



Australian Government  
Department of Industry,  
Innovation and Science

# National Radioactive Waste Management Facility



## RADIOACTIVE WASTE MANAGEMENT:

*Nominations of Land: Guidelines*

November 2016

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# 1. Introduction

- (a) The Australian Government is seeking to acquire land on which to build a National Radioactive Waste Management Facility ('facility') to manage low level and intermediate waste generated in Australia. This document describes the process by which land holders may nominate their land for consideration as a potential site for the facility.
- (b) This process is governed by the *National Radioactive Waste Management Act 2012* ('the Act'). The Act provides for the selection and acquisition of a site for a facility on voluntarily nominated land in Australia, and the establishment and operation of a facility on the selected site. Important provisions of the Act that govern this process are set out at **Attachment C** to these guidelines.
- (c) The search for a site is nationwide. Land in any state or territory can be voluntarily nominated as long as it meets certain requirements in the Act. If a land holder's site is selected for the facility, compensation will be paid.
- (d) The Minister for Resources and Northern Australia ('Minister') has approved the following guidelines as the approach that he intends to be followed, to inform him of any action that he decides is to be taken under the Act in relation to nominations of land as a site for a facility ('the Guidelines'). The Department of Industry, Innovation and Science ('the Department') will assist and advise the Minister as part of this process.
- (e) The Minister intends to publish the site identifiers for all nominations, consistent with his intention to conduct a voluntary, open and transparent process.
- (f) These guidelines contain important information on the Nomination process:
  - (i) Land value process, access agreement and benefits – Part 5
  - (ii) Recommended engagement with Department – Part 6
  - (iii) Community engagement, consultation and benefits – Part 7
  - (iv) Who can nominate – Part 8
  - (v) How to apply – Part 9
  - (vi) Nominator's responsibilities – Part 10
  - (vii) General Conditions - Part 11
  - (viii) Dictionary - Part 12
  - (ix) Queries and support – Part 13
  - (x) Nomination Form – **Attachment B**
  - (xi) Relevant sections of the Act – **Attachment C**
- (g) Respondents should familiarise themselves with all provisions of the Act and seek their own independent professional advice with respect to all matters in connection with their Nomination. The Act is available at:  
<http://www.comlaw.gov.au/Details/C2014C00626/Download>

## 2. The National Radioactive Waste Management Facility Project

- (a) The Australian Government is committed to the safe and secure long-term management of Australia's radioactive waste.
- (b) Over more than 80 years, a variety of industrial, medical and scientific research activities have created a quantity of low and intermediate level radioactive waste (LLW and ILW) in Australia. This waste is held by both the Commonwealth and the States & Territories, under a variety of short-term, interim storage arrangements across a number of formal sites and a larger number of informal sites. The continuation of valuable scientific and industrial/medical activities involving radioactive materials will continue to produce radioactive waste of this type.
- (c) The National Radioactive Waste Management Facility Project ('the Project') has been established to implement Australia's radioactive waste management policy. This requires that all waste generated in Australia be stored or disposed of within Australia at suitably sited facilities. The LLW and ILW is categorised in accordance with the established system of national classification.
- (d) This policy is aligned with the principles of a multilateral treaty ratified by the Australian Government with the International Atomic Energy Agency (IAEA) for the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management<sup>1</sup> that "radioactive waste should, as far as is compatible with the safety of the management of such material, be disposed of in the country in which it was generated."
- (e) While radioactive waste management in Australia is currently implemented through various State, Territory and Federal arrangements, the above policy commitments remain essentially unfulfilled while there is no agreed national route for disposal and/or long term storage of Australia's LLW and ILW.
- (f) Work is currently underway on preliminary design options as part of the Detailed Business Case being developed for the facility.
- (g) This work is being informed by the concept design developed in 2013 by the Spanish government agency responsible for managing radioactive waste, Empresa Nacional de Residuos Radioactivos SA (ENRESA). The concept design is based on the international best practice facility at El Cabril in Spain placed in the Australian context.

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<sup>1</sup> The Joint Convention was ratified by Australia in November 1998 and came into force in November 2003

- (h) The concept design is one of many options that could eventuate for the facility. The concept is not site specific but it identifies that approximately 40 hectares would be required for buildings and infrastructure.
- (i) Further information on the proposed facility design will be made available as work on the Detailed Business Case is progressed during 2017.
- (j) For the purposes of this call for Nominations, the area of land to be acquired for the national facility is expected to be greater than 100 hectares.
- (k) Further information on the Project including concepts can be found at:  
[www.radioactivewaste.gov.au](http://www.radioactivewaste.gov.au)

### 3. Overview of the Volunteer Nomination Process

- (a) The Act provides for the establishment of a national radioactive waste management facility on a site selected from voluntarily nominated land.
- (b) It is anticipated the site to be selected by the Minister will provide for the permanent disposal of LLW and a purpose built interim storage facility for ILW.
- (c) On 12 December 2014, the Minister declared that Nominations of potential sites for a facility may be made under section 7 of the Act. The Minister announced that the Government would begin a nationwide voluntary site Nomination process.
- (d) Land in any state or territory as described in section 7 of the Act may be nominated. (See **Attachment C** for section 7). At the end of the site selection process, the Minister may acquire a site on which to build a facility.
- (e) The Nomination process will be administered by the Department, drawing on expert advice from independent advisory panels established for this purpose. Further information about the independent advisory panel can be found at <http://www.radioactivewaste.gov.au>.
- (f) Land holders in relation to potential sites have the right to voluntarily nominate land. The potential sites that are nominated will be assessed for their suitability for hosting the national facility.
- (g) Prior to formally nominating land, any interested Landholders are strongly encouraged in the first instance to discuss their interest with the Department before submitting their formal nomination to the Minister.

