

Parliament of Australia  
House of Representatives  
Standing Committee on Industry and Resources

**Inquiry into Developing Australia's Non-Fossil  
Fuel Industry - Case Study: Uranium**

Northern Land Council Submission

October 2005

## HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON INDUSTRY AND RESOURCES

### INQUIRY INTO DEVELOPING AUSTRALIA'S NON-FOSSIL FUEL INDUSTRY - CASE STUDY: URANIUM

#### 1. Summary

The Northern Land Council (NLC) welcomes the opportunity to provide a submission to the House of Representatives Standing Committee on Industry and Resources *Inquiry into Developing Australia's Non-Fossil Fuel Industry - Case Study: Uranium*.

The NLC's submission is in relatively general terms, and concerns:

- ensuring that informed consultations occur with traditional owners;
- social impact;
- the storage of radioactive waste generated for medical and industrial uses in Australia.

The submission does not deal with some environmental and safety issues as they are covered by existing submissions to the inquiry or by previous NLC submissions to other inquiries.

The NLC calls for a full and transparent debate regarding uranium related issues, so as to ensure that traditional owners and the general community are fully informed from a contemporary perspective - particularly in relation to global warming.

Such a debate will assist the NLC when performing its functions in ensuring that traditional owners are properly informed regarding complex issues.

At this stage the Chief Minister, Clare Martin, has declined to express any opinion as to whether a radioactive waste facility may be safely built in some parts of the Northern Territory. Instead the Chief Minister has portrayed the issue as only concerning Statehood and Territorians' rights.

The NLC considers that it is incumbent upon the Chief Minister to express an opinion regarding this issue.

Accordingly the NLC calls on the Chief Minister to publicly state whether she agrees with the NLC Chairman that a radioactive waste facility may be safely built in some parts of the Northern Territory.

#### 2. Terms of reference

In light of the comprehensive submissions already made to the Committee the NLC's submission is in relatively general terms, and is directed at the following items:

1. Whole of life cycle waste management assessment of the uranium industry, including radioactive waste management at mine sites in Australia, and nuclear waste management overseas consequent to use of Australian exported uranium.

2. The adequacy of social impact assessment, consultation and approval processes with traditional owners and affected Aboriginal people in relation to uranium mining resource projects.

The submission does not deal with some environmental and safety issues as they are covered by existing submissions to the inquiry or by previous NLC submissions to other inquiries.

### 3. Background

The NLC is established under the *Aboriginal Land Rights (Northern Territory) Act 1976* and its functions broadly include to consult with and represent traditional owners and Aboriginal communities regarding proposed development including uranium mining.

Since 1994 the NLC has performed similar functions under the *Native Title Act 1993*.

The NLC was established at a time when, as now, uranium related issues were of significant controversy and public interest. The first land claim under the *Land Rights Act* was the 1976 Ranger Uranium Inquiry conducted by Justice Fox which recommended that the Ranger uranium mine be developed and Kakadu National Park be established (on the basis of a leaseback of Aboriginal land, albeit with the Park owned and controlled township of Jabiru excised from the grant).

The Ranger uranium mine continues to operate but is nearing the end of its economic viability.

The nearby Jabiluka deposit was the subject of an agreement negotiated under the *Land Rights Act* in 1982, but was not developed at that time due to the three mine policy of the incoming Commonwealth ALP Government. The deposit is now the subject of the Jabiluka Care and Maintenance Agreement between Energy Resources Australia, the NLC and the traditional owners, under which control is returned to the traditional owners and negotiations for mining may not occur until 2006.

The nearby Koongarra deposit was also the subject of an agreement negotiated under the *Land Rights Act* in 1986 and 1990 but which did not receive Ministerial consent due to the three mine policy. In subsequent consultations conducted in 2000 Koongarra did not receive the traditional owners' consent and it was placed into moratorium until 2005. The NLC anticipates conducting consultations between the traditional owners and the Areva Group later in 2005 and in 2006.

Exploration for uranium is a major activity in the NLC's region, particularly in the West Arnhem region but also in other areas. The proposed development of Browns Prospect near Batchelor by Compass Resources NL may involve uranium mining.

Rehabilitation of concluded mines is a significant issue in the NLC's region. The NLC has been actively involved for some years regarding the rehabilitation of the Nabarlek mine site. Rehabilitation of the Rum Jungle mine site (which predates the *Land Rights Act*) remains a matter of considerable concern to traditional owners, both in relation to continuing pollution and because certain land successfully claimed under the Act cannot be granted until rehabilitation occurs.

