

## Section Three

# Legislative Framework



# Contents

<b>3. Legislative Framework .....</b>	<b>29</b>
3.1 Key Legislative Requirements .....	29
3.1.1 Western Australian Environmental Assessment Process .....	29
3.1.2 Federal Environmental Assessment Process .....	30
3.1.3 Other Approvals .....	30
3.2 International Agreements .....	34
3.3 Policies, Guidelines and Standards.....	34

## List of Tables

Table 3-1: Approvals required .....	31
Table 3-2: Relevant international agreements on uranium and the environment .....	34



## 3. Legislative Framework

### 3.1 Key Legislative Requirements

The Project requires environmental approval from:

- the Western Australian (WA) Minister for the Environment under the provisions of the *Environmental Protection Act 1986* (EP Act); and
- the Australian Minister of 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 of the EP Act allows for referral, environmental assessment and implementation of proposals. Part V 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 and Regulation (DER). An overview of the Part IV environmental assessment process as it applies to this Environmental Review and Management Programme (ERMP) is outlined in Section 3.1.1.

The EPBC Act provides a legal framework to manage environmental issues of national importance 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 Department of Environment (DoE) and a summary of the Federal assessment process is outlined in Section 3.1.2.

#### 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 Environmental Protection Authority (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 referred the Project to the EPA on 3 September 2010. The EPA determined that the Project will require assessment as an ERMP. This level of assessment was advertised by the EPA on 20 September 2010.

An ERMP level of assessment requires preparation of an Environmental Scoping Document (ESD) setting out the environmental factors raised by the proposal and the proponent's intended studies. Once approved for release by the EPA, the ESD is made available for public review for a period of at least two weeks. Based on the submissions received, the proponent is required to revise the ESD where appropriate, and submit the revised ESD for approval by the EPA. Cameco released its ESD on 28 March 2011 for two weeks and presented the revised ESD to the EPA in June 2011. The ESD was approved on 26 July 2011 subject to changes requested by the EPA. These changes were made and the document finalised in August 2011. The final ESD has been made available on Cameco's website ([www.cameco.com/australia/kintyre](http://www.cameco.com/australia/kintyre)).

The proponent then prepares the ERMP document (this document) in accordance with the agreed scope documented in the ESD. When the EPA is satisfied that the ERMP document has addressed all of the environmental factors and studies identified in the ESD, the proponent is required to release the ERMP for a public review period normally between 10 and 12 weeks. In the case of the Kintyre Uranium Project, the EPA has set a 14 week public review period.

Public submissions on the ERMP document that are received by the EPA are provided to the proponent. The proponent is required to prepare a summary of the issues raised and respond to these issues to the satisfaction of the EPA. The EPA will then assess the ERMP 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 Minister of 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 provide 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 the Matters of National Environmental significance. 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).

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 a 10 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 Environmental Impact Statement (EIS) or Public Environment Report (PER), and
- assessment by Public Inquiry

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;
- (g) any other action prescribed by the regulations.

The Project was referred to DoE on 3 September 2010 and was determined to require assessment under the EPBC Act. The relevant controlling provisions were listed threatened species and communities (Section 8.6.4) and nuclear actions.

A Bilateral Agreement exists between the Australian Government and the Western Australian Government which accredits the State environmental assessment process, to ensure an integrated and coordinated approach to environmental assessment for actions requiring approval under both the Commonwealth EPBC Act and WA EP Act. This means that a project can be assessed concurrently by both agencies using the same documentation prepared to meet the requirements of both Acts with the assessment coordinated by the WA EPA.

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

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

### 3.1.3 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 the:
  - Part V of the EP Act 1986;
  - *Mining Act 1978* (Mining Act); and
  - *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.

### 3.1.3.1 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 which will provide a detailed project description, assessment of potential impacts and proposed management measures 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.

### 3.1.3.2 Mining Act 1978

Land tenure for mining projects is generally administered under the Mining Act by the

Department of Mines and Petroleum (DMP). Mining cannot commence unless appropriate tenure has been granted under the Mining Act or other applicable legislation. Cameco is in the process of seeking appropriate tenure under the provisions of the Mining Act and the Federal *Native Title Act 1993*.

