

Community Involvement in Nomination and Siting of Radioactive Waste Facilities- International Examples

Question Taken on Notice
Legislative and Constitutional Affairs Committee Senate Inquiry
National Radioactive Waste Management Bill 2010.

"One of the key issues that has dominated the nuclear debate in recent years has been the safe management of radioactive wastes.... they have caused more public concern than any other type of waste."

Nuclear Energy Agency- Organisation for Economic Co-operation and Development¹.

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1

<http://timesofindia.indiatimes.com/Deep Focus/Sweden offers a lesson in handling nuclear waste/articleshow/3585092.cms>

Contents

1. Excerpt from Senate Inquiry transcript.....p3
- 2- Introduction.....p4
- 3- International radioactive waste management processes.....p5
- 4- United Kingdom Committee on Radioactive Waste Management.....p7
- 5- Sweden.....p10
- 6- Hungary.....p12
- 7-Conclusion.....p13
- 8- Recommendations.....p14

1. Excerpt from Senate Inquiry transcript

Ms Wasley—Absolutely. This is the most dangerous material that is produced. It is the longest lived radioactive material produced in Australia, so of course it should be given special consideration. That is why I think this legislation targeting Muckaty does not give the full weight of the special consideration that it needs. Again, we are continuing on with a process that was instigated by the previous government merely because it seems to be convenient for the current minister to continue on and not have to deal with the first couple of years of the process which would be thorough and community based. There are processes around the world underway to look at communities and there are places where communities have nominated, but, if you read the news stories and the literature, that is because the communities were involved.

Senator FEENEY—Can you give us some examples?

Ms Wasley—There are a few. I would like to take that on notice. I am really happy to provide a document that has some detailed examples of where communities have nominated or are involved in the process.

Senator FEENEY—To be clear about what it is I am looking for from you, could you point to examples of where you think local communities have been engaged and where their consent was secured in a way that you think is appropriate. I would be interested in hearing about those stories.

Ms Wasley—Again, I would like to take that on notice because a lot of those processes are still far from perfect, but they are 10 steps ahead of how Australia is tackling this problem.

2- Introduction

Internationally, radioactive waste management continues to be a contentious issue.

The Beyond Nuclear Initiative (BNI) is opposed to all aspects of the nuclear industry.

However, BNI believes that in dealing with existing radioactive waste, community participation in all stages of decision-making is vital.

It is increasingly recognised internationally that such participation is integral to the success of any radioactive waste management project. This includes genuine consultation and consent with affected communities and a high degree of transparency throughout the process.

Included in this report are some brief profiles of radioactive waste management processes around the world. The emphasis is on the intent of governments around the world to include communities in the radioactive waste management process from the initial stages.

This stands in stark contrast to the processes enshrined in the National Radioactive Waste Management Bill 2010.

In August 2009, Minister Martin Ferguson's office is reported as saying, "there would be no consultation with concerned Northern Territory traditional owners until a final decision was made on where to build a nuclear waste facility"². This is completely counterposed to the international experience.

The Bill gives the Minister power to make unilateral decisions regarding site selection, and the power to acquire land in any State or Territory with regard to building, servicing or transporting radioactive material to the facility.

By holding and entrenching the Muckaty nomination, which continues to be highly controversial and contested by many Traditional Owners of the Muckaty Land Trust, the Bill positions the Australian situation in stark contrast to processes internationally.

Refusal to release important documents related to the process lends little credibility to promises of a process that will "restore transparency, accountability and procedural fairness including the right of access to appeal mechanisms in any decisions in relation the sighting (sic) of any nuclear waste facilities"³ made before the last federal election.

² <http://www.watoday.com.au/breaking-news-national/govt-wont-consult-on-nuclear-waste-site-20090821-et0g.html>

³ ALP Media Release- Govt's waste dump fiasco, cont'd . 06/03/07

3- International radioactive waste management processes

A 2004 paper by the OECD Nuclear Energy Agency “Stepwise Approach To Decision Making”⁴ is worth quoting at length.

Forward p 3

Consideration is increasingly being given, in long-term radioactive waste management, to concepts such as “stepwise decision making” and “adaptive staging” in which the public, and especially the local public, are to be meaningfully involved in the review and planning of developments. The key feature of these concepts is development by steps or stages that are reversible, within the limits of practicability. This is designed to provide reassurance that decisions can be reversed if experience shows them to have adverse or unwanted effects. A stepwise approach to decision making has thus come to the fore as being of value in advancing long-term radioactive waste management solutions in a societally acceptable manner.

