

Environment Laws & uranium mining



The EPBC Review interim report recommends that uranium mining remains a “Matter of National Environment Significance (MNES)” and that the Commonwealth retain powers to intervene in uranium mining and other Matters of National Environment Significance. We strongly support this recommendation but are concerned about other recommendations that would see the further deferral of powers to assess and regulate uranium projects to the states and territories.

This deferral of powers has already begun with the establishment of ‘bilateral agreements’ for the assessment of uranium projects and other MNES. Four uranium projects in WA were assessed under the bilateral system. Through this system we have witnessed a significant weakening of conditions on uranium projects and the politicising of decision making.

Federal oversight through assessments, approvals and through the ongoing regulation of uranium mines is critical. This is not duplicative but is an important check and balance for one of Australia’s most toxic industrial activities.

We are calling for:

- that uranium mining and milling be included in s140A prohibitions as nuclear actions that the Minister must not approve, because the nuclear industry has failed to successfully remediate any uranium mine in Australia and has impacts inconsistent with the objects and principles of the EPBC Act.
- initiate an inquiry into the human and environmental impacts of uranium mining, as advised by the UN Secretary General following the Fukushima nuclear disaster, noting that Australian uranium was present in the Fukushima Daiichi reactors at the time of multiple reactor meltdowns, chemical explosions and fires
- the rehabilitation of abandoned uranium mines and mines where rehabilitation has failed.

The Interim Report says:

“Uranium and other projects assessed under the ‘nuclear trigger’ require a whole-of-environment assessment. These expanded assessments cover impacts that the states and territories already regulate (such as air, noise and water quality), as well as duplicating state and territory regulation of mining projects. ARPANSA highlighted in its submission that if jurisdictions adopt relevant national codes developed under the ARPANS Act, then EPBC Act assessments can lead to ‘substantially the same assessment activities being undertaken across multiple jurisdictions creating duplicative regulatory processes’.

It is our understanding that ‘best practice’ national standards under the ARPANS Act are yet to be developed. A 2018 review of ARPANSA guidelines found a number of areas of reform are needed and advocated for consistency on nuclear safety. Greater consistency could be achieved through greater role for a single federal agency, as opposed to further devolving powers to the states and territories and the different agencies in those regions.

The Interim Report says:

To be able to ensure community confidence in these ‘nuclear’ activities, the Commonwealth should maintain the capacity to intervene. To achieve this, the key reform directions proposed by the Review are:

- *The National Environmental Standards for MNES should include one for nuclear actions. To provide community confidence, the Standard should reflect the regulatory guidelines and protocols of all relevant national laws and requirements.*
- *Where states and territories can demonstrate their laws and management practices meet the National Environmental Standard, their arrangements should be able to be accredited under the proposed devolution model.*
- *Where arrangements are not accredited, projects should be assessed by the Commonwealth in accordance with the Standard.*

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;

“The interim report proposes the further devolution of uranium mining regulation to states and territories. An obvious risk is that the standards will be weak, enforcement will be deficient as is already the case, and devolution will weaken the already inadequate oversight of uranium mining. Uranium mining is different to other types of mining. Australia’s uranium mining sector has been dominated by license breaches, accidents, spills and a persistent failure to rehabilitate as promised. The last thing we need is a weakening of regulations and oversight.”

Associate Professor Gavin Mudd.



Environment Laws & Nuclear Power



The EPBC Review interim report, released in July 2020 does not make a specific recommendation to remove existing prohibitions on nuclear power. This is better than opening the floodgates of nuclear power but is not as good as clearly shutting the door.

On the issue of nuclear power the report says:
“Nuclear activities are regulated under the EPBC Act in 2 ways. The first is section 140A, which prohibits the Environment Minister from approving specific nuclear installations. This section reflects a policy choice of elected parliaments to ban specific nuclear activities in Australia, and any change in scope is similarly a policy choice of elected parliaments. That said, should Australia’s policy shift in relation to these types of nuclear activities, changes to s140A would be required.”

This position, or absence of a position on nuclear power in the interim report, makes nuclear power a political issue and fails to address the significant and irreversible environmental risks associated with nuclear power.

EPBC Act 1999 section 140A No approval for certain nuclear installations. The Minister must not approve an action consisting of or involving the construction or operation of any of the following nuclear installations: (a) a nuclear fuel fabrication plant; (b) a nuclear power plant; (c) an enrichment plant; (d) a reprocessing facility.

“Nuclear Power stations are not appropriate for Australia – and probably never will be... it makes no sense to build nuclear power in Australia. Nuclear power stations are highly controversial, can’t be built under existing law in any Australian state or territory, are a more expensive source of power than renewable energy, and present significant challenges in terms of the storage and transport of nuclear waste, and use of water”
Climate Council Australia

Have your say on the interim report.

The EPBC review committee have created a survey for the public to comment on the interim report.

https://haveyoursay.agriculture.gov.au/epbc-review/survey_tools/comments-on-the-interim-report

You only have to answer questions with an * all other questions are optional. Questions relevant to nuclear issues include:

Question on “National Environment Standards” (see over page for more details) - disagree - National Environment Standards could potentially be weak and unenforceable.

Question on deferring powers to the states/territories - strongly disagree - because states have been failing to apply responsible national standards to assessments under existing bilateral agreements

Question on accrediting states and territories - strongly disagree - because it has been ineffective with existing ‘bilateral agreements’.

Question on establishing an independent regulator - strongly agree - we need to remove politics from decision making and have a strong independent regulator who’s only priority is protecting and restoring the environment.

The last few questions are for you to make comments, we suggest including here:

- opposition to nuclear power
- support for both a ban on nuclear power and uranium mining



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THE CLIMATE
AUSTRALIA**

instagram: dontnuketheclimateaustralia

web: www.dont-nuke-the-climate.org.au

e-mail: info@dont-nuke-the-climate.org.au

facebook: @dontnukeaus **twitter:** @dontnuke