Cameco will need to submit a Mining Proposal to the 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 Mine Closure Plan is also required to be approved by DMP before construction and operations can commence.

Table 3-1: Approvals required

Legislation	Approval	Agency/Department
<b>State Legislation</b>		
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
<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

Legislation	Approval	Agency/Department
<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 (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)
	Beds and Banks permit (if river crossings are required for the access road)	DoW
<i>Wildlife Conservation Act 1950</i>	Flora and fauna licensing	DPaW
<i>Local Government (Miscellaneous Provisions) Act 1960</i> and Building Regulations 1989	Building Permits	Shire of East Pilbara
<i>Planning and Development Act 2005</i>	Planning and Development Approval	Shire of East Pilbara Department of Planning (DoP)
<i>Health Act 1911</i> and Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974	Notice of Completion	Shire of East Pilbara
	Sewage treatment permit	Department of Health (DoH)
<b>Commonwealth Legislation</b>		
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	Formal environmental approval	DoE
	Approval of closure and site rehabilitation plans	DoE
<i>Australian Radiation Protection and Nuclear Safety Act 1998</i>	Facility licence	Australian Radiation Protection and Nuclear Safety Agency (ARPANSA)
<i>Nuclear Non-Proliferation (Safeguards) Act 1987</i> and <i>Nuclear Safeguards (Producers of Uranium Concentrates) Charge Act 1993</i>	Permit to possess nuclear material (Section 13)	Australian Safeguards and Non-Proliferations 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 Resources Energy and Tourism (DRET)
<i>Native Title Act 1993</i>	Land Access (Negotiation Notification Section 29 and State Deed; or Consultation Notification)	National Native Title Tribunal

#### 3.1.3.3 *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 wells under the RIWI Act 1914 (Section 5C and 26D respectively) which is administered by the Department of Water (DoW).

As an access road will cross Yandagooge Creek a Beds and Banks permit would be required before Cameco could disturb the watercourse.

#### 3.1.3.4 *Aboriginal Heritage Act 1972*

The Aboriginal Heritage Act provides automatic protection for all places and objects in Western Australia that are important to Aboriginal people because of connections to their culture. There are a number of Aboriginal heritage sites registered across the Project area (Section 9.3). Cameco has prepared a Cultural Heritage Management Plan (CHMP) in consultation with the Martutu manage sites and practices that may have a cultural significance (Appendix D15).

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 Martu, the Native Title holders of the land, undertake formal heritage surveys and apply for clearance from the Minister for Indigenous Affairs under Section 18 of the Aboriginal Heritage Act to use the land upon which an Aboriginal site exists. A report on the Aboriginal heritage surveys would be submitted to the Aboriginal Cultural Material Committee (ACMC).

#### 3.1.3.5 *Radiation Safety Act 1975*

Cameco will be required to prepare a Radiation Management Plan for construction and operation of the Project for approval by the DMP and the Radiological Council. Exploration at Kintyre is currently being undertaken under the approved Exploration Radiation Management Plan.

The Project will also require a Radioactive Waste Management Plan and a Transport Management Plan to be approved by the Radiological Council. The Project's Mine Closure Plan will also require approval by the Council.

Under the Radiation Safety Act, the Kintyre site will require approval of a nominated Radiation Safety Officer to be holder of the licence for mining and milling of radioactive ores. The owner of any premises in which any radioactive substance is manufactured, used or stored also requires registration under the Radiation Safety Act.

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 programme for transport of radioactive substances.

Cameco has not yet obtained the approvals listed in Table 3-1. These will be sought following the ERMP assessment.

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*;
- *Conservation and Land Management Act 1984*;
- *Contaminated Sites Act 2003* and Regulations;
- *Environmental Protection Regulations 1987* and subsidiary legislation;
- *Heritage of Western Australia Act 1990*;
- *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*.

## 3.2 International Agreements

Table 3-2 lists the applicable international agreements that the Australian Government is required to consider in assessment of the Project.

## 3.3 Policies, Guidelines 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 A. Where applicable these guidelines have been referenced within the ERMP.

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

Agreement	Description
Treaty on the Non-Proliferation of Nuclear Weapons 1968 (or 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.
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	The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its 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.
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.
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.
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.

Agreement	Description
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 came into effect on 11 March 2008.