

SUBMISSION TO THE EPBC ACT REVIEW

ANON-K57V-XQ91-Z

Name

Alice Jagger

State or Territory

South Australia

Areas of Interest

The objects of the Act; Matters of National Environmental Significance; Nuclear;

Attachment provided

Yes

Do you give permission for your submission to be published?

Yes - with my name and/or organisation (if included)

SUBMISSION RESPONSES

This submission was provided as an attachment only. The attachment is provided on the following pages of this document.

23/04/2020

RE: Review of EPBC Act

In light of the current review of the EPBC Act, I am grateful for the opportunity to provide some comment for consideration.

SUMMARY:

My interaction with the EPBC Act has been as a consultant working on behalf of clients in the mining and mineral processing industry over the last five years, particularly with regard to the application of Part 3, Division 1 (E) which relates to 'Protection of the environment from nuclear actions'.

While the intention of this provision is to protect the Australian environment from activities associated with the nuclear fuel cycle or nuclear weapons development, the current definition of a 'nuclear action' that is given in Section 22 does not match the intent, or the widely accepted definition of nuclear material.

Currently, the wording of Section 22 (e) requires that the Act is applied to actions that deal with radioactive (rather than nuclear) material in many forms including, for example:

- Construction of a waste cell at a mineral sands mining facility; or
- Processing of ore from an IOCGU deposit that is targeted for copper but which contains non-economically recoverable concentrations of uranium; or
- Remediation of a legacy site.

None of these examples are in any way engaged with nuclear activities, and all are regulated under other frameworks.

The consequences of the misalignment in the definition include:

- An increased burden on resources required for administration of the EPBC Act;
- Broad inefficiency by requiring further review of operations or projects that are regulated under other frameworks;
- Confusion and an increased regulatory burden to projects, which
 - o Increases project costs
 - o Causes delays in construction or commencement of operations
 - o Jeopardises the ability or appetite of stakeholders to effect some projects e.g. remediation of a legacy site

It is recommended that the definition of a 'nuclear action' is reviewed and re-worded during the current review, so that it matches the intended scope of the Act.

This can be achieved by:

- Adopting a definition for a 'nuclear action' that is not related to activity as a quantity. The IAEA provides a standard definition that would be appropriate.
- Excluding activities that may contact radioactive material, where that material is not recovered for nuclear uses.

The current review provides an opportunity to remove burden from both sides of the referral process by refining the definition of 'nuclear action' to match the intention of the Act.

CONTEXT

I am a scientific consultant, specialising in the field of radiation protection and management with 15 years experience in Australia and overseas.

The majority of my work has been for clients in the mining and mineral processing industry, which has included assisting projects to navigate approvals processes, including approval under the EPBC Act.

A summary of my experience is as follows:

- Employment with a number of mining companies in both Australia and Africa in regulatory roles, assisting with compliance and worker/environmental protection programs
- Assistance to the IAEA as a specialist to deliver training and develop international guidance
- Consultancy to a number of companies over the last decade to assist them in navigation of and compliance with regulatory requirements for approval and operation

A number of clients have required assistance, particularly over the last five years, to determine whether they require referral under the EPBC Act. Note that the views expressed in this submission are my own, and do not represent those of any agencies, organisations or individuals with whom I am associated.

While there is no question that nuclear actions should be scrutinised by the Act as matters of national significance, the current flawed definition of a 'nuclear action' that is given by the act unfortunately captures a number of projects that are not engaged in any part of nuclear cycles or processes.

In all cases, the activities proposed by the operation or project are not of any particular national significance, and are only considered by the Act due to their inclusion of radiation as one of the many operational hazards that they manage.

In all cases, the operation or project is already regulated under other state and/or national regulatory frameworks which scrutinise proposed impacts and mitigative controls.

A review of the definition of what is considered to be a 'nuclear action' under the EPBC Act would ensure that the Act retains oversight over activities that are linked to nuclear processes, but does not require full referral by all operations or projects that encounter naturally occurring radioactive material (NORM).