## 3.2 Project Phases

| PHASE 1  | PHASE 2  | PHASE 3   | PHASE 4   | Operation   |
|--|--|---|---|---|
| <p data-bbox="163 392 432 560"><b>Nominations, site assessment and shortlist identification</b></p> <ul data-bbox="163 647 495 863" style="list-style-type: none"><li>• Seek voluntary nominations, provide communities project information, and seek willingness to continue.</li></ul> | <p data-bbox="551 392 898 560"><b>Technical assessment, site characterisation studies and preferred site identification</b></p> <ul data-bbox="551 647 887 1326" style="list-style-type: none"><li>• Heritage and technical assessment.</li><li>• Establish a community consultative committee.</li><li>• Engage a Community Liaison Officer.</li><li>• The community to provide input into design.</li><li>• The Government to seek broad community support for hosting the facility.</li></ul> | <p data-bbox="931 392 1256 472"><b>Site selection, facility design and licensing</b></p> <ul data-bbox="931 647 1256 1286" style="list-style-type: none"><li>• Development of Government's Detailed Business Case.</li><li>• The Government to submit proposals for regulatory approvals.</li><li>• Establishment of a Facility Management Committee.</li><li>• Community consultative committee established.</li></ul> | <p data-bbox="1312 392 1514 424"><b>Construction</b></p> <ul data-bbox="1312 647 1648 879" style="list-style-type: none"><li>• Construction undertaken.</li><li>• Local business and employment goals to be achieved.</li></ul> | <p data-bbox="1693 392 1850 424"><b>Operation</b></p> <ul data-bbox="1693 647 2040 1102" style="list-style-type: none"><li>• Facility Management Committee to oversee facility.</li><li>• Monitoring of facility published and provided publicly.</li><li>• Facility and employees to be active members of the community.</li></ul> |

### 3.3 Project Phase 1

- (a) The voluntary site nomination phase is the first of four project phases in the development of a national radioactive waste management facility. It aims to result in the Minister approving nominated sites for further and more detailed investigation and assessment.<sup>2</sup>
- (b) While a Landholder can nominate land under the Act at any time, the Department *strongly recommends* that the nominating Landholder contact the Department to discuss interest before formally submitting a nomination to the Minister.

### 3.4 Project Phase 2

- (a) The Site Selection phase will involve detailed site characterisation studies and other activities as described under section 11 of the Act. The detailed site investigations will enable a preferred site to be identified from the approved nominations identified in Phase 1.
- (b) Consistent with the Government's Two Stage Capital Works Approvals Process a Detailed Business Case will also commence that will assess and recommend a preferred design and engineering option for the national facility. The Detailed Business Case will consider the options identified in the Initial Business Case, considered by Government in 2014. The initial business case can be accessed at: <http://www.radioactivewaste.gov.au/resources>

### 3.5 Project Phase 3

- (a) Subject to the Government's approval of the Detailed Business Case, the Minister may subsequently declare a site as the site for the national radioactive waste management facility. Before making a declaration, the Minister will afford procedural fairness to persons with an interest in the nominated land or other land required for all-weather road access (see section 18 of the Act). The declaration of a site results in the acquisition of the site by the Commonwealth and gives rise to an obligation on the Commonwealth to pay a reasonable amount of compensation for that acquisition.
- (b) This Site License phase involves assessment of the proposed site and conceptual facility design in accordance with relevant laws and regulations including the *Australian Radiation Protection and Nuclear Safety Act 1998* (ARPANS Act), the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and the *Nuclear Non-Proliferation (Safeguards) Act 1987* (Safeguards Act).

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<sup>2</sup> Note –Wallerberdina Station, Hawker South Australia is now an approved nomination.

### 3.6 Project Phase 4

- (a) The Construction and Operation phase is dependent on all relevant licences and approvals being obtained. The national facility may commence operations only after an operating license is granted by the relevant authorities.

## 4. Preferred Site Objectives and Criteria

- (a) In accordance with the Act, the Minister may consider all land Nominations received; however, the Minister does not have a duty to consider a Nomination. The Minister will also consider relevant advice provided in determining which Nominations to approve for further, detailed consideration.
- (b) When making a decision whether to approve a Nomination under section 9 of the Act, as a relevant factor the Minister may consider the outcomes of a multi-criteria site analysis (MCSA) of all valid land Nominations.

### 4.2 Multi-criteria Site Analysis

- (a) An MCSA process is an established fair, transparent and rational method of assessing complex data. It has been established to identify whether a site has the potential to meet the minimum technical requirements to host the Facility prior to detailed site characterisation being undertaken. Its development included input from the Independent Advisory Panel and has been applied to sites already nominated under the Act to date.
- (b) Suitable sites will need to satisfy key Objectives outlined in the MCSA. The key Objectives are:
  - Community Well-being
  - Equity
  - Stable Environment
  - Environmental Protection
  - Health, Safety & Security
  - Economic Viability
- (c) Associated with these key Objectives is a list of 25 performance Criteria against which nominated sites will be assessed. Further detail on the Objectives and Criteria can be found at **Attachment A**.
- (d) The Department will undertake a desktop review of available data sources in relation to the Objectives and Criteria when evaluating the nominated sites. Nominators are encouraged to provide information against the Criteria and Objectives, however it is not a mandatory requirement.
- (e) The Minister will consider potential site Nominations for his approval under section 9 of the Act. Procedural fairness requirements in section 10 under the Act will be followed - including notifying the intention to approve one or more nominated sites and provide a period of at least 60 days for public comments to be provided prior to a decision. (See **Attachment C** – relevant sections of the Act).

## 5. Land value process and access agreement and benefits

- (a) If a Landholder's Nomination is shortlisted and approved by the Minister the Commonwealth is authorised by section 11 of the Act to undertake activities for the purposes of selecting a site on which to construct and operate a facility. (See **Attachment C** – sections of the Act).
- (b) The Government will also ask the Landholder, consistent with the Act, to enter into an access agreement with the Commonwealth.

### 5.2 Access Agreement

- (a) The access agreement will provide certainty to the Landholder and the Commonwealth about the terms on which the Commonwealth will access an approved site for further investigation and assessment, including any access fee the Commonwealth may pay to the Nominator.
- (b) The access agreement will also address certain matters relating to the site assessment and the acquisition process - the process by which the site may be selected and acquired by the Commonwealth at a future time.
- (c) The Commonwealth will bear the costs of carrying out its activities on the land related to the Project, including site investigations.
- (d) The Commonwealth will leave the land, as nearly as practicable, in the condition it was in before the Commonwealth carried out its activities - in accordance with section 11 of the Act. (See **Attachment C** – sections of the Act).
- (e) Consultation with the Nominators of preferred sites will continue through to final site selection.
- (f) Please see **Attachment D** for a draft template license to access land that provides a basis for negotiation and may be adapted to suit individual circumstances.

### 5.3 Acquiring Rights and Interest

- (a) The Minister may select and declare a site for a facility under section 14 of the Act. If that occurs, when the declaration takes effect, rights or interests in the selected site are acquired by the Commonwealth or extinguished under section 19 of the Act.
- (b) The site is also freed from other rights and interests. The Commonwealth will compensate the Landholder for acquiring the rights and interest in the land.
- (c) The proposed amount of the offer of compensation will be in accordance with the Land Value Calculation in Part 5.4 of this document. However, the Commonwealth reserves the right to determine, at its sole discretion, any offer of compensation it makes for the acquisition of property. These guidelines do not create any legal, equitable or other relationship between the Commonwealth and a Landholder.

