



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

## SENATE

STANDING COMMITTEE ON ENVIRONMENT,  
COMMUNICATIONS AND THE ARTS

**Reference: Commonwealth Radioactive Waste Management (Repeal and Consequential Amendment) Bill 2008**

MONDAY, 17 NOVEMBER 2008

ALICE SPRINGS

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

**Monday, 17 November 2008**

**Members:** Senator McEwen (*Chair*), Senators Boswell, Birmingham, Ludlam, Lundy, Pratt, Troeth and Wortley

**Participating members:** Senators Abetz, Adams, Arbib, Barnett, Bernardi, Bilyk, Mark Bishop, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Ellison, Farrell, Feeney, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Ian Macdonald, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Moore, Nash, O'Brien, Payne, Polley, Ronaldson, Ryan, Scullion, Siewert, Stephens, Sterle, Troeth, Trood and Xenophon

**Senators in attendance:** Senators Birmingham, McEwen, Pratt and Ludlam

**Terms of reference for the inquiry:**

To inquire into and report on: Commonwealth Radioactive Waste Management (Repeal and Consequential Amendment) Bill 2008

**WITNESSES**

<b>BENNETT, Ms Marlene, Muckaty traditional owner .....</b>	<b>1</b>
<b>BUSH-BLANASI, Mr Samuel, Deputy Chairman, Northern Land Council.....</b>	<b>12</b>
<b>CLARK, Alderman Jane, Alice Springs Town Council .....</b>	<b>30</b>
<b>HILL, Mr Kim, Chief Executive Officer, Northern Land Council .....</b>	<b>12</b>
<b>LEVY, Mr Ron, Principal Legal Officer, Northern Land Council .....</b>	<b>12</b>
<b>MARTIN, Ms Kath, Central Land Council.....</b>	<b>7</b>
<b>McCORMACK, Mr Steven, Central Land Council.....</b>	<b>7</b>
<b>McCORMACK, Ms Audrey, Central Land Council .....</b>	<b>7</b>
<b>Mitch, Arid Lands Environment Centre/Beyond Nuclear Initiative.....</b>	<b>20</b>
<b>MOONEY, Mr Rex Roger, Chief Executive Officer, Alice Springs Town Council .....</b>	<b>30</b>
<b>ROSS, Mr David, Director, Central Land Council.....</b>	<b>7</b>
<b>RUBUNTJA, Mr Mervyn, Central Land Council.....</b>	<b>7</b>
<b>SMITH, Mr Graeme, Special Projects Officer, Borroloola-Barkly Region, Northern Land Council .....</b>	<b>12</b>
<b>STOKES, Ms Dianne, Muckaty traditional owner .....</b>	<b>1</b>
<b>TILMOUTH, Mr Ken, Central Land Council .....</b>	<b>7</b>
<b>TILMOUTH, Mr William, Central Land Council.....</b>	<b>7</b>
<b>TUTTY, Mr Justin, No Waste Alliance.....</b>	<b>28</b>
<b>WASLEY, Ms Natalie, Arid Lands Environment Centre/Beyond Nuclear Initiative .....</b>	<b>20</b>



**Committee met at 1.11 pm**

**CHAIR (Senator McEwen)**—I declare open this public hearing of the Senate Standing Committee on Environment, Communications and the Arts in relation to its inquiry into the Commonwealth Radioactive Waste Management (Repeal and Consequential Amendment) Bill 2008. The committee's proceedings today will follow the program as circulated.

These are public proceedings. The committee may also agree to a request to have evidence heard in camera or may determine that certain evidence should be heard in camera. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to the committee. If a witness objects to answering a question, the witness should state the ground upon which the objection is to be taken, and the committee will determine whether it will insist on an answer having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may, of course, also be made at any other time.

A witness called to answer a question for the first time should state their full name and the capacity in which they appear, and witnesses should speak clearly and into the microphone to assist Hansard to record proceedings. Mobile phones should be switched off.

**STOKES, Ms Dianne, Muckaty traditional owner****BENNETT, Ms Marlene, Muckaty traditional owner**

**CHAIR**—I welcome representatives of the traditional owners from Muckaty. Thank you for coming along to talk to us today. The committee has received your submission as submission No. 95. Do you wish to make any amendments or alterations to your submission? No? Would you like to make an opening statement?

**Ms Stokes**—Yes, I would like to talk about the waste dump and my people, the traditional elders I have brought from Tennant Creek. We have come because we have said no to the waste dump. We are the main Warlmanpa tribe. I have brought some Ngapa people also who are against the waste dump. I talk to my people about the waste dump all the time, and every time I do they say that it is not good to have a waste dump on our land. We are finding it hard. We want some people to listen to us. Some of the traditional owners, the elders of the Warlmanpa tribe, which is the main tribe in that country, are sick and very worried because they just want to say no to the waste dump. We want to keep talking about it and continue to fight it until we are listened to. The big capital N-O. Thank you.

**CHAIR**—Thank you, Ms Stokes. Ms Bennett, would you like to make an opening statement?

**Ms Bennett**—Yes. I am a Warlmanpa person also. I just want to talk a little bit about the consultation process and my feeling that it is a real social justice issue. I think it was early in 1996 when I first found out about the nuclear waste facility proposed for Muckaty Station. They call it facility; I call it dump, because that is what it is. I was shocked and blown away by the news in the newspapers. Where did it all come from? How did they get to this solution? They had not consulted people on the land, my brother Sammy, my sister Gladys, my mum's Louis and Suzie, because they would have told us and we would all have been talking about it. When I started to find out more and heard that \$30 million was the amount proposed for a waste dump facility, I went to the *Tennant Times* because I was due to go away, I think to Alice Springs, but I was very concerned and knew that I had to get the message to the rest of our family group quickly before I went so they would pick up on it. After the article in the *Tennant Times*, when I was back in town, which would have been I think in June, believe it or not, I heard nothing but alarming statements about how the Muckaty traditional owners and all that had agreed to a nuclear waste dump facility. I had still not been formally contacted by NLC, and other family members knew nothing and had not had any communication or written correspondence from the NLC.

One Saturday when we went out bush to get a load of wood we heard the news on the wireless. When I rang my sister over at Kalumpulpa on the mobile to see if she knew about what we had heard on the wireless, my brother-in-law told me, 'No, they're all in town. Big meeting called at the Gulkula TAFE centre.' I said, 'What's the meeting about?' He said, 'Oh, they didn't really know. They just had to go in to sign some papers for something.' I thought straight away, 'They're going to trick our mob. They're not going to communicate and consult with them properly. There will be something going on here.' We forgot about the wood and took off into town to the meeting at the TAFE centre, the Gulkula training centre. The biggest mob of people were there.

When I walked in I was trying to get a gauge to see if different ones knew what the meeting was about. I said, 'What's this meeting about?' 'Oh, I don't know. We just had to come and sign paper for money.' 'What is the money for? Did they give anybody an agenda? Has anybody got an agenda?' Nobody had an agenda. I was asking people all the way through. There were probably a hundred people there. A group of people, including the Lauder family, were sitting up the front with the NLC and certain people were sitting round the table. There was butcher paper on the wall presenting a you-beaut community. My uncles, my mothers and my aunties were up towards the back. Nobody could hear what was going on because there were no microphones as there are here and no translators, just a certain group of people around the front table where the beautiful you-beaut community was presented. A piece of paper was being passed around, and I asked, 'What are you signing that paper for?' 'Oh, we've got to sign this one, they reckon, so we can get housing, and they are going to give us this and they are going to give us that.' I said, 'But what for? Why, all of a sudden, is the government going to give you this and that?' Nobody knew.

I then challenged some of the people at the meeting why they were passing the paper around for people to sign. They said that if they did not sign it they would be ineligible to vote. I said, 'Ineligible to vote for what?' They said, 'Oh, we are changing the constitution, and these proposed changes are supported by ORAC.'

I questioned why the Bennett family were not notified or aware of this, why none of us had received word of the meeting, and why my father, Harry Bennett, who is an elder and a traditional owner, had not been made aware of it so that he could be at the meeting too. I asked about that and about what the piece of paper was about and did requesting everyone's signature have anything to do with the story I had heard on the news that the NLC was proposing to buy out Muckaty. I asked whether there was a hidden agenda behind obtaining signatures on the paper, why people were not informed, where was the agenda and why was there no microphone or a speaker so that people up the back and outside could hear. You could have heard a pin drop when I said they could be signing away their right to their land and to object to the location of the proposed nuclear waste dump on that land. Immediately NLC staff started pulling the you-beaut community presentation and everything else off the wall.

One of the NLC lawyers then challenged what right I had to be at the meeting. I told her in no uncertain terms why I was there and said that I had every right to be there. Then some families started to wise up, and they said I had a right to be there and to be heard. I said to the people, 'Don't sign that until we are all fully informed of the true purpose of this meeting, because you mob could be signing away your rights to your country.' That put a bit of a blocker on the meeting.

After that more word went around about more meetings. I said, 'Well, everyone needs to be informed properly and given time so they can attend.' I can remember that a series of maybe six meetings ensued. There was a meeting after the one that I sort of gatecrashed at the TAFE centre, and I received a written confirmation of that meeting. A letter was put under my front door by the local NLC project officer to notify me of the meeting to be held the next day but I had to go to Alice Springs for my granddaughter's medical appointment so I could not go to the meeting. Short notice like that is just not on. After that meeting we made numerous requests for the minutes of the meeting but never received them. We have a right to see the minutes and what the meeting was about.

After that, families started sitting down talking and saying that we needed to get on top of all this because our people are constantly being exploited and used, and, to be quite honest, Aboriginal people are getting sick and tired of it. The way we found out about the consultation process was wrong. If everything was open, honest and above board, why did the NLC not come down and consult with the traditional owners on their country openly and honestly? They should not have gone on to any further stage until everyone had a clear understanding of what was going on. It appears to me that two individuals, or possibly three, took it upon themselves to speak for the rest of the tribe and clans. They had no right to do that, and I will say that straight out. When the land claim was on, all the extended families that have links and connections to Muckaty were together as one. My grandmother walked that country the same as the rest, yet those two individuals, my cousins, chose not to involve the senior traditional owners in any discussions, and that is just down and out wrong.

**CHAIR**—Ms Bennett, we need to move on to questions from senators. Have you nearly finished your opening statement?

**Ms Bennett**—Yes.

**CHAIR**—Thank you.

**Ms Bennett**—I am also very disappointed in the NLC consultation process. The NLC is the Aboriginal people's voice, and they failed to represent them. I will cut it short there. I think the consultation process was very flawed and that the time for trying to pull the wool over people's eyes is past. Open and honest discussion should be happening involving all the right people, not just with certain elements of the people.

**CHAIR**—And who do you say are all the right people?

**Ms Bennett**—A lot of the senior people are here today, in particular the Ngapa people, the people who you now see standing. Many of them have no idea where the agreement for a waste dump at Muckaty came from. Others could not attend because they are sick in hospital.

**Ms Stokes**—And we have no vehicles to travel down from that far.

**CHAIR**—All right. Thank you very much, Ms Stokes and Ms Bennett, for your opening statements. We will now go to questions from senators. I am going to ask Senator Ludlam to start off.

**Senator LUDLAM**—Thank you, Chair. Thanks, both of you, very much for giving us this evidence this afternoon. Ms Stokes, can you tell us about your connection to the country around Muckaty?

**Ms Stokes**—My connection is because my totem is going through the land trust and is in the land trust. My father's name is standing in the land trust. My father's name is Bildayan. He is the one who led the way for us to be in that land and to be the tribe of Warlmanpa. I am one of the Warlmanpa women and Waramuinyu. I speak Waramuinyu more than Warlmanpa, but I do understand the language. I am fighting to talk about this waste dump and the rights of the land trust because of my totem and my mother's dreaming, but I am not talking about my mother's dreaming; I am talking about my father's dreaming.

**Senator LUDLAM**—How many people would you say there are who have traditional responsibilities for the area where the Muckaty waste dump is supposed to be?

**Ms Stokes**—Well, firstly, I would like to introduce Milwayi, one of the totems that went through there, and it has got places in there, and Ngapa, and Yapayapa. There are three groups in Ngapa, and some of the traditional owners from those three groups are here. The land trust.

**Senator LUDLAM**—Were all three of those groups spoken to and asked by the Northern Land Council whether they wanted a waste dump out at Muckaty?

**Ms Stokes**—Some of them were not asked. The NLC was focusing only on a few people, and a lot of Ngapa people were saying that they were not invited, that they have not even got them on the books. That is why they were not identified as the Ngapa clan.

**Senator LUDLAM**—If the Northern Land Council was doing a project like this the right way, how would it be done? What would the consultation normally be and who would they normally speak to?

**Ms Stokes**—We had lots of groups at the meeting at the time they talked about it. They let everyone go, and I was asked to stay. They picked out a few people and talked to us. I did not know anything about it until I went on my trip.

**Senator LUDLAM**—Can you tell us about the trip that they took you on?

**Ms Stokes**—The trip that I went on was to Lucas Heights to see the site, to find out what it was like and what it was all about. When I went there I was feeling no good because the rest of the people did not know about it. All the traditional owners were at the meeting when we were picked out to go on the trip. They were not told. No-one opened their mouth to the traditional owners and they left. They only wanted Ngapa people. There were a lot of Ngapa people there. We got a big mob of them. They know their clan, where they come from and who they are.

**Senator LUDLAM**—Did somebody ask you not to say anything to the other people?

**Ms Stokes**—Yes, they did. They put their hand in their mouth and told me not to talk about it.

**Senator LUDLAM**—Who did that?

**Ms Stokes**—That was Jeffrey Dixon.

**Senator LUDLAM**—Where is Jeffrey Dixon from?

**Ms Stokes**—Jeffrey is one of the executive members with the NLC. He told me not to say anything until I went on the trip and when I came back I was not to open my mouth.

**CHAIR**—Can I just clarify for the record so we get the dates right on this? You are talking about the trip to Lucas Heights?

