

Not Relevant

3 **Bills for Introduction**

Not Relevant

302 MEC0012/02CS

**Radioactive Waste: Amendments to the Nuclear Waste  
Storage Facility (Prohibition) Act 2002  
APPROVED AS AMENDED (NEW  
RECOMMENDATIONS)**

*All Ministers*

Not Relevant

302

**REVISED**

MG  
29/4

**CABINET COVER SHEET**

- 1. TITLE:** Radioactive Waste: Amendments to the *Nuclear Waste Storage Facility (Prohibition) Act 2000*
- 2. MINISTER:** Hon John Hill MP  
Minister for Environment and Conservation
- 3. PURPOSE:** To approve the introduction of a Bill into Parliament to amend the *Nuclear Waste Storage Facility (Prohibition) Act 2000*, to fulfill the Government's commitment to prevent South Australia being used as the location for a low-level radioactive waste repository, and to enable the Government to hold a referendum should the Commonwealth government indicate that it proposes to locate a store for long-lived intermediate to high-level radioactive waste in South Australia.
- 4. RESOURCES REQUIRED FOR IMPLEMENTATION:** No additional resources required.
- 5. RELATIONSHIP TO GOVERNMENT POLICY:** In accordance with the Government's election and environment commitments.
- 6. CONSULTATION:** Consultation has been undertaken with Parliamentary Counsel in drafting the Bill, and with the Department of the Premier and Cabinet, the Department of Human Services, the Environment Protection Agency and Planning SA.
- 7. FAMILY IMPACT STATEMENT:** Not applicable.
- 8. URGENCY:** High. Government election commitment to introduce the Bill into Parliament on its first sitting day.

**9. RECOMMENDATIONS:**

It is recommended that Cabinet:

- 4.1 Note that I have requested Parliamentary Counsel to draft a Bill to amend the *Nuclear Waste Storage Facility (Prohibition) Act 2000* to facilitate the Government's election commitment to introduce such a Bill on the first sitting day of Parliament.
- 4.2 Approve the drafting of the Bill to ban a national low-level and short-lived intermediate radioactive waste repository in South Australia, and to enable the Government to hold a referendum should any Commonwealth government indicate that it proposes to establish or operate a long-lived intermediate or high-level radioactive waste store in South Australia.
- 4.3 Approve the draft *Nuclear Waste Storage Facility (Prohibition) (Referendum) Amendment Bill 2002, explanation of clauses and Second Reading Speech (Attachment 1)*, to amend the *Nuclear Waste Storage Facility (Prohibition) Act 2000*.
- 4.4 Approve the introduction of the Bill into Parliament on the first sitting day of the Autumn session 2002.

**SIGNATURE OF MINISTER:**

**PORTFOLIO:**

**DATE:** 19. 4. 02



**JOHN HILL**

**ENVIRONMENT AND CONSERVATION**

**AGENCY CONSULTATION****Undertaken by the Environment Policy Office****RADIATION SECTION OF THE  
DEPARTMENT OF HUMAN  
SERVICES****Jill Fitch  
Graeme Palmer****PLANNING SA****Marcus Richardson****EPA, DEPARTMENT FOR  
ENVIRONMENT AND HERITAGE****Peter Dolan****DEPARTMENT OF THE PREMIER  
AND CABINET****Michael Guarna  
Liz Wilson****PARLIAMENTARY COUNSEL****Richard Ewart**

**TO: THE PREMIER FOR CABINET**

**RE: RADIOACTIVE WASTE: AMENDMENTS TO THE NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) ACT 2000**

## **1. PROPOSAL**

### **1.1. That Cabinet:**

- 1.1.1 Note that I have requested Parliamentary Counsel to draft a Bill to amend the *Nuclear Waste Storage Facility (Prohibition) Act 2000* to facilitate the Government's election commitment to introduce such a Bill on the first sitting of Parliament.
- 1.1.2 Approve the drafting of the Bill to ban a national low-level and short-lived intermediate radioactive waste repository in South Australia, and to enable the Government to hold a referendum should any Commonwealth government indicate that it proposes to establish or operate a long-lived intermediate or high-level radioactive waste store in South Australia.
- 1.1.3 Approve the draft *Nuclear Waste Storage Facility (Prohibition) (Referendum) Amendment Bill 2002, explanation of clauses and Second Reading Speech (Attachment 1)* to amend the *Nuclear Waste Storage Facility (Prohibition) Act 2000*.
- 1.1.4 Approve the introduction of the Bill into Parliament on the first sitting day of the Autumn session 2002.

