Submission to South Australia Royal Commission:

Nuclear Fuel Cycle

Issues Paper 1 – Exploration, extraction and milling

ASSOCIATION OF MINING AND EXPLORATION COMPANIES

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Contents

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1. INTRODUCTION

Thank you for the opportunity of providing input to South Australian Royal Commission Inquiry into the Nuclear Fuel Cycle.

As the peak national representative body for hundreds of companies in the mining and mineral exploration sector, many of which have uranium projects throughout Australia, the Association of Mining Companies (AMEC) has a direct interest in the Inquiry. AMEC is also a member of the Uranium Council – an industry-government forum contributing to the sustainable development of the uranium industry in Australia.

AMEC considers that this Inquiry provides significant opportunity for the uranium sector to be publicly scrutinised through an independent process and make pro-active recommendations on the sustainable development of the uranium industry not only in South Australia, but throughout Australia.

It is anticipated that the Commission will also provide confirmation that the industry should be treated the same as other commodities in approvals and regulatory processes; and that it operates in a safe and sustainable manner whilst using best practice standards.

Rather than concentrating comments specifically on South Australia, this submission is made on a national basis recognising that uranium deposits are not confined to South Australia.

AMEC notes that four Issues Paper have been released for comment, but has restricted its comments to generically responding to the various questions posed in in *Issues Paper 1 – Exploration, Extraction and Milling*.

It is in this context that the submission is made.

AMEC would be pleased to appear before the Commission if required to expand upon the content of the submission.

2. RECOMMENDATIONS

AMEC recommends that the Commission should support:

2.1 Alignment of pro-uranium development public policy positions through all Australian jurisdictions.

2.2 The Exploration Development Incentive and continued funding by the Commonwealth Government beyond the Forward Estimates.

2.3 Continued funding allocations for Exploration Incentive Schemes / co-funded drilling programs through all State and Territory Governments.

2.4 A review and rationalization of the range of steps and timeframes to be granted an exploration licence / permit for uranium through all Australian jurisdictions.

2.5 **The removal of "mining or milling of uranium ore" from the definition of 'nuclear action' in section 22(1)(d) of the *Environment Protection and Biodiversity Conservation Act 1999.***

2.6 Early implementation of the 'one stop shop' environmental assessment and approval process.

2.7 Priority focus on resolving outstanding Native Title claims.

2.8 Mechanisms that will provide greater clarity and certainty to third parties who need to engage with the Applicant and native title claim group outside the claims process (for example in the context of making future act and heritage agreements) are required.

2.9 That consideration should be given as to whether an Applicant can authorise an agent to act on its behalf, and what powers can be abrogated to the agent.

2.10 The release of much needed guidance material/protocols where there are multiple stakeholders and over lapping claims, particularly in circumstances where there may be a rebuttal by one of the parties.

2.11 That a full review be conducted on the current inefficient and ineffective infrastructure regulatory framework in conjunction with the mining industry and State and Territory Governments. Such a review should closely assess the effectiveness or otherwise of 'third party access' provisions.

2.12 The removal of policy barriers applying to container ports identified for the export of uranium.

2.13 The development of a national public education and awareness strategy.

3. STATE OF THE AUSTRALIAN MINERALS INDUSTRY

Australia`s mining industry is no longer as cost competitive as it once was with production costs continuing to rise dramatically. Contemporary research has clearly identified that Australia is far less competitive than its international counterparts.

The economic climate throughout the mining industry is such that it is facing:

- Low prices in the majority of commodities (the price of uranium oxide is currently on a 5 year low of around $36 US/LB),
- Comparatively high exchange rates,
- High and increasing production and operating costs,
- Lower grades and higher strip ratios and waste removal costs,

- Deeper deposits requiring increased pre-production expenditure and the subsequent higher mining and extraction costs,
- Tighter margins, and
- Limited cash flow.

The current cost pressures indicate that many minerals projects are finely balanced with low margins. Various cost saving measures are being applied on a daily basis by emerging miners in order to keep their operations viable.