**Ms Stokes**—Yes.

**CHAIR**—Do you remember roughly the date?

**Ms Stokes**—I cannot remember the date.

**CHAIR**—What year?

**Ms Stokes**—2000 and something.

**CHAIR**—2000 and something?

**Ms Stokes**—Yes.

**CHAIR**—Sorry. Continue, Senator.

**Senator LUDLAM**—That is okay. Ms Bennett, when you first spoke you mentioned 1996. Did you mean 2006?

**Ms Bennett**—I meant 2006, sorry.

**Senator LUDLAM**—I just thought I should check. Maybe I could ask you the same questions I have just asked Ms Stokes. For a project like this that is happening on traditional country, what is the process that the land council would normally use to find out what people thought? If this was being done the right way, how should it be done?

**Ms Bennett**—They should first send out a written communication notifying the people that they want to meet with them, informing them of the date, the time and why they are coming; they should organise the meeting properly, giving people at least two weeks notice; they should have at least one big meeting and then let people know they will come out to their community or talk to them at their camps; they should thoroughly consult with people, inform them, have another big meeting, then come together again. You have to give people time to think about these things, how they feel about them, and to talk amongst themselves. You cannot rush things through just like that. That is wrong. People can then come back together, sit with the NLC again and say what they think and feel. It has to be a consultative approach.

**Ms Stokes**—It has to be open.

**Ms Bennett**—Open, yes, and not rushed.

**CHAIR**—Thank you, Senator Ludlam. Senator Birmingham.

**Senator BIRMINGHAM**—Thanks, Chair. Ms Stokes, Ms Bennett, thank you for your time today and for making the effort to come and appear before us. What role do you and your other elders and families have in the composition of and decision-making processes of the land council?

**Ms Bennett**—Sorry, in the—

**Senator BIRMINGHAM**—What role do you have in the usual operation of the land council in terms of its members, who makes it up and who makes the decisions for it? Do you have some say in choosing who they are?

**Ms Stokes**—Talking of myself when I was an executive member, if I heard something in the full land council meeting I would tell them to wait until I went back to the traditional owners to see how they felt about it and what they wanted to talk about. I have never been to an NLC meeting, a full land council meeting, but the executive member for a region is supposed to come back and let us know, talk to all the traditional owners of the land trust and tell us what is going to happen. You are giving your feedback to the community.

**Senator BIRMINGHAM**—Who is the executive member for the region?

**Ms Stokes**—At the time Jeffrey Dixon was the executive member.

**Senator BIRMINGHAM**—Is he elected from within the regional community?

**Ms Stokes**—I don't recall that. I just remember that he was the executive member.

**Senator BIRMINGHAM**—That is okay. I am curious to try to understand the relationship of the different communities to the Muckaty land. You have mentioned the Ngapa community and the statements that they have made in support of the facility being built on the Muckaty land. Why do you think that particular community is happy to see it built?

**Ms Stokes**—The Ngapa clan and the rest of the other totems in that land trust are all connected. We have connections to each other and are related to each other. We are the same tribe, the one ancestral cultural group of people who are the strong voice, and one voice, in that country. That is why I talk about Ngapa. Ngapa is

only one family, but there are three groups in the Ngapa clan and the rest missed out. Ngapa is the rain, the water. Only one said yes to the waste dump and one that is a Northern Land Council member.

**Senator BIRMINGHAM**—How many other clans do you believe should have been consulted?

**Ms Stokes**—Well, there are another four clans.

**Senator BIRMINGHAM**—I would like to turn now to the consultation that you have had with government since the election, so since the change of government. Your submission indicates that you have attempted on numerous occasions to write to different politicians but appear not to have had much success in getting a response. Is that still the case or have you had recent responses?

**Ms Stokes**—We have been writing letters to the government body signed by the traditional owners. We have been asking for someone to come and sit with us so that we can talk to them face to face. We want to give our information to the government body, tell them what we are on about. We were all getting together and we were worried that it is going to be put up straight away. We have written lots of letters but never received a good response.

**Senator BIRMINGHAM**—Has anybody agreed to come and sit and talk to you?

**Ms Stokes**—Well, not really.

**Senator BIRMINGHAM**—The one response that you appear to have received was from the energy and resources minister, Mr Ferguson. Did you feel that his response met what you thought the new government was going to do?

**Ms Stokes**—It did not make me feel good when I received his letter telling me that he is not going to do anything about the waste dump yet as he is waiting for the government to say something. He is not doing anything at the moment; he is not listening to us. He is getting our letters. I picked up a letter from him earlier. It is the same as the letter I received a few weeks ago. The story is the same. It is not a new letter. I think they are photocopying the same one.

**Senator BIRMINGHAM**—Maybe that is possible. Lastly from me, what time line do you understand the process has now? I think the government has said that it will re-evaluate things once it has finished the assessment of the four possible sites. Have you been given any indication as to when that assessment should be complete or in what timing you can expect decisions to be made?

**Ms Stokes**—No, I do not think so. I did not get anything back to let us know about that.

**Senator BIRMINGHAM**—Thank you.

**CHAIR**—Thank you. Senator Pratt.

**Senator PRATT**—Thank you. It has been put to the committee that traditional owners of this site with a right to speak to the site that has been chosen have consented to this proposal and that they have said yes. You have just told us that only one group of the people who should have been consulted have actually consented. Is that correct?

**Ms Stokes**—There is only one family group that consented to have the waste dump on that site in that area, but looking back to where it started off—where people said yes, where people said no—I was the only person at the meeting they had at Muckaty. I had other groups there too, but I was listening to them. Two people said yes. I saw them with my own two eyes. There were two people and the rest were their kids. You do not call that a Ngapa clan. They told me off for not being on my mother's side. I am on my father's side. If anything comes on my father's side, I say whatever I want. How many Ngapa people have we got? I will tell you. Come out there and have a look.

**Senator PRATT**—Can you tell us a little bit about the site itself that has been chosen? You have told the committee that that has been proposed. I think what you have told the committee is that you have all got links with that country that stretch across it to the other side and around it. Is that what you are telling us?

**Ms Stokes**—Yes, we have. We have got the snake, that is Milwayi, and Yapakurla, the little short man—that is mine—and we have Ngarrka. Ngarrka is a bit on the western side, but we are all surrounding it, and Ngapa are not the people who said yes. It is not their Dreaming that is in that site; it is these old people here.

**Senator PRATT**—So Ngapa is simply one of the closest communities to that site? Is that why it is purported that they have a right to speak for it?

**Ms Stokes**—And Milwayi. They are the closest.

**Senator PRATT**—So Milwayi is close as well?

**Ms Stokes**—Yes.

**Senator PRATT**—And they have not consented to or participated in the nomination either?

**Ms Stokes**—No.

**Senator PRATT**—I wanted to ask what the results of the nomination have been. How has that made the community feel and what kind of problems have arisen because of it?

**Ms Bennett**—Well, imagine you have got a lot of hungry gunipe dogs, and you have got one bone and you chuck it in the middle: they are all going to fight over that, aren't they?

**Ms Stokes**—Yes.

**Ms Bennett**—And that is what the government is doing to us, because the whole process has not been done properly and because, as Dianne said, all these important factors such as Dreamings have not been taken into consideration. People are fighting now, and that is wrong. I get cranky sometimes, because when is the government going to stop doing that? I am sure it is a strategy of theirs to get one or two people offside; paint them a good future, a rosy picture; put a money incentive there, and then you have got them on side and bugger the rest: 'As long as we've got this mob—we'll get them all fighting and then we'll have to make the decision for them.'

**Senator PRATT**—Finally, I wanted to ask if this process was done properly. I am not necessarily suggesting you would say yes, but, if it was here or somewhere else and people consented to it, would that be a proper process and would the communities say, 'Yes, this can go ahead if that's your land and that's what you want to do with it'?

**Ms Stokes**—Going back to consulting the traditional owners of the land trust, talking to the whole Wannapa group—because it is not only one Wannapa group; there are a lot of us. We want our kids to grow up without having the papers that were consented to before, with the traditional owners saying yes, so that when they grow up they will not see that stuff there. We do not want that to happen, and we just do not want to see anything like that come up. We want to see people come face to face with the traditional owners, with the Wannapa group, not just one individual group, the Ngapa clan. We want all the traditional owners to be there to say yes or no and to hear what is going on.

**Ms Bennett**—Our parents and our grandparents, particularly our fathers and mothers, fought very hard over the last 40 or 50 years to get that country back, expecting to have the essential resources in place for families to move back and become strong again. It is not happening. If the old people, our dads and that, were alive today, they would be appalled at this. They fought all their lives to get it back—just to have it turned into a nuclear waste dump? I do not think so. That is not the future for our children. Some of our children are here today. They do not want that future. We do not want it. We want the land so that families can live there, work there, and for the culture to be strong. We do not want to give it away.

**CHAIR**—Are there any circumstances in which the Muckaty traditional owners that you represent would support the establishment of a nuclear waste dump or facility anywhere in the Northern Territory?

**Ms Bennett**—We do not want a nuclear waste site anywhere in the Northern Territory. Put it on an abandoned island somewhere, anywhere, but not in the Northern Territory. Leave it where it is.

**CHAIR**—If there are no further questions, thank you very much, Ms Stokes and Ms Bennett, for taking the time to come and appear before the committee this afternoon. We very much appreciate that you did so. Thank you.

**Ms Bennett**—I would like to thank you for taking the time to listen to us, because we have travelled a long way. I would just like to question why Martin Ferguson is sitting on this issue like a hen trying to hatch an egg. The people of the Northern Territory elected the Labor Party. We were led to believe that the nuclear waste thing would be all overturned and overruled, and at this moment we are extremely disappointed. How many times do we have to say no? No means no. Come on, Martin, let us do something about this.

**CHAIR**—Thank you. We need to move on to the next witnesses.

[1.53 pm]

**McCORMACK, Ms Audrey, Central Land Council**

**McCORMACK, Mr Steven, Central Land Council**

**MARTIN, Ms Kath, Central Land Council**

**ROSS, Mr David, Director, Central Land Council**

**RUBUNTJA, Mr Mervyn, Central Land Council**

**TILMOUTH, Mr William, Central Land Council**

**TILMOUTH, Mr Ken, Central Land Council**

**CHAIR**—Thank you very much for coming along to talk to us today. The committee has received your submission as No 6. As you do not wish to make any amendments or alterations to your submission, would somebody like to make a brief opening statement before we go to questions from senators?

**Mr Ross**—Yes, thank you. I have people with me from Mount Everard who are representing traditional owners from the west of Alice Springs. I also have with me representatives from the Alcoota site. These are the two sites in Central Australia that are part of the discussion for a waste facility. Kathleen Martin, Steven McCormack and Audrey McCormack are from the west, and Mr Mervyn Rubuntja and Mr William Tilmouth are from the east. They can speak for traditional owners from both those sites. They are the representatives of those people.

From the Central Land Council's point of view, the major issue that we wanted to raise as a part of our submission was best practice in terms of the Commonwealth Radioactive Waste Management Act. It ignores best practice. We still firmly believe that the report that took 10 years and that the previous Labor government put in place came up with a list of places where a waste site could be located, and they certainly did not include Central Australia or, I think, any other places within the Northern Territory that have been discussed so far today—but that is another issue. Certainly from the Central Land Council's point of view, there is that issue.

The traditional owners, in our view, have been ignored as a part of the process to nominate the sites in Central Australia and to be part of the discussions that have taken place in the centre. We have been ignored the opportunity for people to have representation.

The other issue that was claimed was that the Commonwealth Radioactive Waste Management Act was consistent with the Northern Territory Land Rights Act. We believe that is certainly not the case. It does not give land owners the opportunity to be involved in the full process that the Land Rights Act gives. In the case of Muckaty, if there were to be any decisions down the track then we would be responding to any environmental impact study because it may affect people on our side of the border. They are probably the major issues from the Central Land Council's point of view, but I am more than happy for people from either side of the nominated areas to represent their own views. Thank you.

**CHAIR**—Thank you, Mr Ross. Did anybody else wish to make an opening statement before I go to questions?

**Ms Martin**—Yes, I would. I live on the west side about 1.6 kilometres off the Stuart Highway and eight kilometres from the proposed waste dump site. It is called Mount Everard, but to us—and I have heard this since I was a kid of eight years old playing on a station out at Bond Springs, and that was a long time ago—Altyerre was its rightful name in the Dreamtime. My grandfather's stories go right along that hill in the form of a kangaroo, and I do not want to see that site denigrated in any way at all because I am responsible for the safety and the upkeep of that land, which was given to me when I was an eight-year-old kid. I am sorry; I do this all the time. That responsibility was put on me: save this land for your children as we have saved it for you. My grandfather was an old Aboriginal man who sat with me in the creek at Bond Springs Station, drawing plans of where I could and could not go, where I could get such and such a food and so on. I could not go on to anybody else's land for fear of retribution. That was always instilled in me as a child. Now it is my utmost sincere hope that the dump site does not go on Mount Everard. I am sorry, but that is how I feel.

I had a poem about what my country means to me, but I cannot place it at the moment. If you would like a copy of it I will give it to you, because it also envelopes what is going on in our universe about the greenhouse

situation and in the whole of this planet. I remember the last few lines of that poem, 'We have raped this earth so now stand with me and help to build it up.' I think that is very relevant.

**CHAIR**—Thank you, Ms Martin.

**Ms Martin**—Oh David, I am sorry.

**CHAIR**—That is all right. Any other opening statements before we go to questions? You do not have to give one.

**Ms McCormack**—I sometimes go and live at Mount Everard on my cousin's country. That is our country again. Where he stays is about four kilometres from the proposed site. He started a tourism business in the last couple of years to teach the wider community about our culture, about looking after the country and about being part of the country. A lot of students go out there to be taught about our bush tucker and bush medicine. If there is to be a dump site there, what are we going to be teaching them? It is really important not to nominate any of the places in the Northern Territory. It is really important that we look after the land, which is part of us.