- (d) Where any other person's rights or interests are acquired, extinguished or otherwise affected by a declaration under s 19 of the Act, the Commonwealth will pay a reasonable amount of compensation to the person, in accordance with section 35 or 36 of the Act.
- (e) The amount of compensation will be determined by agreement or, failing agreement, by the Courts.
- (f) The procedural fairness requirements specified in section 18 of the Act will be followed before the Minister decides to declare a selected site (under section 14).

#### **5.4 Land Value Calculation**

- (a) Without fettering the Commonwealth's discretion, the Commonwealth proposes to offer compensation based on a Land Value Calculation, to be determined with reference to:
  - 1. the process for establishing land value in the *Lands Acquisition Act 1989 (Cth)*; plus
  - 2. a premium of three (3) times the value established under 5.4(a)(1).

## **6. Recommended engagement with department**

- (a) While a person may nominate land at any time in accordance with Section 7 of the Act, the Department strongly recommends that prior to submitting a formal nomination to the Minister that the Landholder first contact the Department via phone or email (details can be found in Section 13) to discuss their interest.
- (b) It would be beneficial if the interested landholder obtains evidence, such as statements of support from the community. The project team does not expect the entire community to be supportive but sites that do not demonstrate broad support will not be progressed. See section 7 below.
- (c) If a nominator contacts the department to express their interest in nominating land, the Department will outline the nomination process and gather specific information from the Landholder in order for the project team to assist a nominator to submit a formal nomination. The project team will conduct the following activities in partnership with the nominator:
  - (i) Perform a desktop review of the site's characteristics against the key Objectives and provide the analysis to the potential nominator.
  - (ii) Visit the local community and engage with relevant local authorities such as the local MP and Council, to provide project information and understand their views.

- (iii) The visit(s) may include experts such as Geoscience Australia who can assist in confirming the outcomes of the desktop assessment.

## 7. Community engagement, consultation and benefits

- (a) Community support is a key consideration for a nomination to progress. A facility will not be established where there is not broad community support.
- (b) A process of engagement and consultation will be undertaken with local communities at sites which the Ministers has approved under section 9 of the Act (see **Attachment C** – sections of the Act). Local communities will be provided with support, including access to information and education support services to assist with community understanding of the Project and to enable the Commonwealth to better understand the needs and priorities of affected communities.
- (c) In recognition of any short term disruption that a detailed assessment may involve, the local community will also be provided with up to \$2 million for local projects that create lasting economic or social benefits.
- (d) In addition, once the facility is operational, the Act requires a National Repository Capital Contribution Fund with a minimum of \$10 million to be held in the fund and used for the purposes of providing enhanced public services and/or infrastructure in the relevant State and Territory. These Funds may be drawn upon once the facility is operational.

## 8. Who can nominate

### 8.1 Who can nominate land

A person may nominate land in accordance with section 7 of the Act, in one of three situations.

- (a) Firstly, under section 7(2), where the person holds an interest in the land, that is not as a joint tenant or a tenant in common, and the interest is:
  - i. an estate in fee simple (eg. freehold land); or
  - ii. a lease of land granted by or on behalf of the Crown, a Minister of the Crown, a statutory authority or any other prescribed person, under a law of the Commonwealth, a State or a Territory (eg. pastoral lease);and
- (b) Secondly, under section 7(3), persons who are joint tenants or tenants in common may jointly nominate the land as a potential site if they hold one of the following interests in the land:
  - (a) an estate in fee simple; or
  - (b) a lease of the land granted by or on behalf of the Crown, a Minister of the Crown, a statutory authority or any other prescribed person, under a law of the Commonwealth, a State or a Territory.

- (c) Thirdly, a person may nominate land that is the subject of an approved determination of native title if the requirements in section 7(4) of the Act are met (please refer to section 7(4) in **Attachment C** for further detail of these requirements).

## 9. How to apply

To assist with your Nomination a form has been provided at **Attachment B**.

### 9.1 Nomination Rules

- (a) Nominations must meet certain criteria, including that it:
  - (i) be in writing;
  - (ii) be made to the Minister;
  - (iii) specify the land nominated (refer Section 6, part 2 for details); and,
  - (iv) contain evidence that the interest in the land held by the Nominator or Nominators of the land is as required.
- (b) Nominations made under section 7 must be in accordance with rules set out in section 8 of the Act. (See **Attachment C** – relevant sections of the Act).

### 9.2 Electronic lodgement

- (a) Nominations can be lodged via email to [radioactivewaste@industry.gov.au](mailto:radioactivewaste@industry.gov.au) in accordance with the procedures set out in this document.
- (b) The Commonwealth will accept responses lodged in Microsoft Word, Microsoft Excel, PDF, JPEG and GIF format.
- (c) The response file name/s should incorporate the Nominator's name.
- (d) Nominator's files should not exceed a combined file size of 50 megabytes per upload.

### 9.3 Postal lodgement

- (a) Nominations can be lodged via mail in accordance with the procedures set out in this document.

Postal lodgements should be sent to:

The Minister for Resources and Northern Australia  
C/o The Department of Industry, Innovation and Science  
National Radioactive Waste Management Project  
GPO Box 9839  
Canberra ACT 2601

### 9.4 Hand Delivery:

Nominations can be lodged by hand. For details on how to hand deliver your Nomination, please contact the Department of Industry, Innovation and Science, National Radioactive Waste Management Project to arrange a time for delivery. Please phone: 13 28 46 or email:

[radioactivewaste@industry.gov.au](mailto:radioactivewaste@industry.gov.au)

## 9.5 Confirmation of Received Nomination:

The Department will confirm via email that they have received your Nomination. If you do not receive an email confirmation, please contact the Department on 13 28 46 or [radioactivewaste@industry.gov.au](mailto:radioactivewaste@industry.gov.au)

# 10. Nominator's Responsibilities

## 10.1 Nominator behaviour

- (a) Nominators must ensure that their officers, employees, agents and advisors do not, in relation to the preparation, lodgement or assessment of this Nomination:
  - (i) make false or misleading claims or statements;
  - (ii) improperly obtain confidential information;
  - (iii) receive improper assistance;
  - (iv) attempt to improperly influence an officer of the Commonwealth.
- (b) Under section 137.1 of the *Criminal Code Act 1995*, it is an offence to knowingly provide false or misleading information to a Commonwealth entity.  
Penalty: 12 months imprisonment

## 10.2 Seek own advice

This document is not business, investment, legal or tax advice. Nominators should seek their own independent professional advice in respect of all matters in connection with their Nomination.

