

# WEST MALLEE PROTECTION



## **Submission to: Nuclear Fuel Cycle Royal Commission South Australia**

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West Mallee Protection are a conservation group made up of Aboriginal and non-Aboriginal members based in Ceduna on the west coast of South Australia. Our On country work includes cultural maintenance of water rock holes and monitoring of biodiversity in the last stretch of intact stunted mallee country. WMP also works to ensure that this area is protected now and well into the future.

After some assessment of the topics and questions presented in the Royal Commission issues paper we will focus on those that deal with Issue Paper #1 Mining and Issue Paper # 4 Waste. Please note that this is not for lack of evidence that could be presented outlining how the risks associated with nuclear energy, enrichment etc far outweigh any perceived opportunities for South Australia if it was to expand its nuclear involvement into these areas. We restrict this submission not only because we have limited time amongst other volunteer, family and work commitments but also as a way of highlighting that the most plausible reason for the Royal Commission is that Australia has an unsolved nuclear waste dilemma and the current uranium mining industry has an unfortunate agenda of diminishing regulatory structures.

## **Issues Paper #1: Exploration, Extraction and Milling**

### **1.9 Are the existing arrangements for addressing the interaction between the interests of exploration and extraction activities and other groups with interests such as landowners and native title holders suitable to manage an expansion in exploration or extraction activities? Why? If they are not suitable, what needs to be done?**

No, it is the personal experience of members of WMP that existing arrangements are not adequate. Firstly the Royal Commission and the South Australian government in general need to recognize that many Aboriginal people are not represented by the Native Title structure. Members of WMP have been acknowledged for their deep connection to country, ongoing traditional land management knowledge and practice<sup>1</sup>. These same individuals do not participate in Native Title because, amongst other issues, there is no right of veto as present in the NT landrights act. As in other areas of Australia, Native Title itself has become a vexed and divisive issue within the far west coast of SA. Enter companies with extraction and exploration activities and the situation becomes further discordant. Successful agreements with Native Title claimants or holders are held up by companies and government proponents as broad consent for exploration/extractive projects. In most areas broader consultation has never occurred, native title representation is restricted to a small group and information exchange is stunted and influenced heavily by personalities and unequal power dynamics. Further allegations of more sinister underhanded deals and threats to personal safety of dissenting individuals are harder to prove and quantify but nonetheless bearing for those individuals who feel voiceless in a process impacting on their heritage and cultural obligations. All this occurs in the context that Aboriginal people are still one of the most disadvantaged groups in Australia with health, education and employment statistics equivalent to third world nations.

The uranium industry has historically sought to diminish the hard fought rights of Aboriginal people. The most pertinent example remains current. The 1982 South Australian Roxby Downs Indenture Act, sets the legal framework for the operation of Olympic Dam uranium mine, owned by BHP Billiton. Although amended in 2011 the Act retains exemptions from the SA Aboriginal Heritage Act. According to a SA government's spokesperson during an exchange with Hon M Parnell this is because BHP "insisted on the continuation of these arrangements" over adhering to contemporary consultation practices<sup>203</sup>. The Hon. M. PARNELL summarized that "*It seems that there is a lot less consultation involved [with*

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<sup>1</sup> <http://www.abc.net.au/news/2007-10-16/premiers-award-for-environmental-carer/699798>

exemptions]. ..when it comes to being obliged to consult with Aboriginal communities they [BHP Billiton]opt for the lowest standard that they can get<sup>2</sup>.

These low standards are not unique to South Australia with examples around Australia demonstrating a pattern of disregard for Aboriginal people.

The question posed by the Royal Commission of what can be done to improve the situation predisposes that an exploration or an expansion of uranium is desirable. It is WMP's position that South Australia's approach to exploration and mining needs to be thoroughly reviewed, especially in regards to cultural heritage and practice protection and a strengthening of no-go zones such as ecologically important parks and reserves or valuable agricultural land. A review of current legislative exemptions, such as the indenture act mentioned above and tax-payer funded subsidies and encouragement to the mining industry in general would also be incredibly valuable. However it is WMP's position that this review should not be geared towards appeasing an expansion of uranium. Uranium exports account for a very small percentage of Australian export revenue.<sup>3</sup> Assessments on the viability of expansions of Olympic Dam without uranium component have also been conducted and proved positive<sup>4</sup>. Uranium, because of its harmful radiation, its production of radioactive tailings and waste and links with nuclear disasters and weapons proliferation is different from other extractive resources and should be treated as such. Because of the nuclear industries poor record of interaction with relevant interest group, mainly Aboriginal people, WMP is doubtful that this could be improved. WMP also believe that a focus on attempts to do so are a distraction from the more pertinent issue that uranium exploration or extraction should definitely not be expanded in South Australia.