**CHAIR**—Thank you, Ms McCormack. Mr Tilmouth and Mr Rubuntja?

**Mr Tilmouth**—I am talking for the Alcoota Aboriginal Corporation. This body was set up under the Land Rights Act in regard to Alcoota station, which is currently under a land claim. Many people say that that area through the east is the Harts Range area; it is actually sitting on Alcoota station. I would have had more representatives from Alcoota here, but because of the rain people cannot get in. Many of the people who would have been very interested in this cannot get in because they just do not have access into town. The community closest to the site is the Engawala community, and there are about 200 to 300 people within that community. Around 2,000 to 2,500 people will benefit from the claim.

I reiterate what Mr Ross said about a best practice model. I think the code of best practice has been written, and this has not really followed it. This is an ideologically driven agenda. The site was picked for convenience more than for best practice. People are very concerned that the proposed site is on the Plenty Highway. The Plenty Highway was originally known as the Plenty River Highway, indicating a lot of river and water movement within the area. Therefore, any spillage or contamination will flow into those rivers. People are concerned about the wildlife, the bush tucker and the poisoning of all the waterholes in the area.

We are also concerned about the economics for the Aboriginal beef enterprise. We pride ourselves on being clean and green. The proposal would have very strong detrimental effects on any economic advantage that we might gain from that. We are in the catchment area of the Sandover River, the Plenty River, and also, in part, the Lake Eyre Basin. Any contamination will be felt not only by the Alcoota people but will be widespread down the Sandover River through to the Queensland border and, as a consequence, will end up in Lake Eyre. So many people in the catchment area will be affected.

Those are the points that the people have talked about. A contingent went to Canberra to talk to a whole heap of people, senators and ministers, but we want to repeat those points: caring for country, for bush tucker and for animals that live on that country; the economics of it all; and, as the land council put in their submission, following best practice.

**CHAIR**—Thank you very much, Mr Tilmouth. I think now we will go to questions.

**Mr Tilmouth**—Do you want to offer Mervyn Rubuntja an opportunity to talk?

**CHAIR**—Certainly.

**Mr Rubuntja**—My concern is about where the people are trying to put that waste dump. There are sites there that are very important for men. It is kangaroo dreaming. Everybody knows that that is important for men and for everyone in the community. I was taught by my cousin and my father's brother that the site where they want to put the waste dump is very important for men, and I do not want that thing to be put there. That site is important for men. If a waste dump is put there, we lose a part of our law.

Our law is still strong while we are connected to this land. It has passed through our grandparents to us today. It is just like you fellas; your law comes from your queen. Our law is passed from our grandparents and their fathers to us so that we can pass it on to our children.

This country that you call Australia is a Dreamtime country, and it is very important for all of us who think we know that some of the sites have been damaged here in Alice Springs. We get nothing from the government. My father and some of the elders have shown me some sites that have been damaged by the

Territory government. Now the Commonwealth government wants to do the same thing. What do we get back? We get nothing. We only get some of what you are going to put in a hole on that site, which is a very important site for us.

I have talked with my cousin about our family's future, because my cousin and brothers live in the national park. Audrey and Steven McCormack told us where the waste dump is to be put. We will have a talk with some other members. We are going to keep this thing out. It is too close to Alice Springs. I think about not just Aboriginal people, but the wider community, the people who live in Alice Springs as well. Their colour does not matter. That is why I am here to talk about that issue. I do not want a waste dump at Mount Everard because the site is important for all of us.

**CHAIR**—Thank you, Mr Rubuntja. Senator Birmingham?

**Senator BIRMINGHAM**—Thank you all very much for your time and presentations today. The three sites that we are speaking about are described in your submission and elsewhere as being on Defence land. I am just wondering if you could clarify for me, in relation to the specific sites, what access your communities and your peoples have to that land at present under its current arrangements.

**Mr Ross**—I guess under the current arrangements, certainly in Central Australia, it is land that the government has owned since about 1978. On behalf of the traditional owners, the Central Land Council has put native title claims forward to enhance the rights of traditional owners—native title holders. I think access is very limited because they are defence or intelligence operations. We know for a fact that certainly Mount Everard is utilised for over-the-horizon information that is used by government and Defence for whatever purposes they use it for. I think there is a similar situation on the Alcoota site. The third site that was put forward, Fishers Ridge, which is somewhere up near Katherine, we believe is not within the Central Land Council region and has nothing to do with us.

**Senator BIRMINGHAM**—Can you tell me where you are at in terms of your native title applications on the two sites in question?

**Mr Ross**—As the Commonwealth has those sites utilised, the claims have not gone forward, but we would certainly like to run claims on them if that were possible with the Commonwealth.

**Senator BIRMINGHAM**—In relation to those two sites, can you explain to us a little bit of the geography of the local area in terms of significant sites to the communities there, whether they fall within the boundaries of the Defence land or whether in fact they are in the surrounding communities?

**Mr Ross**—I think people have just spoken about that, Senator. I should have done this at the start but I would also like to table a video that has been made on behalf of these landowners in which they speak about these issues. I would like to table that for the reference of the committee. In terms of actual sites, I believe sites exist on both the applied areas that have been put forward as possible waste dump sites.

**Senator BIRMINGHAM**—You made comments in your submission, and you made some reference to it in the introductory remarks as well, highlighting the fact that none of these sites were identified in the earlier scientific assessments of ideal sites for the building of such a facility. Had they been, would you or the communities feel any different about or be more accepting of the lands being used?

**Mr Ross**—I think it should probably really be put, Senator, that if they were then they would have had some assessment done. They would have been a part of the overall assessment that took place during that 10-year study to find appropriate sites to place a waste dump. As we know, that was a 10-year process. They were not put forward and therefore Aboriginal people have the belief that if it is not going to be in danger, why should we tell the rest of the world about our sites? Those basically belong to Aboriginal people.

**Senator BIRMINGHAM**—What communication, if any, have you had with the new government and members of the new government since their election about their promise to repeal this piece of legislation?

**Mr Ross**—I have had one official meeting with the Minister Ferguson in Canberra very late last year or very early this year. He said they were going through the processes and waiting on some assessments, and when that was finished they would contact us. We have not had any contact regarding that since.

**Senator BIRMINGHAM**—Do you find that satisfactory?

**Mr Ross**—At the end of the day, not being involved in the process and not being a part of that process, we just have to say, 'Okay, well we'll wait for the process to take place.' What do you do?

**Senator BIRMINGHAM**—Have you had any indication of timelines for when those assessments should be completed?

**Mr Ross**—Going by media reports, we hear it will be done by Christmas.

**Senator BIRMINGHAM**—What is your expectation of what the government should do from here to honour its promises?

**Mr Ross**—How would one put that? I would hope that the government would go back to dealing with the issue based on the best practice rather than the sites that were put forward for expediency by the previous government.

**Senator BIRMINGHAM**—Thank you.

**Senator LUDLAM**—Thank you very much for coming in and speaking with us this afternoon. I have just got a couple of questions starting with you, Mr Ross. Approximately when did you first hear that the sites on defence land in the Territory were under consideration?

**Mr Ross**—It must be three or four years ago.

**Senator LUDLAM**—Maybe I should be a little bit more specific. Were you consulted by the former government before the act that we are talking about repealing today was brought through the parliament? Did you have any inkling that that was something that the government was going to propose?

**Mr Ross**—No, the first I knew of it was when I was pulled up at the Alice Springs Airport by Senator Scullion. I had just got off the plane and he came over and introduced himself to me and said, ‘Look, we’ve been talking to people about this legislation and we think it’ll be good; would you and the Central Land Council consider supporting it?’ or words to that effect. I said, ‘Well, we’ll have a look at it when it’s put forward et cetera, and we’ll go through the process.’ I did not indicate yea, nae or indifferent. We would assess it. I cannot remember the actual date of when that took place.

**Senator LUDLAM**—No, that is okay.

**Ms Martin**—Your query was about the consultation. We live out on the land. You know that. There has never, ever been any consultation with us. The first we heard about it was through Senator Scullion who put out a press release that said that there is no living habitation within the area. I do not know what he thought we were, because not far from there is the Bond Springs Airstrip which is used by a lot of people. I am here, Steven is there. We have another community there. The Wamboden abattoir is right there on the way to that site, as is Undoolya Station, a cattle station. I do not know what he was looking at when he said that it was not within a habitable site.

**Senator LUDLAM**—So you disagree with the proposition that there is nobody living anywhere near these dump sites?

**Ms Martin**—Indeed I do, because there was no consultation at all. Like David has been saying, it has all been in press releases that we hear things.

**Senator LUDLAM**—Mr Ross, once you did find out that these sites were under active consideration, what process did the land council follow from that point to find out what people think?

**Mr Ross**—Senator, since this has started, the Central Land Council has documentation of 14 meetings that we have had with representatives from both sites, the Alcoota and Everard sites. That includes meetings jointly between themselves and with other groups, including representatives from ANSTO, the Commonwealth and other interested parties. I think on at least two occasions we met with the Commonwealth. There have been a number of meetings with people and we have documented where and when those things have taken place. I do not have a list of it all in front of me, but we have gone through our processes as we normally do with the Land Rights Act. It is very clear in the act that we must have the informed consent of the Aboriginal people from a particular area and we go through these processes.

**Senator LUDLAM**—Is it normal for meetings of that kind to have three things happen: advanced warning; assistance provided for transport for people who are in outlying areas; and translation services provided for the different language groups?

**Mr Ross**—That is normal, yes.

**Senator LUDLAM**—All three of those things?

**Mr Ross**—All of that, yes.

**Senator LUDLAM**—You have said there were about 14 meetings—presumably some of them were pretty big meetings and some of them a bit smaller. Is that the usual process that you would follow right through for all of those meetings?

**Mr Ross**—Yes, that is a normal sort of operation for decision making for people in Central Australia.

**Senator LUDLAM**—Lastly, you would be aware that the act was amended in 2006 to allow for the proposing of the dump site by bodies such as the land council. Was the Central Land Council consulted in advance of that amendment being put through parliament?

**Mr Ross**—At that time, yes, we were. We responded and we would have put in a submission putting the points of view from the Central Land Council. As I said in the opening statement, we did not agree with the amendments to the legislation, because we did not think it was the right thing to do.

**Senator LUDLAM**—But were you involved in advance? Were you involved before that amendment went through the parliament or were you just called on to respond afterwards?

**Mr Ross**—We were called on to respond.

**Senator LUDLAM**—But you were not involved in the drafting of the amendment or had feedback into that?

**Mr Ross**—Honestly, I think we were asked but we certainly were not involved in that process, because we did not agree with it.

**Senator LUDLAM**—Okay, thank you.

**Mr Ross**—We did not think it was in the best interests of Aboriginal people in Central Australia, basically.

**Senator LUDLAM**—Thanks.

**Senator PRATT**—I have just got one question. Your submission notes how the site nominations and selection process does not have the Native Title Act, the Environment Protection and Biodiversity Conservation Act and the Aboriginal and Torres Strait Islander Heritage Protection Act applied to them and that there are exemptions. Notwithstanding that, in terms of your own processes, what you have told us is that you are committed to upholding those processes that fall within your gambit—clearly not the Environmental Protection Act. You are committed to upholding those processes within your own activities nevertheless?

**Mr Ross**—I think that is our job and that is what is expected of the Central Land Council by the traditional owners throughout Central Australia. They have an expectation that the land council is there to represent their rights and interests in land, and we have to respond accordingly.

**Senator PRATT**—It does not seem to make much sense to me that a bill should provide a capacity for a land council to nominate a site but in doing so not uphold those processes. Would you like to comment on that?

**Mr Ross**—As I said, we were not involved in that process because we did not think it was the right thing to do. We find it a little confusing.

**Senator PRATT**—If a land council were to nominate a site, what kind of process do you think it should go through?

**Mr Ross**—Certainly in the Central Land Council region, no-one has come to the Central Land Council and said, 'Look, we would like to propose this or propose that.' Therefore, unless someone did say that, we are not about to undertake that work. We have enough things coming at us now.

**Senator PRATT**—That is a good answer.

**Mr Ross**—We have the intervention, shires and whatever else and we are now about to get hit by people wanting to talk about departing from outstations. We have enough to do on a day-to-day basis.

**Senator PRATT**—Thank you.

**CHAIR**—If there are no further questions, on behalf of the committee I would like to thank all the representatives of the Central Land Council for taking the time to appear before us today. We appreciate your submission and your attendance here today very much. Thank you.

[2.24 pm]

**BUSH-BLANASI, Mr Samuel, Deputy Chairman, Northern Land Council**

**HILL, Mr Kim, Chief Executive Officer, Northern Land Council**

**LEVY, Mr Ron, Principal Legal Officer, Northern Land Council**

**SMITH, Mr Graeme, Special Projects Officer, Borroloola-Barkly Region, Northern Land Council**

**CHAIR**—I would like to welcome representatives of the Northern Land Council. The committee has received your submission as submission No. 96. Do you wish to make any amendments or alterations to your submission?

**Mr Bush-Blanasi**—No.

**CHAIR**—Thank you. Do you wish to make a brief opening statement before we go to questions?

**Mr Bush-Blanasi**—Before we go any further, I am acting chairman for two weeks while the chairman is on leave. I introduce you to Kim Hill, the Chief Executive Officer of the Northern Land Council; Ron Levy, the senior principal officer; and Graeme Smith, who is the senior project officer in Tennant Creek. He looks after the Borroloola-Barkly Region. I will hand over to our CEO to give you a statement.

**CHAIR**—Thank you, Mr Bush-Blanasi.

**Mr Hill**—Good afternoon, senators. I am not going to read through our submission—I just want to make the opening statement. The NLC will only support the repeal of the act if it is replaced by appropriate law which both preserves the Ngapa clan's rights regarding existing nomination under the act and which enables traditional owners of other lands to facilitate development of their lands for a radioactive waste facility if they wish, provided that the environmental and sacred sites are protected. I will repeat that: provided that the environment and the sacred sites are protected. With that, we are open to questions in regard to our submission.

**CHAIR**—That you very much, Mr Hill.

**Senator LUDLAM**—Thanks for coming down and speaking with us today. I would like to get a sense of whether the Northern Land Council was consulted by the former government before the Commonwealth Radioactive Waste Management Act was passed through parliament. Did you have any advance notice or, like the CLC, did you find out about it afterwards?

