

Section 3

# Legislative Framework and Impact Assessment Process





## 3. Legislative Framework and Impact Assessment Process

### 3.1 Key Legislative Requirements

The Project requires environmental approval from:

- the Western Australian (WA) Minister for Environment under the provisions of the *Environmental Protection Act 1986* (EP Act); and
- the Australian Minister for the Environment under the provisions of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The EP Act and its associated regulations are the principal statute in WA that provides for environmental protection in the State. Part IV – (Environmental Impact Assessment) of the EP Act allows for referral, environmental assessment and implementation of proposals. Part V – (Environmental Regulation) of the EP Act outlines mechanisms for control of pollution through the licensing system. The EP Act is administered by the State Office of the Environmental Protection Authority (OEPA) and the Department of Environment Regulation (DER). An overview of the Part IV environmental assessment process as it applies to this PER is outlined in Section 3.1.1.

The EPBC Act provides a legal framework to manage environmental issues of national significance including nuclear actions (such as uranium mines) and the protection of nationally and internationally important flora, fauna, ecological communities and heritage places. The EPBC Act is administered by the DoE and a summary of the Federal assessment process is outlined in Section 3.1.2.

This document has been prepared to meet both State and Federal requirements.

#### 3.1.1 Western Australian Environmental Assessment Process

The environmental assessment process under the WA EP Act is commenced with referral of the Project to the EPA. The referral document enables the EPA to determine if a proposal requires assessment under Part IV of the EP Act, and if so, what level of assessment is appropriate.

Cameco withdrew the original assessment and submitted a new referral to the EPA on 12 November 2014 due to changes to the project and amendments to the EPA administrative procedures. The Western Australian EPA advertised the level of assessment for the Project as a PER on 15 December 2014. The ESD for the Project was released on 10<sup>th</sup> April 2015 (Appendix A1).

Cameco has prepared the PER (this document) in accordance with the scope of works documented in the ESD. When the EPA is satisfied that the PER document has addressed all of the environmental factors and studies identified in the ESD, the proponent is required to release the PER for a public review period normally between 4 and 12 weeks. In the case of the Yeelirrie Uranium Project, the EPA has set a 12 week public review period.

Public submissions on the PER document that are received by the EPA are provided to the proponent. The EPA prepares a summary of the issues raised and the proponent is required to respond to these issues to the satisfaction of the EPA. The EPA will then assess the PER document, submissions received, proponent's response to submissions, and obtain advice from any other persons it considers appropriate and submit its report and recommendations to the WA Minister for Environment. Any person may lodge an appeal with the Minister against the contents and/or recommendations of the EPA's Report. The Minister will then consider the appeals before making a decision on whether a proposal can be implemented and if so, the conditions attached to the project.

### 3.1.2 Federal Environmental Assessment Process

The EPBC Act provides for the protection of Matters of National Environmental Significance (MNES). The Act lists eight Matters of National Environmental Significance as follows:

- World Heritage properties;
- National Heritage places;
- wetlands of International Importance (listed under the Ramsar Convention);
- listed threatened species and ecological communities;
- migratory species protected under international agreements;
- Commonwealth marine areas;
- The Great Barrier Reef Marine Park; and
- nuclear actions (including uranium mines). A nuclear action is defined by the EPBC Act as:
  - a) establishing or significantly modifying a nuclear installation;
  - b) transporting spent nuclear fuel or radioactive waste products arising from reprocessing;
  - c) establishing or significantly modifying a facility for storing radioactive waste products arising from reprocessing;
  - d) mining or milling uranium ore;
  - e) establishing or significantly modifying a large-scale disposal facility for radioactive waste;
  - f) decommissioning or rehabilitating any facility or area in which an activity described in paragraph (a), (b), (c), (d) or (e) has been undertaken; or
  - g) any other action prescribed by the regulations.

As the Project proposal triggers three of the above Matters: listed threatened species and ecological communities; migratory species protected under international agreements; and nuclear actions, the Project will also be assessed under the EPBC Act.