**1.10 Would a future expansion of exploration, extraction and milling activities create new environmental risks or increase existing risks? If so, are current strategies for managing those new risks sufficient? If not, in what specific respects? How would any current approach need to be changed or adapted?**

Quite obviously, yes any increase in exploration, extraction and milling activities will increase existing risks and may introduce new environmental risks. WMP argues that there is a high level of inherent risk associated with all aspects of the nuclear fuel cycle including

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<sup>2</sup> <http://markparnell.org.au/speech.php?speech=1102>

<sup>3</sup> ACF, 2013, 'Yellowcake Fever: exposing the uranium industry's economic myths', [www.acfonline.org.au/resources/yellowcake-fever-exposing-uranium-industrys-economic-myths](http://www.acfonline.org.au/resources/yellowcake-fever-exposing-uranium-industrys-economic-myths)

<sup>4</sup> Gavin M. Mudd, December 2010, 'The Olympic Dam Mega-Expansion Without Uranium Recovery', [www.foe.org.au/sites/default/files/Mudd-non-U-option-ODM.pdf](http://www.foe.org.au/sites/default/files/Mudd-non-U-option-ODM.pdf)

exploration, extraction and milling. This inescapable level of risk has also been exacerbated by inadequate regulation.

In 2003 a Senate References and Legislation Committee reported that the uranium mining industry had “a pattern of underperformance and non-compliance”<sup>5</sup>. It recommended that “in order to protect the environment and its inhabitants from serious or irreversible damages” changes were necessary. WMP has no cause to believe that the industry has addressed these grave issues and implore the Royal Commission to independently and thoroughly investigate the status quo in risk minimization and mitigation by the Uranium mining industry. This investigation also needs to include an assessment of feasibility of strategies to address tailings waste and mine rehabilitation in the long term.

#### **Issues Paper #4: Management, Storage and Disposal of Waste**

**4.1. Are the physical conditions in South Australia, including its geology, suitable for the establishment and operation of facilities to store or dispose of intermediate or high level waste either temporarily or permanently? What are the relevant conditions? What is the evidence that suggests those conditions are suitable or not? What requires further investigation now and in the future?**

WMP believe discussion on physical conditions, particularly the geology of South Australia reinforces the nuclear myth that an underground repository or disposal methods are preferable. WMP also contend this focus is unproductive and reduces recognition that social, economic and security conditions are of utmost importance. Australia’s nuclear waste problem is of national concern and as such needs to be addressed by an independent and comprehensive assessment involving all states and territories.

**4.7 What are the processes that would need to be undertaken to build confidence in the community generally, or specific communities, in the design, establishment and operation of such facilities?**

WMP finds this question superficial and offensive. It is a fact that many people have dedicated their time and energy to investigating and thinking about nuclear waste. It is a fact that even elderly women that made up the Kupa Piti Kungka Tjuta – a senior Aboriginal women’s council committed years of their lives to stand up to the proposal for a low-level facility at Woomera. They didn’t do this

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<sup>5</sup> Senate References and Legislation Committee, October 2003, 'Regulating the Ranger, Jabiluka, Beverley and Honeymoon uranium mines', [www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Environment\\_and\\_Communications/Completed%20inquiries/2002-04/uranium/index](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Completed%20inquiries/2002-04/uranium/index)

because of previously inadequate “processes” to “build confidence” as the question suggests but because:

- A) Individuals held a deep commitment to look after country and protect it from a substance known as ‘irati’ poison which stemmed from long held cultural knowledge
- B) Nuclear impacts were experienced and continued to be experienced first hand by members and their families predominately from nuclear testing at Emu Fields and Maralinga but also through exploration and mining at Olympic Dam
- C) They epitomized and lived by the worldview that sustaining life for future generations is of utmost importance and that this is at odds with the dangerous and long lasting dangers of all aspects of the nuclear industry.

The insinuation that the general population or target groups such Kupa Piti Kungka Tjuta or the communities in the Northern Territory that succeeded them and also fought of a nuclear dump for Muckaty were somehow deficient in their understanding of the implications and may have required “confidence building” is highly offensive.

