Australian Greens Dissenting Report

1.1 The Australian Greens do not believe that the merits for treating uranium like any other mineral, or using a profit-based system for calculating uranium royalties, were proven by the Minister in his Second Reading Speech and Explanatory Memorandum on the Uranium Royalty (Northern Territory) Bill 2008, or by the Economics Committee inquiry report.

1.2 Regulatory capture is a phrase used to describe situations where government mechanisms or agencies that are meant to regulate and defend the public interest are used instead to preference commercial, industry or special interests.

1.3 Given that the terms and conditions set out in this Bill emerged from the Uranium Industry Framework, an unrepresentative and industry-dominated creation of the Howard government, it is not inappropriate to use this phrase. Nor is it surprising that the Bill seeks to fast track and remove barriers to the uranium mining industry, prioritising industry imperatives, industry access, industry certainty, industry administrative ease, and industry profits over other criteria such as Aboriginal community development, environmental protection and sustainable regional economies.

1.4 In comparing the relative merits of a profit-based or revenue-based royalty system, the Committee has failed to acknowledge the fact presented to it that neither royalty system is delivering significant or long term benefits to indigenous peoples.

1.5 Several witnesses presented the astounding findings of the Native Title Payments Working Group in their December 2008 report that found: "While hundreds of agreements exist between traditional owners and industry, there are only around one dozen agreements that provide substantial benefits to Aboriginal people and Torres Strait Islanders and exhibit principles embodying best practice …"

1.6 Not only is the royalty system failing to deliver benefits, the current approvals system forces Aboriginal people to consent to mining if they consent to exploration. Failure to consent to exploration often results in the project progressing regardless while cutting traditional owners out of the possibility of receiving monetary compensation in the form of royalties, reinforcing Aboriginal disadvantage.

1.7 This is far from an empowered position from which to negotiate additional payments and benefits. Despite this, ad-hoc negotiation of additional payments appears to be a panacea recommended by the Committee to address the volatility of the industry, the non-profitable start up years, and long periods when remediation, replenishment of equipment or capital items will see operational activity, environmental damage and displacement from the land, but no compensation or revenue coming into communities under the profit-based royalty system.

1.8 Rather than acknowledge this systemic failure, the Committee is instead recommending that uranium agreements be simply folded into a dysfunctional profit-based system – largely on the grounds that this would remove a barrier to mining development and provide administrative consistency that "would be easier and involve less paperwork for business."

1.9 The Committee has failed to recognise that uranium is unique and not like any other mineral. The radiation from uranium mining and its daughter products is uniquely hazardous, persistent and indiscriminate, damaging our most precious legacy, the core human blueprint stored in our DNA and passed on to future generations. We now know that radionuclides with a long half-life are cumulatively loaded into the environment and result in ongoing impacts on health as well as long term damage to the gene pool.

1.10 Given these unique health and environmental risks, uranium mining not only requires special regulatory and environmental requirements, it also requires case-by-case decisions. The health risks posed by proximity of residents and workers to radon gas emissions vary according to the location of the mine. The positioning of tailings streams in relation to water sources is unique in each instance and requires individual treatment, and therefore negotiations and royalty systems should be tailored to the particular circumstance.

1.11 The Committee has failed to answer concerns raised about the scope offered by the profit-based royalty system for creative bookkeeping in the concealment of profits, which in one case resulted in the Northern Territory government not receiving royalties for over a decade. Difficulty in extracting the information required to calculate profit is compounded by the lack of transparency arising from commercial in-confidence and other corporate secrecy provisions, which even the Freedom of Information laws were unable to penetrate in the Xstrata / MacArthur River case. How could an indigenous community combat this wall of silence to verify that they are receiving the royalties based on actual profit?

1.12 The Committee is far too easily satisfied by assurances from the industry and government that the "potential for manipulation would be minimal" and that "rigorous assessment processes" are in place, when in fact there have been very recent cases proving that private profits can be maximised while royalty payments are minimised.

1.13 The Committee has failed to answer the concerns raised about the possibility of marginal outfits being encouraged by the profit-based system to gamble the start-up of uranium mines on eventual profits, but then abandoning the uniquely toxic and long lasting legacy for the government and local community to deal with. On the contrary, the government is interested in encouraging the development of more marginally economic projects, which is reckless, unpopular and out of step with community concerns, as well as Labor's policies of "world's best practice."

1.14 Ironically, in making the case for the profit-based system, both government and industry cited modelling that shows there to be little financial difference over the

life of a mine between the two systems. If that is true, why are the economic arguments for moving towards a profit-based system seen to be so meritorious? Because it provides support to an industry that cannot otherwise compete on the open market, but requires preferential treatment, subsidies and encouragement.

1.15 The Australian Greens oppose uranium mining because it poses unacceptable environmental and health risks and provides the essential ingredient for nuclear weapons. When uranium is mined for use in a nuclear reactor to boil water, it results in carcinogenic and mutagenic waste that remains dangerously toxic to the environment and human health for up to 250,000 years – an unacceptable and unnecessary legacy from an unsustainable and uneconomic industry.

1.16 While the Australian government contributes to the global nuclear dangers by allowing the export of uranium, the Greens will be proposing amendments to this bill that will seek to:

- Standardise the benchmark set by ERA at the Ranger mine whereby the company recognises the timeframe and toxicity associated with uranium mining by undertaking to ensure that the tailings are physically isolated from the environment for at least 10,000 years, and that any contaminants arising from the tailings will not result in any detrimental environmental impacts for at least 10,000 years;

- Quarantine a royalty stream for this rehabilitation and monitoring;

- Establish a mechanism to provide Commonwealth support and oversight of the figures provided by mining corporations to the Northern Territory government; and

- Expand the resources and mandate of the Office of the Supervising Scientist to allow it to provide oversight and monitoring of all uranium mines in the Northern Territory.

1.17 The Australian Greens are convinced by the evidence presented of the Native Title Payments Working Group's recommendation for a review to examine the extent to which indigenous peoples are benefiting from mining royalties and we will pursue such an inquiry.

Senator Scott Ludlam
Australian Greens