Assessment under the EPBC Act commences with referral of the Project to the Federal Environment Minister. The Minister has 20 business days to decide whether the proposed action will require assessment and approval under the EPBC Act. This includes ten business days for public comment on the proposed action. If the Minister decides that the proposed action is likely to have a significant impact on one or more Matters protected by the EPBC Act, then the proposal is deemed a controlled action.

The Minister may assess a proposal using one of the following assessment methods:

- accredited assessment;
- assessment on referral information;
- assessment on preliminary documentation (referral form plus any other relevant material identified by the minister);
- assessment by EIS or Public Environment Report; and
- assessment by Public Inquiry.

The Project has been determined to be a controlled action in respect of nuclear action, listed threatened species and communities, and listed migratory species.

Cameco advised the DoE of the change of proponent for the Project on 19 December 2012, and formally requested a variation for the Project under the EPBC Act on 12 November 2014. This was granted by the Federal Minister for the Environment on 5 December 2014.

The Project is not being assessed under the current Bilateral Agreement, which exists between the Australian Government and the Western Australian Government. This is because the Project was determined to be a controlled action prior to the commencement of the current Bilateral Agreement.

Rather the assessment process for the Project was determined by the Federal Minister on 12 March 2015 to be “assessment by an accredited assessment process”. Pursuant to the Federal Minister’s assessment decision, the Project will be assessed by the WA EPA in a manner similar to the process under the current Bilateral Agreement. This means that the Project can be assessed under both the EP Act and the EPBC Act concurrently, using the same documentation prepared to meet the requirements of both Acts. This concurrent assessment will be coordinated by the WA EPA.

The Federal Environment Minister will make a separate decision on the proposal to the State Environmental Minister.

### 3.1.3 Yeelirrie State Agreement

State Agreements specify the rights, obligations, terms and conditions for development of a project and establish a framework for ongoing relations and cooperation between the State and the Project proponent.

The Yeelirrie State Agreement (*Uranium (Yeelirrie) Agreement Act 1978*) was established between the State Government and the original proponent of the Project, Western Mining Corporation Limited, in 1978. This agreement facilitates the exploration, mining and treatment of certain uranium ores and associated minerals from mining areas that form the subject of the agreement, and allows for associated infrastructure to mine and process such ores.

The Yeelirrie State Agreement addresses matters that include the provisions for the supply of water to the Project and investigation and research for environmental management.

The Yeelirrie State Agreement also requires the proponent to submit a Development Proposal on the Project to provide detailed information on operational plans, plant and equipment, workforce, workforce accommodation, project specific infrastructure, social infrastructure, impact on public infrastructure and services, land requirements and environmental management. The Development Proposal is submitted to the Minister for State Development and must be approved before the Project can proceed.

The Minister cannot approve the Development Proposal until all primary approvals (including environmental approval under Part IV of the WA EP Act) have been granted.

### 3.1.4 Other Approvals

Prior to commencement of construction and operation a number of other approvals are required for the Project as outlined in Table 3-1. Key approvals in WA are as follows:

- Environmental approvals under:
  - Part V of the EP Act;
  - *Mining Act 1978* (Mining Act);
  - *Rights in Water and Irrigation Act 1914* (RIWI Act);
- Heritage approvals under the *Aboriginal Heritage Act 1972* (Aboriginal Heritage Act); and
- Radiation safety approvals under the *Radiation Safety Act 1975* (Radiation Safety Act) and associated regulations.

#### *Environmental Protection Act 1986*

Under Part V of the EP Act, Cameco will be required to obtain a Works Approval prior to construction of the Project. The plant will also require a Licence to Operate prior to commencement of operations. Supporting documentation for these approvals will address project detail/description, assessment of potential impacts and proposed management measures. The supporting documentation will be submitted to the DER for assessment.