## **2. BACKGROUND**

- 2.1 In April 2000, as Shadow Minister, I introduced a Bill into Parliament to prohibit the disposal, in this State, of radioactive waste generated outside of South Australia. Rather than debating my Bill, the Government of the day introduced its own Bill that, in the main, mirrored the Bill introduced by me but which did not seek to prohibit the disposal of low-level to short-lived intermediate radioactive waste.
- 2.2 While after the debate, the Government (in Opposition) supported the Liberal Government's Bill prohibiting long-lived intermediate to high level radioactive waste in Parliament, it was stated in the House that the Labor Party did not necessarily agree on allowing low-level to short-lived intermediate radioactive waste to be disposed of in South Australia.
- 2.3 Further in Committee, the Government (in Opposition) sought to introduce a major amendment to the Bill to require holding of a referendum should the Commonwealth government attempt to establish a store for long-lived

intermediate to high level radioactive waste in South Australia. The proposed amendment was rejected.

- 2.4 In summary, the *Nuclear Waste Storage Facility (Prohibition) Act 2000* (the Act, Attachment 2) passed by the Parliament prohibits the transport into, and the storage of, long-lived intermediate (Category S waste) and high level radioactive waste in South Australia. Low-level to short-lived intermediate radioactive wastes generated outside of South Australia can be transported into the State for disposal in a suitable repository.
- 2.5 The Government's election platform stated that it would legislate to ban a national low-level and short-lived intermediate radioactive waste repository in South Australia by amending the Act. This would include a prohibition on the transportation of nuclear waste into the State for delivery to a nuclear waste storage facility.
- 2.6 In addition, the election platform statement committed to amend the Act to introduce a provision that will enable the State Government to hold a referendum should the Commonwealth indicate its intention to locate a long-lived intermediate to high-level radioactive waste store in South Australia.
- 2.7 The proposed amendment would result in the low-level and short-lived intermediate radioactive waste repository currently undergoing an environmental impact statement (EIS) evaluation under Commonwealth legislation being in contravention of the Act where material was brought to South Australia from some other jurisdiction.
- 2.8 To facilitate the introduction of this Bill on the first Parliamentary sitting day, I requested Parliamentary Counsel prepare a draft Bill for Cabinet's consideration.

### 3. DISCUSSION

#### National Radioactive Waste Repository

3.1 Section 4 of the Act, *Interpretation*, defines the term nuclear waste as:-

"nuclear waste" means any waste material-

- (a) that contains a radioactive substance; and
- (b) that is derived from-
  - (i) the operations or decommissioning of-
    - (A) a nuclear reactor; or
    - (B) a nuclear weapons facility; or
    - (C) a radioisotope production facility; or
    - (D) an uranium enrichment plant; or
  - (ii) the testing, use or decommissioning of nuclear weapons; or
  - (iii) the conditioning or reprocessing of spent nuclear fuel,

but does not include Category A, Category B or Category C radioactive waste as defined in the *Code of Practice for the Near-Surface Disposal of Radioactive Waste in Australia (1992)* approved by the National Health and Medical Research Council and published by the Australian Government Publishing Service as Radiation Health Series No. 35 (ISBN 0 644 28673 3).

- 3.2 The proposed amendment would expand the definition of nuclear waste to include all Category A, B and C radioactive wastes, thereby prohibiting a national low-level and short-lived intermediate radioactive waste repository. Attachment 3, obtained from the above Code, provides a list of materials in each of these Categories.
- 3.3 The proposed amendment would also result in the current prohibition on the transport of nuclear waste into South Australia from elsewhere (section 9 of the Act) applying to low-level and short-lived intermediate radioactive waste.
- 3.4 The proposed amendment would not restrict the ability of the State to establish its own repository or store. Section 6 of the Act states that the Act does not apply to nuclear waste stored in South Australia before the commencement of the Act or waste used or handled in accordance with the *Radiation Protection and Control Act 1982* (under a licence, permit or other authority) or where storage or disposal have been authorised by or under that Act.
- 3.5 The National Radioactive Waste Repository proposed by the Commonwealth would be used to dispose of low-level waste generated nationally from the medical, industrial and research use of radio-isotopes. This low-level and short-lived intermediate radioactive waste includes items such as contaminated laboratory equipment, glassware, paper, plastics and soil. The proposed repository will be a purpose built, near surface facility used to dispose of only lower level waste generated in Australia.
- 3.6 In 1994, the Commonwealth Government identified eight regions of Australia that could possibly contain a suitable site for the National Radioactive Waste Repository. In February 1998, the Commonwealth Government identified the central-north of South Australia as the preferred region for further investigation and selection of a site for the lower level National Radioactive Waste Repository.
- 3.7 Three potential sites within the central-north region of South Australia were investigated by the Commonwealth for their suitability as a low-level repository site – all sites are on pastoral land, with one site being within the Woomera Prohibited Area. The Commonwealth has also conducted Aboriginal Heritage assessments of the three potential sites for the low level repository in central-north South Australia.
- 3.8 On 24 January 2001, the Commonwealth announced site 52a at Evetts Field West in the Woomera Prohibited Area as the preferred site. The Commonwealth is conducting an environmental assessment of the three sites under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act).

