of conservation of biological diversity and the principle of intergenerational equity.

Similar objects of the EPBC Act include 3(1)(c), 3(2)(e)(i), 3A(b), 3A(c) and 3A(d which outline the objective to protect species from extintion, and be guided by principles of intergeneration equity and promoting biological diversity.

At the time of federal approval the Yeelirrie project was subject to a legal challenge and the federasl Minister had commited to wait until the outcome of the court challenge had been reached before making a decision. The federal approval was made on the eve of government going into caretaker mode ahead of the 2019 election and the content of the decision was not made public until two weeks after the decision. This decision followed a series of meetings, corrospondence and pressure from the mining company, Cameco. In correspondence to federal Minister and Department Cameco conceeded that there was no way it could prove that the Yeelirrie project would not cause extinction. The pressure from the company to approve the mine was clear. To grant evironmental approvals of a controversial project that is inconsistent with the EPBC Act, in the middle of a court case, after consistent pressure from the company, made in the dead of night ahead of an election shows a blatant and brazen misuse of political power. We need stronger processes that are more independent from politics, not the removal of the uranium trigger.