

To: The Secretary, Foreign Affairs Defence and Trade Committee

RE: Inquiry into the proposed *Defence Legislation Amendment (Woomera Prohibited Area) Bill 2013*

A Public Submission regarding Protection of High Value Environment and Indigenous Areas of Significance in the WPA and other key public interest responsibilities:

As an interested party, I provide this Public Submission and Recommendation's for consideration by this Committee in the Inquiry to the proposed *Defence Legislation Amendment (Woomera Prohibited Area) Bill 2013* including some relevant comment on Commonwealth and SA government process to date.

The Review of the WPA and this proposed Bill proposes to open up an area - totalling some 127 000 km sq, at near 13 per cent of SA and equivalent to the area of England – to mineral exploration and mining access.

However the Review of the WPA and this proposed Bill unacceptably fail to properly take into account and address other key relevant public interest issues in required protection for high value environment and indigenous areas of significance in the WPA.

I call on the Committee to recognise that the Commonwealth and SA governments should not grant any further mineral exploration or mining access rights in the WPA without first providing for appropriate protection for high value environment and indigenous areas of significance in the WPA – including the warranted public policy measure of excluding mineral exploration and mining access from these areas.

The Alan Hawke Review recognised indigenous groups and environment groups legitimate concerns over protection of areas of significance in the WPA:

"Indigenous groups lack confidence that artefacts and sites of spiritual and cultural significance are being respected and preserved. ...

Environment groups want to be confident that the environment in the WPA has been adequately respected and preserved."

(Interim Report, Exec Summary 8, Government Review of the Woomera Prohibited Area, Alan Hawke, 5 Nov 2010)

Unfortunately there is still little reason to have confidence given the Commonwealth and SA government process to date, including the interim exploration access proposal in the joint Defence and Resources and Energy Ministerial release of 20 April 2012 and the draft "Deed of Access (Minerals Exploration)" proposed by WPACO, and the principles, processes and measures contained in this proposed Bill have only assessed appropriate limitations and exclusions of mineral exploration and mining access *for defence interests* and not also *for environment and indigenous interests*.

When will government *walk the talk* in actually *respecting and preserving* high value environment and indigenous areas of significance in the WPA?

Recommendation 1.

The Bill should be amended to provide for the continuation of the *Moratorium* on the grant of mineral exploration access and on new mining proposals in the WPA through to the outcome of an

appropriate Commonwealth government process, consultation, study and report to assess the protection of high value environment and indigenous areas of significance in the WPA: Including the appropriate measure of warranted protection by the exclusion of mineral exploration and mining access from certain of these areas, *prior to* the issue of any further mineral exploration or mining access rights in the WPA.

This Bill must not unacceptably pre-empt required public interest scrutiny to first determine and protect high value environment and indigenous areas of significance in the WPA.

Recommendation 2.

A key test for the Committee to apply to this proposed Bill and to any proposed amendments that the Committee considers is that the final Bill should not provide for the grant of mineral exploration rights or mining rights over any high value environment or indigenous area of significance in the WPA.

Recommendation 3.

This Bill and the MOU over the WPA between the Commonwealth and SA governments should explicitly state that any grant of mineral exploration rights does not convey or provide any rights or entitlement to any proposed future mining operations or to the provision of any future compensation.

There should be no repeat in the WPA of the public policy debacle recently experienced in South Australia regarding the environmental protection of Arkaroola which faced proposed inappropriate mining in a high value environment area. The original inappropriate grant of mineral exploration rights in a high value environment area lead to a long and difficult contest of interests and public and political controversy that ended with an unnecessary grant of ‘compensation’ to a mining company following expiry of their exploration interests and the instigation of proper protection for the area by exclusion of mining activity.

Proposed “co-existence” of mining and defence interests in the WPA should not be at the expense of environment and indigenous interests. The recognition in the Review of the WPA of the *need for a publicly available policy on access conditions* (Interim Report, Executive Summary 10.) should now belatedly be extended to equally include environment and indigenous interests and high value / significant areas.

