National Radioactive Waste Management Bill 2010

Personal Submission by John Poppins
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to the **Senate**
Parliament of Australia
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Summary

I had not imagined that an Australian Government, particularly a Labor government, could attempt to bring in legislation which so ignores or abuses fundamental ethical concepts in what we like to believe is an advanced and enlightened democracy.

When in opposition and during the last Federal election campaign Labor promised to overturn draconian legislation put in place by the Howard government.
It is now proposing new legislation which is no less draconian or secretive.

This legislation should be thrown out.

Discussion

The proposed legislation sets out to nullify any other Federal and State laws and regulations which might in any way hinder its extraordinary provisions.

By excluding the Federal Environmental Protection and Biodiversity Conservation Act and the Aboriginal and Torres Straight Islander Heritage Protection Act 1984 the Minister excludes influence by other Ministers of his Government who have expressed concern over the issues involved.

The legislation contravenes Labor party policy.

Radioactive waste is the most dangerous and insidious waste created by industry.
It cannot be smelt or felt.
It cannot be burnt or decomposed.
It can only be left to decay in its own time, a very long time, many generations, far beyond the lives of parliaments, individuals, corporations and nations.

No activity of man can be immune to human or mechanical error.
Accordingly we should first be minimising processes which produce such waste.
Medical usage has been introduced as 'spin' which is typical of this industry and it appears of our government also. The majority of this waste has nothing to do with medical treatment.

Where waste exists, movement should be minimised to reduce the chances of accident.

The definitions in **Part 1 -Preliminary** set the scene for a truly racist piece of legislation.
The clearly stated linkage of waste sites with aboriginal land is truly ugly.

Our aboriginals knew more than we when they identified areas of Australian as 'sickness country'.
It is uncanny how closely these areas correspond to areas rich in uranium.
It is worthy of note that 'Yeelirrie' is in fact the local aboriginal word for 'death'.

It is unacceptable that the documents relied upon as 'voluntary' invitations to use Muckaty are considered secret. Transparency is the only acceptable approach to matters of such gravity.

The nomination of Muckaty was clearly not made with the full and informed consent of all Traditional

Owners and affected people. As such it does not comply with the Aboriginal Land Rights Act.

It does not comply with the unanimous resolution passed by the NT Labor Conference in April 2008 which called on the Federal Government to exclude Muckaty.

A few Traditional Owners apparently support the nomination of the Muckaty site. There is a clear linkage with the offer of substantial sums of money to a small group. Many more oppose the dump. Minister Ferguson has not met requests for face to face meetings with those concerned.

The nomination of the Muckaty site hinges on a contract signed between the Northern Land Council, Federal Government and Muckaty Land Trust, but requests requests to view this contract, made by Traditional Owners and by a Senate Committee dedicated to the issue, have been denied.

If the negotiations are truly to be "open, transparent and accountable", as the Rudd Government claims, the site selection study and site nomination deed must be available for independent scrutiny. It appears that many Traditional Owners and stakeholders have been shut out of of the process to date.

More options

All options for radioactive waste management need to be considered.
Locations which are remote for us dwellers in the big cities are in other people's homeland, land with which they have a far longer and more intimate relatioship than we have with our cities.

The option of continuing storage at the Lucas Heights site, operated by the Australian Nuclear Science and Technology Organisation is a prime consideration.

ANSTO is the source of most of the waste. It is also the location of most of Australia's radioactive waste management expertise.

All the relevant organisations have acknowledged that Lucas Heights is a viable option, including ANSTO, the Australian Radiation Protection and Nuclear Safety Agency, the Australian Nuclear Association and even Ferguson's own department.

Requiring ANSTO to store its own waste is an effective way of ensuring that the organisation focusses on the importance of waste minimisation.

If a site selection process is required it must be transparent. It must also be based on scientific and environmental criteria.
Past studies did not even list Muckaty as a potential site.

Muckaty appears to have been selected for purely political reasons.

Without proper public and transparent study of the environmental situation (particularly geology, aquifers and transport) the use of any site must be considered to be a time bomb.