Industry has experienced significant growth in production costs over recent years – energy (a large diesel fuel input is essential as there is limited access to the power grid in remote locations), labour, water, fees and charges, duties, levies, taxes, third party royalties, community support, regulation and compliance costs.

The additional burden of unnecessary red tape is unsustainable, and acts as a major disincentive for critical investment and business decisions.

These increased costs of production and extraction, caused by deeper discoveries and the declining grade of deposits, have had a direct impact on waste stripping ratios and the Break Even Cut Off Grades (BECOG). Mid-tier emerging miners are also invariably faced with shorter mine lives and increased unit costs as they do not have access to the same economies of scale available to large mature miners.

We have seen less exploration with fewer mines being discovered and developed. Those that are being developed are often not much more than marginal operations and with shorter average mine lives. The result is a reduction in Government revenue streams.

These trends are of extreme concern and require attention at Commonwealth and State / Territory levels of Government in order to contribute towards:

1. Increasing exploration to generate revenue from the mines of tomorrow, and
2. Reducing business input costs.

The following comments are based on contributing to these objectives:

4. COMMENTS ON ISSUES PAPER 1

Alignment of public policy settings

All mining and mineral exploration projects require clarity, certainty, stability and competitive public policy settings for crucial investment and business decision making purposes.

The Fraser Institute Survey of Mining Companies 2014 Investment Attractiveness Index (which takes into consideration both mineral and policy perception into consideration) shows, apart from Western Australia, other Australian jurisdictions are falling behind majors competitors such as the USA and Canada. More work needs to be done through all Australian jurisdictions to make sure that more positions are not lost in an increasingly competitive global market.

Unfortunately, government public policy positions on exploration and mining of uranium vary throughout Australia. This creates significant uncertainty for business and investment decisions, particularly overseas investors.

Exploration and mining of uranium is currently supported by the Federal Government, and the Governments of South Australia, Northern Territory and Western Australia. However, these policy positions can change through election cycles.

Following the 2015 Queensland election the public policy position on uranium has been recently been revised to reinstate a ban on uranium mining activities by the incoming Government.

Uranium exploration is permitted in New South Wales but mining is not allowed.

This policy confusion creates considerable uncertainty, and has not allowed Australia`s uranium resource potential to be realised or maximised.

Alignment of uranium development public policy positions throughout Australia would remove the current confusion and uncertainty, and make uranium a more attractive investment proposition.

1. **AMEC recommends that the Commission should support alignment of pro-uranium development public policy positions through all Australian jurisdictions.**

Access to equity capital for exploration expenditure

It is understood that there are vast areas throughout Australia that are either under explored or have never been explored. There are significant opportunities for more discoveries to be made, particularly as more pre-competitive geoscience data becomes available, and as exploration becomes more innovative and technologically advanced.

Despite these significant opportunities, the Australian Bureau of Statistics (ABS) clearly show significant reductions in minerals exploration expenditure as a whole since reaching a peak of $3,953m in the 2011/12 year.

Total Mineral Exploration Expenditure:

2011/12	$3,953m
2012/13	$3,055m
2013/14	$2,108m
2014/15**	$1,232m

** represents 9 months based on the March 2015 statistics in Category 8412.0

Statistics on uranium exploration expenditure also show a significant reduction in exploration expenditure throughout Australia, having reached a high of $153m in 2011/12 and reducing to $30m for the 9 months to 31 March 2015, as follows:

Total Uranium Exploration Expenditure across Australia:

	Australia	West Aus	South Aus	Northern Territory	Qld
2011/12	$153.7m	$78.2m	$33.1m	$28.9m	$13.4m
2012/13	$69.4m	$35.1m	$N/A	$10.1m	$10.8m
2013/14	$43.8m	$22.6m	$4.8m	$8.7m	$7.8m

2014/15**	$30.2m	$19.6m	$1.5m	$6.1m	$2.5m

These statistics also indicate that uranium exploration expenditure throughout Australia has also reduced from 3.9% of total minerals exploration expenditure in 2011/12 to a current level of 2.4%. There is clear capacity for those trends to be reversed.