**Mr Hill**—I will direct the question to the senior legal officer. I have only been in the position for 5½ months.

**Mr Levy**—The act was announced, I think, in July 2005. At that stage, it had not been drafted or at least the draft was not available. From recollection, it went through the Senate in December. I think there was a Senate committee hearing in around about November. I would have to check my file, to be honest, but I do not have any recollection of seeing drafting of that bill prior to it being published on the website. I do not have any recollection of that. In fact, I am pretty confident that that did not occur.

The bill, or at least the policy of the bill, was published some time around September or October. There was a full council meeting in the week of Friday, 21 October 2005 and the full council passed a resolution calling for amendments. So at that stage either the bill had been published or we knew what was in it. We did not know from any information other than what was public, in my recollection.

**Senator LUDLAM**—What action did the NLC take following the passage of that bill through federal parliament?

**Mr Levy**—Firstly, prior to that, between July 2005 and the full council meeting in October 2005, government representatives from the department of science and also from ANSTO had public consultations in the Northern Territory. They approached the Northern Land Council and I think they went to other Aboriginal groups. I think the Central Land Council were also approached. That led to an invitation to those scientific officers to give a presentation to the full council at Crab Claw Island in October 2005. As a result of consideration of matters raised during that presentation and otherwise, the full council passed a resolution calling for amendments. Those amendments, in part, were made to the bill, and because those amendments were made the NLC supported the bill.

**Senator LUDLAM**—What involvement did you have in the drafting of the amendments that we saw pass through parliament in 2006?

**Mr Levy**—In 2005 the NLC was approached by senior people in an Aboriginal group who expressed interest in the Commonwealth government's proposal in light of the amendments which allowed Aboriginal land to be nominated. As a result of that, the NLC chairman I think initially met with that group on a preliminary basis and that led to other meetings into 2006 which included a number of visits to Lucas Heights. Those meetings were comprehensive. They were not only with that group but with adjacent groups and other people interested or affected in relation to the proposed facility.

It became clear in those meetings that there were a number of matters which required consideration by the federal government which meant, unless requirements were met, that there would not be agreement. The primary one of those was the wish to have the land returned after it ceased being used for a radioactive waste facility by the Commonwealth government. That led to an amendment to the act by an amendment bill which was proposed by the Northern Land Council and accepted by the Commonwealth government.

**Senator LUDLAM**—So the NLC was involved in the 2006 amendment act which was eventually passed?

**Mr Levy**—The NLC called for that amendment.

**Senator LUDLAM**—Just that amendment? I just wanted to particularly draw your attention to section 3C(6), which provides that, even in the absence of consultation and consent with traditional owners, the NLC—or presumably another land council—could propose a site. Was that something that was part of your requests of the government? How did you feel when you saw that that had actually been included in the amendment act?

**Mr Levy**—I think I have slightly lost your train of thought, I am sorry. Could you please say it again?

**Senator LUDLAM**—One of the provisions of the amendments that were made in 2006 to the act provided that site nominations from land councils would still be valid even in the absence of consultation with and consent from traditional owners. That is section 3C(6) of the amendment act. Did the Northern Land Council have a position on whether that was acceptable or not?

**Mr Levy**—The Northern Land Council had a position in the Senate committee hearing and it supported that amendment. The reason the amendment was supported was because the NLC regarded it as being consistent with the existing structure of the Lands Right Act. That was my legal advice to the NLC and that remains my legal advice.

As for your earlier question, which is the genesis of that amendment, I cannot recall where it came from. Again, I would have to check my file, but I suspect that it came from Commonwealth legal officers picking over the bill and seeing things which they wanted to fix. I do not recall its precise genesis.

**Senator LUDLAM**—But just to be clear, your advice to the NLC at that time was that it was appropriate for the provision to go into the amendment act that meant the NLC would not need to consult with or get consent from traditional owners in the area concerned?

**Mr Levy**—No, that is not my advice to the NLC.

**Senator LUDLAM**—I beg your pardon, sorry.

**Mr Levy**—I have misled you, I apologise. It is unlawful for a land council to nominate Aboriginal land to be a waste facility or for that matter to be a lease for a mine or a lease for a corner store or a lease for a buffalo licence—it is unlawful for a land council to do so without the consent of the traditional owners. The Land Rights Act, since its inception, has had a provision about the extent and the validity of a full council resolution directing a land trust to grant a lease or approving an exploration or mining agreement or now, because of this amendment, nominating land. My advice is simply that the amendment that was made in 2006 is consistent with the existing scheme of the act. But it remains unlawful for a land council to make a nomination which does not have the consent of the traditional owners.

**Senator LUDLAM**—As the law stands at the moment, it does not require consent of all the traditional owners of the area because of that particular provision which removes the land council from that obligation.

**Mr Levy**—That is a misconception, with respect; that is not the case.

**Senator LUDLAM**—Okay, that is very interesting. Can you just tell us how the land council came to the determination as to which traditional owners were appropriate to speak for the Muckatya site? No doubt you

would be more than aware that there are a large number of people who claim custodial responsibilities for that area who are claiming that they have not been consulted at all and their consent was not given.

**Mr Levy**—The land council followed its usual procedures in relation to consultations. In particular when dealing with a major matter, whether it be a matter like this, a major mine or anything which has either an actual or potential physical effect regarding other people or where people are just interested in it because it is controversial, the land council always comprehensively consults. In relation to this matter, the land council did just that. Many of the people here today are people who the land council consulted with and/or was always aware of what their position was at various times. There is a range of other people who are not here that the land council consulted with. In that respect I am talking about people other than the traditional Aboriginal owners of the land. We obviously also consulted with them.

The Land Rights Act and the radioactive waste act require comprehensive consultations. It is the bread and butter of all land councils. All four land councils comprehensively consult. We consulted in relation to other land which was not Ngapa land and we were not satisfied in relation to that land that the relevant traditional owners were consenting or were likely to consent. In relation to those sorts of matters, we obviously did not pursue them. But, in relation to this particular land, we were satisfied there was overwhelming support for a nomination after doing the comprehensive consultations.

**Audience members**—Liar.

**Senator LUDLAM**—Mr Levy, I would just put to you that the support is greatly less than overwhelming in terms of the evidence that has already been put to us just so far this morning.

**Mr Levy**—I observed the evidence and that evidence does not change my view at all. The question is always a case of anthropological advice. We had advice from three very experienced anthropologists: the NLC's then anthropology branch manager, Kim Barber, the NLC's current anthropology branch manager, Robert Graham, and Dr Brendan Corrigan. Their advice was in relation to the relevant land and the identity of the traditional Aboriginal owners, and more importantly as to the identity of how that group, within the context of a larger group of groups, makes a decision about that country. Further, the advice was in relation to the decision in relation to that country under Aboriginal tradition when there are individuals in other groups, some of whom are consenting and some of whom are not, and whether the position of individuals in other groups affects the decision of the group with ultimate authority regarding that land under Aboriginal tradition. The NLC's anthropological advice was and remains that there was overwhelming support from the group with ultimate authority under Aboriginal tradition to make decisions regarding that land.

**CHAIR**—Mr Levy, can you just clarify if that is still the view of the Northern Land Council, that there is still majority support for your proposed site?

**Mr Levy**—Not majority; overwhelming.

**Audience members**—Liar.

**CHAIR**—Order. Mr Levy?

**Mr Levy**—Our view in 2007 was that under Aboriginal tradition, the group with ultimate authority regarding that land overwhelmingly supported the nomination and that remains our view. I never had to give legal advice to the full council about this issue. They were quite satisfied about that and about the advice that was received. But, if I had been asked to give advice as to whether, in those circumstances, the full council could refuse pursuant to its functions to make the nomination, my advice would have been that it could not.

**CHAIR**—Thank you. Senator Birmingham.

**Senator BIRMINGHAM**—Thanks, Chair. Gentlemen, thank you for your time today. To continue on that line of questioning to be quite clear, in relation to the land on Muckaty of which we are speaking, do you see the Ngapa people as the only relevant custodians to have the authority to make a decision?

**Mr Levy**—The authority to ultimately make the decision is with that group but consultations must be broader and they must be real consultations, which they were. That occurred. When it came time to make the decision, we knew that there were individuals, including some people here today and some who are not, within other groups who were opposed, but it was not their country.

**Audience members**—Liar.

**Mr Levy**—We knew that within those other groups there were also individuals who had no view. We also knew that within those other groups there were individuals who in fact were in favour. But, the ultimate

authority was within the Ngapa group and they overwhelmingly supported it. Accordingly, the NLC made the nomination. As I have said, there was never any doubt that the NLC full council would do that. If I had been asked, and I was not, to give legal advice about it, my legal advice would have been that the full council must make such a nomination.

**Senator BIRMINGHAM**—That legal advice would have been based on the premise that the full council has to respect the rights of those traditional owners who have particular authority over a particular piece of land; is that correct?

**Mr Levy**—That is right, and that is always the way full council approaches things.

**Senator BIRMINGHAM**—The anthropological advice to which you referred in response to questioning from Senator Ludlam, was that provided verbally or in writing?

**Mr Levy**—No, it was provided in the form of a comprehensive anthropological report required by the legislation which, under that legislation, has to be submitted to the minister in relation to the then minister's decision as to whether or not to accept the nomination.

**Senator BIRMINGHAM**—Is that a public document?

**Mr Levy**—No, it is a private document.

**Senator BIRMINGHAM**—It is a private document. The minister in question in this instance is?

**Mr Levy**—The then minister Julie Bishop.

**Senator BIRMINGHAM**—Can I just turn to the genesis of the nomination of Muckaty. Was it the council's idea to nominate the site and that idea put to the Ngapa people, or was it the idea of the Ngapa people to nominate the site and that put to the council, or did it come about through a totally means from those two scenarios?

**Mr Levy**—No, it was the second. The scientists were invited in the proper way to attend the full council meeting. They gave advice. The Ngapa people then approached the NLC chairman—

**Senator BIRMINGHAM**—The scientists were invited by whom?

**Mr Levy**—The Northern Land Council as part of the public consultation process, when the then CEO met with the scientific people in the second half of 2005, suggested that they may wish to attend a full council meeting and give a presentation. As result of that presentation, the senior representatives of the Ngapa group approached the NLC chairman who then privately, if I recall correctly, met with them a few weeks later down at Tennant Creek or Muckaty Station. After that, the chairman approached me and said that he wanted the matter looked into because there appeared to be people who were interested. It was their approach.

**Senator BIRMINGHAM**—The scientists to which you refer were representatives of—

**Mr Levy**—The Department of Education, Science and Training and also a representative of ANSTO.

**Senator BIRMINGHAM**—And they made a presentation to the full council—

**Mr Levy**—Yes.

**Senator BIRMINGHAM**—and that presentation identified one or numerous potential sites that would be or could be suitable?

**Mr Levy**—No, there were no sites identified. It was simply a presentation regarding what was then known about the bill, the Commonwealth policy. There were three Defence sites suggested. It contained information as to what a radioactive waste facility would look like—there was a video about that. There was some general information about radioactive matters. If I recall rightly, the presentation went for over half a day at the full council meeting. It was a reasonably comprehensive presentation but focused on the three Defence sites.

**Senator BIRMINGHAM**—How large is the full council?

**Mr Levy**—It has 83 members, which represent the seven regions of the NLC top end.

**Senator BIRMINGHAM**—Following that presentation by the scientists, was the Ngapa community the only one to express interest or did others at that stage express some initial interest?

**Mr Levy**—In 2005 one group in addition to the Ngapa group expressed interest and in 2006 a number of other groups also expressed interest.

**Senator BIRMINGHAM**—What was the reason for those other groups not proceeding?

**Mr Levy**—The federal government scientists indicated to us that the areas of land traditionally owned by the other groups appeared on the surface to be less suitable than the Ngapa group region and therefore requested that we focus on that region.

**Senator BIRMINGHAM**—It was put by some of the earlier witnesses that only part of the Ngapa traditional owners support this decision—I think that the words were roughly that it was one out of the three families or associated groups. Is that not the understanding of the land council and, if not, why not?

**Mr Levy**—The NLC's position, as I have said, is that there is overwhelming support from the Ngapa people with ultimate authority to make decisions regarding that land. It is not accepted by the NLC that other persons connected with other Ngapa clans in any significant way oppose that ultimate decision.

**Senator BIRMINGHAM**—How have you determined that there is overwhelming support within that particular Ngapa claim?

**Mr Levy**—Through the consultations we have had, which were comprehensive. The anthropological report provided to the minister listed the dates of all those consultations and advice was provided as to attendees and of course government representatives attended many of those consultations.

**Mr Bush-Blanasi**—Madam Chair, Graeme Smith may be able to enlighten you a bit more regarding the consultations that happened in that area. Graeme is actually the project officer of that area. Some of the questions that you are referring to our senior project officer should be referred to Graeme Smith.

**Senator BIRMINGHAM**—If Mr Smith wishes to, yes.

**Mr Smith**—I agree with Ron Levy's comments that we definitely had quite comprehensive and numerous consultations and included all groups that the Northern Land Council regard as holding an interest in Muckaty. All groups were at the numerous meetings we held. When it came time for a nomination, the Ngapa group agreed to the site nomination after lengthy consultations and a number of meetings. So Ngapa nominated their site and there was nobody within the Ngapa group at that meeting that disagreed or went against the nomination.

**Senator BIRMINGHAM**—How many people were involved in the consultation within the Ngapa group?

**Mr Smith**—Within the Ngapa group? I do not have those figures with me but people in this room were at the meetings, some Ngapa, some not. At those meetings we had upwards of 40 people in general made up of each of the five groups. I did not go through and pick out which person was with which particular group. I just noted that there were senior people from each group represented.

**Mr Hill**—As the senior principal legal officer I am more than happy to speak and say that we can provide the documentation that we provided to Julie Bishop in regards to the consultations we had.

**Mr Levy**—I may have misled you and my CEO. We can certainly provide information on notice about the dates of the meetings and the number of people who attended, if that is of any assistance to you.