Further approvals or reporting requirements during operation may be necessary under the Environmental Protection Regulations 1987 and subsidiary legislation.

### *Mining Act 1978*

Cameco will need to submit a Mining Proposal to the Department of Mines and Petroleum (DMP) for approval under the Mining Act, prior to commencement of construction. The Mining Proposal will provide details of the Project including design of the tailings facility, mine pit, waste rock landform and plant site and an assessment of potential impacts and proposed management.

The Mining Proposal will be accompanied by the Radiation Management Plan and the Mine Closure and Rehabilitation Plan, which also require approval from DMP before construction and operations can commence.

### *Rights in Water and Irrigation Act 1914*

Cameco will be abstracting groundwater for water supply and also for pit dewatering to allow mining to be undertaken safely. Cameco will obtain the necessary groundwater licences and permits to construct and operate wells under the RIWI Act (Section 5C and 26D respectively) which is administered by the Department of Water (DoW).

### *Aboriginal Heritage Act 1972*

The Aboriginal Heritage Act provides protection for all places and objects in Western Australia that are important to Aboriginal people because of connections to their cultural heritage.

Cameco's position is that disturbance to Aboriginal heritage sites and the values associated with these sites will be avoided where possible. However, in some cases it may not be possible to avoid disturbance to all Aboriginal heritage sites if the Project is to proceed. In this case Cameco will consult with Aboriginal people with an interest in the land, including Native Title claimants, undertake formal heritage surveys and apply for a permit or consent under Section 18 of the Aboriginal Heritage Act.

### *Radiation Safety Act 1975*

Under the Radiation Safety Act, the Yeelirrie site must be licensed by the Radiological Council. The owner of any premises in which any radioactive substance is manufactured, used or stored also requires registration under the Radiation Safety Act.

As part of the licensing process, Cameco must prepare a Radiation Management Plan for construction and operation of the Project. The Radiation Management Plan must be approved by the Radiological Council.

The licensing of the Project will also require a Radioactive Waste Management Plan, a Transport Management Plan and a Mine Closure and Rehabilitation Plan to be prepared by Cameco and approved by the Radiological Council.

Exploration at Yeelirrie is currently being undertaken under the approved Exploration Radiation Management Plan. Requirements under the Radiation Safety Act subsidiary legislation include:

- a licence for any premises in which a radioactive substance is manufactured, used or stored under the Radiation Safety (General) Regulations 1983;
- a licence to transport radioactive substances under the Radiation Safety (Transport of Radioactive Substances) Regulations 2002; and
- an approved radiation protection program for transport of radioactive substances.

## Other legislation

In addition, there may be requirements under the following legislation which may apply to the Project:

### State Legislation

- *Agriculture and Related Resources Protection Act 1976*;
- *Bush Fires Act 1954*;
- *Contaminated Sites Act 2003* and Regulations;
- *Land Administration Act 1997* and Regulations 1998;
- *Local Government Act 1995*;
- *Main Roads Act 1930*;
- *Nuclear Activities Regulation Act 1978*;
- *Nuclear Waste Storage and Transportation (Prohibition) Act 1999*;
- *Occupational Health and Safety Act 1984*;
- *Poisons Act 1964*; and
- *Soil and Land Conservation Act 1945*.

### Commonwealth Legislation

- *Australian Heritage Council Act 2003*;
- *National Greenhouse and Energy Reporting Act 2007*;
- *National Environmental Protection Measures Implementation Act 1998*;
- *Aboriginal and Torres Strait Islander Act 2005*;
- *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*; and
- *Energy Efficiency Opportunities Act 2006*.