In the meantime, there is an increasing level of competition for equity capital in the global market to provide the essential funding required to undertake both greenfield and brownfield exploration activities.

This is evidenced by the fact that in the first half of 2015, just 40 percent of capital raised on the ASX for mineral exploration went to Australian projects. This is down from around 50 percent last year.

There has also been a significant decline in the number of Initial Public Offerings (IPOs) for mineral exploration companies. There has only been one so far this year, down from six in 2014 and well below the peak of 126 in 2007.

It is also noted that in the Fraser Institute's Annual Survey of Mining Companies for 2014, all Australian jurisdictions except for South Australia decreased on the Investment Attractiveness Index. In addition, the number of jurisdictions in the survey increased from 112 in 2013 to 122 in 2014 which shows there are more mining jurisdictions competing for investment. This compares to 45 jurisdictions in 2001/2.

In order to provide an economic incentive to invest in greenfields minerals exploration, the Commonwealth Government committed to providing $100m over 3 years commencing 1 July 2014 through the Exploration Development Incentive (EDI).

The EDI will enable eligible mineral (including uranium) exploration companies to create exploration credits by passing a proportion of their tax losses to equity shareholders in the form of a refundable tax offset or franking credit.

This was an initiative strongly promoted by AMEC.

The EDI is due for review in 2016. Although it will take some time before the full benefits can be realised through jobs, future Government revenue streams and social benefits from new discoveries it is recommended that the Commission should support the EDI initiative and continued funding by the Commonwealth Government beyond the Forward Estimates.

2. AMEC recommends that the Commission should support the Exploration Development Incentive and continued funding by the Commonwealth Government beyond the Forward Estimates.

Various State and Territory Governments also provide support to the exploration sector through the provision of critical pre-competitive geoscience data and highly successful Exploration Incentive Schemes / Co-funded drilling programs.

As an example, an independent economic impact study into the Western Australian Government's Exploration Incentive Scheme (EIS) shows that every $1 million invested in the program generates $10.3m in direct economic benefits to the State.[1]

AMEC considers that these returns from the Western Australian scheme alone reinforce the need for continued funding allocations for the EIS through all State and Territory Governments.

3. AMEC recommends that the Commission should support continued funding allocations for Exploration Incentive Schemes / co-funded drilling programs through all State and Territory Governments.

Streamline uranium development approval processes and timeframes

Australian uranium projects have a track record of meeting the highest standards of environmental approval under mainstream project assessment and approval processes. However, they appear to be treated unnecessarily differently in the overall approvals framework.

As an example, a Gantt chart produced by the Western Australia Department of Mines and Petroleum (DMP) shows the large number and range of approval steps involved (including *EPBC Act* assessment)[2].

The chart indicates an estimated timeline for exploration approvals alone to be nearly 800 days, provided there are no objections or unforeseen delays in overcoming each of the approval related hurdles.

In its submission to the Productivity Commission Inquiry into non financial barriers to mineral resource exploration dated April 2013, DMP indicated that *the average time taken for the grant of an exploration licence in WA is around 200 days*. This timeframe is completely incongruous with the assessment timeframe of 800 days for an exploration licence for uranium.

Mining approvals take another estimated 800 days, again provided there are no objections or delays through the Native Title, environmental, native vegetation clearing, Commonwealth EPBC Act, mine safety, DMP and other agency approval processes.

These processes all take considerable time and companies are required to incur significant costs to undertake extensive research and provide volumes of supporting data through the whole process.

4. AMEC recommends a review and rationalization of the range of steps and timeframes to be granted an exploration licence / permit for uranium through all Australian jurisdictions.