## 10.3 Bear own costs

- (a) All expenses and costs incurred by a Nominator in connection with a Nomination, including preparing and lodging a response, providing the Commonwealth with further information, giving presentations, attending interviews and participating in any subsequent negotiations, are the sole responsibility of the Nominator.
- (b) The Commonwealth is not liable for any costs or other compensation in relation to the consideration of any Nomination.
- (c) The Commonwealth will bear its own costs associated with undertaking the Nomination process.

# 11. General conditions

## 11.1 Ownership of Nomination documents

- (a) All Nomination applications remain the property of the Commonwealth.
- (b) Applicants are encouraged to keep a copy of documentation for future reference

## 11.2 Important notices about this Nomination Process

- (a) Nominations are accepted on the basis that each Nominator acknowledges that:
  - (i) they have examined the Nomination documentation, any documents referred to therein, and any other information made available in writing by the Commonwealth to Nominators for the purpose of participating in the Nomination process;
  - (ii) in lodging its Nomination, they did not rely on any express or implied statement, warranty or representation, whether oral, written, or otherwise made by or on behalf of the Commonwealth other than as expressly contained in this documentation or an addendum to this issued by the Department;
  - (iii) they did not use the improper assistance of Commonwealth employees;
  - (iv) they have satisfied themselves as to the correctness and sufficiency of their nomination;
  - (v) they will comply with the Act; and
  - (vi) they have read the Privacy statement in these guidelines and consent to the collection and use of their personal information.

## 11.3 Freedom of information

- (a) Nominators should be aware that the Commonwealth is subject to the operation of the *Freedom of Information Act 1982* (Cth), which allows public access to Government documents. Where a freedom of information application is made, the *Freedom of Information Act 1982* (Cth) provides avenues for submissions to be made that particular information about the business, commercial or financial affairs of an entity or undertaking should not be disclosed.

## 11.4 Privacy statement

- (a) The Minister will publish information Nominators provide to the Commonwealth. This is not limited to publishing the information for the purposes of meeting notice requirements in sections 10 and 18 of the Act.
- (b) The Commonwealth will publish the name and address and other information identifying all Nominations made for potential sites. This may include personal information for the purposes of the *Privacy Act 1988* (Privacy Act). The Department may also need to collect information about a Nominator other than directly from that person.
- (c) The Privacy Act regulates how entities may collect, use, disclose and store personal information. The Department is bound by the Australian Privacy Principles outlined in Schedule 1 of the Privacy Act.
- (d) The Department has a Privacy Policy available:
  - (i) online at <http://industry.gov.au/Pages/PrivacyPolicy.aspx>

- (ii) by contacting the Department by Email: [privacy@industry.gov.au](mailto:privacy@industry.gov.au)  
by post at:  
Privacy Contact Officer  
Legal Branch  
Department of Industry, Innovation and Science  
GPO Box 9839  
Canberra ACT 2601

### **11.5 Commonwealth's rights**

- (a) Consistent with the powers and discretions given to the Minister under the Act, it may be necessary to depart from or amend this policy and process in exceptional circumstances.
- (b) Without limiting its rights at law or otherwise, and subject to the Act, the Commonwealth may:
  - (i) request additional information or clarification from any Nominator or anyone else;
  - (ii) provide additional information or clarification;
  - (iii) change the structure and timing of the Nomination process;
  - (iv) vary or extend any time or date in this Nomination process at any time and for such period as the Commonwealth considers appropriate. The Commonwealth will issue an addendum notice of any decision to extend.

### **11.6 Relevant laws**

- (a) Each Nominator must comply with all relevant laws and Commonwealth policy in preparing and lodging its response and taking part in the Nomination process.

## 12. Dictionary

In this document, unless the contrary intention appears:

|                     |   |
|---------------------|---|
| Act                 | means <i>National Radioactive Waste Management Act 2012</i> .       |
| Commonwealth        | means the Commonwealth of Australia.                                |
| Criteria            | as set out in Attachment A - Multi Criteria Site Analysis.          |
| Department          | means the Department of Industry, Innovation and Science            |
| Evaluation Criteria | means the Criteria.   |
| Project             | means the National Radioactive Waste Management Project             |
| Objectives          | as defined in Attachment A  |
| Minister            | means the Minister for Resources and Northern Australia             |
| LLW                 | means Low Level Waste.  |
| ILW                 | means Intermediate Level Waste.                                     |
| Facility            | means National Radioactive Waste Management Facility                |
| Landholder          | A person who may nominate land as described in section 7 of the Act |
| Nominator           | a person who nominates land   |

## 13. Queries and Support

- (a) All queries and requests for support must be directed to:  
The National Radioactive Waste Management Facility Project  
Phone: (13 28 46) Email: [radioactivewaste@industry.gov.au](mailto:radioactivewaste@industry.gov.au)  
Postal: The Department of Industry, Innovation and Science  
National Radioactive Waste Management Facility Project  
GPO Box 9839 Canberra ACT 2601

# Attachment A – Objectives and Criteria

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- A.1 For the purposes of delivering against the Australian Government’s commitment and providing transparency, six key Objectives have been identified as being important in the process of identifying a possible site for the facility. Specifically, for phase 1 (site identification phase), these six Objectives are underpinned by 25 assessment Criteria. The Objectives are: Community Well Being, Equity, Stable Environment, Environmental Protection, Health, Safety and Security, Economic Viability.
- A.2 The Criteria that will be applied in evaluating Nominated sites during the site identification phase are set out in the table below. In addition, an indication of the Relative Importance of the Objectives to the assessment is given as either “High”, “Medium” or “Low”. This relative importance or weight to be attached to the identified Objectives and hence Criteria, reflects this early stage of the Project and is provided here for transparency.
- A.3 The Department will undertake a desktop review of available data sources in relation to the Objectives and Criteria when evaluating the nominated sites. Nominators are encouraged to provide information against the Criteria and Objectives, however it is not a mandatory requirement.
- A.4 A geographic information system and any existing databases available to the Government will be used to obtain data and assess against most criteria. Nominations which are accompanied by documentation which provides evidence of local community awareness of and support for the Nomination will also be a key consideration for the Minister. Nominations can include other relevant information or documentation to assist in the assessment of their Nomination.

