



**Friends of
the Earth
Adelaide**

Public comment on EPBC Act referral

Referral:

EPBC 2021/9128 - National Radioactive Waste Management Facility NRWMF, SA

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Introduction

In response to the question raised in the Minister for the Environment's invitation for comments, the proposed action is a controlled action. It is acknowledged as such by the proponent, the Australian Radioactive Waste Agency (ARWA).

Establishing that fact may be the formal aim of this particular part of the assessment process, but, before the proposal can proceed, it must be subjected to a full public Environmental Impact Assessment under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). It should not be approved based solely on documentation provided by ARWA, or anything less than an Environmental Impact Assessment, for reasons including the following:

- The wastes that will be stored and/or disposed of need to be isolated from the environment for thousands of years. The long timescale greatly increases the opportunity for foreseen and unforeseen environmental impacts.
- The transport of radioactive waste over thousands of kilometres represents a serious environmental hazard. Besides problems related to mishandling, there is the potential for various types of transport accidents. Radioactive waste shipments are also potential targets of theft, terrorism, or even, as we are currently seeing in Ukraine, acts of war.
- The fact that the Barngarla traditional owners are opposed to the plan makes it even more important that aboriginal heritage issues are thoroughly addressed.

Recommendations

1. The referral should be rejected because (a) it is clearly opposed by the Barngarla people, the Traditional Custodians, and (b) there are better alternatives that have not been presented for consideration.
2. If, despite the arguments in recommendation 1 for rejecting the referral outright, the Minister decides not to reject the referral, it should not be accepted in its current form, based on s74A of the EPBC Act, which allows the Minister to not accept a referral if it is a component of a larger action. This proposal is clearly a component of a larger action, as is acknowledged by the proponent ARWA.
3. If, despite the arguments in recommendations 1 and 2 above, the Minister decides to consider the referral in its current form, there should be a full public Environmental Impact Statement under the EPBC Act. It is a controlled action with significant potential environmental and cultural impacts.

Discussion

1. Reasons to reject the referral

(a) *Opposition from the Barngarla people*

According to Jason Bilney, chairman of the Barngarla Determination Aboriginal Corporation (BDAC), the land and waterways hold storylines with significant connections to Barngarla people.¹

Although a ballot of Kimba District residents suggested that a majority of residents favoured a waste dump, a separate ballot conducted by BDAC showed overwhelming opposition. ‘Of 209 eligible voters in the BDAC ballot, all Barngarla native title holders, 83 valid ‘no’ votes were counted, with zero yes votes returned.’²

The Barngarla people will no doubt make their own arguments about the specific impacts on the social, cultural and spiritual associations they have with the proposed site. However, we believe that the opposition that they have expressed so strongly, clearly and consistently should be enough to preclude the project from further consideration.

(b) *Alternatives not considered*

In its EPBC Act referral the ARWA responds “No” to the question, “Do you have any feasible alternatives to taking the proposed action?” Attachment 1 of the referral refers to a 2014 Commonwealth Government review of storage and disposal options for Australia’s radioactive waste. That review selected as the preferred option a ‘dedicated and purpose-built

¹ Gabriella Marchant, ‘Nuclear waste law could extinguish native title without owners’ consent, Senate committee says’, *ABC North and West SA*, 27 February 2020: <https://www.abc.net.au/news/2020-02-27/kimba-nuclear-facility-threat-to-native-title-committee-says/12007246>

² Rachel McDonald, ‘Barngarla ballot shows “no support” for facility’, *Port Lincoln Times and Eyre Peninsula Tribune*, 20 November 2019: <https://www.eyretribune.com.au/story/6503108/barngarla-ballot-shows-no-support-for-facility/?fbclid=IwAR1RVmemtqtKZXMRSYPUS85sTAmPayhMAFzTL4b-uCB2YLHVA5FZL80fW8E>

facility to consolidate, store and dispose of the Commonwealth of Australia's legacy and future radioactive wastes', but that assessment has been challenged.