In one of their many statements included below the Kupa Piti Kungka Tjuta in 2003 illustrates their level of concern, their important cultural knowledge of land and the direct personal experiences of nuclear testing which informed this concern.<sup>6</sup>

*We are the Antikirinya, Yankunynjatjara, Kokatha and Arabunna women here in Coober Pedy (Australia) and we’re struggling to stop the Government putting the poison (radioactive waste) on our land.*

*In this paper we will show you how in former times the British and Australian Governments treated us very badly.*

*We do not want this paper, which we are sending overseas to you, to be confidential. In fact, we want as many people as possible to know who we are. We’re worrying for the future generations - our grand children and our great grand children. They have to have their life.*

*We understand that you look at “gross violations of human rights and fundamental freedoms in all countries.” We hope you will look at such things that have happened to us in our own country.*

*We will give you proof that what happened affected ...“ a large number of people over a protracted period of time.” All of us were living when the Government used the country for the Bomb. Some of us were living at Twelve Mile, just out from Coober Pedy. The smoke was funny and everything looked hazy. Everybody got sick. Other people were living at Mabel Creek and many people got sick. Some of the Old People got real sick and died. Some people were living at*

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<sup>6</sup> Included in ‘Radioactive Racism’ in South Australia *Same Country. Same People. Same Poison. Enough is Enough.* Written by the Australian Peace Committee (South Australia) July, 2004

*Wallatinna. Other people got moved away...When we were young no women got breast cancer or any other kind of cancer. Cancer was unheard of with men either. And no asthma, we were people without sickness.*

*We believe the Government of our State (South Australia) will support us in this claim. Our Premier Mike Rann wrote to the Prime Minister in 2002 opposing the proposed dump and last year, 2003, the State Government made it illegal to build a national waste dump in our state. We have written a good letter to Mike Rann backing him up.*

*But, - the Prime Minister and his Federal Government in Canberra want to go ahead no matter what. Where are their ears? The Government thought they knew what they were doing with the Bomb. Now, again they are coming along and telling us poor blackfellas, 'Oh there's nothing that's going to happen, nothing is going to kill you.' And that will happen like that bomb. What about our young ones?*

*The desert lands are not as dry as they think. We've got water, a big underground river. We know that the poison from the radioactive dump will go under the ground and leak into the water. We drink from this water. The animals drink from this water - kangaroo, emu, perentie, goanna and others. We eat these animals - that's our meat. We're worried that any of these animals will become poisoned and we'll become poisoned in our turn.*

*We can't sleep because we are worried for our grandchildren every morning, every night - what are they going to do?*

*We know the Story for the land. White people have books. We have the book of the land, like a computer in our hearts. We've got the ceremony for the land. The Spirit is still crying. 1 Emu and Maralinga. 2. Radioactive dump.*

*We have scientific, pictorial and anecdotal (stories from people who have suffered from Emu /Maralinga bombs or who were told about it) proof of this suffering. AW "I lost everything. That was the finish of mother and father. They all passed through that (the Black Mist of the Emu bomb of 1953.) and I was the only one left...EKB That morning when we woke up was when we found out about K's father passed away. Day Two we lost K's sister then. So Day Three was K's mother...."*

*We've travelled everywhere talking about the poison - Melbourne, Adelaide, Sydney, Canberra. Never mind we're old. We've been talking to the DPEI - the Government Dept but they've taken no notice. And over and over to the Government in Canberra but they don't listen to us ladies. Kids have grown up and have had their own kids in all this time we've been talking to the Government.*

*We have gone to every level of Government - Local, State and Federal. We've talked to the papers, the radio, T.V. We've talked to people from overseas and one of our members even travelled overseas in 2003.*

*Many people have come to visit us in the bush - in Coober Pedy and last year in October 2003, we held a forum at our bush camp -Kulini Kulini. We invited people from all over Australia to come and listen to us. Kulini Kulini, means "Are you listening?" One group that came and listened found out we could complain to the United Nations. They are supporting us in this.*

*Our campaign Irati Wanti means keep the poison out. Much of our land is already poisoned. The Government of Australia want to put the radioactive waste dump on our land this year and they say they'll do it no matter what. We are hoping you will listen and act because the effects of the Black Mist with such sufferings and sicknesses and people passing away are still with us 50 years later. We're only the caretakers of this country - the beautiful desert country of Australia. If we look after it, it will look after us. Please help us.*

**4.10 What are the risks associated with transportation of nuclear or radioactive wastes for storage or disposal in South Australia? Could existing arrangements for the transportation of such wastes be applied for this purpose? What additional measures might be necessary?**

WMP refer the Royal Commission to the 2004 NSW Joint Select Committee into the Transportation and Storage of Nuclear Waste', much of which is still relevant today and applicable to the South Australian context. Please accept the following as our response to the question above.

