

URANIUM MINING PROHIBITION (KEEPING WA FREE FROM THE NUCLEAR FUEL CHAIN) BILL 2009 (E 112)

(Introduced by Ms. Carles, MLA)

EXPLANATORY MEMORANDUM

Background to the Bill

The Gallop Government imposed an “administrative ban” on uranium mining in June 2002. That meant that mining leases subsequently granted by the Gallop Government, and later the Carpenter Government, excluded uranium ore.

On 16 November 2008 the Premier of the newly formed Liberal-National Government, Colin Barnett, lifted that ban.

The lifting of that ban was justified on numerous grounds. Debating this Bill in the State’s House of Government provides a long-overdue opportunity to test the basis on which the ban was lifted. This debate must also canvas broader issues that are inextricably linked to the uranium industry as it is a key element of the nuclear fuel chain.

Purpose of the Bill

This Bill seeks to ban uranium mining in WA because of the grave and irreversible impacts on human health and the environment associated with the nuclear fuel cycle. Western Australia cannot simply dig up uranium, send it overseas and then attempt to wash its hands of the human and ecological consequences that flow from the use of that material.

Effect of the Bill

The effect of the Bill will be to ban uranium mining on all mining leases throughout Western Australia, unless than mining is:

- incidental to the mining of other minerals; and
- not for the purposes of selling that uranium ore so mined.

Detail of the Bill

Clause 1

This clause sets out the short title of the Bill.

Clause 2

This clause provides that the Bill comes into effect on Royal Assent.

Clause 3

This clause provides that the Bill amends the *Mining Act 1978*.

Clause 4(1)

This subclause creates an offence if a person mines uranium. The maximum penalty specified is \$5,000,000, plus up to \$500,000 per day if the offence is a continuing one.

Clause 4(2)

This subclause creates a defence to a charge of mining uranium, which is that the accused will not commit an offence under subclause 4(1) if the accused can show that the mining is:

- incidental to the mining of other minerals; and
- not for the purposes of selling that uranium ore so mined.

The verb “mine” is already defined in section 8 of the *Mining Act 1978*. This definition, and the definition of the related terms “minerals” and “mining operations”, are reproduced at **Attachment 1**.

Mining Act 1978 – definitions

mine, as a verb, includes any manner or method of mining operations;

minerals means naturally occurring substances obtained or obtainable from any land by mining operations carried out on or under the surface of the land, but does not include —

- (a) soil; or
- (b) a substance the recovery of which is governed by the *Petroleum and Geothermal Energy Resources Act 1967* or the *Petroleum (Submerged Lands) Act 1982*; or
- (ba) without limiting paragraph (b), geothermal energy resources as defined in the *Petroleum and Geothermal Energy Resources Act 1967* section 5(1); or
- (c) a meteorite as defined in the *Museum Act 1969*; or
- (d) any of the following substances if it occurs on private land —
 - (i) limestone, rock or gravel; or
 - (ii) shale, other than oil shale; or
 - (iii) sand, other than mineral sand, silica sand or garnet sand; or
 - (iv) clay, other than kaolin, bentonite, attapulgite or montmorillonite;

mining operations means any mode or method of working whereby the earth or any rock structure stone fluid or mineral bearing substance may be disturbed removed washed sifted crushed leached roasted distilled evaporated smelted or refined or dealt with for the purpose of obtaining any mineral therefrom whether it has been previously disturbed or not and includes —

- (a) the removal of overburden by mechanical or other means and the stacking, deposit, storage and treatment of any substance considered to contain any mineral;
- (b) operations by means of which salt or other evaporites may be harvested

- (c) operations by means of which mineral is recovered from the sea or a natural water supply; and
- (d) the doing of all lawful acts incident or conducive to any such operation or purposes.