**CHAIR**—I am sure it would be Mr Levy and Mr Hill, thank you.

**Senator BIRMINGHAM**—That would be helpful. I will just finish with one point. You make it clear in your submission, but it is worth getting on record as well, that traditional owners have a right to do business on their land. Would you care to elaborate on the importance the council places on that principle?

**Mr Hill**—Could you just say that question again?

**Senator BIRMINGHAM**—In your submission you make clear in a couple of different ways the principle of the importance of the right for traditional owners to do business on their land. I am just wondering whether you could, for the benefit of the record today, elaborate on what you see as the importance of that right.

**Mr Hill**—It is recognition of ownership of those countries, not just the recognition but the historical traditional affiliation people have for those areas in which people are seeking leases. We just had a full council meeting last week and the traditional owners or the full council members expressed frustration in regard to what is happening in the Northern Territory regarding the intervention, the shires and a number of other matters on which the land council is dealing day to day. All they are seeking is recognition of their rights as first peoples of this land. The consultation process is very important.

**Senator BIRMINGHAM**—Have there been other instances or similar instances with regard to major developments where there is a conflict between the people who have been defined as the relevant traditional owners, under your consideration, and other neighbouring communities and groups?

**Mr Hill**—We get that on a day-to-day basis; that is something that we live and breathe. There are various interpretations and definitions under various pieces of legislation which identify people. Earlier on, people were making references to communities, and within communities there are a number of clan groups. For example, in Darwin and in Katherine there are a number of clan groups. Within East Arnhem there are a number of people who live in Nhulunbuy who are not necessarily traditional owners of those areas. On a day-to-day basis we deal with people disputing areas and decisions of family members and we look at ways in which we can have dispute resolution. We also have training with regard to dispute resolution. There has been emphasis on governance training for a lot of our people in the Northern Territory particularly in the Northern Land Council area because there has been an increase in mining activities and other economic development and people need to understand the financial literacy of what moneys they are receiving and what possible investments they may want to pursue in the future for their children. So we live it day to day.

**Senator BIRMINGHAM**—That is obviously why you place such importance on the anthropological advice that you receive. I will make this the last question or the chair will seriously pull me up. Have you received requests from some of the other groups or communities for you to seek additional compensation or funding in regards to this proposal for their communities? Have there been arguments that have developed in response to the money that the Commonwealth has put on the table?

**Mr Hill**—Tomorrow we are having consultations in Galiwinku regarding the housing leases and township leases. There are dispute areas within Galiwinku in regards to traditional ownership and the custodians of those lands because people have introduced various ceremonies into that community with the placement of these people. We are also having consultations with people at Wadeye in regards to long-term housing leases and township leases. It is well documented in Wadeye that there are so many other clans residing in that community who feel as though they have obligations in regards to services of housing, yet the traditional owners have a different view in regards to being the owners of those lands. Whilst they are there to look after the visiting clan members who have resided on Wadeye for quite some time, other clans need to identify and recognise the traditional owners, who should have financial benefits streamed to them through the creation of new corporations and enterprises within their communities. We are having that tomorrow and next week, and there is another—

**Senator BIRMINGHAM**—Just specifically in regard to this proposal for the radioactive waste facility, have there been requests from other clans or communities for financial consideration?

**Mr Levy**—I can answer for the period before my CEO was a CEO, which is the last six months. There have not been requests from other groups for financial assistance in relation to this country because it is not their country. It was always contemplated, as I understood it, under the former government and no doubt it would be under the current government, that if anything proceeded there would be, firstly, public consultations, particularly as part of an environmental assessment process under the EPBC Act, and, secondly, there would be opportunities for the public generally in relation to what general benefits may be available from programs the government may consider as appropriate.

**Senator PRATT**—You assert that no-one except the Ngapa group have the right to consent to this particular nomination that has been made? I am confused about whether all the key Ngapa families and groups did or did not participate in that decision to nominate. Are there any people who said no that you are clear about?

**Mr Levy**—That may be three questions but perhaps I will reduce them to one. The NLC received anthropological advice that the process had been properly followed, that all relevant persons or representatives of other groups and interested people and so forth had been consulted, that there was overwhelming support by the ultimate decision makers, and that they had consented to it. That was our advice then and it remains our advice now.

**Senator PRATT**—I understand the advice that you have given just now, but I am a little bit unclear. It has been put to us that there was only one Ngapa group that consented. Are you arguing that those other groups were not part of that decision, that they are not in fact part of the relevant anthropological group, as you put it?

**Mr Levy**—All the Ngapa clans and other groups participated in the decision-making process. Ultimately, when a decision had to be made, it was made by those with ultimate decision-making authority under Aboriginal tradition and we received advice in relation to that. In relation to other groups, whether they be Ngapa groups or other groups, they would be the decision makers in relation to their country.

**Senator PRATT**—So you are saying that there are other Ngapa groups but that they were not relevant to this particular site?

**Mr Levy**—All the Ngapa groups and other groups were consulted. When it comes time to make a decision, anthropological advice is received as to who are the senior people who have the authority under Aboriginal tradition to make decisions regarding that particular country. That process was followed and the decision was made.

**Senator PRATT**—Further to that, you discount other Muckaty links to the groups as significant to the nominated site; is that correct?

**Mr Levy**—We do not discount other groups, especially sacred sites or dreaming tracks or interests which are less than traditional ownership. We do not discount any of those things; they are very important. In a matter like this, they should be included in the consultation—and they were.

**Senator PRATT**—What you are saying is they do not have a right of veto over the—

**Mr Levy**—Under the Land Rights Act and, we say, under Aboriginal tradition, it is the traditional Aboriginal owners as a group in accordance with their traditional decision-making process which have the veto.

**Senator PRATT**—You are also saying that all the evidence of those things is in a private report that is held by the previous government; is that right?

**Mr Levy**—It was provided to the previous minister, who relied on it in accepting the nomination.

**Senator PRATT**—My final question regards Labor's policy. You have argued in your submission that should the current act be repealed and Labor's policy implemented—that the current site should retain the right to nominate. Do you believe that the current nomination would withstand due process and oversight of a further future consultation in relation to these issues in terms of the mandate that you believe this particular site has?

**Mr Levy**—That is a good question. First, our proposal would not involve further consultations regarding the nomination that has occurred. However, if it was the case that procedural fairness had not been removed by the amendments made to the judicial review act, the Administrative Decisions (Judicial Review) Act 1977, and there had been a challenge, my legal advice would have been—and the full council undoubtedly was satisfied—that its nomination would have easily survived any legal challenge under that legislation.

**Senator LUDLAM**—I realise we are fairly short of time. Can I just come back to the people finally with the power of veto who actually make the decision, as you put it, one way or another after you have consulted broadly. How many people is that physically? Is that one person or a small group—how many?

**Mr Levy**—Just speaking generally, ordinarily in the NLC's region, it is fairly small groups of Aboriginal people that make the decisions and particularly the senior people in it. That certainly is the case in relation to the traditional Aboriginal owners of this—

**Senator LUDLAM**—I am just after how many. Is it one person where your anthropologists have told you this is the person who can make that decision, or is it a small group?

**Mr Levy**—In this case the anthropological advice was that all members of the group with ultimate authority regarding that land were in favour it.

**Senator LUDLAM**—How many people is that?

**Mr Levy**—If you wish, I am happy to take that on notice to get the precise number of the group concerned. I do not want to mislead the committee but, from recollection, it was 40 or 50 people, if you include younger people. If I were to give a precise answer I would need to go back and get precise information.

**Senator LUDLAM**—But it is within the order of 40 or 50 and you can provide us with the exact number down the track. I would appreciate it if you would take that on notice. Within that group, that number of people, the consent was, as you would put it, overwhelming?

**Mr Levy**—That is right.

**Senator LUDLAM**—I know for example that Mrs Amy Lauder has been a spokesperson for that group. Is she amongst that number?

**Mr Levy**—She is a member of that group, but there are other senior people in that group.

**Senator LUDLAM**—Okay—but she was one of the ones in the consent group?

**Mr Levy**—Her statements speak for themselves.

**Senator LUDLAM**—Is it the case in fact that she is on the full council of the NLC?

**Mr Levy**—That is correct.

**Senator LUDLAM**—Is she also married to someone who is on the executive council of the NLC?

**Mr Levy**—That is correct.

**Senator LUDLAM**—Because evidence that has been placed before us shows that, of the five clan groups, only the Ngapa were the ones with the final decision-making power and, of the three groups of Ngapa, only one had given their consent, I am just wondering on what basis you are then able to say that of all the people concerned there is overwhelming support when clearly there is not?

**Mr Levy**—With respect, that is only the case if it is the case under Aboriginal tradition that a broader group of persons is responsible for making the decisions. But our anthropological advice was that that was not the case.

**Senator LUDLAM**—Are you able to table that advice for the committee?

**Mr Levy**—No, because it is private advice that was provided to the former minister.

**Senator LUDLAM**—I will leave it there.

**CHAIR**—Leaving aside the issue of whether or not there was overwhelming support for the Ngapa's clan nomination, can you outline or do you have written down the reasons why the Ngapa clan supported the nomination?

**Mr Levy**—There may be opportunities in the future to ask those people directly but I think some reasons were given in the NLC submission. They were satisfied in relation to the environmental issues after visiting Lucas Heights and receiving scientific presentations. They were wishing to take advantage of the rare opportunity to cause development to happen in remote parts of the Northern Territory on their terms, so as to obtain benefits which they saw as being long-term benefits for their children and grandchildren in terms of education facilities and so forth on Muckaty Station. Also, they accepted the scientific advice that the Lucas Heights facility provides important benefits that all Australians use every day directly and indirectly.

**CHAIR**—Thank you, Mr Levy. Also in your submission, as has been previously pointed out, you say the NLC would only support repeal of the act if it is replaced with appropriate laws, and you suggested some components of what you would propose to be appropriate laws. Is there anything else you wish to add to that or can you give us a few dot points about what you believe would be appropriate?

**Mr Levy**—At the moment the act exists and the NLC supported it and continues to support it. If the Labor Party has a policy of repealing it, with some fine print about existing contracts—there is an existing contract between the Muckaty Land Trust, NLC and the Commonwealth—we would have thought it was consistent with Labor Party policy that that be preserved. Also, of course longstanding Labor Party and coalition policy for decades has required a remote site for the waste which currently is at Lucas Heights and in Woomera. So it is not really for us to say what government policy is. If government policy remains as it is, then we will work with it. If government policy changes, then we will endeavour to make a contribution to it at that time. The main thrust is that there has been a nomination made and there is a legitimate expectation by that group regarding those benefits. The view of the NLC full council is that if other groups—and there might not be any—wish to develop their country they ought to be able to as well.

**CHAIR**—If there are no further questions, thank you very much to the representatives of the Northern Land Council for appearing before the committee today and for your submission. We appreciate it very much.

Just before we break for afternoon tea, I should alert participants in this inquiry that a number of media organisations and others have been recording proceedings separately from Hansard. If you have any issues with having that recording used in public broadcast, please let the secretariat know. We will now suspend for afternoon tea.

**Proceedings suspended from 3.06 pm to 3.33 pm**

**WASLEY, Ms Natalie, Arid Lands Environment Centre/Beyond Nuclear Initiative****Mitch, Arid Lands Environment Centre/Beyond Nuclear Initiative**

**CHAIR**—I welcome representatives from the Arid Lands Environment Centre and the Beyond Nuclear Initiative. Thank you both for coming along to talk to us today. The committee has received your submissions as submissions Nos 35 and 94 respectively. Do either of you wish to make any amendments or alterations to your submissions?

**Ms Wasley**—No.

**CHAIR**—Do either or both of you wish to make a brief opening statement before we go to questions?

**Ms Wasley**—Yes, I would, thank you. I work with the Beyond Nuclear Initiative, which is based at the Arid Lands Environment Centre in Alice Springs. I have been here for about three years working with all of the communities that are being targeted and affected by the proposal for the federal radioactive waste dump. I have a regular communication with all of the traditional owners in nearby communities, and also people living in towns right across the territory, to keep the information flowing between the bush and the towns on this proposal.

After three years of this proposal being announced, it is very clear that there is still strong and sustained opposition to the federal dump being imposed on the territory. Operating under the Radioactive Waste Management Act has been frustrating and disempowering for people. As you heard before, many of the old people are getting sick from worry about this proposal. I think this inquiry is a really good opportunity to break the way that we have seen radioactive waste management tackled over the last decade or more, which is ‘decide, announce and defend’, and that is no way to do business.

As we have heard from the evidence, all of the sites are extremely close to communities and community-controlled business ventures. There are tourism businesses, cattle businesses, and there are a lot of ideas that people have as to how they want to live on country, not just for themselves but also for the next few generations. Obviously none of these things will be able to go ahead if there is a dump in the middle of their country.

I want to read a statement from people at Fishers Ridge, because they wanted to come down to participate in the hearing today but could not, for a number of reasons, and they have asked me to read this statement, which I will also table. I think it shows that there really are strong networks between people at all four of the sites, and that has been a concerted effort from people to keep in contact with each other and support each other. No matter whichever site is chosen, they will continue to work together to oppose it. This is from the Katherine No Dump Action Group, and I will just pick out a couple of paragraphs, and then table the full statement, if that is all right.

Residents within the Katherine region have been concerned about the Radioactive Waste Management Act since the Liberal government announced it in 2005. Fishers Ridge is located in a monsoonal high rainfall area with annual flooding, large sinkholes and over a large aquifer system which feeds into the headwaters of the iconic Daly and Roper River systems. We are all dependent on water from this aquifer, whether for aquaculture, horticulture or drinking water for human consumption.

This group works very closely with Barry Utley who owns Yeltu Park Station, a viable cattle station. Fishers Ridge Department of Defence site is surrounded by Barry’s property on all four sides. It is literally smack-bang in the middle of his cattle station, the proposed defence site. Barry and his late wife Val Utley have been active members of the group in Katherine and have campaigned tirelessly against this law. Unfortunately Val passed away just before the 2007 election, but up until this time she really believed that the ALP now government had committed strongly to repealing the waste management act.