#### **4. Consultation with traditional owners and communities**

The NLC performs two related functions regarding development proposals (including in relation to uranium mining):

- (i) ensuring that traditional owners are fully informed regarding a proposed development;
- (ii) representing the informed position of traditional owners to either support or reject a proposed development.

The NLC's performance of its consultative functions does not occur in a vacuum. Uranium related issues are complex and controversial, and consequently the positions expressed in the general community by political leaders, institutions and opinion makers may directly affect the manner in which consultations proceed and may be influential when traditional owners consider proposals.

As stated above the NLC was established at a time when uranium related issues were of significant controversy and public interest, as was the issue of Aboriginal land rights. That period was a time of significant social change and some associated community distrust of institutions, particularly in circumstances where it was revealed for example that secret nuclear bomb testing had been conducted at Maralinga and in Western Australia (with associated radioactive pollution), above ground nuclear bomb testing was being conducted internationally, and the French intelligence service unlawfully sunk a Greenpeace boat including killing its occupants.

The distrust deriving from these circumstances remains in the public memory, and may continue to influence consideration of issues. Nonetheless the NLC considers it is appropriate that there be a full and transparent debate regarding uranium related issues, and in that context welcomes this inquiry as providing an important opportunity to consider and review issues from a contemporary perspective - particularly in relation to global warming.

Such a debate will assist the NLC when performing its functions in ensuring that traditional owners are properly informed regarding complex issues.

A fundamental contemporary issue is global warming, which in the scientific community is broadly accepted as deriving or substantially deriving from the release of carbon dioxide and other greenhouse gases to the atmosphere from human activity. The submission by officers of the Australian Nuclear Science and Technology Organisation (ANSTO) to this inquiry on 13 October 2005 was that 50,000 years ago the level of carbon dioxide in the atmosphere was 200 parts per million, that 100 years ago the level was 260 to 270 parts per million, that the level is presently 380 parts per million, and on current estimates is heading for at least 450 and perhaps 550 parts per million.

Evidence from ice cores shows that global warming may be triggered at about 180 to 260 parts per million - well below the current level of 380 parts per million.

The ANSTO submission refers to the opinion of the United Kingdom Chief Scientific Adviser, Sir David King, who attributes with 90% certainty half of the severity of the 2003 European heatwave to global warming deriving from increased carbon dioxide levels (the heatwave involved 30,000

deaths). It was put that there is no single solution regarding global warming, but that a range of measures are necessary to reduce carbon dioxide emission including the increased use of nuclear power. In that regard ANSTO noted that the United States emission of carbon dioxide would be 29% greater if it did not use nuclear energy.

Submissions by environmental groups are that reductions in carbon dioxide emissions can be achieved without the use of nuclear energy, particularly by the use and development of renewable energy sources and improved efficiency and reduction of wastage.

These issues are of vital interest to traditional owners, and their proper consideration in the general community is highly relevant regarding the position which particular groups may take to uranium development proposals on their traditional country.

The NLC looks forward to participating in discussions regarding these issues, and conducting consultations in light of findings and such consensus as may emerge regarding them.

## **5. Radioactive waste facility**

On 14 October 2005 the Commonwealth of Minister for Science, Dr Brendan Nelson, introduced the *Commonwealth Radioactive Waste Management Bill 2005* into the Parliament.

This Bill, as presently drafted, applies only to the three defence sites in the Northern Territory previously announced for consideration as a radioactive waste facility: Fishers Ridge (near Katherine), Mt Everard and Harts Range (both near Alice Springs). These three sites are freehold land owned by the Commonwealth Department of Defence.

The purpose of the Bill is to ensure that State/Territory legislation regarding environmental or heritage issues, especially in relation to transport of waste through Australia to the site, cannot affect the Minister's decision once made to construct a radioactive waste facility.

On 15 October 2005 the Chief Minister, Clare Martin, wrote an open letter to the Prime Minister, John Howard, claiming that the Bill was "draconian", "rides roughshod over the rights of Territorians and their Parliament", and "is the strongest attack on Territory rights since Self-Government."

The Chief Minister also said that "Territorians won't be bullied and ... will fight to protect [their] democratic rights."