Table 3-1: Approvals Required

Legislation	Approval	Agency/Department
State Legislation		
<i>Uranium (Yeelirrie) Agreement Act 1978</i>	Development Proposal	DSD
Part IV of <i>Environmental Protection Act 1986</i>	Formal environmental approval	EPA
Part V of <i>Environmental Protection Act 1986</i>	Works Approval	DER
	Licence to Operate	DER
<i>Mining Act 1978</i> and Regulations 1981	Mining Leases	DMP
	Miscellaneous Licences	DMP
	Mining Proposal	DMP
	Approval of closure and site rehabilitation plans	DMP
<i>Mines Safety and Inspection Act 1994</i> and Regulations 1995	Project Management Plan	DMP
	Radiation Management Plan	DMP
	Radioactive Waste Management Plan	DMP
	Transport Management Plan (for transport of uranium oxide)	DMP

Legislation	Approval	Agency/Department
<i>Radiation Safety Act 1975</i> and Radiation Safety (Qualifications) Regulations (1980)	Radiation Management Plan	Radiological Council
	Radioactive Waste Management Plan	Radiological Council
	Approval of a nominated Radiation Safety Officer to be holder of licence for mining and milling of radioactive ores	Radiological Council
	Registration of owners of premises	Radiological Council
	Approval of closure and site rehabilitation plans	Radiological Council
Radiation Safety (General) Regulations (1983)	Licence of premises	Radiological Council
Radiation Safety (Transport of Radioactive Substances) Regulations 2002	Licence to transport radioactive substances	Radiological Council
	Radiation Protection Programme for transport	Radiological Council
<i>Dangerous Goods Safety Act 2004</i> Dangerous Goods Safety (Storage and Handling) Regulations 2007 Dangerous Goods Safety (Security Risk Substances) Regulations 2007 Dangerous Goods Safety (Explosives) Regulations 2007 Dangerous Goods Safety (Non-Explosives) Regulations 2007	Dangerous Goods Licences	DMP
<i>Aboriginal Heritage Act 1972</i>	Ministerial Consent under Section 18 to disturb heritage sites (if required)	Department of Aboriginal Affairs (DAA)
<i>Rights in Water and Irrigation Act 1914</i>	Groundwater licences for construction of wells and abstraction of groundwater	Department of Water (DoW)
<i>Wildlife Conservation Act 1950</i>	Flora and fauna licensing	Department of Parks and Wildlife (DPaW)
	Approval to disturb threatened flora or fauna (if required)	WA Minister for Environment
<i>Building Act 2011</i>	Building permit for worker accommodation	Shire of Wiluna
<i>Planning and Development Act 2005</i>	Planning approval for worker accommodation	Shire of Wiluna
<i>Health Act 1911</i> and Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974	Notice of Completion	Shire of Wiluna
	Sewage treatment permit	Department of Health (DoH)
<b>Commonwealth Legislation</b>		
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	Formal environmental approval	Federal Minister for the Environment  DoE
<i>Australian Radiation Protection and Nuclear Safety Act 1998</i>	Facility licence	Australian Radiation Protection and Nuclear Safety Agency (ARPANSA)



Legislation	Approval	Agency/Department
<i>Nuclear Non-Proliferation (Safeguards) Act 1987 and Nuclear Safeguards (Producers of Uranium Concentrates) Charge Act 1993</i>	Permit to possess nuclear material (Section 13)	Australian Safeguards and Non-Proliferation Office (ASNO)
	Permit to establish a uranium mining facility	ASNO
Regulation 9 of Customs (Prohibited Exports) Regulations under the <i>Customs Act 1901</i>	Permit to export uranium ore concentrates	Department of Industry (DoI)
<i>Native Title Act 1993</i>	Land Access (Negotiation Notification Section 29 and State Deed; or Consultation Notification)	National Native Title Tribunal

Cameco has not yet obtained the approvals listed in Table 3-1.

### 3.2 International Agreements

Table 3-2 lists the international agreements that are relevant to the assessment of the Project under the EPBC Act or other approvals that are required under Commonwealth Legislation.

