

24 April 2020

EPBC Act Review Secretariat
Department of the Environment and Energy
GPO Box 787
CANBERRA ACT 2601

Submission to the Independent Review of the *Environment Protection and Biodiversity Conservation Act 1999*

The South Australian Chamber of Mines and Energy (SACOME) welcomes the opportunity to provide input to the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999 ('EPBC Act').

SACOME is the peak industry body representing companies with interests in the South Australian minerals, energy, extractive, oil and gas sectors and associated service providers.

SACOME is partner and co-signatory to the Minerals Council of Australia's (MCA) submission to this review process and supports the principles and positions set out in the MCA's submission document.

This submission is made in parallel to the MCA document, reflecting priority issues raised by South Australian operators during the consultation process.

SACOME notes the Commonwealth Government's stated aims of reducing operating costs and red-tape for industry, particularly given the dramatic economic impact of the COVID-19 pandemic. We submit that streamlining of the EPBC Act presents a significant opportunity to achieve these objectives at a time where it is most needed.

A summary of issues is provided as follows:

1. Environmental Offsets

More flexible approaches to offsets would reduce delays and unexpected determinations, both of which impact project viability.

Policy and administrative changes to improve implementation and consistency of the offsets policy; and enable the use of advanced offsets are a key priority for South Australian operators.

A more flexible approach to offsets is needed to maximise environmental outcomes from industry investment, including:

- Harmonising offset approaches between Commonwealth and State's/Territories so that offset requirements are mutually reinforced through a single administrative mechanism.
- Enabling offsets to contribute to broader environmental outcomes through removal of strict 'like-for-like' requirements. Member companies have observed that like-for-like in many cases means re-establishing a pre-European settlement standard for offsets which is not likely to be achieved.
- Establishing a national financial-based offsets mechanism to enable government or the 'fund manager' to use offset contributions to make strategic investments for long-term landscape scale environmental outcomes. Proponents should be provided the option of either establishing offsets independently or contributing to the fund.

Member companies have suggested that this approach will reduce operational costs to industry by removing the need for further regulation of entities that deliver EPBC offsets.

2. Nuclear Actions Trigger

SACOME submits that the nuclear action trigger should be amended to explicitly exclude projects with elevated concentrations of naturally occurring radioactive minerals.

The nuclear actions trigger is designed to capture projects associated with uranium mining, milling and decommissioning, however, non-uranium projects with elevated concentrations of naturally occurring radioactive minerals (NORMs), such as mineral sands and copper mining, are increasingly being captured under the trigger.

Mineral sands and rare earths projects with NORMs are explicitly excluded from the definition of uranium mining and milling in the EPBC Act Explanatory Memorandum, however, in South Australia many Gawler Craton Iron Ore-Copper-Gold (IOCG) deposits contain elevated NORMs including mineral sands and rare earths

The nuclear action trigger includes “establishing a large-scale disposal facility for radioactive waste”. For non-uranium mines with elevated concentrations of NORMs, this criterion is triggered for tailings storages facilities (TSFs).

The South Australian EPA’s position highlights that state regulatory frameworks ensure projects producing NORMs are sustainable from environmental, safety and economic perspectives. The South Australian resources regulatory framework, underpinned by the *Mining Act 1971* and the *Petroleum and Geothermal Energy Act 2000*, employs a performance based regulatory model for resources activities focused on achievement of appropriate economic, social and environmental outcomes set through a risk-based approach to determine management of impacts.

Furthermore, the *Radiation Protection and Control Act 1982* and the *Environment Protection Act 1993* have provided decades of confidence to the community and industry in the safe management of radiation in the resources sector.

SACOME submits that this comprehensive South Australian regulatory framework renders the nuclear action trigger for NORMs in the EPBC Act administratively redundant and demonstrates the need for harmonisation of State and Federal processes.

SACOME remains committed to working collaboratively with the Independent Reviewer, the EPBC Act Review Secretariat and the Commonwealth Government throughout the review process.

Yours sincerely



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