In short, the Chief Minister depicted the issue as only being about Statehood (NT Parliament 13 October 2005):

"This is not a debate about a nuclear facility. This is a debate about our rights."

The Chief Minister was referring to the "rights" of Territorians, but said nothing about the rights of traditional owners to make decisions about development on their land.

The Chief Minister also said nothing about whether, if the NT was a State, she would decide to construct a waste facility in a safe location - as is already the case in Western Australia.

On 18 October 2005 the Prime Minister said that he would be prepared to consider an alternative site anywhere in Australia if one is put forward (see ABC News report 18 October 2005 on internet).

The Federal Opposition spokesperson, Jenny Macklin, has said that the Opposition supports a national waste facility provided it is built with consensus (see above ABC News report 18 October 2005).

The Bill and the radioactive waste facility issue were considered at a meeting of the NLC Full Council conducted at Crab Claw Island (about two hours west of Darwin) between 17 and 20 October 2005.

In relation to medical use, on 20 October 2005 independent NT Legislative Assembly member Gerry Wood tabled a letter from Dr Ron Cameron, ANSTO Chief of Operations, which confirmed that the substantial majority of radiopharmaceuticals used in Australia may only be produced by a nuclear reactor (and not in a cyclotron). In particular Mr Wood informed the Legislative Assembly that the "most widely used radiopharmaceutical in Australia, Technetium 99, is used in over 80% of nuclear medicine procedures" and can only be produced in a reactor. Dr Cameron also explained in the letter that importing radiopharmaceuticals from overseas would involve an increased cost as well as being unreliable (quite apart from the fact that the issue of waste to some degree would simply be transferred to an overseas country).

The Full Council was concerned to take a course which protects the interests of traditional owners, as well as meeting the national interest that an appropriate site be identified as a repository for low and intermediate level radioactive waste generated from medical and industrial uses.

On 20 October 2005 the Full Council unanimously passed a resolution designed to achieve this outcome. In particular the Full Council's resolution ensures that any decision regarding a radioactive waste facility in the Northern Territory can, and must, be made by traditional owners.

This position is the same as that which has always been taken by the Northern Land Council, and other Land Councils, regarding any development - namely that it can only occur if the traditional owners agree (and if environmental and heritage concerns are resolved).

The resolution calls for an amendment to the Bill to enable a Land Council, if traditional owners agree and provided sacred site and environmental issues are resolved (and native title is not extinguished), to nominate a site in the Northern Territory for a radioactive waste facility.

"The Northern Land Council supports an amendment to the *Commonwealth Radioactive Waste Management Bill 2005* to enable a Land Council to nominate a site in the Northern Territory as a radioactive waste facility, provided that:

- (i) the traditional owners of the site agree;
- (ii) sacred sites and heritage are protected (including under current Commonwealth and NT legislation);

- (iii) environment protection requirements are met (including under current Commonwealth and NT legislation);
- (iv) Aboriginal land is not acquired or native title extinguished (unless with the traditional owners' consent)."

The resolution is consistent with the position expressed by the NLC's Chairman, John Daly, on 21 October 2005 that the storage of radioactive waste from medical treatment is a matter of national importance, and that a waste facility may be safely built in some parts of the Northern Territory (see attached NLC media release).

On 21 October 2005 the Minister, Brendan Nelson, publicly expressed support for the NLC's proposal.

Accordingly the NLC anticipates that Land Councils will be requested to conduct consultations with traditional owners who may be interested in considering a radioactive waste facility proposal later in 2005 and in early 2006.

Like all members of the public, traditional owners will be vitally interested in the issue of safety. As stated above, the opinions expressed in the general community by political leaders and institutions are influential and may directly affect the conduct and outcome of consultations.

At this stage the Chief Minister, Clare Martin, has declined to expressed any opinion as to whether a radioactive waste facility may be safely built in some parts of the Northern Territory. Instead the Chief Minister has portrayed the issue as only concerning Statehood and Territorians' rights.

The NLC considers that it is incumbent upon the Chief Minister to express an opinion regarding this issue.

Accordingly the NLC calls on the Chief Minister to publicly state whether she agrees with the NLC Chairman that a radioactive waste facility may be safely built in some parts of the Northern Territory.

## **6. Social impact assessment**

The social impact of uranium mining and related developments regarding Aboriginal communities is of fundamental importance to decisions by traditional owners regarding approval of those developments.