**Table 3-2: Relevant international agreements on uranium and the environment**

Agreement	Description
Treaty on the Non-Proliferation of Nuclear Weapons 1968 (NPT)	The NPT's objective is to prevent the spread of nuclear weapons and weapons technology, to promote co-operation in the peaceful uses of nuclear energy and to further the goal of achieving nuclear disarmament and general and complete disarmament. The Treaty represents the only binding commitment in a multilateral treaty to the goal of disarmament by the nuclear-weapon States and entered into force in 1970. A total of 187 parties have joined the Treaty, including the five nuclear-weapon States. Australia ratified the Treaty in 1973.
Australian Nuclear Safeguards Agreements	Australia only exports uranium for peaceful purposes to countries and parties with which Australia has a bilateral safeguards Agreement. Australia currently has 22 bilateral safeguards Agreements in force covering 39 countries.
International Convention on Biological Diversity 1992	This Convention applies to the conservation of biological diversity, the sustainable use of biological components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding. Australia ratified the Convention in 1993.
Convention on the Conservation of Migratory Species of Wild Animals 1979 (Bonn Convention)	The Convention on the Conservation of Migratory Species of Wild Animals aims to conserve terrestrial, marine and avian migratory species throughout their range. It is an intergovernmental treaty, concluded under the aegis of the United Nations Environment Programme, concerned with the conservation of wildlife and habitats on a global scale. Australia has been a party to the Convention since 1991.
Japan Australia Migratory Birds Agreement (JAMBA) 1974	An agreement between the Governments of Australia and Japan for the protection of migratory birds and birds in danger of extinction and their environment. Protection is afforded by limiting the circumstances under which migratory birds are taken or traded, protecting and conserving important habitats, exchanging information and building cooperative relationships.

Agreement	Description
China Australia Migratory Birds Agreement (CAMBA) 1986	Agreement between the Governments of Australia and The People's Republic of China for the protection of migratory birds and their environment. Protection is afforded by limiting the circumstances under which migratory birds are taken or traded, protecting and conserving important habitats, exchanging information and building cooperative relationships.
Republic of Korea-Australia Migratory Bird Agreement (ROKAMBA) 2006	Agreement between the Governments of Australia and The Republic of Korea on the protection of migratory birds. Protection is afforded by limiting the circumstances under which migratory birds are taken or traded, protecting and conserving important habitats, exchanging information and building cooperative relationships.
United Nations Framework Convention on Climate Change and the Kyoto Protocol 1997	The Kyoto Protocol is an international agreement created under the United Nations Framework Convention on Climate Change (UNFCCC). The Convention establishes legally binding commitments to reduce four greenhouse gases (carbon dioxide, methane, nitrous oxide and sulphur hexafluoride), and two groups of gases (hydrofluorocarbons and perfluorocarbons) produced by industrialised nations, as well as general commitments for all member countries. The Kyoto Protocol includes mechanisms for greenhouse gas emission trading between nations. Australia's ratification of the Kyoto Protocol came into effect on 11 March 2008.

### 3.3 Guidelines, Policies and Standards

There are a large number of policies, guidelines, standards and codes that are applicable to the environmental management of mining projects. Policies and guidelines relevant to the Project are summarised in Appendix B. Where applicable these guidelines have been referenced within the PER.

The key guidelines applicable to this Project are the EPA Environmental Assessment Guidelines 8 and 9 (EAG8 and EAG9) which form the basis of guidance for the State environmental assessment process and the EPBC Act Significant Impact Guidelines 1.1.

EAG8 defines environmental factors and associated environmental objectives used by the EPA for assessing projects; describes the EPA's framework for environmental factors and objectives and how they link to other EPA guidance; and outlines the EPA's expectations for applying environmental factors, objectives and guidance through the environmental impact assessment process (EPA 2013a). The key environmental factors and objectives outlined in Section 9 of this PER are based on EAG8.

EAG9 describes how the EPA makes decisions, throughout the environmental impact assessment process, on the likely significance of impacts of a proposal, using a risk based approach (EPA 2013b). This risk-based approach has formed the basis of the risk assessment undertaken by Cameco for the Project (Section 8).