SUMMARY OF KEY POINTS p6

The context of long-term radioactive waste management is being shaped by changes in modern society. Values such as health, environmental protection and safety are increasingly important, as are trends towards improved forms of participatory democracy that demand new forms of risk governance in dealing with hazardous activities. These changes in turn necessitate new forms of dialogue and decision-making processes that include a large number of stakeholders.

The new dynamic of dialogue and decision-making process has been characterised as a shift from a more traditional “decide, announce and defend” model, focused on technical assurance, to one of “engage, interact and cooperate”, for which both technical assurance and quality of the process are of comparable importance to a constructive outcome.

Consequently, the scientific and engineering aspects of waste management safety are no longer of exclusive importance. Organisational ability to communicate and to adapt to the new context has emerged as a critical contributor to public confidence.

In the new decision-making context it is clear that

(a) any significant decisions regarding the long-term management of radioactive waste will be accompanied by a comprehensive public review with involvement of a diverse range of stakeholders;

(b) the public, and especially the local public, are not willing to commit irreversibly to technical choices on which they have insufficient understanding and control; and

⁴ NUCLEAR ENERGY AGENCY- RADIOACTIVE WASTE MANAGEMENT COMMITTEE
STEPWISE APPROACH TO DECISION MAKING
Experience, Issues and Guiding Principles for Long-term Radioactive Waste Management

29-Jun-2004

www.nea.fr/pub/ret.cgi?div=RWM

(c) any management options will take decades to be developed and implemented, which will involve stakeholders who have not yet been born. Thus, a “decision” no longer means opting for, in one go and for all time, a complete package solution. Instead, a decision is one step in an overall, cautious process of examining and making choices that preserve the safety and well-being of the present generation and the coming ones while not needlessly depriving the latter of their right of choice. Consideration is thus increasingly being given to the better understanding of concepts such as “stepwise decision making” and “adaptive staging” in which the public, and especially the most affected local public, are meaningfully involved in the planning process.

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A combined technical and societal focus p 13

Today all radioactive waste management programmes, and especially the ones that have been redesigned, recognise and emphasise, in a form that was not seen before, the contribution of societal involvement to the quality and legitimacy of the decisions.

...

Examples of what the OECD Nuclear Energy Agency considers to be “Outstanding examples” can be found on **page 17** of the report.

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THE INDICATIONS FROM FIELD STUDIES IN SOCIAL RESEARCH p22

Accordingly, while technical committees created to judge progress in waste management programmes are still the norm, there is increasing evidence of implications of social scientists. In the UK and USA, for example, the Committee on Radioactive Waste Management and the Board of Radioactive Waste Management of the National Academy of Sciences, respectively, now include experts on social and ethical issues. In Sweden, the KASAM committee, which advises the Swedish government on progress and issues in the Swedish waste disposal programme, has a membership of both technical and social scientists. This committee has been at the forefront in investigating the ethical and social aspects of waste management and disposal ever since its inception at the end of the 1980’s.

4- United Kingdom Committee on Radioactive Waste Management (CoRWM)

In 2003, the UK Government established the CoRWM to investigate options for long-term management of 'higher activity' solid radioactive waste.

The Committee website explains that, "It was important that our way of working, as well as our recommendations, should enjoy public confidence."

The CoRWM process "combined consideration of the scientific evidence with a process of engaging with, and involving, stakeholders and members of the public".

The Committee emphasises that "We carried out as much of our work as possible in public and provided access to almost all of our working papers"⁵.

UK CoRWM framework for community involvement⁶

How does a local community get involved?

Expressing an interest

Any community can express an interest in getting involved in discussions with government, without making any commitment. Organisations like local authorities will probably be involved in making such an approach to government.

This will be an opportunity to find out more about:

- what hosting a disposal facility would mean
- the siting process
- how hosting the facility could benefit the community in the long term

Site assessments and community discussions

Once a community has expressed an interest, the British Geological Survey would be asked to make an assessment of the area to eliminate any sites that are obviously geologically unsuitable.

At the same time, the community would hold further discussions with local people to ensure that questions and concerns about a disposal facility are addressed.

⁵ <http://www.corwm.org.uk/default.aspx>

⁶

http://www.direct.gov.uk/en/HomeAndCommunity/Gettinginvolvedinyourcommunity/Volunteering/DG_078695

Participating further in the siting process

The community may then decide to make a more formal commitment to participate further in the siting process. This would not mean it has to host a site – just that it will engage in further discussions with government and the Nuclear Decommissioning Agency.

Support during the process

The government will provide help towards costs that a community might incur in being involved in the process. This might include funding those who manage the local process, funding for public information and funding for community consultation.