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1 http://www.dmp.wa.gov.au/documents/Exploration_Incentive_Scheme_Economic_Impact_Study_2015.pdf

2 http://www.dmp.wa.gov.au/documents/000464.rachel.maiden.pdf

Additional delays are created and costs incurred as uranium projects 'trigger' the duplicative involvement of the Commonwealth Government by virtue of the *Environment Protection and Biodiversity Conservation Act (EPBC Act).* This can add a minimum of a further 6-9 months to the project timeline mentioned on the DMP Gantt chart, particularly if the project is deemed to be a 'controlled action' under section 67 of the Act.

It can take between 10-15 years for a uranium project to move through the discovery to production cycle, provided there are no further unexpected delays. As an example, Cauldron Energy has indicated that the forecast timeline from tenement acquisition to production is 15 years.[3]

In order to reduce some of the approval delays, and in addition to other strategies to streamline the process, amendments should be made to the EPBC Act. "Mining or milling uranium ore" should be removed from the requirement for assessment under the 'nuclear action' provisions contained in section 22(1)(d) of the EPBC Act, unless the project itself impacts on 'Matters of National Environmental Significance' (MNES).

There is no scientific justification for the argument that, of itself, uranium 'mining or milling of uranium ore' poses an inherent danger to the environment and therefore there is no need for the provisions of the *EPBC Act* to be 'triggered'.

The regulatory framework for the uranium industry is 'best practice' without duplicative and, arguably, discriminatory treatment under the *EPBC Act.*

5. AMEC recommends that the Commission supports the removal of "mining or milling of uranium ore" from the definition of 'nuclear action' in section 22(1)(d) of the *Environment Protection and Biodiversity Conservation Act 1999.*

Early implementation of 'one stop shop' for environmental approvals

AMEC has consistently supported the concept of a 'one stop shop' for environmental approvals as it should significantly improve efficiency and remove duplicative, costly and additional time consuming processes through Government and industry.

AMEC appreciates that progress is already underway in finalising bi-lateral assessment and approval agreements between the Commonwealth and State / Territory Governments.

It is fundamentally important that this crucial reform is finalised as soon as possible in order to remove the duplicative processes that currently exist. In doing so, significant cost savings are achievable by the Commonwealth and where appropriate should be passed through to the State and Territory Governments, and not cost shifted to industry through application or assessment fees and charges.

6. AMEC recommends that the Commission supports early implementation of the 'one stop shop' environmental assessment and approval process.

[3] http://www.cauldronenergy.com.au/_content/documents/714.pdf slide 8

Resolution of outstanding Native Title claims

In various submissions to the Commonwealth Government and Parliament, AMEC has regularly called for increased efficiency within the Native Title claims resolution process.

This is particularly relevant when noting that there are over 300 claims still requiring resolution. This is despite a concerted effort by the Federal Court to increase the number of determinations in the preceding year.

Whilst recognising that Native Title is a complex and sensitive area more work needs to be done to finalise these claims, noting that there are over 50% which were lodged in excess of 10 years ago.

Resolution of these claims will be of benefit to all stakeholder and provide increased clarity and certainty.

7. AMEC recommends that the Commission supports priority focus on resolving outstanding Native Title claims.

In its submission dated January 2015 to the Australian Law Reform Commission Inquiry into the Native Title Act, AMEC called for greater clarity regarding authorisation procedures under the Act, regarding:

- whether an Applicant must act unanimously or can act by majority, particularly when the terms of the authorisation are silent on the issue;
- whether a claim group can authorise an Applicant to act subject to restrictions; and
- whether, if a member of an Applicant group passes away or is unable or unwilling to act, the remaining members of the Applicant group can continue to act in the absence of a successful s66B application (which AMEC members acknowledge can be unwieldy, time consuming and expensive).

These issues have flow-on effects for the authorisation of an Applicant in the agreement-making context. They can cause delays in the finalisation of native title agreements and can impact how agreements are made with native title parties and more broadly how a native title claim group interacts with a proponent.