The decision to allow uranium mining has had a profound affect on the lives of Aboriginal people in the Alligator Rivers region of the Territory.

Following the decision to permit the development of the Ranger mine, institutions were established to provide advice to the Commonwealth Government (the Uranium Advisory Council), to respond to environmental issues (the Office of the Supervising Scientist) and to oversee the marketing of uranium (Uranium Export Authority). However, the Government made no specific provision for the ongoing monitoring of the social impact of uranium mines in the NT on the traditional owners and Aboriginal communities.

The 1976 Fox Inquiry identified various potential adverse social impacts from uranium mining in the Alligator Rivers Region, particularly ill health deriving from social disruption and alcohol usage. In 2005 it is clear that such negative impacts have occurred.

The absence of an increase in Aboriginal employment and training is disappointing. At the time, the Fraser Government regarded the creation of additional employment opportunities in the Alligator Rivers Region as a major benefit which Aboriginal people could derive from uranium mining. In particular, it perceived that employment could compensate Aboriginal people for the social and cultural losses that would occur as a result of mining.

The Ranger mine did not quickly establish an Aboriginal employment policy. It declined to support the establishment of a local training facility for potential Aboriginal mine workers in the Alligator Rivers Region. Between 1982 and 1985 a total of 29 Aboriginal people worked directly for the Ranger mine, only 10 of whom were local Aboriginal people. By mid 1988 the mine employed only 15 Aboriginal people, two of whom were local. By 1990 employment had fallen to 13 and by 1992 to 10. In 2005 the Ranger mine has a total workforce of over 300 staff of whom 33 are Aboriginal. However, few are local. In general, the very small number of local Aboriginal people that have secured employment at the mine have worked as labourers or held short-term Government subsidised traineeships or on CDEP programs.

This outcome cannot be accepted, particularly given experience elsewhere in Australia and overseas.

For example, Queensland Mines employed over 200 local Aboriginal people (out of a population of around 800) at Nabarlek between 1980 and 1987 (although not in mining and milling).

The Saskatchewan uranium industry is one of the largest employers of Aboriginal people in Canada. By 1997, over 40% of the employees at the Cluff Lake mine were Aboriginal and all contracts for the construction of the mine and mill were either Aboriginal owned or joint-ventures.

Employment statistics for Cameco Corporation (1997) are as follows:

Operation	Total Workforce	Local Workforce		Aboriginal Workforce	
		Number	%	Number	%
Northern Affairs	4	4	100%	4	100%
Rabbit Lake	276	132	47.8%	113	40.9%
Key Lake	397	194	48.9%	167	42.1%
Contact Lake	63	41	65.1%	22	34.9%
McArthur River	22	4	18.2%	3	13.6%
TOTAL	762	375	49.2%	309	40.5%

While drawing comparisons is not straightforward, it is evident that quantifiable and enforceable employment and training targets are part of the explanation. Queensland Mines developed an early and effective Aboriginal employment policy and implemented a flexible and appropriate work environment. Over time, the proportion of local Aboriginal people undertaking full-time work began to significantly increase.



The approach taken by Governments is also significant. In the province, the Saskatchewan Government negotiates human development agreements with mining companies to promote employment of Aboriginal people in accordance with the conditions of the mining lease. Each such agreement consists of a list of designated impact communities, an employment classification summary of all employment classifications at the time and a list of those classifications for which Aboriginal people will be afforded priority in recruitment, training and promotion. Aboriginal businesses are exempt from taxes in order to provide them with a competitive advantage.

Governments have an important role to play in securing equitable benefits for Aboriginal people. The Commonwealth and Northern Territory Governments should take a leading role in ensuring better outcomes for traditional owners and local Aboriginal communities. It is open to these Governments to follow the Canadian example and issue mining leases with specific employment and training clauses that require preferential treatment of traditional owners and local Aboriginal people. Employment targets assist to ensure that the benefits of mining are not felt by distant shareholders, but are shared by the local community.

The Canadian Government model of tax exemptions for Aboriginal businesses is also worth considering. Tax benefits can provide Aboriginal businesses with a much needed competitive advantage in securing an equitable proportion of the economic development opportunities that are generated by major projects, such as uranium mines. Tax free status also provides incentives for other companies to enter into mutually beneficial joint ventures with local Aboriginal people.