Site identification

While the discussions with the community are taking place, more and more detailed site surveys and assessments will be made, to investigate those sites that are most likely to be suitable. This will lead to the identification of an agreed, preferred site where development can start.

Recommendations from CoRWM Final report⁷

"There is a growing recognition that it is not ethically acceptable for a society to impose a radioactive waste facility on an unwilling community."

Chapter 14 Recommendations, doc pages 111-115, extract re community issues :

Recommendation 10: Community involvement in any proposals for the siting of long term radioactive waste facilities should be based on the principle of volunteerism, that is, an expressed willingness to participate.

12. Experience in the UK and abroad clearly demonstrates the failures of earlier 'top down' mechanisms (often referred to as 'Decide-Announce-Defend') to implement long-term waste management facilities. It is generally considered that a voluntary process is essential to ensure equity, efficiency and the likelihood of successfully completing the process. There is a growing recognition that it is not ethically acceptable for a society to impose a radioactive waste facility on an unwilling community.

Recommendation 11: Willingness to participate should be supported by the provision of community packages that are designed both to facilitate participation in the short term and to ensure that a radioactive waste facility is acceptable to the host community in the long term. Participation should be based on the expectation that the well-being of the community will be enhanced.

⁷ 31 July 2006 at www.corwm.org.uk/

13. In the light of overseas experience CoRWM has concluded that communities are unlikely to come forward or agree to engage unless a comprehensive Involvement Package will be provided, which will, in turn, allow the negotiation of a Community Package. The scale and scope of the funding will need to be determined nationally and agreed beforehand in discussion with relevant parties. For the process to be fair, a local community hosting a facility should be better off after siting than before. This reflects and acknowledges the service that is being provided for society at large.

Recommendation 12: Community involvement should be achieved through the development of a partnership approach, based on an open and equal relationship between potential host communities and those responsible for implementation.

14. Some of the most promising programmes overseas are based on the potential host community working in partnership with an implementing body to achieve a successful outcome for both. One of the advantages of the partnership approach is that it achieves an environment in which host communities can engage with an implementing body without feeling victimised by a national process over which they ultimately have little control.

Recommendation 13: Communities should have the right to withdraw from this process up to a pre-defined point.

15. In processes that are successfully moving forward abroad, the right of the potential host community to withdraw from the process is an important factor in determining the willingness of communities to participate. This right has some limitations. There will come a point when the process of implementation has proceeded so far that withdrawal would not be possible.

Recommendation 14: In order to ensure the legitimacy of the process, key decisions should be ratified by the appropriate democratically elected body/bodies.

16. Democratic representation and ratification of decisions is necessary to achieve overall acceptability and legitimacy for decisions. What decisions require democratic endorsement, and at what level they should be taken, is a matter for further work.

5- Sweden

Sweden is considered one of the most advanced countries in terms of securing a location for a permanent radioactive waste facility.

Many towns are said to have 'nominated' for consideration as the facility host, with Osthhammar having been selected as the preferred location.

The Mayor is quoted as saying that the town has "a great deal of independence"⁸ in the process, however, it is also argued that the national government might overrule the veto right of Osthhammar "if they declared the matter to be of importance to national security".⁹

More information about community engagement with the The Swedish Nuclear Fuel and Waste Management Company (SKB) is below in an extract from the Cowam website¹⁰.

The Swedish Nuclear Waste Management process

The site selection process in Sweden is carried out under the responsibility of SKB, a company owned by the nuclear power plants operators. But the actual siting and construction of a repository will require a formal permit by the Government including a formal consent by the concerned municipality.

SKB is to present to the Government, every third year, its programme for research and development (RD&D-Programme; Research, Development and Demonstration). These programmes are thoroughly reviewed by the nuclear regulatory authorities. Comments are also invited from a broad range of organisations including the municipalities that are directly concerned by the work of SKB and from environmental organisations.

...

In the 1990s following desk siting studies at the level of the whole Sweden, feasibility studies were carried out in eight municipalities. Two initial feasibility studies in remote municipalities in northern Sweden ended up with negative votes in local referenda. SKB decided not to continue any work relating to siting in those municipalities. SKB's analysis of the developments concludes that these municipalities experienced a lack of national and regional support. SKB also had a feeling that safety regulators were not yet in phase and ready for full participation in the process. As a result of these experiences, the siting process developed and became more defined. Starting in the middle of the 1990's, six more feasibility studies were carried out in municipalities hosting nuclear reactors or in neighbouring municipalities. The Government took some important measures like, for instance, deciding that local municipalities should get funding for their participation. A real local involvement in dialogue was noted as well as a clearer national and regional support.