In a submission last year to a public consultation about the National Radioactive Waste Management Facility (NRWMF), Friends of the Earth Australia stated:

'Moving LLILW [Long-Lived Intermediate-Level Waste] to an above-ground 'interim' store adjacent to a repository for lower-level wastes makes no sense given that much of the waste is currently located at ANSTO's Lucas Heights site, which is properly secured and home to much of Australia's nuclear expertise. ANSTO also enjoys considerably higher access to nuclear monitoring, security, waste management expertise and emergency response capacity than any other site in the nation.'

and again

*'Successive governments have assumed that a shallow, remote repository is the best solution for low-level radioactive waste (LLW). That assumption needs to be tested as no federal government has attempted to demonstrate the net benefit of a remote repository. Measured by radioactivity, a large majority of LLW is stored at ANSTO's Lucas Heights site; measured by volume, ANSTO manages about half the total volume. ANSTO expects to continue to operate at the Lucas Heights site for many decades into the future and it is by no means clear that a remote repository is preferable to ongoing storage at Lucas Heights, especially given the continuing uncertainty around the long-term future management options for LLILW.'*³

At least in the case of ANSTO's LLILW, storing the waste at the Australian Nuclear Science and Technology Organisation (ANSTO) until a permanent disposal site is ready is a preferable alternative. Before approving a facility that requires the shipping of radioactive waste thousands of kilometres around the country and all the environmental risks that that entails, the environmental impact assessment process should publicly assess the alternative of keeping it at ANSTO until a permanent disposal site is established.

When asked if ANSTO could continue to manage its own waste, Dr Ron Cameron (ANSTO) said, 'ANSTO is capable of handling and storing wastes for long periods of time. There is no difficulty with that. I think we've been doing it for many years. We have the capability and technology to do so.'⁴

More recently, CEO of Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), Dr Carl Magnus Larsson, confirmed that 'Waste can be safely stored at Lucas Heights for decades to come.'⁵

³ Friends of the Earth Australia, 'NRWMF public consultation: Published response: Submission re Proposed Nomination of Napandee (Kimba, SA) for a National Nuclear Waste Dump and Store', 22 October 2021:

<https://app.converlens.com/industry/nrwmf/survey/view/30>

⁴ ARPANSA forum, Adelaide, 26 February 2004:

<http://web.archive.org/web/20040610143043/http://www.arpansa.gov.au/reposit/nrwr.htm#forum>

⁵ Hansard, Parliament of Australia, Economics Legislation Committee, 30/06/2020:

https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=committees/commsen/3ae991cf-74a3-4f9e-9f5c-fbc6fccebfd2/&sid=0000

Civil society groups, including Friends of the Earth, have made the case for many years that a thorough public investigation should be conducted of all options for the future management of Australia's radioactive waste. ARWA's referral should not be considered until such an investigation is carried out.

2. Proposal is part of a larger action (s74A of the EPBC Act)

ARWA's referral states:

'Transport considerations for repatriated reprocessed ILW resulting from operations of the 10 megawatt (MW) High Flux Australian Reactor (HIFAR) will not be referred at this time. This action will be referred for a determination under the EPBC Act separately and independently once confirmation of the responsible entity that will manage, control, and direct the transportation of the reprocessed ILW is clear. The transportation of LLW and ILW to the facility will be considered in this referral as part of the facility's establishment.'

It is not clear from the referral documents precisely what aspects of the transportation of LLW and ILW will be considered at this stage, but evidently transport of repatriated reprocessed ILW will not be considered. It is unsatisfactory that transport is excluded from consideration of this referral. Construction is premised on disposal and storage of radioactive waste that has to be transported to the facility. Some of the greatest risks relate to transportation. All aspects of transportation should be included in the evaluation from the beginning.

ARWA acknowledges that the Department of Agriculture, Water and the Environment (DAWE) requested it to answer 'Yes' to the question 'Is this action part of a staged development (or a component of a larger project)?', but it tries to wriggle out of the implications of this by stating, 'It is understood that s74A cannot apply if a different 'person' is proposing to undertake the action.' This is specious reasoning. *Without transporting the waste, the facility will not function; transport is integral to the proposal. It must be included in the referral from the outset.* This includes road, rail and ship (and air if applicable) transport to the facility and to and from ports that the waste transits.

3. Need for a full public Environmental Impact Statement

As a 'nuclear action' the subject of this referral is a controlled action. It requires a full environmental impact statement for the reasons given in the introduction to this submission.

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