

Legal Alert

Resources

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Nuclear Fuel Cycle Royal Commission's Tentative Findings

In a Nutshell

The tentative findings of the Nuclear Fuel Cycle Royal Commission published today are as expected.

In summary the Commission concludes that:

- the management, storage and disposal of both Australian low and intermediate level waste and international intermediate and high level waste are, subject to informed community consent, activities that are economically viable in the State;
 - there are significant barriers to the viability of new uranium mine developments in the State;
 - there are marginal investment outcomes for facilities for further processing of minerals, and the processing and manufacturing of materials containing radioactive and nuclear substances, based on proven technologies. There is a limited range of positive investment outcomes for such facilities based on proprietary or unproven technology; and
 - whilst nuclear generation in the State is currently not viable, this should not preclude its consideration as part of a future energy generation mix as there is value in having nuclear power as a readily implementable option.
- The Commission's positive finding in respect of the establishment of a State located nuclear waste storage facility is no surprise. Given this and the Commission's other findings, waste disposal is likely to be the only activity, other than mining and milling of uranium, within the nuclear fuel cycle in which South Australia participates for the foreseeable future. We consequently focus on the Commission's preliminary findings in this regard:
- there is a need to distinguish between facilities for wastes produced domestically from industry, research and medicine and international used fuel and intermediate waste from power generation – the risks and opportunities differ;
 - there are advantages in terms of managing long term risks in relation to domestic low and intermediate waste in a purpose-built centralised facility. There is substantial experience in their design, management and operation in a variety of climates and also international consensus that geological disposal is the best technical storage solution;
 - in relation to international used fuel and intermediate level waste storage and disposal, financial modelling reflects integrated facilities with the capacity to store/dispose of 138,000tHM (used fuel) and 390,000m³ (intermediate waste) operating over 100 years would be highly profitable. Additional benefits to the State economy would extend to an increase in GSP of about 5% by 2029-30 (\$16.8billion) and about 9,600 jobs by 2029-30, both continuing to 2049-50 and beyond;
 - South Australia has a unique combination of attributes which make it a suitable location for a storage facility – geological structure, low seismic activity, an arid environment, stable political, social and economic structure and existing frameworks to obtain community consent;
 - the intergenerational nature of any facility dictates that structures are put in place which ensure the benefits are shared by the whole community. These include:

- control and operation of the facility by the State;
- establishment of a State wealth fund, legislatively segregated from consolidated revenue;
- a separate fund to finance decommissioning, remediation and closure of the facility;
- development of an associated research group and underground research laboratory;
- the capital costs of the facility would not require significant State investment if pre-commitments to accept waste were secured; and
- storage and disposal of waste potentially offer the means to participate in other nuclear fuel cycle activities in the State through fuel leasing.

have or is likely to have a significant impact on the environment and thus require approval under that Act.

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As noted by the Commission the storage and disposal of nuclear waste are currently prohibited under South Australian laws. *The Nuclear Waste Storage Facility (Prohibition) Act 2000* prohibits:

- the construction or operation of a nuclear waste storage facility in South Australia;
- the importation into and transportation within SA of nuclear waste for delivery to a nuclear waste storage facility in the State; and
- the use of public money for the purpose of encouraging or financing any activity associated with the construction or operation of a nuclear waste storage facility in the State.

Accordingly legislative changes to the *Nuclear Waste Storage Facility (Prohibition) Act* will be required to enable the development of a nuclear waste storage facility in South Australia. In addition, statutory provisions will be needed to regulate the licensing and management of a facility as well as, in all likelihood, its construction. In view of the fact that the Labor Party does not control the Legislative Council, it is likely to require bi-partisan support from the Liberal Party to implement these required legislative changes.

Whilst the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* prohibits the construction or operation of a number of facilities within the nuclear fuel cycle, this does not apply to a waste disposal facility. However, a nuclear waste storage facility will almost certainly be a "nuclear action" which has, will