- 3.9 The previous South Australian Government responded to the Commonwealth on the proposed level of environmental impact assessment to be undertaken under the Commonwealth EPBC Act, recommending an environment impact statement (EIS) level of assessment. Under Commonwealth legislation, while this is the second highest tier of assessment, the highest being an inquiry, an EIS provides a rigorous and more open level of assessment. The Commonwealth determined that the proposal would be subject to an EIS level of assessment, with the EIS to be prepared by consultants PPK in Adelaide. The Commonwealth has indicated that the EIS should be released for public consultation in mid June 2002.

#### **Radioactive Waste Store: referendum**

- 3.10 On 8 February 2001, the Commonwealth publicly stated that a long-lived intermediate to high-level waste store would not be co-located with the proposed low level repository. However, to the Commonwealth, co-location is taken to mean on the same site of the low-level and intermediate radioactive waste repository. A store could, therefore, still be established within close proximity to the repository.
- 3.11 The Commonwealth also stated that the store would be built on Commonwealth land and would, in the first instance, be used for the long term storage of Commonwealth radioactive wastes. Once established, individual States would need to enter into negotiations with the Commonwealth for access to the Commonwealth store or build their own. A national search for a suitable site for the store has commenced.
- 3.12 The draft Bill enables a referendum to be held should the Commonwealth indicate that it is likely to authorise the construction or operation of a storage facility in South Australia for Category S (long-lived intermediate) or high-level radioactive waste that is generated outside of South Australia. The Bill also proposes that the following question be submitted to the referendum:

*Do you approve of the establishment in South Australia of a facility for the storage or disposal of long-lived intermediate or high level nuclear waste generated outside of South Australia?*

#### **3.13 Other Implications and Impacts**

##### **3.13.1 Economic, Financial and Budget Implications**

The prohibition on the development of either a low level radioactive waste repository or an intermediate to high level radioactive waste store in South Australia would not impact on the State Government's budget. However, should the State Government decide at some time to establish its own repository or store, there will be costs involved in the site selection studies, the EIS process, and the construction and operation of the facility.

Alternatively, prohibiting the development of a nuclear waste repository or store could result in the loss of Commonwealth funded economic activity associated with the construction and operation of these facilities. The magnitude of these opportunity costs for South

Australia are not known. However, it is anticipated that the draft EIS when released will provide information regarding these matters.

### 3.13.2 State Development, Social Environmental and Other Impacts

The Commonwealth Department of Defence and various South Australian Government agencies including Planning SA and the Department of the Premier and Cabinet (DPC) have expressed concern about the potential adverse impacts of the development of these facilities, at site 52a at Evetts Field West, on the long term redevelopment of the Woomera facilities for space and weapons research and testing. Any adverse impacts on the longer term use of the space and weapons research and testing facilities would also have adverse economic consequences for South Australia.

The operation of a national nuclear waste repository and storage facility in South Australia also has the potential to adversely affect the State's development potential by undermining its 'clean green image'.

The introduction of this legislation will not have any adverse impacts on current competition as there is no competitive market for the provision of nuclear waste storage facilities. Furthermore, this legislation is intended to prevent the development of these facilities in South Australia only, rather than to prevent their development anywhere in Australia.

The proposed amendments in the draft Bill are in accordance with the Government's commitment to ensure South Australia does not become the end-site for national or internationally generated radioactive waste.

Cabinet should note that the proposed amendments may impact on South Australian producers of radioactive waste such as hospitals, universities and industry that currently have limited options for disposal. The State's long-term radioactive waste management options will need to be considered at some juncture, and an appropriate management strategy developed.

### 3.13.3 Staffing Implications

There are no immediate staffing implications arising directly from the proposed amendments. Should the State decide to construct and operate its own repository or store, there will be staffing implications that will need to be addressed.

### 3.14 Consultation

As the Government's commitments to introduce these amendments on the first sitting day of the new Parliament are clear, no external consultation has been undertaken.

Consultation has been undertaken with appropriate officers within Planning SA, DPC, the Radiation Section of the Department of Human Services and the Environment Protection Agency of DEH on the provisions of the draft Bill

and on the preparation of this Cabinet Submission. Relevant comments have been incorporated into the preparation of the Bill and into this submission.