More transparency and certainty relating to the scope of an Applicant's authority in both claim and future act contexts should be provided. Clarity on the extent to which a person is entitled to make certain assumptions about the authority of an Applicant in the context of agreement-making would be of assistance. This would be along similar lines to the assumptions which can be made about the execution of documents and authority of directors of corporations under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth).*

Delays and uncertainty is also created where over lapping claims exist and in circumstances where there may be multiple stakeholders. AMEC has previously called for the issuance of guidance material in order to minimize these delays and provide some certainty for all parties. Appropriate guidance has not been forthcoming from the Commonwealth or State / Territory Governments.

AMEC therefore makes the following recommendations to the Commission:

8. **That mechanisms that will provide greater clarity and certainty to third parties who need to engage with the Applicant and native title claim group outside the claims process (for example in the context of making future act and heritage agreements) are required.**

9. **Consideration should be given as to whether an Applicant can authorise an agent to act on its behalf, and what powers can be abrogated to the agent.**

10. **The release of much needed guidance material/protocols where there are multiple stakeholders and over lapping claims, particularly in circumstances where there may be a rebuttal by one of the parties.**

Ensure a cost effective regional infrastructure regulatory framework exists

AMEC considers that the current infrastructure regulatory framework is inefficient and wrapped in red tape, particularly in accessing common user infrastructure (such as port and rail) and energy and water resources.

Access to infrastructure by small emerging miners is extremely complex and the current regulatory framework does not appear to be meeting a 'third party use' objective. This is despite the existence and role of the Trade Practices Act (Part IIIA) to promote the economically efficient operation of infrastructure promoting effective competition in upstream and downstream markets.

The red tape is complicated by the large number of stakeholders involved in relation to infrastructure matters. Clarity is required on the role and relevance of parties such as the WA Economic Regulation Authority, Federal Treasurer, Australian Competition and Consumer Commission, National Competition Council, Australian Competition Tribunal, and National Transport Commission, particularly in relation to achieving third party access outcomes.

11. **AMEC recommends that the Commission should support that a full review be conducted on the current inefficient and ineffective infrastructure regulatory framework in conjunction with the mining industry and State and Territory Governments. Such a review should closely assess the effectiveness or otherwise of 'third party access' provisions.**

Remove the policy barriers applying to container ports identified for the export of uranium

Uranium is a low-volume, high-value product which has been transported in Australia from mines to ports for export for over 30 years. Uranium is currently only permitted to be exported through the ports in Adelaide and Darwin.

AMEC considers this to be unduly and unnecessarily restrictive.

As the Australian industry grows and public policy positions mature, it is important that the policy barriers applying to container ports identified for uranium export are removed.

The policy impediments need to be removed so that alternatives are available and there are no limitations on competitiveness of regional port facilities.

12. AMEC recommends that the Commission should support the removal of policy barriers applying to container ports identified for the export of uranium.

Development of a public education and awareness strategy

The record shows that the Australian uranium industry operates at international 'best practice' levels, and enjoys a high reputation in international regulatory circles. The industry however generally faces unwarranted negative public sentiment, largely due to historic positions that ignore the development of nuclear science and engineering in the past 30 years.

There is an extensive framework for identifying and regulating best practice and for encouraging continuous improvement in the industry's operational performance generally and in specific areas of performance available through the Commonwealth Department of Industry and Science; the World Nuclear Association; the Australian Radiation Protection and Nuclear Safety Agency; the Australian Safeguards and Non-proliferation Office, and the International Atomic Energy Agency.

Australian uranium companies engage extremely closely with the local and regional communities where deposits are located and with other interested stakeholders. It is an essential part of the industry's effort to acquire and maintain its corporate social responsibility.

Traditional Owners of land are among the industry's most important stakeholders and companies strive to develop amicable and mutually beneficial working relationships. Without such relationships, uranium exploration and mining would not be possible on traditional lands.

The challenge is to increase public education, awareness, confidence and acceptance of the uranium industry.

13. AMEC recommends that the Commission should support the development of a national public education and awareness strategy.