

Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House Canberra
ACT 2600 Australia
Legcon.sen@aph.gov.au

Sara L Hanggi

Attention: Julie Dennett, Committee Secretary

**SUBMISSION ON THE SENATE LEGAL AND CONSTITUTIONAL AFFAIRS
COMMITTEE INQUIRY INTO THE
National Waste Management Bill 2010**

Dear members of the Senate,

Firstly, I must state my opposition against proposals and plans to situate a nuclear waste dump on aboriginal lands or otherwise in any Australian State or Territory.

My reasons include concern for the health and wellbeing of people and country and concern for the burden of this toxic legacy on future generations.

I am also concerned about what will happen once a nuclear waste repository is constructed in Australia and how this will affect the environment at storage and transport routes, how this will impact on people living on transport routes and how we will manage and control the level of input of nuclear waste from other countries.

Secondly, while I support the repeal of the *Commonwealth Radioactive Waste Management Act 2005*, I oppose the implementation of the proposed '*National Radioactive Waste Management Bill 2010*' as it stands.

I am concerned about the intent and lack of transparency that such a piece of legislation has given that it enables a site to be nominated without rigorous processes to ensure that environmental, scientific and socio-economic factors have been adequately defined.

I have listed my objections to the proposed *National Radioactive Waste Management Bill 2010* as follows:

s4, Part 2-Nomination of Sites, Division 1-Nomination by a Land Council, 4 Nomination by Land Council (2) states the conditions with which a nomination must be made by a land council including the requirement for 'land council' to demonstrate in writing

that they have identified (d) all the interests in the land, (f)(i) that they have consulted with all traditional owners, (ii) that the traditional owners understand the nature and effect of proposed nomination, (iii) that traditional owners have given consent as a group, and that (iv) *any Aboriginal community or group that may be affected by the proposed nomination has been consulted and has had adequate opportunity to express its view to the Land Council.*

In the very next instance, *s4, Part 2-Nomination of Sites, Division 1-Nomination by a Land Council, 4 Nomination by Land Council* (4) it would appear that any requirement for Land Council to fulfil the requirements for nominating a site described in s4 (2) to (3) are essentially voided when it states (4) *Failure to comply with subsection (2) does not invalidate a nomination.* To someone like myself, coming from a non-legal background, this appears inconsistent and contradictory!

This inconsistency extends to s7 rules about nomination, where yet again required information s7 (1) to (3) for making a nomination are voided when it states that (4) *Failure to comply with subsection (1) does not invalidate a nomination made under section 6.*

This introduces a contradictory approach to validating nominated sites where it allows a site to be nominated (and therefore to be considered) in the absence of critical and relevant information.

I think that site nomination needs to be a rigorous process which includes strict requirements for scientific, technical information and stakeholder consultation. If it cannot be demonstrated that the nomination of a site is supported by all traditional owners and/or stakeholders, or if the nomination of such site lacks critical scientific and environmental information then the site should not be able to be nominated.

For any current or future nominated sites, I think that it is very necessary for the members of the Senate Committee to conduct thorough investigation which may indeed include travel to the 'nominated' site in order to determine whether all stakeholders and or traditional owners have indeed been consulted.

I would like to see evidence that all stakeholders and traditional owners are in agreement with nomination of the site and where there is any division or opposition, the nomination of such site should be revoked.

When a site on Aboriginal Land is nominated, I would like to see all traditional owners consulted and informed in their own language to avoid misunderstanding, coercion and the peddling of half-truths or misinformation. Such consultation should be transparent and inclusive and perhaps several visits to surrounding communities might be required before there is absolute assurance that all stakeholders/ traditional owners are aware and in agreement. Furthermore on an issue of such national significance I think that there needs to be wider consultation across Australian States & Territories, with designated meetings and forums set up in regional areas to consult with all Australian citizens.

The decision of situating a nuclear waste dump anywhere in Australia has long-term implications for all Australians and there needs to be a clear and transparent process of consultation!

If historical occurrence of nuclear activity in central Australia is anything to go by, then Australia could be seen as having an atrocious track record. Case in Point: Maralinga.

I take further issue with section 10 Authority to conduct activities. This enables any persons, commonwealth government or otherwise to pretty much do anything that is required (2) *do anything necessary for or incidental to the purposes of selecting a site on which to construct and operate a facility.*

Such activities might impact upon (as per section 11 (1))

- (a) *the use or proposed use of land or premises; or*
- (b) *the environmental consequences of the use of land or premises; or*
- (c) *the archaeological or heritage values of land, premises or objects (including the significance of land, premises or objects in the traditions of Indigenous people); or*
- (d) *controlled material, radioactive material or dangerous goods; or*
- (e) *licensing (however described) in relation to:*
 - (i) *employment; or*
 - (ii) *carrying on a particular kind of business or undertaking; or*
 - (iii) *conducting a particular kind of operation or activity.*

I object to the provisions under section 11 and 12 which enable the activities in section 10 to be exempt as it were, of any other State, Territory or Commonwealth Laws. This is an approach of a dictatorship that allows for the potential abuse of environment and human rights, even if only in the site selection phase of the Nuclear Waste Repository Facility.

The acquisition of land and subsequent extinguishment of a persons rights, or application of Commonwealth and State and Territory Legislation (section 18 & 19) does not seem to constitute a very fair process to me. Not only is this unethical it flies in the face of democratic principles and removes any failsafe mechanism which might actually stop the selection of an inappropriate or unsuitable site.

The legislation that we have at Commonwealth and State /Territory levels has been designed to protect the interests of the Commonwealth, State and the people. By removing the application of these legislation it is bypassing what constitutes a fair process and simply places too much power in the Ministers decision under the *National Radioactive Waste Management Bill 2010*.

In my opinion, there needs to be a provision within the *National Radioactive Waste Management Bill 2010* that enables relevant legislation to be prescribed through the decision-making process.

Without application of *Australian Radiation Protection and Nuclear Safety Act 1998*; *Environment Protection and Biodiversity Conservation Act 1999*; *Nuclear Non-Proliferation (Safeguards) Act 1987*; *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*; *Aboriginal Land Rights (Northern Territory) Act 1976*; *Lands Acquisition Act 1989* and any other relevant Commonwealth and State or Territory Law, the process of site nomination, selection, development, operation and decommissioning is unfair and biased.

I want the Senate Legal and Constitutional Committee to note my personal objection to the legislating of the *National Radioactive Waste Management Bill 2010*. I find the bill to be biased, coercive, and unethical and an affront to democratic rights and due process.

Sincerely

Sara L. Hanggi
BSc. Hons. Biol.

Date: 14 March 2010