## **Rationale Behind the Objectives**

- A.5 At the site identification phase, there will be a focus on ensuring that any potential site will have minimal negative impact on nearby communities, while at the same time ensuring that they benefit from the placement of the facility.
- A.6 Environmental protection is an essential and significant consideration for the Project. The Project will require regulatory assessment under the *Environmental Protection and Biodiversity Conservation Act 1999* and consideration by the Minister for the Environment. The EPBC Act will provide a ‘whole of environment’ assessment and detailed environmental studies of any site selected for the Project. A lower weighting is applied at the site identification phase as detailed information to support this assessment will not be available until phase 2 (the site selection phase) and a comprehensive assessment will be made at this stage.

A.7 Health, safety and security objectives are of the highest priority for the Project.

These Objectives will largely be addressed through the development of a safety case for the site, construction and operating licencing phases of the project.

These phases will involve licence applications through the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) and the Australian Safeguards and Non-Proliferation Office (ASNO). A lower weighting is applied at the site identification phase reflecting these subsequent regulatory processes.

A.8 The relative importance of the Objectives at this Phase of the Project reflects the fact that detailed environmental assessments and safety analyses will be carried out at a later stage. These aspects of the assessment will become of particular importance when the facility's specific location and its detailed engineering design is being considered. In relation to both Objectives, the Government will need to obtain more information for a site than is possible during this Phase 1 site identification phase.

| Objectives           | Criteria  | Weighting for Site Selection phase |
|----------------------|---|------------------------------------|
| Community Well Being | <ul style="list-style-type: none"> <li>• What is the separation distance from nature conservation reserves, water supply reserves or parks?</li> <li>• Is the site located on or near high value natural resources (incl. farming, mineral, water or other resources)?</li> <li>• Is the site located within an area that is likely to be expanded upon for community or industrial use or for natural/agricultural use in the foreseeable future?</li> <li>• Is the site located in an area where development may impact culture and history?</li> </ul> | High                               |
| Equity               | <ul style="list-style-type: none"> <li>• What is the distance radioactive waste would need to be transported to the site from all current and future sources?</li> <li>• What is the distance to the nearest community which could receive benefits from the construction and operation of the facility?</li> <li>• Is there evidence of potential local community support or opposition for the facility?</li> </ul>   | High                               |
| Stable Environment   | <ul style="list-style-type: none"> <li>• What is the separation distance to areas subject to known or anticipated extreme events?</li> <li>• What is the annual rainfall and rainfall pattern at the site?</li> <li>• What is the separation distance from known or anticipated seismic or tectonic activity?</li> <li>• What is the separation distance from known or anticipated volcanic activity?</li> </ul>  | Medium                             |

|                             |  |        |
|-----------------------------|--|--------|
|                             | <ul style="list-style-type: none"> <li>• What is the separation distance from known or anticipated major geological faults?</li> <li>• What is the separation distance from an area known for erosion or at risk of future erosion?</li> <li>• What is the separation distance from areas known to be flooded or have held surface water?</li> <li>• What is the adjacent population density?</li> <li>• What is the separation distance from an existing permanent residence (other than that of the Nominator)?</li> <li>• What is the separation distance from an area that is likely to experience significant population growth in the future?</li> </ul> |        |
| Environmental Protection    | <ul style="list-style-type: none"> <li>• What is the separation distance from any lake, river, stream, swamp, soakage or aquifer?</li> <li>• Is the site in an area of national environmental significance such as world or national heritage places, Ramsar wetlands, listed threatened species and ecological communities, protected migratory species, Commonwealth marine areas?</li> </ul>  | Medium |
| Health, Safety and Security | <ul style="list-style-type: none"> <li>• What is the separation distance from existing or likely future community or industrial developments?</li> <li>• What is the separation distance from existing accesses or pathways that could be used as an access by potentially disruptive parties?</li> </ul>  | Low    |
| Economic Viability          | <ul style="list-style-type: none"> <li>• To what extent does the site location add a premium to the construction and operational cost?</li> <li>• To what extent does the site have reasonable access for the transport of radioactive waste into and out of the site from all current and future Australian sources?</li> <li>• To what extent does the site location add a premium to the purchase cost?</li> </ul>  | Low    |

# Attachment B – Nomination Form

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This nomination form is **Attachment B** to the nomination Guidelines. The Nominator is requested to complete and submit this nomination form to the Department and provide supporting evidence which will be used by the Department for the purposes of evaluation of the nomination.

## 1. Contact Details

|                       |  |
|-----------------------|--|
| <b>Name</b>           |  |
| <b>Postal Address</b> |  |
| <b>Telephone</b>      |  |
| <b>Email</b>          |  |

## 2. Nominee’s Name

|  |  |
|--|--|
| <b><i>If an individual:</i></b><br>Full name of individual                                       |  |
| <b><i>If a company:</i></b><br>Company name<br>ACN   |  |
| <b><i>If a partnership:</i></b><br>Trading name (if any)<br>Full name of partners                |  |
| <b><i>If a sole trader:</i></b><br>Trading name<br>Full name of sole trader                      |  |
| <b><i>If joint tenants or tenants in common:</i></b><br>Full name of each tenant                 |  |
| <b><i>If any other type of organisation:</i></b><br>Name of organisation<br>Type of organisation |  |

### 3. Details of Nominated Land

You are required by section 8 of the Act to provide certain information on the nominated land, and evidence of the interest you hold in the land including, if relevant, matters relating to native title.

All Nominators must provide the information specified in section 8(2) of the Act (please refer to section 8 in **Attachment C**). In addition, Nominators must also include the address, by reference to the road number, road, locality and post code of the land parcel(s) that comprise the proposed site.

You can visit [www.ga.gov.au/radwaste/](http://www.ga.gov.au/radwaste/) to find the geographical coordinates for your nomination.

Please specify nomination details below.

Additionally:

- If you are nominating land under section 7(2) or 7(3) (that is, as a land holder, joint tenants or tenants in common), then you must provide evidence that your interest in land is as asserted (please refer to sections 7(2), 7(3), and section 8(1)(d) in **Attachment C**)

- If you are nominating land under section 7(4) (that is, where native title exists), then you must provide evidence relating to the matters specified in section 7(4) (please refer to sections 7(4) and 8(e) in **Attachment C**).

Evidence of this could take the form of a certified copy of:

- a. the current Certificate of Title, Crown lease or lease for the land parcel(s); or
- b. a recent rates notice, land tax notice, native title determination or similar government or council notice containing the title description of the land parcel(s).

If you are not the person named as the owner or lessee of the land in the relevant information, we request that you explain how you have authority to propose the land.

#### 4. Other Interests in Land (optional)

If applicable, please specify any other interests in the land e.g. exploration licences or sub-leasing.