The Committee should scrutinise the proposed Bill to see that it does not institutionalise an ‘*all open, no change, business as usual*’ view of mining access in the WPA. The Commonwealth and WPACO can’t be said to act legitimately as *whole of government one stop shops* while only promoting access for mining interests and maintaining defence interests without equally properly addressing and openly protecting environment and indigenous interests in this significant area.

Recommendation 4.

Indigenous significant areas that have been publicly nominated by Native Title groups for protection by exclusion from mineral exploration and mining access should receive that formal protection and be excluded from any “Deed of Access” - AND - should be assessed for appropriate protection from / or limitations on defence operations and on defence and public access.

With respect to the independence of their position, the Kokatha Uwankara native title group has publicly nominated indigenous areas of significance for protection from mineral exploration and mining access in their submission to the Review of the WPA.

The Kokatha state that a number of Aboriginal sites of significance have been recorded within the WPA and that those sites are afforded protection pursuant to provisions of the *Aboriginal Heritage Act 1988* and any damage, disturbance or interference is against the law without authority from the Minister through section 23 of that State Act. This state law applies to Defence, to WPACO and to DMITRE.

Their proper request for appropriate protection of their indigenous interests from mineral exploration and mining access should be publicly honoured by the Commonwealth and be reflected in the outcomes and recommendations of the review of this proposed Bill by this Committee.

Further, where some of these nominated indigenous areas are within the current proposed Core Red Zone for defence interests that is to exclude mineral exploration and mining access, presumably those indigenous areas of significance should also be assessed for appropriate protection from / or limitations on defence operations and on defence and public access.

I note and support the statement by the Kokatha Uwankara native title group in their submission to the Hawke review at point 6, that:

“...prior to the issue of any exploration or mining tenements, a proper report on areas of significance within the WPA be undertaken to ensure that no Exploration Licenses or Mining Tenements are granted over the areas...identified as being too significant to allow mining.”

I commend this Kokatha position to you and note that Recommendation 1 of this submission, that a report be prepared to assess the protection of high value environment and indigenous areas of significance in the WPA *prior to* the issue of any further mineral exploration or mining access rights concurs with their statement of request.

Recommendation 5.

This Bill should exclude the grant of approval for uranium exploration or for uranium mining access in the WPA.

This Committee and the Commonwealth government should recognise Australia's responsibility to the impacts of uranium sales, as recently tragically demonstrated in the use of Australian uranium fuelling the Fukushima nuclear disaster, and not further Australia's complicity in these impacts through promotion and approval of uranium exploration or uranium mining in the significant region of the WPA.

“We can confirm that Australian obligated nuclear material was at the Fukushima Daiichi site and in each of the reactors—maybe five out of six, or it could have been all of them; almost all of them.”

This frank smoking gun admission by Dr Floyd, the Director-General of the Australian Safeguards and Non-Proliferation Office (ASNO) came in Hansard evidence to the Joint Standing Committee on Treaties some 7 months after the Fukushima crisis had started to unfold.

It is quite likely this Australian uranium that fuelled the Fukushima nuclear disaster came from BHP Billiton's Olympic Dam mine to the east of the WPA and in the same Gawler Craton geological system.

Public documentation confirms that TEPCO, the utility operating the Fukushima nuclear reactors, has been a significant buyer of Olympic Dam uranium over the long term.

The economic losses in Japan in the Fukushima nuclear disaster far exceed the total export dollar value of Australia's uranium sales in the modern period back into the 1970's.

This Committee and the Commonwealth government should face Australia's responsibilities to demonstrated potentially catastrophic, unresolved and unacceptable nuclear risks and impacts presented by the nuclear fuel chain that follow from uranium exploration and uranium mining and the use of uranium in nuclear reactors.

Responsible public policy requires that Australia should phase out rather than expand this unsustainable uranium mining practice and hazardous un-economic uranium sales trade.

Please acknowledge recite of this public submission and feel free to contact to discuss this public submission:

Yours sincerely

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