The group says that with this election result, they all felt relief Barry could have comfort knowing Val’s efforts had not been in vain. Barry has tried numerous times to contact the government since the election to find out what is happening, but really he is in limbo. He is trying to sell part of his property, which he obviously cannot do with a proposed nuclear waste dump in the middle of it. The Katherine people say they are opposed to sites being anywhere in the Northern Territory, and they are committed to working with us as a community and with all the stakeholder groups to get an equitable outcome on this.

Just briefly on the Commonwealth Radioactive Waste Management Act, it has been heavy-handed, it has been politically driven, it is clearly not a scientific process, and really any attempts to paint it as a scientific process are just absurd. None of these sites was short-listed when a national study was done about siting a

radioactive waste facility. There were not even in the top ten, so it is hardly what you can call a scientific process. The waste management act was rammed through by the Howard government, with strong opposition from the ALP opposition, the minor parties, the NT government and a broad section of the Territory population. As was explained when Central Land Council presented, it undermines public health, environment and heritage acts, and overrides Aboriginal and Torres Strait Islander heritage act and the Native Title Act during the site nomination processes.

One point of clear concern with the Northern Land Council's presentation is that it indeed does override the Administrative Decisions (Judicial Review) Act 1977, which means that people who contest the nomination, for example, at Muckaty, have no legal opportunity to pursue that path, which in this day and age is just outrageous. It is important to note that, in Senate estimates in June 2008, Pat Davoren from the Department of Education, Science and Training said that people who volunteered their land at Muckaty did so at meetings convened by the NLC under the rules set up by the Land Rights Act. If it is the case that this was done under the Land Rights Act, there is a legal requirement for the opinions of all affected people to be considered in the consultation and the decision-making process.

So I come back to the question that was asked earlier: would the Muckaty nomination stand up if this legislation is repealed? I strongly believe no. From a couple of years of visiting Tennant Creek and meeting with traditional owners there, I can say absolutely they would not let this go ahead if that were the case, if they had the opportunity for legal challenge.

I will spend a bit more time on Muckaty because I feel that I would like to answer some of those things that came up in the previous presentation. Traditional owners throughout this process at Muckaty have requested that the Northern Land Council convene a meeting for all of the family groups to come together and discuss this proposal. These meetings have been requested from way back when it was floated as a rumour that Muckaty would be nominated. This was before that particular site was identified. People from the five family groups said that you have to consult with all five family groups. I have here the map of Muckaty Station. It is clear from the land commission's report that people's dreamings are all through that land trust site, so the decisions must be made by people with all of the sites to be consulted. That is what Ron Levy referred to as traditional decision making. If you speak to the traditional owners, they say strongly, clearly and consistently that it has to be all five family groups. I refer you back to the video submission that was made by Muckaty traditional owners, and a number of people have alluded to that in their submissions. Also, the analogy was given that in Arnhem Land there are a lot of different clans, so you cannot consult all of the clans. If you are looking at the area of Arnhem Land compared to a clearly defined land trust that is defined as a single land trust with five family groups because of their shared dreamings in this site, I do not think that that is comparable at all.

I will comment briefly on a couple of points that ALP members, now ministers, and senators said before the election. You should keep in mind that Jenny Macklin described this legislation as arrogant, 'extreme and heavy-handed'; Anthony Albanese called it draconian, sidelining Indigenous rights; Peter Garrett said it was 'a sorry and sordid business driven by a ... process ... no-one has consented to', and that it 'makes a mockery of informed consent'; and Senator Trish Crossin said it was extraordinarily and profoundly shameful. She said, 'It compromises the rights of Indigenous people to make decisions based on free, prior and informed consent.' I would extrapolate that to say that people right across the Territory and the Territory government have absolutely no avenue for challenging this legally.

On 27 September last year, before the election, there were media releases were put out by Senator Trish Crossin and now Minister Kim Carr unequivocally committing Labor to repeal this act if elected. It has been a year, and some 10 or 11 national environment medical and health groups have written to the Prime Minister on this issue, but they have never had a response. Why has it taken a year? Because Martin Ferguson is at the helm. I think it is important for this Senate committee to make strong recommendations that this needs to be an across-portfolio approach. There are health issues, there are environmental issues, there are human rights issues and Indigenous rights issues, and it really needs a broader selection of people looking at this than just that one particular minister.

In the context of the apology, in the context of the clear commitments that the Labor Party gave on this issue, it is important that we move into a new era of decisions about radioactive waste management in line with international trends. For example, the UK Committee on Radioactive Waste Management says, 'There is a growing recognition that it is not ethically acceptable for a society to impose a radioactive waste facility on an unwilling community.' Where is Australia in this with all of this talk of world's best practice and

international best practice standards? I would ask the committee to recommend immediate and unconditional repeal of the Commonwealth Radioactive Waste Management Act; that all four sites currently under assessment for the dump be withdrawn when this legislation is overturned, including Muckaty, which was nominated under extreme contention and solely because of this act.

I ask that all affected groups, communities and stakeholder groups are directly notified when this occurs, because of the complete lack of direct communication with affected people. I ask also that the committee recommends that a comprehensive independent inquiry be held into radioactive waste management in Australia, so that we can sort this out and move on from those Howard era decision making processes. Thank you.

**CHAIR**—Mitch, did you wish to make an opening statement?

**Mitch**—Yes. I would like to introduce myself as Mitch. My country is out on the Plenty Highway. I do not have a surname; I got educated. This is my great-great grandmother, Hettie Perkins. She has passed away now. This is my grandmother and my grandfather—this is my grandfather's country; it is near where you are going to put a nuclear waste dump—and they are both dead too. This is nine out of their 10 children. The baby passed away. That is all we have left in my family line. Through the assimilation policies that my family lived through in this town, it disconnected us from our land. But through those same policies, I was able to get educated. I did my Associate Diploma in Aboriginal Studies through the Adelaide university, and found out the history that my family could not bring themselves to tell me. In doing that, I then took my four children to my homelands, where there is a community called Harts Range. It is only named Harts Range because of the police station. The actual community is called Atitjere. Going back there with my four children, we were soon surrounded by poverty, inequality and no services. My babies could not go to kindergarten, which I was taught was really important for my children, and my older children could not go to high school because there were no facilities. On one of my journeys into town to look for a boarding school for my children, I had a car accident on the dirt road. This is my eldest daughter who passed away in that accident. Through going back to the country, I was able to place her on my homelands and bury her there with ceremony. I go back whenever I can afford it to put flowers on her grave. I will continue doing that, even though I am educated.

We were listening to the news one day, and we heard John Howard say that he was going to put a nuclear waste dump on our country. My memories of high school and science were that we could play with everything else—the mercury and all the other elements that sat across the top of the board—but we were not allowed to play with uranium. We knew we had uranium in our school because we had the stickers up everywhere. My first thought was: 'Who's going to put flowers on my daughter's grave? Who's going to do it for the rest of my family when I know how bad this stuff is?' I sort of thought, after 12 or 14 years of not being at school, I should go back and re-educate myself on uranium. I not only found out about what happens with uranium in Australia and how much it is valued in dollar terms, but I found out the consequences for Indigenous people wherever these mines are. I found out about the long history of the waste dump issue from Western Australia to South Australia.

On a recent trip this weekend down to bury family in Port Lincoln, I was able to see the scars of the mines there, and I was able to talk to some of the Indigenous people that live down there. I can feel their sorrow, and I feel their pain, and all we ever do is bury our family. We are still using words like 'survive', 'struggle', but when we are talking about an industry that is going to dig up poison and use it in a reactor in Sydney, and then they have to dump it in our country, it gets personal. It gets personal because, as a mother and a want-to-be grandmother, my country is going to get poisoned so that everybody down south can feel happy and safe. On a recent visit to Lucas Heights, we were told that they had 30 more years' worth of storage there. We were told that that is where all the experts were. I have been on the four meetings with Central Land Council, after I heard through third, fourth and fifth parties about stuff that was going to affect my country as well. We spoke with scientists and we spoke with Central Land Council, and we got no resolution. We were told that the fuel rods have to come back and that it was our duty to help out Australia.

At that time John Howard was still in power, so we were very afraid of John Howard, and had been for a number of years because of his withdrawing funding from everything that had anything to do with Aboriginal people. We knew that hiding a waste dump out in our country was exactly that: hiding it away from the white population on the south coast. We know that we do not have the numbers in the Territory, nor the legal right to stop this, but we wonder if the rest of the country is ready for the whole of the Northern Territory to move out and move down there and expect schooling and expect housing and expect clean water and expect a sense of belonging. That is what you are taking away from us: our right to walk our grandchildren on our land, the right

to teach our grandchildren in language what that land actually means, the right to journey across from one sacred waterhole to another sacred waterhole. All of those things affected my family through the assimilation policy.

After going back to country and feeling it, and burying my daughter there, my expectations are that I am to be buried there too. My expectations in the present form with the Rudd government are that it will not be long. After fighting this for the last couple of years, we are now under the invasion of uranium mines all over the Northern Territory and it is scary. It is scary that we do not have a voice; it is scary that we are not allowed to have a voice, and if we do have a voice, it is just a blackfella voice. As a sovereign owner of this country, my family never conceded to the Queen or the King, or to the laws that presently govern us, but we live under them, and we survive. We do not prosper; we do not think for our future. We have all of those things to keep us down as Aboriginal people in this country, and it is killing us. I am 44 years old. I should not be grey in this country. I should not have to fight for 10 years to have the freedom to walk on my own land, and neither should my family. When they have done all the right things—built a community, built houses, manipulated funds into a school, into a shop, and to have bitumen roads on their bloody roads out there—when they have done every single thing to act white and be white in this country, they are still punished.

By forcing this waste dump on to anybody's country in the Northern Territory when there is strong opposition is not a sign of civilisation. If that is what this country is trying to bring to Aboriginal people, we have no-one to look up to, because this is not civilised. This is not the action of a government that can parade around the world and say it is civilised. This is not the action of a government that can go around and sell uranium and/or, at their will, open up an international uranium dump on our lands, just because it gives them political standing. We have talked with Mrs Bishop in Perth—before she got the police on to us. We invited her to country, as we have done with Martin Ferguson, and not once have these politicians got back to us. Not once have these politicians got on a plane and come and sat on country—not once. So we are grateful that you are here. We are happy that you are here, because we are hoping, like the flu epidemic that hit Australia, that every recommendation from this inquiry would be followed and not treated just like another Aboriginal inquiry, and why are we whinging because the government is forcing something on to us? We do not want it, and we want it to stay in Lucas Heights so that it does not have to travel anywhere through this country.

We want the Northern Territory to be recognised for its heritage status—that is driven down the necks of tourists and driven down the necks of anybody who wants to buy our cattle from here. I call on the government to start testing our water; I ask them to test our beef before they send it overseas or down south; and I ask that you please get Mr Ferguson off his butt, out of Melbourne and out here on country so that he can feel and see and taste this country, and live in it the way that we have to live in it. I invite him to come on his CDEP money and live out bush. My family cannot be in town today because they do not have a bitumen road. They do not have cars that can travel on this road when the rain hits. When our rivers go up, we do not have bridges over the rivers unless it is on a major route. We were promised by the government that, if they put a waste dump on our country, they would give us bitumen roads, so we knew they were lying, because there was a bitumen road already up to the site. If you go another eight kilometres, there is no bitumen road, and that is where my daughter is buried on my country. If I am no longer around, I ask that you put those flowers I have given you on my family's graves, because we will not be here to do it.

**CHAIR**—Thank you very much for your opening submission, Mitch. We will now go to questions.

**Senator LUDLAM**—Thanks to both of you for coming in this afternoon. I am not actually sure where to start. Ms Wasley, can you give us a bit of a sense of the people that you work with out here from all the different communities? We heard in previous testimony from the NLC that there was overwhelming support for a radioactive waste dump in a particular place. What is the sense that you are given, and from where do you get your instruction and direction to do the work that you do?

**Ms Wasley**—The reason we first found out that Muckaty in particular had been proposed as a site was because Northern Land Council put out a media release saying that they were undertaking consultations with people all across their region, but that no specific site was being discussed. Whoever sent the email sent the attachment titled 'Muckaty', so we knew that there something going on there. I went up to Tennant Creek to try to meet with some of the traditional owners, because I had already been working with people from the other three sites and just to share what was happening with that community campaign and the resources and information that I had. People living at those three other areas were not being given what they considered balanced and fair information. There were nice glossy brochures and CD packs from the government, but no opportunity really to have both sides of the story. So, in the last two years we have convened numerous

meetings in Tennant Creek. I have spent a lot of time up and down the street in Tennant Creek talking with people and visiting people in their homes. I have travelled out to the site, and I have travelled out to nearby communities, and I would say that overwhelmingly people oppose this dump. The fact that no clear number was given, and that people who opposed it have never been able to access minutes from meetings or see the signatures of who has actually said yes to nominating Muckaty, or any of the paperwork that would be normal process for affected people to have an understanding of what is happening on their country and in their land trust really indicates that a bit of paper shuffling is being done by the NLC in particular.

Just from the presentations, we see the vastly different ways that the two land councils are approaching this particular issue. That is really important to note. The lawyer making the presentation, Ron Levy, said that a contract has been entered into between the Commonwealth government, Northern Land Council and Muckaty Land Trust. I think it would be very apt to request to see a copy of this contract, because I have not heard that mentioned before. From our discussions outside, a number of people here who sit as members of the land trust, who are board members on the land trust, did not know about that contract. My understanding is that the agreement had been made with just that very small group. Incidentally, the name of Amy Lauder, one of the women mentioned previously by the senator, has popped up in media statements, and she is actually the chairperson of that land trust.

So there are a number of issues, including conflict of interest, with her being chairperson of the land trust, the Muckaty representative of the full land council, married to someone on executive and clearly not listening to what a lot of people are saying from within the land trust and the community.

**Senator LUDLAM**—What has been your contact with the government since the election, about this time last year? What correspondence have you had, or what have you got back from the minister's office about their intentions?