⁸ **A Town Says 'Yes, in Our Backyard' to Nuclear Site**

<http://www.nytimes.com/2010/04/06/world/europe/06sweden.html?emc=eta1>

⁹ Ibid

¹⁰ <http://www.cowam.com/?Tierp-and-Oskarshamn>. Cowam claims to be "a network and a cooperative research programme running from the year 2000 with support from the European Commission.

Feasibility studies comprised two parts. One was a fact-finding part, putting together information about geology, technical aspects regarding transportation, the technical feasibility of constructing and operating a repository, land use aspects, environmental impact and societal aspects. The other part was an active dialogue with the municipality, the local interest organisations and the public initiated by the company from the start. SKB also had formal consultations with the actors of the programme on both the regional and national levels.

...

Important also in the Swedish process is that according to the environmental legislation municipalities have a veto right as regards nuclear installations projects.

....

Oskarshamn experience is that a traditional political structure is more than sufficient, but new methods are required to adapt this structure to the needs of today. Citizens can be solicited to participate and their contributions entail a better base in making decisions. From a NGO point of view, although the Oskarshamn experience is valued, there are concerns about the general design of the Swedish decision-making process for nuclear waste management. According to this view, the nuclear issue is not discussed at the national level, except for a successful dialogue in 1990-1992 with the different stakeholders. Hence, the environmental NGOs feel they do not have opportunity to get involved, other than to act through local groups in the concerned communities. The national NGOs also consider that they lack the necessary resources to act independently, to keep up with reports and meetings, to hire their own experts, who could increase their knowledge and competence, and could contribute to the process. As regards the process itself the NGOs view that the choice of method should be taken before the choice of site, otherwise it could be suspected that the choice is based on political acceptance and not primarily on environment and safety considerations. The methodology should be discussed widely beforehand. Eventually the view is made that an independent body not linked with the nuclear operators should lead the process.

6- Hungary

The information below is sourced from a Nuclear Energy Agency Report and reiterates the international- and Australian- experience of imposed projects failing to come to fruition.

“In the late 1980s and early 1990s, attempts were made to find a site for a repository to dispose of the LILH generated by the Paks NPP (Hungary's only commercial NPP). The top down approach taken failed due to vigorous public opposition. In 1993, a new site investigation program was initiated, using a significantly different approach. Site selection criteria included, not only technical and geological factors, but also local acceptance to be taken into consideration. A voluntary siting process was launched, in which public information and financial incentives played a crucial role. The LILW siting process resulted in the selection of site (Bataapati), in the granite. In July 2005, a local referendum was held in Bataapati, which approved the repository and in November 2005, the national parliament voted to approve the facility.”¹¹

¹¹ www.nea.fr/rwm/reports/2009/6258-FSC-Hungary.pdf

7- CONCLUSION

Australia is far behind the international community in terms of community involvement in radioactive waste facility siting and management.

Successive government's attempts to force a radioactive waste dump on communities have failed due to top down decision-making and an unwillingness to engage with affected communities.

The Bill is not significantly different in intent from the current legislation, which was derided by Senior ALP Politicians (when in Opposition) as 'sordid', 'arrogant' and 'draconian'.

Prior to the 2007 federal election, Muckaty was considered a "highly controversial site nomination", with the ALP pointing out it was made "before scientific testing of the area".

Labor was "not surprised, but disappointed" at the acceptance of the Muckaty nomination, adding, "...Labor understands that many families in the area are strongly opposed to the waste dump idea, and that these families are concerned their rights have been ignored in the process"¹².

Through extensive engagement with Muckaty Traditional Owners and surrounding communities, BNI believes that any claim that there is community consent for the Muckaty nomination is spurious. Any legislation that entrenches the Muckaty nomination and continues to facilitate the imposition of a radioactive waste dump on an unwilling community would only ensure Australia stayed blind to international evidence.

¹² **Govt Tramples Rights On Waste Dump - Science And Rights Dumped By Howard Media Statement - 25th May 2007**

Issued by Kim Carr, Peter Garrett, Trish Crossin and Warren Snowdon

<http://www.alp.org.au/media/0507/msCCindNA250.php>

8- Recommendations

To bring the process of radioactive waste management in Australia in line with international standards, the Senate Committee must recommend the federal government:

- 1- Reject the National Radioactive Waste Management Bill 2010
- 2- Commission a broad and independent public inquiry into radioactive waste management in Australia. This should involve a diverse range of stakeholders and canvas all available options for radioactive waste management.
- 3- Recognise the principal of community informed consent as integral in any radioactive waste management processes.