



NORTHERN TERRITORY GOVERNMENT SUBMISSION TO

**SENATE STANDING COMMITTEE ON ENVIRONMENT,
COMMUNICATIONS AND THE ARTS**

**INQUIRY INTO THE COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT
(REPEAL AND CONSEQUENTIAL AMENDMENT) BILL 2008**

BACKGROUND

1. For over twenty years, Commonwealth, State and Territory Governments have been involved in discussions on how best to dispose of the nation's low level radioactive waste.
2. In 2000, the Commonwealth Government commenced an assessment process to determine the most appropriate site for a future radioactive waste management facility (RWMF).
3. The site selection process was based upon scientific and environmental criteria and identified eight broad regions within Australia that might be suitable for a RWMF. Of these regions two (both in South Australia) were found suitable for further investigation. Neither of the two suitable regions was located within the Northern Territory.
4. An attempt by the Commonwealth Government to compulsorily acquire land in the north of South Australia for a RWMF was successfully challenged by the South Australian Government in the Federal Court (refer *State of South Australia v Slipper MP [2003] FCA 1414*).
5. In 2004, shortly after the Federal Court's decision, the Prime Minister announced that the Commonwealth Government would establish a facility for managing its own low level radioactive waste and indicated that all States and Territories would need to establish facilities for their own radioactive waste.
6. On 15 July 2005 the Commonwealth Government announced that it would proceed with its radioactive waste management policy. Three sites in the Northern Territory all located on Department of Defence Land were identified as possible sites for a RWMF:
 - Fishers Ridge in the Katherine region, some 40km east of RAAF Base Tindal;
 - Hart's Range, some 200km north-east of Alice Springs;
 - Mt Everard, some 42km north-west of Alice Springs.
7. On 13 October 2005, the Commonwealth Radioactive Waste Management Bill was introduced into the Federal Parliament. The purpose of the Bill, as set out in the parliamentary outline, is to put beyond doubt the Commonwealth Government's power to do all things necessary for the selection of a site and the establishment and operation of a RWMF. The Bill was passed despite strong opposition from Northern Territorians and the Northern Territory Government.
8. Subsequent to this, the *Commonwealth Radioactive Waste Management Legislation Amendment Act 2006* was passed. The Act provides that a Land Council can nominate a site for a RWMF without regard to traditional owner consent under the *Aboriginal Land Rights (Northern Territory) Act*, but more importantly, allows a Land Council to nominate; and then the relevant Commonwealth Minister to declare; a site without having to inform or consult with traditional owners.
9. Following this amendment, Muckaty Station (120 km north of Tennant Creek) was declared the fourth potential site for a RWMF on 24 September 2007.

OVERVIEW OF THE NORTHERN TERRITORY GOVERNMENT POSITION:

10. The Northern Territory Government contends that the provisions in the *Commonwealth Radioactive Waste Management Act 2005* (the CRWM Act) that override existing laws made by the democratically elected Legislative Assembly of the Northern Territory prohibiting the transport and storage of radioactive waste (refer *Nuclear Waste Transport, Storage and Disposal (Prohibition) Act 2004*):
 - are a serious erosion of the democratic rights of Territorians, and are contrary to the concept of self government;
 - create legal uncertainty in regard to the application of Northern Territory laws; and
 - are contrary to the principles of good governance.
11. The unfettered capacity of the CRWM Act to override any law of the Northern Territory that would operate to regulate or impose conditions on the selection of a site, or the construction of a RWMF in the Northern Territory create uncertainty in the application and the extent of the application, of a number of existing Northern Territory laws and the application of future laws. It is highly undesirable that there should be uncertainty in the application of the laws of a jurisdiction. These are points of fundamental constitutional significance with potential ramifications well beyond the Northern Territory.
12. Further, the CRWM Act eliminates procedural fairness to Territorians as it allows the selection of a site for a RWMF to be made without any consultation or right of review or the informed consent of traditional owners of land upon which it may be located
13. Serious consideration should also be given to possible security implications of placing a RWMF in a remote location given the security/terror environment both nationally and internationally. In particular, the need to maintain sufficiently high levels of security for the storage and transport of radioactive waste to a remote location.
14. In summary, the Northern Territory Government maintains its strong objection to:
 - the CRWM Act's capacity to override Northern Territory laws and impose a RWMF on Territorians;
 - the abandonment of a process of site selection on the basis of the best available scientific advice and rigorous comparison with other more suitable sites;
 - the removal of the usual consultative processes, transparent review and scrutiny;
 - the ability to declare a site for a RWMF without having to consult with traditional owners; and
 - the imposition of waste from the rest of Australia on Territorians, not because of arguments of national good and potential consequences, but because it is politically expedient to do so.

SUMMARY

15. The Northern Territory Government maintains that the location of a RWMF should be based upon independent and objective scientific advice on the most appropriate site or sites, wherever that site might be in Australia and not because of political expediency.

16. In addition, there should be consideration for issues such as Indigenous rights, environmental and local concerns and transport and security implications before any decision is made.

Signed for and on behalf of the
Northern Territory Government
By the Minister for Natural Resources, Environment and Heritage



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Ms Alison Anderson MLA
Parliament House
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31 October 2008