The Commonwealth and NT Governments also have an important role to play regarding Aboriginal education, housing and health. Low education standards among Aboriginal people in the Alligator Rivers Region have represented a crucial constraint on their capacity to take advantage of the employment opportunities created by uranium mining. For both technical and safety reasons, employment requires at least a minimum level of literacy and numeracy. For many years, the NT Government has been unwilling to invest the necessary time and resources to make education work for Aboriginal people, or even to implement basic and simple measures to adjust the school term to meet the needs of remote Aboriginal communities.

More broadly, it was a condition of self government that the NT fund former mission schools (eg Wadeye) at the same level as government schools. However a 2005 report for the Council of Australian Governments by the ANU Centre for Aboriginal Economic Policy Research concluded that for every education dollar spent on an average NT child, only 29 cents is spent on an Aboriginal child in Wadeye.

Currently in Wadeye (Port Keats) and other major communities there is an occupancy rate of about 17 persons per house, nearly 5 persons per bedroom. The Australian Institute of Health and Welfare estimates that Aboriginal/Islander life expectancy is 19 years lower than for other Australians, with the infant mortality rate in the NT, WA and SA being 2.5 times greater. Despite a much poorer health status, on average 3 times worse than for other Australians, total expenditures per Aboriginal/Islander person are not much higher (a ratio of 1.22:1).

**7. Submission that statutory responsibility for monitoring environmental effects be transferred from the NLC to the Gundjeihmi Aboriginal Corporation**

The NLC notes the submission made to the Committee by the Gundjeihmi Aboriginal Corporation that statutory responsibility regarding environmental effects should be transferred from the NLC to the Corporation.

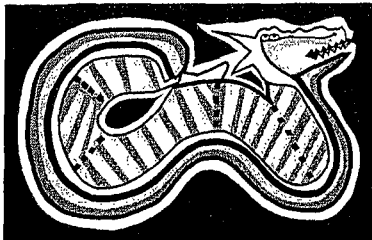
The NLC considers that it would be inappropriate for important statutory functions of this nature to be transferred from a statutory entity to a generally incorporated body.

The NLC enjoys a close working relationship with Corporation regarding environmental issues, and ensures that it and the traditional owners are fully informed and involved in the process.

## **8. Attachments**

The following documents are attached to this submission,

- (i) NLC media release dated 5 August 2005.
- (ii) NLC media release dated 20 October 2005.
- (iii) NLC media release dated 24 October 2005.



# Northern Land Council

## MEDIA RELEASE

### Traditional owner support required

5 August 2005

Northern Land Council Chief Executive, Norman Fry, today welcomed federal Resources Minister Ian Macfarlane's reported statement that Commonwealth approval for new uranium mines would depend on the support of traditional owners and need to satisfy environmental standards.

Mr Fry's comments come as the federal government announced yesterday that it would take control of the administration and regulation of the Northern Territory's uranium deposits.

"Under the *Land Rights Act* mining can only occur on Aboriginal land with the consent of the traditional owners," Mr Fry said.

"The NLC is committed to ensuring that traditional owners are fully informed regarding uranium mining, and to representing their views."

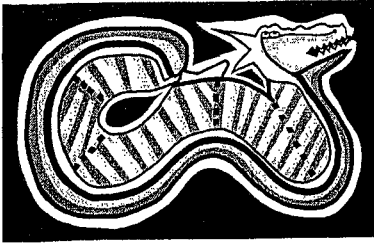
Mr Fry also called for a full and transparent debate concerning the proposal to store low and intermediate level radioactive waste in the Northern Territory.

"The storage of radioactive waste from medical treatment is clearly a matter of national importance," Mr Fry said.

"All Territorians, indeed all Australians, greatly benefit from medical treatment based on radiological material - much of which derives from the Lucas Heights research reactor."

"It is obviously unsatisfactory over the long term for medical and industrial radioactive waste to be stored in the basement of Darwin hospital, other hospitals, or in shipping containers in suburbs or rural areas."

"The NLC is committed to ensuring that traditional owners are fully informed regarding this issue, and to representing their views."



# Northern Land Council

## MEDIA RELEASE

### Statehood set back over radioactive waste facility

21 October 2005

The Full Council of the Northern Land Council has called for an amendment to the *Commonwealth Radioactive Waste Management Bill 2005* so that a Land Council can nominate an alternative site in the Northern Territory for a waste facility - provided that the traditional owners agree and sacred site and environmental issues continue to be protected under current legislation.