#### 5. Evidence of Community support

The Government has stated that new nominations will need to demonstrate broad community support in order to be taken forward for consideration.

Evidence of community support may include identifying any consultations which may have occurred with neighbours, local groups and broader community interests. What was the outcome of these consultations and what are the community views? Provide any evidence of local community awareness of the nomination and/or support.

## 6. Other information

Nominators are encouraged to include any other relevant information that may assist the Minister's consideration of the nomination.

## 7. Conflicts of interest

The Nominator confirms that there are no circumstances or relationships which constitute or may constitute a conflict or potential conflict of interest (actual or perceived) in relation to this nomination.

The Nominator undertakes to advise the Department in writing of any actual or potential conflict of interest immediately after becoming aware of it.

## 8. Public Disclosure

The Nominator:

- a. confirms that it consents to the public disclosure of the nomination; and
- b. consents to the Commonwealth undertaking checks in accordance with the Act and these guidelines.

## 9. Conditions

The Nominator warrants that:

- (a) the Nominator has disclosed to the Commonwealth in its nomination any interests of third parties in the nominated land, such as exploration licences or sub-leases; and

(b) neither the Nominator nor any of its officers, employees, agents, and sub-contractors has, in relation to the preparation, lodgement or assessment of the response:

- I. improperly obtained confidential information;
- II. received improper assistance;
- III. engaged in anti-competitive conduct or other similar conduct with any other Nominator or other person;
- IV. attempted to improperly influence an officer of the Commonwealth (other than as permitted by the Nomination process); or
- V. improperly influenced other applicants or potential applicants

The Nominator notes that giving false or misleading information is a serious offence, and confirms that all information in its response is true and correct in every material respect.

**Signature**

**Signature of Nominator**

**Name of Nominator (print)  
in the presence of**

**Signature of witness**

**Name of witness (print)**

Date:

# Attachment C – Sections of the Act

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The *National Radioactive Waste Management Act 2012* is available on the Australian Government's ComLaw website at: <http://www.comlaw.gov.au/Details/C2014C00626>

The following are sections of the Act that may be of interest to Nominators including sections referred to in the Guidelines and the Application Form.

## Division 2—General Nominations

### 6 Minister may declare that Nominations can be made under section 7

- (1) The Minister may make a declaration in writing that Nominations of potential sites may be made under section 7.

Note: After a declaration is made:

- (a) a Nomination cannot be made under section 5 (see subsection 5(1)); and
  - (b) the Minister must not approve land nominated under section 5, or declare land so nominated to be the selected site for a facility (see subsections 9(2) and 14(3)).
- (2) In deciding whether to make a declaration, the Minister must have regard to whether it is unlikely that a facility will be able to be constructed and operated on Aboriginal land that has been nominated as a potential site under section 5 (whether or not that land has been approved as a site under section 9).
  - (3) A declaration takes effect at the time specified in the declaration, which must not be earlier than the time the declaration is made.
  - (4) A copy of a declaration must be published in the *Gazette* within 7 days of the declaration being made.
  - (5) Failure to comply with subsection (4) does not invalidate a declaration.
  - (6) A declaration is not a legislative instrument.

### 7 Nominations of potential sites

#### *Nominations may be made*

- (1) If a declaration under section 6 is in effect, a person or persons may, in accordance with this section, nominate land in a State, the Australian Capital Territory or the Northern Territory as a potential site.

#### *Nominations by holders of certain interests in land*

- (2) A person may nominate land under this subsection as a potential site if:
  - (a) the person holds an interest in the land; and
  - (b) the interest is:
    - (i) an estate in fee simple; or
    - (ii) a lease of land granted by or on behalf of the Crown, a Minister of the Crown, a statutory authority or any other prescribed person, under a law of the Commonwealth, a State or a Territory; and
  - (c) the person does not hold the interest as a joint tenant or a tenant in common.

- (3) The persons who, as joint tenants or tenants in common, hold one of the following interests in land may jointly nominate the land under this subsection as a potential site:
- (a) an estate in fee simple;
  - (b) a lease of the land granted by or on behalf of the Crown, a Minister of the Crown, a statutory authority or any other prescribed person, under a law of the Commonwealth, a State or a Territory.

*Nominations where native title exists*

- (4) A person may nominate land under this subsection as a potential site if:
- (a) an approved determination of native title covers an area containing the land; and
  - (b) the approved determination of native title determines that:
    - (i) native title exists in relation to the land; and
    - (ii) the native title rights and interests confer possession, occupation, use and enjoyment of the land on the native title holders to the exclusion of all others; and
  - (c) one of the following applies:
    - (i) in the case of an approved determination of native title by the Federal Court—the person is a prescribed body corporate that holds the native title rights and interests concerned on trust, or is an agent prescribed body corporate in relation to the native title rights and interests concerned;
    - (ii) in the case of an approved determination of native title by a recognised State/Territory body—the person is a body corporate that holds the native title rights and interests concerned on trust, or that is determined in relation to the native title under a provision of a law of the State or Territory concerned that corresponds to section 57 of the *Native Title Act 1993*.
- (5) In this section:

**agent prescribed body corporate** has the same meaning as in the *Native Title Act 1993*.

**approved determination of native title** has the same meaning as in the *Native Title Act 1993*.

**prescribed body corporate** has the same meaning as in the *Native Title Act 1993*.

**recognised State/Territory body** has the same meaning as in the *Native Title Act 1993*.

## 8 Rules about Nominations

- (1) A Nomination made under section 7 must:
- (a) be in writing; and
  - (b) be made to the Minister; and
  - (c) specify the land nominated in accordance with subsection (2); and
  - (d) in the case of a Nomination under subsection 7(2) or (3)—contain evidence that the interest in the land held by the Nominator or

- Nominators of the land is an interest referred to in subparagraph 7(2)(b)(i) or (ii) or subsection 7(3); and
- (e) in the case of a Nomination under subsection 7(4)—contain evidence of the matters specified in that subsection; and
  - (f) contain such other evidence (if any) as is prescribed by the regulations, including, but not limited to, the following:
    - (i) evidence that one or more specified groups of persons have been consulted in relation to the Nomination;
    - (ii) evidence that one or more specified groups of persons are satisfied of specified matters in relation to the Nomination;
    - (iii) evidence that one or more specified groups of persons have consented to the making of the Nomination.
- (2) For the purposes of paragraph (1)(c), land must be specified by reference to:
- (a) survey points (if available); and
  - (b) geographical coordinates; and
  - (c) whichever of the following is appropriate:
    - (i) portion number;
    - (ii) district, division, section and block;
    - (iii) certificate of title;
    - (iv) plan and lot number;
    - (v) volume and folio number;
    - (vi) lot on plan;
    - (vii) title identifier;
    - (viii) parcel identifier;
    - (ix) deposited plan;
    - (x) title diagram;
    - (xi) registered plan;
    - (xii) a descriptor of a kind similar to a descriptor referred to in this paragraph.
- (3) The Minister may request further information from a Nominator of the land.
- (4) Failure to comply with subsection (1) does not invalidate a Nomination made under section 7.
- (5) A Nomination made under section 7 is not a legislative instrument.