The NSW Joint Select Committee concluded:

*There is no doubt that the transportation of radioactive waste increases the risk of accident or incident (including some form of terrorist intervention). By continuing the storage of waste at Lucas Heights on an interim basis, there is no need to transport most of the waste and any risks associated with that transport are avoided. ...*

*The Australian community benefits from the products produced by ANSTO's reactor. But it is hard to see how this justifies imposing the facilities on unwilling communities chosen virtually at random. Furthermore, it is arguable that alternative technologies and strategies can produce these radioisotopes.*

*Proponents of the proposals claimed that radioactive waste was not as dangerous as other hazards, such as petrol. The committee rejects these arguments. The community accepts these goods and associated risk because of a justifiable, demonstrable benefit. Generally this is not the case with radioactive waste.*

*Another consequence of a road accident was the implication for local economies such as the effects on tourism (the Blue Mountains is a World Heritage Area) and on "clean and green" agricultural products. Even if there was no spill or release in an accident, the concern the general public has regarding nuclear matters could have adverse economic impacts. No matter how low the risk, these transport proposals represent an unnecessary risk.*

Recommendations included:

**RECOMMENDATION 1:** *The current Federal Government proposals for the Repository and*

*the Store cannot be justified and should be abandoned. (p100)*

**RECOMMENDATION 2:** *The current transport proposals to the Repository (and the Store) should, therefore, also be abandoned. (p100)*

**RECOMMENDATION 3:** *In the interim, Lucas Heights should continue to act as a waste facility, subject to a public inquiry into the storage facilities on site to identify operating conditions which will ensure world's best practice. (p100)*

**RECOMMENDATION 4:** *Consequently, during the interim period of storage at Lucas Heights (p100-1): a. a new site selection process based on contemporary overseas models should be undertaken as a priority, incorporating community acceptance criteria. b. a public inquiry should be instigated by the Federal Government to consider the viability and practicality of alternative technologies and sources for radioisotope provision in Australia. Issues for consideration would include:*

*i. whether or not medical and industrial isotopes can be produced from alternative sources and whether this can be achieved before the current facility has expired;*

*ii. the economic and industry impact of importing medical isotopes; and*

*iii. whether or not it is necessary for research funding to be allocated to the development of alternative sources for radiopharmaceutical production. c. the operating licence for the*

*Replacement Research Reactor (RRR) should be deferred. An inquiry should be undertaken by the Federal Government into the need for and possible uses of the RRR. Issues for consideration would include:*

*i. a review of the licensing processes and conditions applied to the reactor;*

*ii. security issues relating to the reactor site;*

*iii. the impact on jobs and Australian nuclear research of not proceeding with the replacement reactor;*

*iv. whether an effective solution to the problem of the final management of nuclear waste has been identified;*

*v. emergency management and response implications of the new facility; and vi. whether there has been adequate consultation with the community, local government and the NSW Government.*

**RECOMMENDATION 5:** *The Federal Government should accept liability for radioactive waste and indemnify state and local government, and the public against the impacts of any radioactive waste incidents. (p141)*

**RECOMMENDATION 6:** *The NSW Department of Environment and Conservation should complete the inventory of non-ANSTO storage sites as a matter of urgency identifying, in particular, those sites where upgrading of facilities is required. (p101)*

**RECOMMENDATION 7:** *The NSW Department of Environment and Conservation should liaise with the Sydney Water Corporation to ensure a proper risk assessment be carried out at the Cronulla Sewerage Outfall. In addition to emission levels in the ocean, reporting should cover environmental, human health and biophysical impacts, similar to that carried out at other Sydney Water facilities. (p78)*

**RECOMMENDATION 8:** *The Minister for Utilities should direct the Sydney Water Corporation to provide a copy of the ANSTO Trade Waste Agreement to Sutherland Shire Council. (p77)*

**RECOMMENDATION 9:** *ANSTO should acknowledge that spent fuel is waste, and in dealing with the Australian public, should identify it as waste. (p34)*

