

Submission to Senate Employment, Workplace Relations and Education Committee Inquiry
Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006

Senate Employment, Workplace Relations and Education Committee Department of the Senate
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Juliet Suich

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To the Senate Employment, Workplace Relations and Education Committee:

I am writing to express strong opposition to the Amendments proposed to the Commonwealth Radioactive Waste Management Legislation by the Minister for Science, Education and Training on November 2, 2006.

In December 2005, despite opposition from the Northern Territory Government, Territory residents and traditional owners, the Commonwealth Radioactive Waste Management Act (CRWMA) was passed, overriding NT legislation and effectively forcing a Commonwealth radioactive waste facility on the Territory. Three Commonwealth Department of Defense sites were then earmarked for assessment for suitability to host the facility.

An amendment to the CRWMA was also passed at this time, allowing for land to be nominated for assessment by the Chief Minister or a Land Council. This amendment included provisions that the process of nomination by a Land Council demonstrated evidence of:

- consultation with traditional owners
- that the traditional owners understand the nomination
- that they have consented as a group
- that any community or group that may be affected has been consulted and had adequate opportunity to express its view

Land Nomination

Less than one year after the CRWMA was passed, the Government is attempting to further weaken community input into radioactive waste management, with proposed amendments clearly stating that if the above conditions are not met this does not affect the validity of a nomination. This allows Land Councils to nominate land for a Commonwealth dump irrespective of traditional owners¹ views and/or opposition, contrary to their otherwise statutory obligations under the Land Rights Act.

I strongly object to this amendment which removes the right for traditional owners to decide what activities occur on their homelands and this back door change to the Land Rights Act.

Procedural fairness

Under section 3D of the CRWMA, no person is entitled to procedural fairness in relation to the Minister¹'s approval of nomination. I strongly object to the proposed amendment because it extends this provision to include the nomination process for waste dump sites, thus preventing any legal claims and challenges from traditional owners or other interested parties. The Amendments also apply to the Administrative Decisions (Judicial Review) Act 1977, for the Minister¹'s stated purpose of ³preventing politically motivated challenges to a land council nomination². Placing this process outside of the ambit of judicial review is a disgusting use of the Government¹'s powers to inhibit and pervert the people of Australia's democratic right to participate in the decision making process, to which I am strongly opposed.

Return of nominated land

The stated purpose of the bill is to allow for the eventual return of nominated land if the Commonwealth radioactive waste facility was built there as a result of a nomination. As the dump will be used for storage of long lived isotopes, it will certain the site will never be completely decontaminated and therefore land would never be able to be returned. I strongly object to the fact that this amendment does not include any provisions for remediation or decontamination of land, if in fact this would be possible.

I strongly object to the fact that this amendment, if passed, would allow for land to be nominated for use as Commonwealth radioactive waste facility without consent of traditional owners, and that it does not include any provisions for remediation or decontamination of land. The Minister acknowledges that ³Aboriginal people in the Northern Territory fought hard for the right to own their land². Why then, is the Minister proposing legislation that will allow for these rights to again be overridden?

Recommendation:

These amendments should be strongly opposed by the Committee on the following grounds: 1. The existing Commonwealth Radioactive Waste Management Act 2005 (CRWMA) undermines environmental, public safety and Aboriginal heritage protection.

1. The proposed amendments to the Act would further disadvantage Indigenous people by removing the need for community consultation, informed traditional owner consent, procedural fairness and administrative review from any potential dump site that might be nominated by a Land Council.

1. Such an approach is inconsistent with the international trend of acknowledging the importance of community consultation and consent in successful decision making regarding radioactive waste management.

1. These amendments are not based on a measured or responsible approach to the long term management of Australia's radioactive waste and do not enjoy scientific, procedural or community credibility or license.

1. While the provision to return land to traditional owners is to be encouraged, the fact that this process is not guaranteed and subject to conditions, including potentially forced acquisition of land, these amendments set a dangerous precursor for further undermining of indigenous rights and self determination and should be strongly opposed by the Committee.

Sincerely

Juliet Suich