**Ms Wasley**—There actually has not been a lot of difference in responses from what we received before the election, and that is extremely unfortunate. We have sent numerous letters from my project here in Alice Springs working with traditional owners, letters that have been signed by a number of traditional owners. I mentioned also the 10 or 11 national health environmental groups who wrote directly to the Prime Minister calling for an outcome on this, or at least some indication as to when they might follow through with that extremely clear election promise. So it is extremely disappointing. We have travelled down to a lot of conferences and speaking events in most of the capital cities, and every time we do that, I really go out of my way to contact any ministers or senators who are in that office with as much notice as possible. It used to be Julie Bishop; now it is Martin Ferguson, and it is still Kim Carr, but anyone that we can contact, and it is extremely disappointing that they have never responded to those invitations. We have never been invited to come into those offices and sit down. When we do leave those offices, because we usually just pop in to see if they are there anyway, we will leave a written invitation for them to come to the Territory. We have made the effort for up to 10 people to travel down to the city, not on a parliamentary budget, so we would request that they come up here and, as people say, sit down in the proper way and talk to the affected people. It just seems really basic.

**Senator LUDLAM**—Maybe you would both like to address this question, but what in your opinion do you think should become of the radioactive waste that is generated at Lucas Heights?

**Ms Mitch**—I am sad that Aboriginal people have been asked this question. We have had to bone up on our education to find out what uranium is and what uranium mining is, how it then leads into bombs, how we are selling it overseas and how the mining companies are telling us it is clean, green energy and that we must dig it up so that people around the world can have energy. Because I never dug it up, because I am not a cancer victim yet, and our cancer facility in the Northern Territory has not been opened up and they are going to put it in Darwin anyway, it is a really hard question. First, I think they should leave it at Lucas Heights. They should follow best science practice and stop forcing it on people. The government is supposed to work for the people. That is how I grew up in this country—the government worked for us. We told the government what to do. I am sick of begging the government, and I am sick of begging my politicians to listen to us and I am sick of it being a political issue. This is lives at stake. This is dreamings at stake. This is bush tucker. This is water. This is our very existence that is at stake. We need the scientists to be sorting out their own problems. We did not create this problem. It is not our problem, and we are not going to benefit from it. We never will benefit from it. We will still get our cancer treatment down south, and we will still fill up your hospitals down there.

**Senator BIRMINGHAM**—Thanks to you both for your evidence today. Mitch, is your country the Muckaty site or one of the other three sites under consideration?

**Mitch**—My country sits on the border of Alcoota, which is on the Plenty Highway. The defence base site that has been nominated is called the Harts Range Defence Base site. I have to pass a nuclear waste dump in order to go to my country, with rivers that feed into my country, with winds that flow into my country, with kangaroos that do not stop at fences that will come into my country that I will kill and eat. So it directly affects me, and it directly affects my families that live on the communities at Engawala and Atitjere, and all of the communities as far as Utopia, Mount Isa and across to Queensland where our rivers flow. I am still learning on my country. I have gone back, so I am still learning about bush tucker and bush medicine that we take off the bushes—the bark, the leaves, that we boil up and put on our body or in our body. We are still learning all of those things, and we still have the elders there at the moment to be handing down those traditions. My generation and my children’s generation are hungry for that information.

**Senator BIRMINGHAM**—The Northern Land Council obviously presented an argument that the appropriate traditional owners of the Muckaty site had given their consent and, indeed, wanted this development. Is it the contention of both of you that they are not the relevant traditional owners or exclusively the relevant traditional owners on that site?

**Ms Wasley**—I would like to clarify that I am responding in my capacity as a community organiser, someone who has worked with the communities targeted. I am not working on a land council, I am not an anthropologist, I am not a scientist, and my evidence and my submission are based on conversations I have had with traditional owners over the last two years or more from that land trust. I base my understanding on what they have said very clearly and very directly, and that has never been contradicted by anyone else from the land trust. My understanding, from everyone here today, is that a decision made about the Muckaty Land Trust needs to be done with all five family groups. Again, I say that people have written to the Northern Land Council and asked for meetings with all five family groups before a site was identified. That is just the way business is done there. Marlene talked about the land commissioner’s claim on the DVD submission also, where all of the family groups were taken up to Muckaty numerous times to give evidence. It was not just one family group for each site; people were brought in together because it is integral that people are there together to discuss it.

**Senator BIRMINGHAM**—The submission you have provided refers numerous times to the BNI project officer; is that you, Ms Wasley?

**Ms Wasley**—Yes.

**Senator BIRMINGHAM**—It says that you have been meeting, as you have indicated in your evidence, with traditional owners from all five families. I assume that includes the Ngapa family and particularly Ms Lauder or her relatives as well?

**Ms Wasley**—I have not met specifically with Ms Lauder and her sister and husband, but people here in the room are from Ngapa family group, and people who have attended meetings that I have helped organise are from the Ngapa group. We often have a register signed by people who attend the meetings, so we have it for our records. People from the Ngapa group have signed petitions that have been sent to the federal parliament also.

**Senator BIRMINGHAM**—Have you met with any of the people who support the project?

**Ms Wasley**—I have never been approached by or met with anyone who supports it in Tennant Creek.

**Senator BIRMINGHAM**—Finally, the land council also enunciated the principle that the traditional owners should have the right to do business on their lands, and that they should have the right to make decisions about those lands. Putting aside who the relevant traditional owners are for the moment, if the traditional owners of particular lands decided that they supported such a facility, would you respect that right?

**Ms Wasley**—Three answers to that: first, I think it would be great if you had the opportunity to speak more directly with the Muckaty people in the room as well—and my apologies to the Muckaty people here for speaking on your behalf. The other two answers to that are that traditional owners have the right to do business on their land, and people in the room here have a major development project on their land, the Bootu Creek mine. You cannot argue that people here are anti development—they understand the process of having a major development on their country and the implications of that—but there is a clear difference in what people say about having that mine or other projects and having a nuclear waste dump. If the NLC are supporting a small group of people who may want that mine, they should also, under their statutory obligations, be supporting the people who oppose it. Their job is to represent and advocate for traditional owners and negotiate with

government based on people's opinions, and they should be doing that clearly for both sides of this particular opinion.

**Mitch**—We have to remember that when the first consultations were happening in Tennant Creek, and I am sorry to speak up for these mobs' country, because we have a problem with talking up for other people's country, they went to Lucas Heights to have a look at a rubbish dump, not a waste dump. That is how it came across to them. So they all went on a trip to Sydney because they thought that they were going to see how to operate a waste dump, where you throw your everyday household goods down into a rubbish dump, and that they would be facilitating that. They had no understanding at the early stages that it was going to be a uranium waste dump. Those kinds of words are really hard to translate. I know that in Arrernte, which is on my grandfather's side, and Luritja, which is on my grandmother's side, we have no words in our language to say 'nuclear waste', 'radon gases', 'uranium'. We do not have the words. We do not have the capacity to relay how bad the stuff is. We have 'bad poison', 'really bad poison', and 'really, really bad poison'. So when we are talking about putting a nuclear waste dump on land, it has always been put across to us that we will get some 44-gallon drums that will be buried underground and we will get some containers that have medium- to high-level waste in them—but technically Australia does not call it high-level waste. It is probably the size of the average lounge room, and that will be put in a storage facility above the ground.

When they were talking with the Muckaty mob about this waste dump, they were saying that it was a rubbish dump. They did not talk about nuclear waste, they did not talk about uranium, they did not talk about fuel rods; they talked about a rubbish dump. When the elders went down to see Lucas Heights, they wanted to see a rubbish dump, not a big building with a big fence around it and a couple of kangaroos out the front. They thought they were having a look at a rubbish dump.

We can talk literacy skills and we can talk about all of those things that we know under the interventions that are happening now, but when we are talking about people who are sitting out bush who listen to ABC radio who are highly educated and knowledgeable people, and they know their country. But they do not have any idea when the land council is telling them or the scientists from the Australian government are telling them: 'This is safe; this is what you're going to get, a shiny piece of glass, and you will get a couple of 44-gallon drums buried in your land.' But 'Oh, it might poison your country for a couple of hundred thousand years,' that is not getting across to our people.

At the meetings I have attended with Central Land Council, we never had interpreters. I do not know what happened at Northern Land Council meetings, but from what I have heard from family up there they did not have interpreters, so this stuff is not getting through to Indigenous people out on the lands. That is withholding information; that is people making a decision when they clearly do not know what the thing is, how long it will affect their land, or that they will not be able to go across that land and their kids will not be able to participate in that land. So there is a definite flaw in this so-called Australian thing of consultation. If you cannot consult in our language, we cannot hear you, we cannot understand you. If you are not going to do that for the basic people out on the lands, who have run their communities, who have built everything up from a dirt pile to what it is now, how do you think this country can call itself a democracy? We have a Prime Minister who can speak Mandarin, but he cannot speak one Aboriginal language. How shocking.

These people deserve that respect, and my people out on the country deserve that respect, and so do the McCormack family, to have things put in language where it is clear. And it is known in this land that we still speak our language, that we have different language groups within those same tribal groups, yet that is not catered for. We do not have the expertise on the ground in the Northern Territory to look after these sites. We do not have anything here. How are we going to get somebody from Sydney in a Toyota out to Alcoota now if there is a leak? How? Will the government pay for a helicopter for that person to fly straight into Alcoota, or will they put a house here for them? There has been no talk of that.

When we talked about burying stuff underground, we asked them, 'Are you going to put drainage in there, because we are in the catchment area?' We were told that they were going to put a layer of gravel, a layer of dirt, a layer of gravel, a layer of dirt, and then they will put the 44s there, and then they will cover it up with dirt. We have always been told that this is a temporary facility. We do not temporarily bury our people out in the graveyard and dig them up later and shift them, so how does the government call this a temporary facility when they want to bury poison in our backyard and run away and leave it without talking language to people who speak five, six, seven, eight, nine or 10 different languages? It is shameful.

**Senator BIRMINGHAM**—Ms Wasley, who funds the BNI?

**Ms Wasley**—The Beyond Nuclear Initiative is a joint project with the Australian Conservation Foundation, Friends of the Earth and the Poola Foundation (Tom Kantor Fund).

**Senator PRATT**—Ms Wasley, why is the Northern Territory the focus in terms of finding a site? Also, what is the community's reaction to the lack of rights that the Territory has in being able to determine these issues for itself?

**Ms Wasley**—I have been following the process of radioactive waste management in Australia since the South Australian proposal for the site. I was very privileged to sit down with the Kupa Piti Kungka Tjuta, the senior women down there, who were fighting the nuclear dump that was on their country. One of the obstacles that the federal government hit with the South Australian dump proposal was a legal challenge from the South Australian government. The Howard government decided to drop that proposal for a national radioactive dump. The states and territories could manage their own waste, but they were going to find a centralised repository facility dump for federally produced waste, which, incidentally, is the most highly radioactive waste produced in Australia. There was a categorical assurance that the dump would not be forced onto the Northern Territory, and then just a few months later the Department of Defence sites were announced. It seems to indicate that the status of the Territory legally, not having the same legislative powers as a state, was one major factor why they chose the Territory. Again, none of these sites was shortlisted, not even in the top 10, when they were looking for a national dump site. At the time I think one minister said, 'I'd rather have it in the Territory than down the road from my electorate.' There were those sorts of flippant comments. Brendan Nelson stated, 'Why can't people in the middle of nowhere have a nuclear waste dump?' And, later on, Julie Bishop said, 'All of the Defence sites are some distance from houses and far from any form of civilisation.' It absolutely churned my stomach to have to call people I worked with and tell them that a federal minister is saying they are far from any form of civilisation. It is absolutely appalling. That sort of 'out of sight, out of mind' mentality is clearly informing this process, and again, people need to come here if they are making decisions about these areas and experience it for themselves.

**CHAIR**—If there are no further questions, on behalf of the committee I would like to thank you both very much for appearing before us today and for your submissions. We appreciate it very much.

**Mitch**—Can I just put a question to you? Can we have some resolution to this? Rudd has had a lovely long honeymoon on this, and we are really tired of him being on a honeymoon. We need to get this sorted out. In his Sorry Day apology he promised he would not repeat past government mistakes. So we have absolutely no hope for the Rudd government, and we have no hope for Garrett, and we are calling on all of them to come to the Northern Territory and sit in the dirt with us. We are begging. We are not only begging with our lives; we are begging on behalf of our unborn grandchildren.

**Ms Wasley**—Can I just make one other small comment, because it has not come up in this discussion, about the Parsons Brinckerhoff report, which is the site analysis of the force. I am hoping that will come up in further questioning, but I just want to note that really this report is studying four sites nominated under a law that the ALP government promised to repeal. So once that report is in, which I believe it now is, it can be put on the shelf, because it is actually irrelevant now in the context of this discussion. Secondly, people have a right to education and people have a right to housing, and all these things that in this instance Muckaty people have been offered, without having to have a radioactive waste dump. That goes for people all across the Territory as well.

**CHAIR**—Thank you very much. The committee will have a short suspension while we arrange for our next witness via teleconference.

[4.18 pm]

**TUTTY, Mr Justin, No Waste Alliance**

**CHAIR**—Mr Tutty, can you hear us?

**Mr Tutty**—Hello. Yes, I can hear you.

**CHAIR**—Thank you very much for coming along to talk to us today, Mr Tutty.

**Mr Tutty**—Thank you for the opportunity.

**CHAIR**—That is all right. The committee has received your submission as submission No. 83. Do you wish to make any amendments or alterations to that submission?

**Mr Tutty**—No, thank you.

**CHAIR**—Would you like to make a brief opening statement before we go to questions?

**Mr Tutty**—Yes.

**CHAIR**—Please do so.

**Mr Tutty**—I just want to say that I really appreciate the committee coming to Alice Springs and I am sorry that I cannot be there. It is a little bit awkward talking to a room of you on the telephone, so I am quite happy if you want to make it short and sweet. I thought it was important to get on, though, and make the point that this is still an issue that speaks to people across the Territory. It is still an issue of great concern to people in the suburbs of Darwin. I wanted to be sure that you had the opportunity to ask any questions that you might have had. Thank you.

**CHAIR**—Thanks, Mr Tutty. Can you just explain before we go to questions from other senators who the No Waste Alliance represents, and of what groups or individuals is your organisation an alliance?