## **Division 3—Approval of nominated land**

### **9 Approval of nominated land**

- (1) Subject to subsection 10(6), the Minister may, in his or her absolute discretion, approve in writing land, or a specified part of land, nominated as a site under section 5 or 7.
- (2) Despite subsection (1), the Minister must not, after the general Nomination start time, approve land nominated as a site under section 5.
- (3) The Minister does not have a duty to consider a Nomination.

- (4) An approval takes effect at the time specified in the approval, which must not be earlier than the time the approval is made.
- (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 5(2), 6(4) or 8(1), does not invalidate an approval.
- (7) An approval is not a legislative instrument.

## **Division 4—Procedural fairness in relation to Minister’s declarations and approvals**

### **10 Procedural fairness in relation to Minister’s declarations and approvals**

#### *Declaration under section 6*

- (1) Before the Minister decides to make a declaration under section 6, the Minister must:
  - (a) give a notice in writing to each Land Council; and
  - (b) publish a notice:
    - (i) in the *Gazette*; and
    - (ii) in a daily newspaper that circulates generally in each State, the Australian Capital Territory and the Northern Territory.
- (2) A notice under paragraph (1)(a) or (b) must:
  - (a) state that the Minister proposes to make a declaration under section 6; and
  - (b) invite comments on the proposed declaration; and
  - (c) specify the address to which comments may be sent; and
  - (d) specify the date by which comments must be received, which must be at least 60 days after the notice is given or published.
- (3) In deciding whether to make a declaration under section 6, the Minister must take into account any relevant comments in response to an invitation referred to in paragraph (2)(b).

#### *Approval under section 9*

- (4) Before the Minister decides to approve land, or a specified part of land, under section 9, the Minister must:
  - (a) give a notice in writing to each Nominator of the land; and
  - (b) publish a notice:
    - (i) in the *Gazette*; and
    - (ii) in a daily newspaper that circulates generally in each State, the Australian Capital Territory and the Northern Territory; and
    - (iii) in a local newspaper (if any) circulating in the area in which the land is situated.
- (5) A notice under paragraph (4)(a) or (b) must:

- (a) state that the Minister proposes to approve land, or a specified part of land, under section 9; and
  - (b) if the notice is given under paragraph (4)(a)—invite each Nominator of the land to comment on the proposed approval; and
  - (c) if the notice is published under paragraph (4)(b)—invite persons with a right or interest in the land to comment on the proposed approval; and
  - (d) specify the address to which comments may be sent; and
  - (e) specify the date by which comments must be received, which must be at least 60 days after the notice is given or published.
- (6) In deciding whether to approve land, or a specified part of land, under section 9, the Minister must take into account any relevant comments given to the Minister, by a Nominator of the land, or a person with a right or interest in the land, in response to an invitation referred to in paragraph (5)(b) or (c).

*Exhaustive statement*

- (7) This section is taken to be an exhaustive statement of the requirements of the natural justice hearing rule in relation to:
- (a) the Minister’s decision whether to make a declaration under section 6; and
  - (b) the Minister’s decision whether to approve land, or a specified part of land, under section 9.

## Part 3—Selecting the site for a facility

### 11 Authority to conduct activities

- (1) This section applies to:
  - (a) the Commonwealth; and
  - (b) a Commonwealth entity; and
  - (c) a Commonwealth contractor; and
  - (d) an employee or agent of a person mentioned in paragraph (a), (b) or (c).
- (2) A person to whom this section applies may, in a State or Territory, do anything necessary for or incidental to the purposes of selecting a site on which to construct and operate a facility.
- (3) Without limiting subsection (2), the person may do any or all of the following under that subsection (whether or not on a site):
  - (a) gain access to and enter land and drive vehicles or fly aircraft to and from it;
  - (b) in order to drive vehicles to and from land—use existing roads or construct roads on, or grade, land;
  - (c) construct or rehabilitate bores;
  - (d) operate drilling equipment;
  - (e) extract water;
  - (f) collect samples of flora and fauna;
  - (g) place monitoring equipment (including meteorological and hydrological measuring equipment);
  - (h) build structures to protect bores, monitoring equipment or other things;
  - (i) move or extract sand, gravel, soil, mineral and rock samples;
  - (j) conduct seismic or geological investigations;
  - (k) conduct archaeological or heritage investigations;
  - (l) clear vegetation.
- (4) A person doing a thing under this Part must:
  - (a) take all reasonable steps to ensure that the doing of the thing causes as little detriment and inconvenience, and does as little damage, as is practicable to the land and to anything on, or growing or living on, the land; and
  - (b) remain on the land only for such period as is reasonably necessary; and
  - (c) leave the land, as nearly as practicable, in the condition in which it was immediately before the thing was done.

### 12 Application of State and Territory laws

- (1) A law, or a provision of a law, of a State or Territory (whether written or unwritten), so far as it relates to:
  - (a) the use or proposed use of land or premises; or
  - (b) the environmental consequences of the use of land or premises; or
  - (c) the archaeological or heritage values of land, premises or objects (including the significance of land, premises or objects in the traditions of Indigenous people); or

- (d) controlled material, radioactive material or dangerous goods; or
  - (e) licensing (however described) in relation to:
    - (i) employment; or
    - (ii) carrying on a particular kind of business or undertaking; or
    - (iii) conducting a particular kind of operation or activity;
- has no effect to the extent that it would, apart from this section, regulate, hinder or prevent the doing of a thing authorised by section 11.
- (2) The regulations may prescribe a law, or a provision of a law, of a State or Territory for the purposes of this subsection. The prescribed law or provision has no effect to the extent that it would, apart from this subsection, regulate, hinder or prevent the doing of a thing authorised by section 11.
  - (3) Regulations made for the purposes of subsection (2) may prescribe a law, or a provision of a law, whether or not it is a law or a provision of a kind described in subsection (1).
  - (4) The regulations may prescribe a law, or a provision of a law, of a State or Territory for the purposes of this subsection. The prescribed law or provision has effect despite anything else in this section.