The Prime Minister has been informed of the State's position on any proposal to locate nationally generated radioactive waste in South Australia.

3.15 Executive Council

The approval of Her Excellency the Governor in Executive Council is not required.

4. RECOMMENDATION

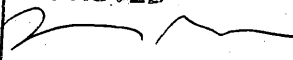
It is recommended that Cabinet:

- 4.1 Note that I have requested Parliamentary Counsel to draft a Bill to amend the *Nuclear Waste Storage Facility (Prohibition) Act 2000* to facilitate the Government's election commitment to introduce such a Bill on the first sitting day of Parliament.
- 4.2 Approve the drafting of the Bill to ban a national low-level and short-lived intermediate radioactive waste repository in South Australia, and to enable the Government to hold a referendum should any Commonwealth government indicate that it proposes to establish or operate a long-lived intermediate or high-level radioactive waste store in South Australia.
- 4.3 Approve the draft *Nuclear Waste Storage Facility (Prohibition) (Referendum) Amendment Bill 2002, explanation of clauses and Second Reading Speech (Attachment 1)* to amend the *Nuclear Waste Storage Facility (Prohibition) Act 2000*.
- 4.4 Approve the introduction of the Bill into Parliament on the first sitting <sup>week</sup> day of the Autumn session 2002, noting that the definition of 'nuclear waste' will be amended to clarify that it includes all low-level radioactive waste.

JOHN HILL  
MINISTER FOR ENVIRONMENT AND CONSERVATION

**In Cabinet**

Date: 29/4/02

APPROVED

PREMIER

**ATTACHMENT 1**

**DRAFT NUCLEAR WASTE STORAGE FACILITY (PROHIBITION)  
(REFERENDUM) AMENDMENT BILL 2002**

**Legislative Bill drafted by Parliamentary Counsel**

**7 pages removed**

**Exempt clause 10(1) – legal professional privilege**

**ATTACHMENT 2**

**NUCLEAR WASTE STORAGE FACILITY (PROHIBITION) ACT 2000**

**Legislative Bill drafted by Parliamentary Counsel**

**7 pages removed**

**Exempt clause 10(1) – legal professional privilege**

## ATTACHMENT 3

### **Waste classification**

This code provides for four categories of waste in which the activity concentrations of radionuclides exceed the limits permitted under the 1985 NHMRC *Code of practice for disposal of radioactive waste by the user*.

Radioactive waste, suitable for near-surface land disposal, shall be separated into three categories:

Category A, Category B and Category C. The general characteristics of these categories are given below.

**Category A** covers solid waste with radioactive constituents, mainly beta or gamma emitting radionuclides, whose half-lives are considerably shorter than the institutional control period. The radioactivity will decay substantially during this period. Long-lived alpha-emitting radionuclides should only be present at very low concentrations. This category of waste will comprise, predominantly, lightly contaminated or activated items such as paper, cardboard, plastics, rags, protective clothing, glassware, laboratory trash or equipment, certain consumer products and industrial tools or equipment. It may also comprise lightly contaminated bulk waste from mineral processing or lightly contaminated soils.

**Category B** covers solid waste and shielded sources with considerably higher activities of beta- or gamma-emitting radionuclides than Category A waste. Long-lived alpha-emitting radionuclides should be at relatively low levels. This category of waste will comprise, typically, gauges and sealed sources used in industry, medical diagnostic and therapeutic sources or devices, and small items of contaminated equipment.

**Category C** covers solid waste containing alpha-, beta- or gamma-emitting radionuclides with activity concentrations similar to those for Category B. However, this waste typically will comprise bulk materials, such as those arising from downstream processing of radioactive minerals, significantly contaminated soils, or large individual items of contaminated plant or equipment for which conditioning would prove to be impractical.

Radioactive waste which does not meet quantitative and qualitative criteria in this code shall not be approved by the appropriate authority as suitable for near-surface disposal. Therefore a fourth category, **Category S**, shall be designated as follows:

**Category S** covers waste that does not meet the specifications of Categories A, B or C. Typically this category will comprise sealed sources, gauges or bulk waste which contains radionuclides at higher concentrations than are allowable under Categories A, B or C.

Waste within Category S shall be unacceptable for near-surface disposal and shall be retained in storage until an alternative disposal method is available.

Quantitative criteria in terms of activity concentration limits for specific radionuclides shall be derived for each category of radioactive waste for each facility in accordance with the principles outlined in Section 2.6.3 of this code.

Exposure of individuals resulting from waste acceptance and disposal shall be subject to dose limits recommended by the NHMRC. If other potential sources of exposure exist, dose constraints shall be established to ensure that the dose to a member of the public from all sources, excluding natural background radiation and medical exposure, does not exceed the specified limit.