“The Full Council has rejected the Chief Minister's position that this is a Statehood issue,” NLC Chairman, John Daly said.

“The storage of radioactive waste from medical treatment is clearly a matter of national importance.

“The Chief Minister knows full well that a waste facility may be safely built in some parts of the Northern Territory - but carefully says nothing about this issue,” Mr Daly said.

“Low and intermediate radioactive waste facilities already exist in many locations throughout the world - including Western Australia.

“The Chief Minister also knows full well that 400,000 Australians receive radioactive medical treatment every year, and the small amount of waste generated should be stored safely in a secure national repository - not in hospital basements or shipping containers in over 100 different locations in Australia,” Mr Daly said.

“The Chief Minister's position is irresponsible, irrelevant, and an abject failure of leadership.

“This dismal performance can only damage the position of traditional owners in remote locations who may welcome development and seek outcomes which benefit all Australians”, Mr Daly said.

“Improving the lot of remote communities and advancing the Territory requires long term vision, not scaremongering and short term political games,” Mr Daly said.

NLC Chief Executive, Norman Fry, said; “The Chief Minister has set back Statehood for decades by playing short term politics with the national interest.”

“The truth is Statehood has to be earned by long term responsible government.

“Under Clare Martin the NT Government has already given up power regarding uranium mining, and now is irrelevant regarding the waste facility,” Mr Fry said.

“The Chief Minister has led her party, and the Parliament, into irrelevancy.

“Territorians can kiss Statehood goodbye while Clare Martin is Chief Minister,” Mr Fry said.

The full text of the NLC Full Council's resolution is as follows:

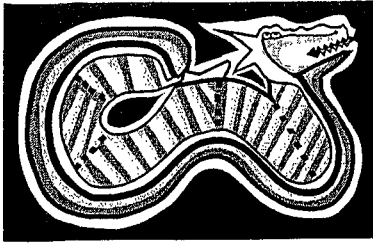
“The Northern Land Council supports an amendment to the *Commonwealth Radioactive Waste Management Bill 2005* to enable a Land Council to nominate a site in the Northern Territory as a radioactive waste facility, provided that:

- (i) the traditional owners of the site agree;
- (ii) sacred sites and heritage are protected (including under current Commonwealth and NT legislation);
- (iii) environment protection requirements are met (including under current Commonwealth and NT legislation);
- (iv) Aboriginal land is not acquired or native title extinguished (unless with the traditional owners' consent).”

The Full Council's resolution was made on 20 October 2005 at its meeting conducted at Crab Claw Island at Bynoe Harbour to the west of Darwin.

**For more information: Barry Clarke (08) 8920 5114 or 0438 854049**

**Todd Condie (08) 8920 5103 or 0417 803425**



# Northern Land Council

## MEDIA RELEASE

### **NLC calls for a full and transparent debate over uranium**

**24 October 2005**

The Northern Land Council (NLC) today welcomed the opportunity to provide a submission to the House of Representatives Standing Committee on Industry and Resources Inquiry into Developing Australia's Non-Fossil Fuel Industry regarding uranium issues.

“The NLC calls for a full and transparent debate regarding uranium related issues, so as to ensure that traditional owners and the general community are fully informed from a contemporary perspective - particularly in relation to global warming”, NLC Chairman, John Daly said.

“The scientific community broadly accepts that the release of carbon dioxide and other greenhouse gases is contributing to global warming.”

“The only responsible course is that Australia carefully consider all options, including uranium mining for overseas nuclear power”, Mr Daly said.

“This will provide much needed certainty for all stakeholders.”

NLC Chief Executive, Norman Fry, called on the Chief Minister, Clare Martin, to publicly state whether she accepts that a radioactive waste facility may be safely built in some parts of the Northern Territory.

“At this stage the Chief Minister has said nothing about this issue - instead insisting that it is simply a matter of Statehood and Territorians' rights”, Mr Fry said.

“Territorians will be influenced by the Chief Minister's considered position regarding this important issue.”

“The Chief Minister must make her position clear so that traditional owners, indeed all Territorians, are informed as to whether she agrees with the NLC Chairman that a radioactive waste facility may be safely built”, Mr Fry said.

**For more information:** Barry Clarke (08) 8920 5114 or 0438 854049  
Todd Condie (08) 8920 5103 or 0417 803425