**RECOMMENDATION 10:** *ARPANSA should supplement the current Australian (NHMRC Code) waste classifications, Categories A, B, and C, with an equivalent range of effective dose rates (sieverts/hr) for each classification. (p111)*

**RECOMMENDATION 11:** *ARPANSA should develop a quantitative definition for Category S waste (NHMRC Code), to include effective dose rates thus doing away with the current 'definition by exclusion'. (p111)*

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**RECOMMENDATION 12:** *ARPANSA should liaise with ANSTO and DEC to identify and properly secure any intermediate level waste considered suitable for use in 'dirty bombs'. (p132)*

**RECOMMENDATION 13:** *The New South Wales Government should formally forward a copy of this report to ARPANSA. (p141)*

**RECOMMENDATION 14:** *That the federal government identify any proposed road transport routes through Sydney. (p105)*

**RECOMMENDATION 15:** *ARPANSA should set waste acceptance criteria for any nearsurface burial repository to exclude all long-lived intermediate level waste. (p70)*

**RECOMMENDATION 16:** *ARPANSA should require ANSTO to provide effective dose rate (sievert/hour) information for all waste containers. The dose rate will be provided for waste before conditioning as well as being measured on the outside of the container. (p111)*

**RECOMMENDATION 17:** *Risk assessments should be carried by New South Wales Agencies (including Police, NSW Fire Brigades, NSW Health, and the Department of Environment and Conservation), in consultation with the Commonwealth for any transport proposals. This assessment should include consideration of the risk of potential terrorist activities. (p140)*

**RECOMMENDATION 18:** *NSW Agencies including Police, NSW Fire Brigades, NSW Health, and the Department of Environment and Conservation should, in consultation with the Commonwealth, detail and cost the emergency services requirements to best manage any transport proposals. (p140)*

**RECOMMENDATION 19:** *A formal agreement should be negotiated between the NSW Government and the Federal Government on any proposals to store and transport radioactive waste in New South Wales, based on the above risk assessments. This agreement would include:*

- \* The Commonwealth to arrange an assessment of the transport proposals by the IAEA's Transport Safety Appraisal Service;*
- \* This assessment should consider all possible modes of transport, including sea, depending on the site location being assessed;*
- \* Clearly defined roles and responsibilities (clarify jurisdictional uncertainties);*
- \* Tracking of waste material;*
- \* Emergency services requirements (resourcing, training, responses);*

- \* *Risk minimisation;*
- \* *Prevention of accidents;*
- \* *No liquid wastes to be transported;*
- \* *Community acceptance criteria; and*
- \* *Independent monitoring by NSW to certify or ensure that the relevant codes are adhered to (pp140,1).*

**RECOMMENDATION 20:** *Any agreement be based on the principle that the Federal Government bear the full costs incurred by the community (including local councils) of any transport and storage proposals. (p141)*

**RECOMMENDATION 21:** *The NSW State Government should obtain legal advice on the Federal Government's constitutional power relating to nuclear technology. (p45)*

**RECOMMENDATION 22:** *In the event the Federal Government fails to adopt the committee's recommendations 1 to 4: The NSW Government should amend the Uranium Mining and Nuclear Waste Facilities (Prohibition) Act to prohibit:*

- \* *the construction and operation of nuclear waste facilities in New South Wales (with the exception of an interim waste facility at Lucas Heights), and*
- \* *the transportation of reactor sourced radioactive waste (with the exception of stocks of existing spent fuel). (p101)*

Over the last several decades the South Australian public have clearly presented their opposition to a nuclear waste dump. Aboriginal communities which have so far borne the brunt of the nuclear industry through nuclear testing, mining and proposed nuclear waste dump have also clearly and generously articulated their concerns.

South Australia made nuclear waste illegal under the “Nuclear Waste Storage Facility (Prohibition) Act 2000” and the import, transport, storage and disposal of any wastes derived from nuclear reactors, or uranium enrichment plants, or from the conditioning and reprocessing of spent nuclear fuel, remains prohibited. The Royal Commission would be wise to look at the context of how this legislation came about and its merit in minimizing risks for South Australia.

WMP strongly urge the Royal Commission to take an investigative approach in regards to alternatives to underground repository or disposal sites and instead of discounting the well founded concerns of people in remote areas, look at ways that confidence could be built in the broader Australian public for the far less risky option of managing nuclear waste at the site of production or in well monitored above ground facilities.

## References

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