Until our Government, other organisations, corporations and consultants are prepared to operate without a veil of secrecy and without excluding established law relating to environment, culture, archaeology and community, we must continue to distrust them, and to resist such unethical legislation.

When they can openly consult with all concerned members of communities in the neighbourhood of the waste dump, and all those along the routes used to transport radioactive hazardous waste, we will support them.

Detailed Discussion

Part 1 - Preliminary

The definitions set the scene for a truly racist piece of legislation.
The automatic linkage of waste sites with aboriginal land is ugly.
If risks must be taken with the movement of dangerous waste over long distances it would only be fair to broaden the potential range of sites, if only to reduce distance.
Why not white controlled freehold or leasehold land close to existing storages?

Part 2 Nomination of Sites

Continues the racist approach. Given the disparate and widespread tribal groups covered by a Land Council it is presumptuous to sanction the nomination of land which may belong to groups not strongly represented on the Land Council.

Aboriginal groups traditionally make decisions by widespread discussion and consensus, or at least expect decisions on the basis of a substantially majority.
Authorising one or two individuals to nominate land is clearly a method for dividing and conquering a community and then negotiating with a very few people who are most easily induced to approve.

Divide and Conquer, and creation of more compliant claimant groups for 'negotiation' have a long and sad history in the mining industry.

Division 3 —Approval of nominated land

8 Approval of nominated land

(5)A copy of an approval must be published in the *Gazette* within 7 days of the approval being made.

(6)Failure to comply with subsection (5) of this section, or subsection 4(2), 5(4) or 7(1), does not invalidate an approval.

Here we have the first of ***repeated*** provisions which allow for extraordinary corruption.

The approval must be published within 7 days. Failure to comply does not invalidate! This could permit indefinite secrecy.

It reads like something from 'Alice in Wonderland'

Part 3 - Selecting a site for a facility

10 Authority to conduct activities

Little limitation on activities. Whose definition is 'reasonable'.

11 Application of State and Territory laws

The specific exclusion of environmental, archaeological, and heritage law is unconscionable.
If work cannot be done within the law the project should be declared illegal.

Part 4 - Acquisition or extinguishment of rights and interests

Division 2 – Procedural Fairness

The Minister appears to be committed only to communicate with those few who have nominated the site. These few clearly have a substantial personal financial interest in issues.

The Minister is empowered to create a consulative committee. He also has jurisdiction over its

membership and functions. This clearly places the fox in charge of the henhouse.

Part 5 – Conducting activities in relation to selected site

22 Authority to conduct activities

The Minister is given wide ranging powers extending over transport and transport infrastructure over which hazardous radioactive waste is to be transported. No mention is made of the many communities along the routes, or of other infrastucture users exposed to hazard.

23, 24 Application of Commonwealth, State or Territory laws

Once again we have the overriding of laws long established for good and essential reasons.

Part 6 – Granting of rights and interests in land to original owners

More racist provisions.

32 Indemnity by Commonwealth

The need to indemnify (make citizens and taxpayers ultimately liable) against liability or damage arising from ionising radiation is one of the most sinister requirements of the nuclear industry.

Part 7 - Miscellaneous

34 Compensation

How will Traditional Owners of alienated land be rightfully identified?
What about communities along the transport routes? They also face long term risks.

36 Indemnity by Commonwealth and management of NT controlled material for section 4 nominations

Again the need to indemnify (make citizens and taxpayers ultimately liable) against liability or damage arising from ionising radiation is one of the most sinister requirements of the nuclear industry.

This appears to extend this privilege to cover the issues of transport within the NT.

Schedule 1

Part 1

As I understand it, the repeal of the Commonwealth Radioactive Waste Management Act 2005 can only be considered a step forward.

This act allowed action without consultation or consent from traditional owners.
Totally unacceptable.

Part 2

In the time available to me I have been unable to locate this paragraph to be repealed.

Schedule 2

Transitional Provisions

In the time available to me I have been unable to research these to my satisfaction.

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