**Mr Tutty**—It was formed very early on in response to the announcement by the then Minister Brendan Nelson. At the time it was an alliance of community groups in Darwin, then it quickly became useful as a network of the groups in Darwin, Alice Springs, Katherine and, later on, Tennant Creek.

**CHAIR**—Is there a list of the community groups, or can you tell us who they are?

**Mr Tutty**—I guess that networking function would include the groups that I image you are aware of, such as Alice Action in Alice Springs, the Katherine Nuclear Waste Dump Action Group, a community based action group in Darwin, and we were also bringing in under that 'No Waste' umbrella the environment centre and TEACA and NTCOS.

**CHAIR**—That is fine. Thanks very much.

**Senator BIRMINGHAM**—Mr Tutty, thanks for your submission and your time today. How would you propose the Australian government go about managing its nuclear waste?

**Mr Tutty**—I think that is a really good question. It is really important that we realise that the end point is not getting rid of this act; we have to work out a way forward. Obviously Australia does have a significant quantity of nuclear waste which has to be managed well into the future. I suppose what we have witnessed since 2005 is definitely not the way to go about it. We need to make decisions that can stand the test of time, and an ingredient of that is community concern, social licence. I would also add into the mix the obvious strategy of waste minimisation, and that means turning off the taps, cutting it off at the starting point, closing the reactor program.

**Senator BIRMINGHAM**—I am not saying that it does by any means, but if all of the best scientific evidence in the world suggested that storing it in the Northern Territory somewhere was appropriate, would you accept that decision?

**Mr Tutty**—I think it is great that you are referring to the best science. I think it is very important that the best science is a significant ingredient for finding a solution. But I think that solution must also have roots in community engagement. Communities must be a part of making that decision. If the best science tells us to dump it on a community that will not stand for it, that is not a workable solution because it will not last.

**Senator BIRMINGHAM**—Except that it is not easy to find a community, to use your words, that will 'stand for it'.

**Mr Tutty**—I can tell you for sure that this sort of heavy-handed, prescriptive, coercive legislation is definitely not the way to find a community.

**Senator BIRMINGHAM**—Have you made representations to the government since the election last year in relation to their promises about the repeal of this piece of legislation?

**Mr Tutty**—I have spoken to a couple of government members. I have had a couple of meetings with members of parliament.

**Senator BIRMINGHAM**—Have they provided any assurances to you with regards to the timelines of the repeal of the act or any other information that has assured you they will act to honour their promises?

**Mr Tutty**—I have heard a number of times that one about Kevin Rudd will keep every election promise. That is about it.

**Senator BIRMINGHAM**—Okay. Have your meetings or discussions been with any of the relevant ministers with responsibility for this issue?

**Mr Tutty**—No, not me.

**Senator LUDLAM**—Thanks for joining us, Mr Tutty. In your submission, you have urged the committee to consider international best practice in the processes that define our decision making on these issues. Can you just sketch for us what you would consider international best practice to be?

**Mr Tutty**—Yes. Actually we were looking at a particular model, which is that recent UK committee on radioactive waste management.

**Senator LUDLAM**—How is what they are doing in the UK any different from the way this is being pursued in Australia?

**Mr Tutty**—Just very generally, building a decision from the ground up, starting with the community.

**Senator LUDLAM**—Okay. If the government were to repeal the Commonwealth Radioactive Waste Management Act once it had locked in one of the sites that had been nominated under the Howard government, would you consider that to be the fulfilment of the government's election commitment?

**Mr Tutty**—I think it would be very disappointing to go through it that way. I can understand that, if then the act is repealed, perhaps any decision may be tested in court. But if the act is repealed, perhaps any bad decision may be subject to appropriate review. I would think it would be unfortunate to put people through that unnecessary process.

**Senator LUDLAM**—Have you ever been approached by anybody in the course of the work that you are doing who is supportive of the waste dump at one of the sites that has been nominated?

**Mr Tutty**—Do you mean people from the impacted communities? I have met people in the street who have told me that they would support it, but I have not met people from the impacted communities.

**Senator LUDLAM**—Thanks. I have no other questions.

**CHAIR**—Thanks, Senator Ludlam. Senator Pratt?

**Senator PRATT**—I do not have any questions.

**CHAIR**—I have one question. You say in your submission that Australia should shut down the Lucas Heights nuclear reactor. If the reactor program was shut down, what do you think Australia should do for nuclear medicine that is used to treat cancers and things?

**Mr Tutty**—I would hope that you would have some good information about that already, but just briefly, I do not see that Australia needs to have a reactor program to have good medicine. Up here in Darwin, we had a visit from a number of doctors who work in the field, who explained to us that for most instances of their application of nuclear medicine, they could turn to radionuclides which are produced in cyclotrons. In other cases they could import the isotopes that they need. They convinced me that Australia can have world-class quality medicine without our own reactor program, as do many other nations.

**CHAIR**—All right. Are there any further questions? If not, thank you very much, Mr Tutty, for your submission and for taking the time to appear before the committee today by teleconference. We appreciate it very much.

**Mr Tutty**—I appreciate it, and good luck with your work.

**CHAIR**—Thank you.

**Mr Tutty**—Goodbye.

[4.28 pm]

**CLARK, Alderman Jane, Alice Springs Town Council**

**MOONEY, Mr Rex Roger, Chief Executive Officer, Alice Springs Town Council**

**CHAIR**—Welcome. Your submission consists of a letter to the committee dated 27 October, and I think today you have provided us with a copy of a letter that the council forwarded to the committee for its inquiry in 2005 about the original act establishing the Commonwealth radioactive waste management facility. Do you have any additions or alterations to those items?

**Alderman Clark**—No, we do not.

**CHAIR**—Would you like to make an opening statement?

**Alderman Clark**—Yes, I would. I come representing Alice Springs Town Council as an alderman, and also as an executive member of the Local Government Association of the Northern Territory. We would like to bring up a few issues of concern, particularly to local government. First of all, as stated in the letter, the original inquiry was a very short timeline, and also there was not, as you have done correctly this time, people coming to Alice Springs to actually consult with the community. We do not believe that there was a consultation process that adequately consulted the Northern Territory community. We believe that there was communication in that our mayor actually found out via the radio that there were three locations in the Northern Territory at that stage being considered, and then we had reporters contact us to ask what our thoughts were. Immediately we were on the back foot, and having to answer to the media. This was particularly distressing to us because of the recent signing of the intergovernmental agreement, which meant that we hoped there would be communication between the three tiers of government on issues that were of importance to our council. We received very little consultation on the process.

Alice Springs Town Council was concerned that, going back to 2005, the waste dump was supposed to be happening in Woomera. The South Australian communities were able to politically oppose that successfully and have the waste dump not considered for Woomera anymore. The Northern Territory does not have the same legislative rights as other citizens in Australia, which means that not only have we been disadvantaged in the past but also in the future, if there were a referendum, we would not get counted in the double majority. We would only get one vote counted, and not two. So we believe that the citizens of the Northern Territory have less ability to actually fight for what we believe is right in terms of government process. We are asking the Senate committee to also take that into account when making future considerations for where you want the radioactive waste dump located. We certainly have our backs up whenever decisions are made by federal government on behalf of the Northern Territory, because we know that we do not have the ability to have the same processes as other Australians. I do not know if the CEO has anything to add.

**Mr Mooney**—Good afternoon to the committee and Madam Chair. I only reiterate the comments of Alderman Clark. The council voted that it was not in favour of any radioactive waste, low level or anything of the like, within the Northern Territory. We were very concerned that, as Alderman Clark said, we heard about it over the media—and that was only months after this particular document was signed by the three tiers of government about communication and consultation. So we felt that it was an affront that that was the way we had to be advised of this particular issue. Notwithstanding that, the council let a public meeting take place in the foyer of the civic centre to show that it was prepared to facilitate those discussions. It is not a matter of ‘not in your backyard’; we have many, many principles here in the Territory, and because we have a small population on the vast area in its own does not justify a decision based on political imperatives, when there is far more—as you would be aware—to such a decision than just the decisions at the political level.

**Senator LUDLAM**—I was just wondering what response you have had. Can you detail the correspondence that you have had to or from the present federal government since the election last year?

**Mr Mooney**—There has been an acknowledgement of council’s representations and comments about keeping council in the loop, if you like, but very little correspondence in the last two years.

**Senator LUDLAM**—It is good that you are in the loop, because there are a lot of people who feel they are not. Can you tell us what, if anything, has come back from any relevant ministers in relation to this matter since November 2007?

**Mr Mooney**—Since that initial meeting that was held, at which Senator Nigel Scullion was present, I guess it would be fair to say there has been a deafening silence.

**Senator LUDLAM**—You also mentioned briefly that you did hold a public meeting after you were made aware of the proposals. What was the mood of that meeting, and could you give us an idea of the sort of response you have had from ratepayers and residents of this area?

**Mr Mooney**—That meeting was facilitated by council by allowing the foyer of its civic centre to be used as the venue. I made that decision in consultation, but there was even some criticism about that decision being made. I believe that the meeting had a tone of some hostility and some concerns, obviously, from those present about the issues that Alderman Clark and I have mentioned about the lack of prior notice, the lack of consultation, and the basis upon which the decision was made. Bearing in mind that Woomera was suggested a couple of years beforehand, but the outcry there made them say, 'No, we'll take it somewhere else.' Since that time there has not been a lot of correspondence or dialogue at all. However, we have an active lobby of residents and ratepayers in the community who continue to be opposed to such a facility located within the confines of certainly Alice Springs but, indeed, the Northern Territory generally.

**Senator BIRMINGHAM**—Thanks for your time today. Can you enlighten me a little as to the geography? How far away from Alice Springs are the four sites under discussion?

**Alderman Clark**—The closest one would be Mount Everard, which is about 20 kilometres. Also, what you have to recognise is that the railway and the main road go through Alice Springs, so that would mean that people are particularly concerned about the transport of the waste products through our town. With respect to any location that you choose, it will have to go through Alice Springs.

**Senator BIRMINGHAM**—Senator Ludlam asked you a little about consultation and engagement with the government. Have you met with Mr Snowdon or Senator Crossin or any of the new ministers since the election last year to discuss this issue?

**Alderman Clark**—Not since the election last year, but certainly after 2005. We also made representation to the Australian Local Government Association about it at its general meeting.

**Senator BIRMINGHAM**—Have you written to any of the aforementioned since the election last year?

**Mr Mooney**—No, not since the election.

**Senator BIRMINGHAM**—How would you propose the Australian government handle its nuclear waste?

**Alderman Clark**—I do not think that that is an issue that we are discussing here. What we are discussing is the decision-making process and keeping local government informed and working appropriately with our level of government.

**Senator BIRMINGHAM**—Should science and community management and everything else suggest that the best site could be found in the Northern Territory, would you accept that?

**Alderman Clark**—The decision-making process would determine whether or not we accept it. We have not been consulted appropriately, and I cannot talk on behalf of other aldermen who represent the town of Alice Springs. The appropriate forum would be where we would say yes or no to that issue, and I certainly cannot say yes or no on behalf of council.

**Mr Mooney**—If I could just add that the official position of council remains unequivocally that council is opposed to such a facility in the Northern Territory.

**Senator BIRMINGHAM**—Can I suggest that, if council feels so passionately, you might like to chase up with the government as to where it is at in the 12 months since its election?

**Alderman Clark**—Excuse me, I find that offensive. I am sorry, but we have already said that we are opposed. That has been a formal position of council. If the federal government wants to place the radioactive waste dump here, it needs to initiate consultation, and it is not for us to continuously put the same piece of information up to the federal government.

**Senator BIRMINGHAM**—Most other groups that oppose the dump that have appeared before us today have been quite active in their representations on behalf of their constituency. The council has provided a three-sentence submission to this inquiry and appears to have done nothing since the change of government. So I would suggest that, if it is a passionate position of the council, you take that up with the government. That is all.

**Alderman Clark**—Okay, and I reiterate my offence at your attitude.

**Senator BIRMINGHAM**—Noted.

**Senator PRATT**—It has been put to this committee that, if traditional owners consent to the acceptance of a site for the taking of waste, that right should be respected. Would you comment on, I suppose, wider and broader community rights to also have a say in the context of decisions like this.

**Alderman Clark**—Certainly the whole community needs to be able to have their say. Everyone is affected through the transportation, in particular, and the long-term effects of the plans for what could happen in the future, so once again I return to the process: if you have not consulted, then you have no right to choose a location in the Northern Territory. I honestly believe that this process has been really flawed from the start. We feel railroaded in the Northern Territory, so that is what I return to again and again. You can put 100 different scenarios to me. Alice Springs Town Council stood against it. We have said we are opposed to it on the process, and that is what we said in our supporting letter to our original motion as well.

**Senator PRATT**—Do you think the Northern Territory has been a focus of these investigations in recent years because of its lack of rights to be able to say no?

**Alderman Clark**—Yes, I believe that, because other locations have been considered and then changed and because of the very little amount of consultation that took place with the Northern Territory, I do believe that the federal government took advantage of our lesser rights as citizens.

**CHAIR**—Just out of curiosity, do you know whether the Local Government Association of the Northern Territory has a position on the siting of a nuclear waste facility in the territory?

**Alderman Clark**—The Local Government Association did present Alice Springs Town Council's motion and supported it. I would have to verify this, but I do believe that it took a position that it would support any local government body in what their decision actually was. So it would lobby on behalf of any council—for instance, Alice Springs Town Council—that is opposed to it. I do believe that Katherine Town Council is opposed to it as well. Where a council has made a decision, the Local Government Association would support it in the decision that it has made for its region.

**CHAIR**—Thank you very much for your submission and for appearing before the committee today; we appreciate it. Before I conclude today's hearings, I need a motion to accept tabled documents from today's meeting.

**Senator LUDLAM**—I so move.

**CHAIR**—I will put that: all those in favour, against; carried. That concludes today's proceedings. I would like to thank all the witnesses for their informative presentations, and I would like to thank visitors in the gallery for attending today. I also thank Hansard, Broadcasting and the secretariat for their assistance today.

**Committee adjourned at 4.44 pm**