### **13 Application of Commonwealth laws**

- (1) The following laws have no effect to the extent that they would, apart from this section, regulate, hinder or prevent the doing of a thing authorised by section 11:
  - (a) the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*;
  - (b) the *Environment Protection and Biodiversity Conservation Act 1999*.
- (2) The regulations may prescribe another law, or a provision of another law, of the Commonwealth for the purposes of this subsection. The prescribed law or provision has no effect to the extent that it would, apart from this subsection, regulate, hinder or prevent the doing of a thing authorised by section 11.

## **Part 4—Acquisition or extinguishment of rights and interests**

### **Division 1—Minister may declare a site as the site for a facility**

#### **14 Minister’s declaration of land as selected site or required for road access**

- (1) This section applies if:
  - (a) land has been nominated as a site under section 5 or 7; and
  - (b) the Minister has approved the nominated land, or a specified part of the nominated land, as a site under section 9.
- (2) Subject to section 18, the Minister may, in his or her absolute discretion, declare in writing that the site approved by the Minister, or a specified part of the site, is selected as the site for a facility. The declaration may specify all or some of the rights or interests in the selected site.
- (3) Despite subsection (2), the Minister must not, after the general Nomination start time, make such a declaration in relation to land nominated as a site under section 5.
- (4) Subject to section 18, the Minister may, in his or her absolute discretion, declare in writing that all or specified rights or interests in land in a State or Territory specified in the declaration are required for providing all-weather road access to the selected site.
- (5) To avoid doubt, rights and interests specified in a declaration under subsection (2) or (4) may include the following:
  - (a) rights to minerals (if any);
  - (b) native title rights and interests (if any);
  - (c) an interest in the land, being an interest that did not previously exist;
  - (d) an easement in gross (if any).
- (6) To avoid doubt, this section has effect subject to section 9 of the *Racial Discrimination Act 1975*.
- (7) A declaration under subsection (2) or (4) is not a legislative instrument.

#### **15 Formalities relating to Minister’s declarations**

- (1) A copy of a declaration under subsection 14(2) or (4) must be published in the *Gazette* within 7 days of the declaration being made.
- (2) Failure to comply with subsection (1) of this section, or subsection 5(2), 6(4), 8(1) or 9(5), does not invalidate a declaration.

#### **16 When Minister’s declarations take effect etc.**

- (1) A declaration under subsection 14(2) or (4) takes effect at the time specified in the declaration, which must not be earlier than the time the declaration is made.
- (2) The Minister may, subject to this section, make more than one declaration under subsection 14(2) or (4), but only one declaration under subsection 14(2) may be in effect at a particular time.

- (3) If:
- (a) a declaration under subsection 14(2) (the **original declaration**) is in effect at a particular time; and
  - (b) at that time, the Minister makes another such declaration (the **later declaration**);
- the Minister is taken, immediately before the time of effect specified in the later declaration, to have revoked the original declaration under section 17.

## Division 2—Procedural fairness

### 18 Procedural fairness in relation to Minister's declarations

- (1) Before the Minister decides to make a declaration under section 14 in relation to land, the Minister must:
- (a) give a notice in writing to each Nominator of the land; and
  - (b) publish a notice:
    - (i) in the *Gazette*; and
    - (ii) in a daily newspaper that circulates generally in each State, the Australian Capital Territory and the Northern Territory; and
    - (iii) in a local newspaper (if any) circulating in the area in which the land is situated.
- (2) A notice under paragraph (1)(a) or (b) must:
- (a) state that the Minister proposes to make a declaration under subsection 14(2) or (4); and
  - (b) set out details of the proposed declaration; and
  - (c) if the notice is given under paragraph (1)(a)—invite each Nominator of the land to comment on the proposed declaration; and
  - (d) if the notice is published under paragraph (1)(b)—invite persons with a right or interest in the land to comment on the proposed declaration; and
  - (e) specify the address to which comments may be sent; and
  - (f) specify the date by which comments must be received, which must be at least 60 days after the notice is given or published.
- (3) In deciding whether to make a declaration under section 14, the Minister must take into account any relevant comments given to the Minister, by a Nominator of the land, or a person with a right or interest in the land, in response to an invitation referred to in paragraph (2)(c) or (d).
- (4) A reference in this section to each Nominator of the land, in relation to a declaration under subsection 14(4) that rights or interests in land are required for providing all-weather road access to the selected site, is a reference to each person who nominated the selected site under section 5 or 7.

#### *Exhaustive statement*

- (5) This section is taken to be an exhaustive statement of the requirements of the natural justice hearing rule in relation to the Minister's decision whether to make a declaration under section 14.

## **Division 3—Acquisition or extinguishment**

### **19 Acquisition or extinguishment**

- (1) At the time a declaration under subsection 14(2) takes effect, any rights or interests in the selected site that are specified in the declaration are, by force of this section:
  - (a) acquired by the Commonwealth or extinguished; and
  - (b) freed and discharged from all other rights and interests and from all trusts, restrictions, dedications, reservations, obligations, mortgages, encumbrances, contracts, licences, charges and rates.
- (2) At the time a declaration under subsection 14(4) takes effect, the rights or interests in the specified land that are specified in the declaration are, by force of this section:
  - (a) acquired by the Commonwealth or extinguished; and
  - (b) freed and discharged from all other rights and interests and from all trusts, restrictions, dedications, reservations, obligations, mortgages, encumbrances, contracts, licences, charges and rates.

### **20 Application of Commonwealth and State or Territory laws**

- (1) Section 19 has effect despite any other law of the Commonwealth, a State or a Territory (whether written or unwritten).
- (2) Without limiting subsection (1), section 19 has effect despite the following laws of the Commonwealth:
  - (a) the *Lands Acquisition Act 1989*;
  - (b) the *Native Title Act 1993*.

## **Part 7—Miscellaneous**

### **35 Compensation**

- (1) If rights or interests are acquired, extinguished or otherwise affected under section 19, the Commonwealth is liable to pay a reasonable amount of compensation to a person whose right or interest has been acquired, extinguished or otherwise affected.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

### **36 Compensation for acquisition of property**

- (1) If the operation of this Act would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of

Australia for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

(3) In this section:

***acquisition of property*** has the same meaning as in paragraph 51(xxxi) of the Constitution.

***just terms*** has the same meaning as in paragraph 51(xxxi) of the Constitution.

# Attachment D – Draft template Licence to access land

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Please download the draft template separately.